

THE COMMISSIONS OF INQUIRY (AMENDMENT) ACT, 1994

ARRANGEMENT OF SECTIONS

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THE UNITED REPUBLIC OF TANZANIA



No. 27 OF 1994

Ali Hassan Mwinyi I ASSENT,

 President
 17-7/1/95

An Act to amend the Commissions of Inquiry Ordinance.

ENACTED by the Parliament of the United Republic of Tanzania.

1. This Act may be cited as the Commissions of Inquiry (Amendment) Act, 1994, and shall be read as one with the Commissions of Inquiry Ordinance. in this Act referred to as the Ordinance".

Short title and Construction

2. The Ordinance is hereby amended by inserting immediately after section 1, the following:

Insertion of section 1A

1.—A. In this Ordinance, unless the context requires otherwise; "Commission" means any Commission appointed under section 2 "Commissioner" means any of the Commissioners appointed under section 2; "inquiry" means any inquiry carried out in pursuance of the provisions of this Act; "Minister" means the Minister for the time being responsible for legal affairs.

3. Section 2 of the Ordinance is hereby amended:—

Amendment of section 2

(a) by deleting subsection (1) and substituting for it the following:
 "(1) Where the President is, on his own motion, upon advice by the Minister or after considering information furnished to him upon affidavit by any person, satisfied that it is desirable or necessary, or that an inquiry would be for the public welfare, he may issue a Commission appointing one or more Commissioners and authorising those Commissioners or any quorum of them therein mentioned, to inquire into any of the matters set out in subsection (1A).";

(b) by adding immediately after subsection (1) the following:—
 "(1A) The President may cause an inquiry to be carried out under this Act into—

- (a) the conduct of any person in the public service of the United Republic;
- (b) the conduct of any local authority;
- (c) the conduct or management of any department of the public service or of any public or local institution;
- (d) massive or repeated evasions of any taxes or any other acts subversive of the smooth collection of public revenue;
- (e) allegations of grave irregularities in the public tendering systems;
- (f) grave allegations of large scale trafficking in trophies;
- (g) allegations of conspiracies against the natural resources of the United Republic;
- (h) allegations of theft or embezzlement of public property in public corporations;
- (i) serious allegations of occurrences of corruption;
- (j) any other matter the inquiry into which would, in the opinion of the President be in the public interest.”;
- (c) by deleting subsection (3) and substituting for it the following:—
 “(3) In the absence of a direction to the contrary in the Commission concerned, an inquiry shall be held in public, but the Commissioners shall nevertheless be entitled to exclude the representatives of the press or any or all other persons if they consider it necessary so to do for the preservation of order, for the due conduct of the inquiry or for any other reason.”.

Insertion
of new
section
2A

4. The Ordinance is hereby amended by inserting immediately after section 2 the following new section:

power to
cause in-
vestiga-
tion to be
made be-
fore issu-
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Commis-
sion

2A.—(1) For the purposes of obtaining information to decide whether or not to issue a commission under section 2, the President may on advice by the Minister or on his own motion, direct the Attorney General to cause an investigation to be made into such matters as the President may specify and to convey to him the result of the investigation.

(2) The Attorney-General may, for the purposes of carrying out any investigation directed by the President under subsection (1), in writing under his hand require any public officer, in this section referred to as an “authorised officer”, to carry out such investigations as he may direct.

(3) For the purposes of carrying out any investigation directed by the Attorney-General an authorised officer shall have all the powers of a police officer conducting a criminal investigation and may in particular:—

- (a) require, in writing, from any person the production at a specified time and place of any book, plan or document in the possession or custody or under the control of the person concerned or his employee;
- (b) examine and make extracts from and copies of any books, plans or documents and require from any person an explanation of any entry therein or marking thereon;

save that no person shall be bound to incriminate himself and every person shall, in respect of any explanation required of him, be entitled to the same privileges to which he would be entitled if giving evidence before the High Court.

(4) Where the Attorney-General is satisfied that the inspection of any banker's book is necessary or desirable for the purpose of any investigation directed by the President under subsection (1), he may, by order, authorise any authorised officer named therein to investigate the account of any specified person in any banker's book, such order shall be sufficient authority for the production of any such banker's book as may be required for scrutiny by the authorised officer named in the order, and such authorised officer may take copies of any relevant entry or matter in such banker's book.

(5) The provisions of the Evidence Act, 1967, in respect of evidence of banker's books shall apply in relation to the production and proof in any proceedings under this Act of a copy of any entry in a banker's book obtained under subsection (4).

(6) Any person who fails to produce a banker's book to an authorised officer acting in pursuance of an order made by the Attorney-General under this section or to permit such authorised officer to scrutinise the same or to take copies of the relevant entries therein shall be guilty of an offence and liable to a fine not exceeding fifty thousand shillings or to imprisonment for a period not exceeding twelve months, or to both that fine and imprisonment.

(7) For the purposes of this section, "banker's book" shall have the meaning ascribed to it by the provisions of the Evidence Act, 1967.

5. The ordinance is hereby amended by inserting immediately after section 10 the following new sections.

Insertion
of new
sections
10A and
10B

"Con-
sequences
of issue of
a commis-
sion

10A. Notwithstanding the provisions of any other law to the contrary, where the President issues a commission establishing an inquiry into any matter in pursuance of this Act:—

- (a) the President may require that any ongoing investigation or inquiry by the organs of the Government shall cease, and any evidence already obtained shall be furnished to the Commission;

(b) all organs of the Government and all other local or public authorities connected, related or otherwise involved the field or fields of activity under investigation shall be all such acts and things as they deem necessary for assisting the smooth or speedy work of the Commission.

Employment of experts

10B.—(1) A Commission may, with the prior approval of the Minister engage the services of such accountants, engineers, technical advisers or other experts as it deems necessary to aid and assist it in the inquiry.

(2) The Minister shall, in approving the engagement of experts by the Commission, give a direction in writing as to the remuneration of any such expert."

Amendment of section 13

6. Section 13 of the Ordinance is hereby amended:—

(a) by renumbering the provisions of the section as those of subsection (1) of that section:

(b) by adding immediately after subsection (1) the following:

"(2) The Government shall be entitled to be represented at any inquiry under this Act by the Attorney-General or such person as he may nominate in that behalf."

Insertion of new sections 16A and 16B

7. The Ordinance is amended by inserting immediately after section 16 the following sections:

Protection of person publishing true account

16A.—(1) Upon receipt of a report of Commission at the end of an inquiry the President may:—

(a) if he is satisfied that further investigations ought to be carried out or prosecutions undertaken, instruct the Director of Public Prosecutions to advise the police what investigations should be done or direct the appropriate institution of criminal prosecution;

(b) if he is of the opinion that any other measures ought to be taken against any person or persons, order that such measures be taken.

(2) Where any loss is revealed by the inquiry as having been inflicted by the conduct of any person, the President may order that the person concerned be required to pay compensation of such amount as the Minister shall certify to be the appropriate amount.

(3) The President may direct that any report of a Commission be withheld from publication or be withheld for such time as he may specify.

16B. No person shall be liable to any action suit, indictment or proceeding by reason of his publishing a true account of any evidence taken in public in pursuance of the powers conferred by this Ordinance or of any report of the Commissioners made public by the authority of the President.


8. The Ordinance is hereby amended by adding immediately after section 17 the following new section:

Addition
of new
17A

17A.—(1) Minister may, with the consent of the President make regulations for the better and more efficient carrying out of the purposes and provisions of this Ordinance.

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

Passed in the National Assembly on the 18th November, 1994.



Clerk of the National Assembly