

TANGANYIKA



No. 66 OF 1963

I ASSENT,

Julius K. Nyerere
President

24TH DECEMBER, 1963

An Act to make provision for the Establishment of a National Joint Staff Council for the Local Government Service, to provide a procedure for the Settlement of Disputes between the Local Government Service Commission or Local Authorities and certain Local Government Officers, and for other matters concerning the relationship between the Local Government Service Commission and the Local Government Service

ENACTED by the Parliament of Tanganyika.

[.....]

PART I

PRELIMINARY

1. This Act may be cited as the Local Government Service (Negotiating Machinery) Act, 1963, and shall come into operation on such date as the Minister shall, by notice in the *Gazette*, appoint.

Short title and commencement

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

Interpretation

“Association of Local Authorities” means an association of local authorities for the time being recognized by the Minister as an association for the purposes of this Act;

“award” means an award made by the Commission under section 13;

“Board” means a Board of Inquiry constituted in accordance with section 21;

“Council” means the National Joint Staff Council established under section 3;

“dispute” means any matter relating to the terms and conditions of service of junior local government officers which has been considered by the Council without agreement having been reached thereon and which has been reported to the Commission under section 8;

"junior local government officer" means any local government officer other than a senior local government officer;

"local dispute" means any matter relating to the terms and conditions of service of junior local government officers which the Commission refers to a Board under section 17;

"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 the Minister for the time being responsible for local government;

"prescribe" means prescribe by regulations;

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"the Scheme" means the Local Government Scheme, 1962, as amended from time to time;

"senior local government officer" means any local government officer who holds or acts in any of the following posts: -

- (a) the town clerk of a city, municipal or town council;
- (b) the executive officer of a district council;
- (c) treasurer;
- (d) officer in charge of a public health or works department;
- (e) a deputy to any such clerk, executive officer, treasurer or officer in charge;
- (f) any other post approved for the purpose of this definition by the Council, and includes any local government officer whose office is prescribed by the Commission under sub-clause (1) of clause 32 of the Scheme;

"the statutory authority" means the Commission, and includes-

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- (a) the President in respect of the powers vested in him by paragraph (c) of section 3, and section 5, of the Local Government Service Act, 1963, or reserved to him in the Scheme or any regulations made thereunder;
- (b) any board, authority or person to whom the Commission has delegated any of its functions under the Scheme or any regulations made thereunder, or whom any such delegate has empowered to exercise the functions so delegated, in respect of such functions;

"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, the statutory authority or any person or body of persons employed, or to aid other employees in compelling their employer, the statutory authority or any person or body of persons employed, to accept or not to accept terms or conditions of or affecting employment, or of compelling their employer or the statutory authority, or to aid other employees in compelling their employer or the statutory authority, to employ or not to employ any person;

"trade union" means a registered trade union for the time being recognized by the Minister as a trade union for the purposes of this Act;

"Commission" "employing authority" "local government officer" and "Local Government Service" have the meanings respectively ascribed to those expressions in the Scheme.

(2) Where in this Act an agreement or award which relates to particular employing authorities or particular local government officers only is declared to be binding on the statutory authority, it shall be binding on the statutory authority in respect of those authorities or officers only.

(3) The recognition of an Association of Local Authorities or of a trade union for the purposes of this Act shall be notified In the Gazette.

PART II

THE JOINT STAFF COUNCIL

3.-(1) There shall be established for the purposes of this Act National 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 Commission may prescribe.

Establishment
of
Join Staff
Council

(2) The members of the Council shall be appointed by the Commission from persons who have been nominated by Associations of Local Authorities or trade unions and who are either representatives of employing authorities or officers of trade unions as representatives of junior local government officers:

Provided that the Chairman of the Council shall be one of the persons nominated by an Association of Local Authorities and the Vice-Chairman shall be one of the persons nominated by a trade union.

(3) Subject to the provisions of this Act, the Commission may prescribe the number of members of the Council who shall be appointed from persons nominated by an Association of Local Authorities and the number of such members who shall be appointed from persons nominated by a 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 disputers and for such other matters as seem to it 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 employing authorities and junior local government officers, and of both with the statutory authority, to provide machinery for dealing with the grievances of junior local government officers, and to enable consultation to take place in matters affecting the efficiency and well-being of the Local Government Service.

Object of
the Council

5. The functions of the Council shall be—

- (a) to negotiate on matters relating to the terms and conditions of service of junior local government officers or any class, grade or group thereof;
- (b) to discuss and submit advice to the Commission on any matters on which the Commission seeks the advice of the Council;

Functions
of the
Council

- (c) to discuss and make recommendations to the Commission on any matter concerning the interests, well-being and efficiency of junior local government officers; and
- (d) generally to assist in the furtherance of good relations between the statutory authority, employing authorities and junior local government officers:

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 local government officer.

Meetings of Council

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

(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

Agreements reached in Council

7.-(1) Where agreement is reached within the Council on any matter relating to the terms and conditions of service of junior local government officers 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.

(2) Any agreement recorded and signed in accordance with subsection (1) shall be binding upon the statutory authority and those employing authorities and junior government officers 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 Commission, 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 Commission which may, if it considers it desirable, cause the agreement to be published in such manner as it may think fit.

Report to commission 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 local government officers 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 section 3, report the matter on which no agreement has been reached to the Commission, and on such report being made a dispute shall exist as to such matter.

Powers of Commission

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

- (a) if it 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.

10. Where, under paragraph (a) of section 9, the Commission 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
back to
council

11. Where, under paragraph (b) of section 9, the Commission refers a dispute to a Board, the Board shall consider the causes and to circumstances of the dispute and shall report thereon to the Commission.

Reference
to Board

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

Time for
reference
and report

(2) In any proceedings under, or for an offence against, this Act, a certificate purporting to be under the hand of the Secretary to the Commission that the Commission has or has not referred a dispute back to the Council or to a Board on or by a date specified therein, or that the Commission has or has not postponed the period for such reference and, where it has postponed such period, specifying the further period within which such reference shall be made, shall be admissible in evidence and shall, unless the contrary be proved, be sufficient evidence of the facts stated therein.

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

Power of
Commission
when report
submitted

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

Provided that where the award relates to any power in respect of which the President is the statutory authority, the award shall not be binding on him unless it is confirmed by the Minister. The Minister shall signify whether or not he confirms the award within fourteen days after the making of the award.

(2) Any award made by the Commission 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 Commission unless, in the opinion of the Commission, the special circumstances of the case make it necessary or desirable to postpone the taking of the award for such further period or periods as the Commission 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 Secretary to the Commission that the Commission has or has not made an award on or by a date specified therein, or that it has or has not postponed the period for making an award and, where it has postponed such period, specifying the further period within which the award shall be made, shall be admissible in evidence and shall, unless the contrary be proved, be sufficient evidence of the facts stated therein.

Publication of award

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

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.

Award to be submitted to the Minister for Information

15. Every award made by the Commission under section 13 shall, together with the report of the Board which relates to the dispute on which the award was made, be submitted to the Minister for information.

Awards to be binding

16. Subject to the proviso to subsection (1) of section 13, every award made by the Commission under section 13 shall be binding upon the statutory authority and those employing authorities and junior local government officers 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 Commission, be placed upon the agenda of or discussed within the Council until the expiration of such period of twelve months.

PART IV

ALTERNATIVE PROCEDURE IN LOCAL DISPUTES

Local disputes may be referred to Board

17.-(1) This section applies to any disagreement between an employing authority and junior local government officers, or between the statutory authority and junior local government officers employed by a particular employing authority, relating to the terms and conditions of service of junior local government officers, but does not include-

- (a) a disagreement relating to any such terms and conditions prescribed by the statutory authority under clause 12 of the Local Government Service Scheme, 1962, unless such terms and conditions apply to particular employing authorities and their employees only and the employing authority or junior local government officers concerned are within the category to which they apply; or
- (b) any matter concerning the appointment or non-appointment, disciplinary, control or removal from office, of any individual local government officer.

(2) Where any disagreement to which this section applies has been referred to any body established for the settlement of such disagreements by the Commission or the employing authority concerned, and such body has not resolved the same, it may be reported to the Commission by or on behalf of one of the parties, and unless, in the meanwhile, the Commission shall have referred the disagreement to the Council for its advice or the Secretary to the Commission shall have certified that he has received notice signed by the Chairman or the Vice-Chairman of the Council stating that the matter has been entered on the agenda for the current or next following meeting of the Council, the Commission shall, within twenty-one days of receiving the report, refer the disagreement to a Board.

(3) In any proceedings under, or for an offence against, this Act, a certificate purporting to be under the hand of the Secretary to the Commission that the Commission has or has not, referred, the disagreement to the Council or to a Board by or, on a date specified therein, or a certificate given under subsection (2) of this section stating the date on which it is given, shall be admissible in evidence and shall, unless the contrary be proved, be sufficient evidence of the facts stated therein.

18.-(1) Where a local dispute has been referred to a Board under this section, the Board shall consider the causes and circumstances thereof and submit its report to the Commission without delay and, where practicable, within twenty-one days of the reference.

Awards on
local
disputes

(2) The provisions of section 13 of this Act shall apply to and in relation, to a local dispute as they apply to and in relation to a dispute and the provisions of sections 14, 15 and 16 shall apply to an award on a local dispute save that, in the case of an award on a local dispute, section 16 shall have effect as if there were added immediately after the word "Council", the words "or any body established for the settlement of disagreements by the Commission or the employing authority concerned".

PART V STRIKES

19.-(1) No junior local government officer 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
takes place

(2) The conditions to be fulfilled for the purposes of subsection (1) are either—

- A. (a) a report has been made to the Commission under section 81 and
(b) twenty-one days, or if a further period or periods have been allowed by the Commission 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 Commission; and
(c) either-
- (i) during the period referred to in paragraph (b) the dispute has not-
 - (I) been settled; nor
 - (II) been referred back to the Council; nor
 - (III) been referred to a Board; or
 - (ii) the dispute has been referred to a Board and-
 - (I) the report of the Board has been received by the Commission; and
 - (II) twenty-one days, or if a further period or periods have been allowed by the Commission under subsection (2) of section 13, twenty-one days and such further period or periods, have elapsed since the receipt by the Commission of such report; and,
 - (III) during such period no award has been made by the Commission under section 13; or

- B. (a) a report has been made to the Commission under section 17 in respect of the terms and conditions of service of junior local government officers in the service of the employing authority by which the relevant junior local government officer is employed; and
- (b) twenty-one days have elapsed since the date of the report to the Commission; and
- (c) either-
- (i) during such period of twenty-one days, the local dispute has not-
- (I) been settled; nor
- (II) been referred to the Council for its advice; nor
- (III) been entered on the agenda for the current or next following meeting of the Council (and a certificate under subsection (2) of section 17 issued accordingly); nor
- (IV) been referred to a Board; or
- (ii) the dispute has been referred to a Board and-
- (I) the report of the Board has been received by the Commission; and
- (II) twenty-one days, or if a further period or periods have been allowed by the Commission under subsection (2) of section 13, twenty-one days and such further period or periods, have elapsed since the receipt by the Commission of such report; and
- (III) during such period no award has been made by the Commission under section 13.

(3) Any person who contravenes the provision 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.

Sanction of
Director of
Public
Prosecutions

20. No prosecution for a contravention of section 19 shall be instituted save by, or with the consent of, the Director of Public Prosecutions.

PART VI

CONSTITUTION AND PROCEDURE OF BOARDS

Constitution
of Boards

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

(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 Commission may appoint another person to fill the vacancy.

Procedure
of Board

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

Evidence

23.-(1) A Board shall, for the purpose of making its report on any dispute or local dispute referred to it under this Act 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.

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

A appearance
by advocate

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

Proceedings
to be private

26.-(1) The Arbitration Ordinance shall not apply to any proceedings, agreement or award under this Act.

Cap. 15
and Act 43
of 1962 not
to apply

(2) Nothing in the Trade Disputes (Settlement) Act, 1962, shall apply to employment or service in the Local Government Service or to any office or appointment in the employment or service of an employing authority.

27.-(1) No senior local government officer shall be or become a member of any trade union or any body or association affiliated to a trade union.

Prohibition
against serious
local govern-
ment officers
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.

28. 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

29.-(1) Where any regulations made by the statutory authority under the Scheme are inconsistent with any agreement or award which, in accordance with the provisions of this Act, is binding on the statutory authority, the statutory authority shall forthwith take such steps as may be necessary to make such regulations conformable with such agreement or award; and the statutory authority shall not make any regulations under the said Scheme which are inconsistent with an agreement or award during the period during which the same is binding on the statutory authority, save in order to, give effect to any later agreement or award binding on the statutory authority:

Effect of
agreements
and awards
on certain
regulation
and contracts

Provided that nothing in this subsection shall require the statutory authority to make any amendments to any regulations or to refrain from making any regulations affecting any employing authority or any junior local government service officer in relation to whom such agreement or award is not binding on the statutory authority.

(2) Subject to any regulations made by the statutory authority under the Scheme, it shall be an implied term of the contract between an employing authority on which, and junior local government officers employed by such authority on whom, any agreement or award is, in accordance with the provisions of this Act, binding, that the terms and conditions of service to be observed under the contract shall be in accordance with such agreement or award until varied by a subsequent agreement (whether under this Act, or otherwise) or award.

Regulations
and
directions

30.—(1) The Commission may make regulations—

- (a) prescribing anything that is to be or may be prescribed under this Act;
- (b) prescribing 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.

(2) Without prejudice to the provisions of paragraph (b) of subsection (1), the Commission 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 fourth day of December, 1963.


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Clerk of the National Assembly