

# LOCAL GOVERNMENT NEGOTIATING MACHINERY ACT, 1982

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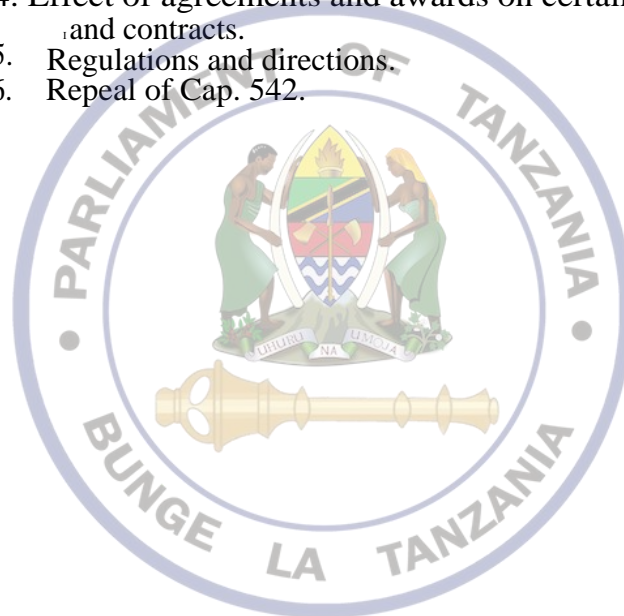
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THE UNITED REPUBLIC OF TANZANIA



No. 11 OF 1982

I ASSENT,

*Julius K. Nyerere*

President

28<sup>TH</sup> JUNE, 1982

**An Act to repeal the Local Government Service (Negotiating Machinery) Act, 1963, and to make better provision for the participation of Workers in the settlement of disputes arising within the local government system and for other matters connected or incidental to the settlement of disputes in the local government service**

ENACTED by the Parliament of the United Republic of Tanzania.

**PART I**

PRELIMINARY PROVISIONS

1. This Act may be cited as the Local Government Negotiating Machinery Act, 1982, and shall come into operation on the date on which the Local Government Act, 1982, shall come into Operation. Short title and commencement

2.-(1) This Act shall apply to all local government authorities in relation to the settlement of disputes between the authorities and specified local government officers respecting the terms and conditions of employment of the letter. Application

(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 for the purposes of this Act shall be notified in the *Gazette*.

Cap. 15 and  
Act 41 of  
1967 not to  
apply

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

(2) Save only in the manner and the extent expressly specified in this Act, nothing in the\* Permanent Labour Tribunal Act, 1967, shall apply to employment or service or to any office or appointment in the employment or service of an employing authority.

Interpretation

**4.** In this Act, unless the context requires otherwise-

"the Act" means in relation to a district authority, the Local Government (District Authorities) Act, 1982, and in relation to an urban authority, the Local Government (Urban Authorities) Act, 1982;

"association of local authorities" means an association of local government authorities for the time being recognized by the Minister as an association for the purposes of this Act;

"authority" and "local authority" both mean a local government authority;

"award" means an award made or registered by the Tribunal under this Act;

"the Commission" means the Local Government Service Commission established by section 4 of the Local Government Service Act, 1982;

"the Council" means the Local Government Staff Council established by section 5.

"dispute" means any matter relating to the terms and conditions of service of specified local government employees which is reported to the Minister under section 10 after the Council has considered it and failed to reach agreement on it;

"employing authority" means a local government authority to which the Scheme applies;

"local dispute" means any matter relating to the terms and conditions of service of specified local government officers which the Commission refers to the Tribunal under section 18;

"local government authority" means a district council, a township council or a village council established under the Act, and includes any urban council to which the Act applies;

"local government office" means an office of emolument in the Service;

"local government officer" means a person holding or acting in a local government office;

"lock-out" means the closing of a place of employment, or the suspension of work, or the refusal by an employer to continue to employ any number of persons employed by him, done in consequence of a trade dispute, not with the intention of finally determining employment, but with a view to compelling those persons, or to aid another employer in compelling persons employed by him, to accept terms or conditions of or affecting employment;

"management officer" means any local government officer who holds or acts in any of the following offices, namely-

- (a) the chief executive officer of a local government authority;
- (b) a head of a department of a local government authority;
- (c) any other office approved by the Council for the purposes of this definition, and includes any local government officer whose office is prescribed by the Commission under the Scheme as an office the continued holding of which is subject to periodic examination as to proficiency and fitness to hold it;

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

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

"prescribe" means prescribe by regulations;

"the Scheme" means the Local Government Service Scheme for the time being in force formulated pursuant to section 5 of the Local Government Service Act, 1982;

"the Service" means the unified service of all employing authorities, otherwise known as the Local Government Service, the establishment of which is provided for by the Scheme;

"specified local government employee" means any local government employee other than a management officer;

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

- (a) the President in respect of the powers vested in him in relation to the appointment of staff in the Service, or reserved to him in the Schedule or any regulations made under it;

- (b) any board or committee within a local government authority to which the Commission delegates any of its functions under the Schemes respecting the recruitment and employment of specified local government employees;

"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, or a concerted interruption of work or performance of work on a go-slow basis by any member of employees, done as a means of compelling their employer, the statutory authority or any person or body of persons employed, or to aid other 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, to employ or not to employ any person;

"trade union" means JUWATA;

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"the Tribunal" means the Permanent Labour Tribunal established by the Permanent Labour Tribunal Act, 1967;

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

## PART II

### THE LOCAL GOVERNMENT STAFF COUNCIL

Establishment  
of Local  
Government  
Staff Council

5.-(1) There is hereby established for the purposes of this Act council to be known as the Local Government Staff Council.

(2) Subject to the following provisions of this section, the Council shall consist of a Chairman, a Vice-Chairman and such number of other members, not less than thirty or more than forty, as the Minister may determine.

(3) The Minister shall appoint a suitably qualified public officer to be the Secretary of the Council, and a person from amongst three names submitted by JUWATA to be the Deputy -Secretary of the Council.

(4) Subject to subsection (5), members shall be appointed by the Minister from among persons nominated by the Commission and JUWATA and who are-

- (a) civil servants; or
- (b) employees of the Commission; or
- (c) representative of an association or associations of local government authorities; or
- (d) officers or representatives of JUWATA,

save that the Chairman of the Council shall be appointed by the Minister from among persons nominated by the Commission, and the Vice-Chairman shall be elected by the members from among the members originally nominated by JUWATA.

(5) The Minister shall, in appointing members under this section, ensure that-

- (a) half of the members are from amongst the persons nominated by JUWATA;
- (b) a quarter of the members are from amongst the persons nominated by the Commission and who are civil servants or employees of the Commission;
- (c) a quarter of the members are from amongst the persons nominated by the Commission and who are representatives of an association or associations of local government authorities.

(6) A person appointed a member of the Council shall, unless he sooner resigns or ceases to be a member in any other way, hold office for a term of three years from the date of his appointment and shall be eligible for re-appointment.

(7) Where a vacancy occurs in the membership of the Council the Chairman shall report the vacancy to the Minister who shall then require the authority responsible for nominating the member occasioning the vacancy to nominate another person for appointment to the Council.

(8) Where a person is appointed a member to fill a vacancy on the Council, he shall hold office only for the unexpired portion of the term of office of the member whose place has become vacant, but shall be eligible for re-appointment.

6. The objects of the Council shall be, within the limits of its functions-

Objects of the Council

- (a) to secure the greatest measure of co-operation between employing authorities and specified local government employees; and of both with the statutory authority;
- (b) to provide machinery for dealing with the grievances of specified local government employees; and
- (c) to enable consultation to take place in matters affecting the efficiency, productivity and well-being of the Service.

7.-(1) Subject to subsection (2), the functions of the Council shall be-

Function of the council

- (a) to negotiate on all matters relating to terms and conditions of service of specified local government employees or categories or groups of them;
- (b) to discuss and submit advice to the Commission on any matters on which the Commission seeks the advice of the Council;
- (c) to discuss and make recommendations to the Commission on any matter concerning the interests, well-being, efficiency and productivity of specified local government employees; and
- (d) generally to assist in the furtherance of good relations between the statutory authority, employing authorities and specified local government employees.

(2) Nothing in this section shall be construed as empowering 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 employee.

Meetings and  
procedure of  
the council

**8.**-(1) The Council shall meet at least three times in every calendar year.

(2) At any meeting of the Council half of the members nominated by the Commission and half of the members nominated by JUWATA shall constitute a quorum.

(3) The Minister may, by regulations published in the *Gazette*, provide for-

- (a) the procedure to be adopted by the Council for regulating its meetings;
- (b) such other matters as seem to be necessary, expedient or desirable in relation to the Council or to the carrying out of its functions.

(4) Subject to this Act and to the preceding provisions of this section, the Council may regulate its own procedure.

### PART III

#### PROCEDURE FOR THE SETTLEMENT OF DISPUTES

Agreements  
reached in  
Council

**9.**-(1) The Minister shall, after consultation with the Commission and with JUWATA, by regulations published in the *Gazette*, provide for the procedure to be complied with, and the person or body of persons within local government authorities to be consulted or involved, by specified local government employees or any category of them in submitting any matter to the Council for its consideration or negotiation within it.

(2) Where agreement is reached within the Council on any matter relating to the terms and conditions of service of specified local government employees or any category, grade or group of them, the agreement shall be recorded in writing and shall be signed by Chairman or any other member nominated by the Commission and by the Vice-Chairman or any other member nominated by JUWATA.

(3) Every agreement recorded and signed in pursuance of subsection (2) shall be submitted to the Minister who shall transmit it, together with any comments which he may wish to make on it to the Tribunal, and the Tribunal shall proceed to consider the agreement for the purposes of registering it as an award.

(4) in considering an agreement under this section, the Tribunal shall have the same powers and shall be subject to the same obligations, *mutatis mutandis*, as if that agreement were a matter referred to it under the Permanent Labour Tribunal Act, 1967.

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**10.** Where the Council is unable to reach agreement on any matter relating to the terms and conditions of service of specified local government employees or any category, grade or group of them, the Chairman of the Council shall submit a report to the Minister containing-

Report to Minister where no agreement breached in council

- (a) the minutes of the proceedings of the Council;
- (b) a memorandum each on the subject prepared by either side to the matter in issue,

informing the Minister of the matter on which no agreement has been reached, and the report being submitted a dispute shall exist as to that matter.

**11.** Where a report is made to the Minister under section 10, the Minister may either-

Powers of Minister

- (a) if upon finding that the Council was unable to reach any agreement because-
  - (i) it did not take into account any material issue or matter relevant to the matter under consideration; or
  - (ii) it took into account any issue or matters which were irrelevant or immaterial; or
  - (iii) it lent undue weight or consideration to any issues or matters; or
  - (iv) it did not have the benefit of any relevant or material information;

and 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 the Tribunal.

**12.** Where, under paragraph (a) of section 11, the Minister refers a dispute back to the Council, the Council shall again consider the matters in dispute and endeavor to reach agreement on it and the provisions of section 9 shall apply to any agreement reached in the Council after the reference back.

Reference back to the Council

**13.-(1)** Where, under paragraph (b) of section 11, the Minister refers a dispute to the Tribunal, the Tribunal shall consider the causes and circumstances of the dispute and shall take into account any views expressed or comment made on the dispute by the Minister, and make determination resolving the dispute, which shall then be an award made by the Tribunal under the Permanent Labour Tribunal Act, 1967

Reference to the Tribunal

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(2) In considering a dispute under this section the Tribunal shall have the same powers and shall be subject to the same obligations, with such modifications as may be necessary, as if the dispute were a matter referred to it under the Permanent Labour Tribunal Act, 1967.

Time for  
reference and  
report

**14.**-(1) Reference under section 11, of a dispute back to the Council or to the Tribunal shall be made by the Minister within twenty-one days from the date on which the report was made to him under section 10 unless, in the opinion of the Minister, the special circumstances of the case make it necessary or desirable to postpone the reference for such further period or periods, not exceeding forty two days in the aggregate, 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 the Tribunal on or by a date specified in it, or that the Minister has or has not postponed the period for the reference and, where he has postponed that period, specifying the further period within which the reference shall be made, shall be admissible in evidence and shall, unless the contrary be proved be sufficient evidence of the facts stated in it.

Award may  
be retrospec-  
tive

**15.** Any award may be expressed to be retrospective to any date which is not-

- (a) in the case of agreement reached in Council, earlier than the date agreed upon by the Council; and
- (b) in the case of an award made by the Tribunal, earlier than the earliest of the dates covered by the facts from which the dispute arose.

Publication of  
awards

**16.**-(1) Every award shall be published in the *Gazette*.

(2) Every award shall take effect on the date on, which it is specified in the award that it shall take effect.

Awards to be  
binding

**17.** Every award registered by the Tribunal under section 9, and every award made by, the Tribunal under section 13 shall be binding upon the statutory authority and those employing authorities and specified 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 Minister, be placed upon the agenda of or discussed within the Council until the expiration of the period of twelve months.

## PART IV

## ALTERNATIVE PROCEDURE IN LOCAL DISPUTES

**18.**-(1) This section shall apply to any disagreement between an employing authority and specified local government employees, or between the statutory authority and specified local government employees employed by a particular employing authority, relating to the terms and conditions of service of specified local government employees, but shall not apply to

Local disputes may be referred to the Tribunal

- (a) a disagreement relating to any terms and conditions prescribed by the statutory authority under the Scheme in relation to matters the decision on which by the Commission are expressed to be mandatory on all employing authorities and all local government employees, unless the terms and conditions in question apply to particular employing authorities and their employees only and the employing authority or specified local government employees 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 employee.

(2) Where any disagreement to which this section applies has been referred to any body established for the settlement of such disagreement by the Commission or the employing authority concerned, and that body has not resolved it, 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 of 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 disagreements to the Tribunal.

(3) In any proceedings under or for an offence against this Act, a certificate purporting to be under the hand of the Secretary of the Commission that the Commission has or has not referred the disagreement to the Council or to the Tribunal by or on a date specified in it, 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 in it.

Awards on  
local disputes

**19.**-(1) Where a local dispute has been referred to the Tribunal under section 18, the Tribunal shall proceed to consider the causes and circumstances of the dispute in accordance with section 13 and shall submit its report to the Commission without delay and, where practicable, within twenty-one days of the reference and the Commission shall forward the report to the Minister.

(2) Subject to subsection (3), the provisions of section 3 shall apply to and in relation to a local dispute as they apply to and in relation to a dispute, and the provisions of section 16 and 17 shall apply to an award on a local dispute.

(3) in the case of an award on a local dispute, section 17 shall have effect as if there were added immediately after the word "Council" in that section, the words "or any body established for the settlement of disagreements by the Commission or the employing authority concerned."

## PART V

### LOCK-OUT AND STRIKES

Conditions to  
be fulfilled  
before strike  
takes place

**20.**-(1) No employer shall take part in a lock-out and no specified local government officer shall take part in a strike unless the conditions specified in subsection (2) and which are applicable to the occasion are first fulfilled.

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

A. (a) a report has been made to the Minister under section 10; and

(b) twenty-one days, or if a further period or periods have been allowed by the Minister under subsection (1) of section 14, twenty-one days and such further period or periods, not exceeding forty-two days in the aggregate, 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-

(I) been settled; nor

(II) been referred back to the Council; nor

(III) been referred to the Tribunal; or

- (ii) the dispute has been referred to the Tribunal and-
- (I) the report of the Tribunal has been received by the Minister; and
  - (II) twenty-one days or, if a further period or periods have been allowed by the Prime Minister under subsection (2) of section 14, twenty-one days and such further period or periods, have elapsed since the receipt by the Minister of such report; and
  - (III) during that period no award has been made by the Tribunal under section 13; or
- B. (a) a report has been made to the Minister under section 18 in respect of the terms and conditions of service of specified local government officers in the service of the employing authority by which the relevant specified local government officer is employed; and
- (b) twenty-one days have elapsed since the date of the report to the Minister; and
- (c) either-
- (i) during that 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 18 issued accordingly; or
    - (IV) been referred to the Tribunal; or
  - (ii) the dispute has been referred to the Tribunal and-
    - (I) the report of the Tribunal has been received by the Minister; and
    - (II) twenty-one days or, if a further period or periods have been allowed by the Prime Minister under subsection (2) of section 14, twenty-one days and such further period or periods, have elapsed since the receipt by the Minister of such report; and
    - (III) during that period no award has been made by the Tribunal under section 13.

(3) Any person who contravenes or fails to comply with 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 that fine and imprisonment.

Management officers not to strike

**21.** Any management officer who takes part in a lock-out or a strike 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 that fine and imprisonment.

Incitement to participate in strike an offence

**22.** Any person who procures or incites-

(a) any specified local government employee to take part in a strike in contravention of section 21; or

(b) any management officer to take part in a strike, 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 that fine and imprisonment.

Consent of D. P. P. condition precedent to prosecution

**23.** Except with the prior written consent given by and under the hand of the Director of Public Prosecutions, no prosecution for contravention of any of the provisions of sections 20, 21 or 22 shall be instituted against any person.

## PART VI

### MISCELLANEOUS PROVISIONS

Effect of agreement and awards on certain regulation and contracts

**24.**-(1) Subject to subsection (2), where any regulations made by the statutory authority under the Scheme are consistent 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 regulations conformable with the agreement or award; and the statutory authority shall not make any regulations under the Scheme which are inconsistent with an agreement or award during the period during which that agreement or award is binding on it, save in order to give effect to any later agreement or award binding on the statutory authority.

(2) Nothing in subsection (1) shall be construed as requiring the statutory authority to make any amendments to any regulations or to refrain from making any regulations affecting any employing authority or any specified local government employee in relation to whom an agreement or award is not binding on the statutory authority.

(3) 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 specified local government employees employed by that authority on whom, any agreement or award is, in accordance with the provisions of this Act, binding, that the terms and conditions of service shall comply with the agreement or award until varied by a subsequent agreement, under this Act or any other written law, or award.

25.-(1) The Minister may make regulations for the better carrying into effect of the provisions and purposes of this Act and, without prejudice to the generality of that power, may make regulations prescribing anything which is required or permitted by, this Act to be prescribed.

Regulations  
and direc-  
tion

(2) The Minister may give directions relating to the scope, method and conduct of any specified proceedings before the Tribunal under this Act, subject to subsection (3).

(3) No direction given under subsection (2) shall be inconsistent with any provisions of the Permanent Labour Tribunal Act, 1967, relating to the powers and duties of the Tribunal.

26. The Local Government Service (Negotiating Machinery) Act, 1963, is hereby repealed.

Repeals of  
Cap 542

Passed in the National Assembly on the twenty-seventh day of April, 1982.

