

THE UNITED REPUBLIC OF TANZANIA



CHAPTER 268

**THE OFFICE OF THE ATTORNEY GENERAL
(DISCHARGE OF DUTIES) ACT**

[PRINCIPAL LEGISLATION]

REVISED EDITION 2019

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Dodoma,
30th November, 2019

ADELARDUS L. KILANGI
Attorney General

CHAPTER 268

**THE OFFICE OF THE ATTORNEY GENERAL
(DISCHARGE OF DUTIES) ACT**

[PRINCIPAL LEGISLATION]

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CHAPTER 268

THE OFFICE OF THE ATTORNEY GENERAL (DISCHARGE OF DUTIES) ACT

An Act to provide for the discharge of duties and the exercise of powers of the Attorney General, and to provide for the relationship of the Office of the Attorney General with other public offices and officers performing legal functions in the Government and local government authorities and to provide for related matters.

[1st JULY, 2005]

[GN. No.171 of 2005]

Acts Nos.
4 of 2005
8 of 2017
7 of 2018
11 of 2019

**PART I
PRELIMINARY PROVISIONS**

Short title	1. This Act may be cited as the Office of the Attorney General (Discharge of Duties) Act.
Application	2. This Act shall apply to persons who perform or discharge legal functions in the Office of the Attorney General and other offices in the public service who, by virtue or nature of their job description are required to seek or consult for legal advice from the Office of the Attorney General.
Interpretation	3. In this Act, unless the context otherwise requires-
Act No. 7 of 2018 s.60 Cap.268	“Act” means the Office of the Attorney General (Discharge of Duties) Act; “Attorney General” has the meaning ascribed to it under

Article 59 of the Constitution, and shall include, the Deputy Attorney General, Law Officers and State Attorneys when discharging the duties or exercising the powers of the Attorney General;

“Code of Ethics” means the Code of Ethics referred to under section 27;

“Constitution” means the Constitution of the United Republic of Tanzania, 1977;

“Court” means a court of law and includes a tribunal;

Cap.2 “Deputy Attorney General” has the meaning ascribed to it under Article 59A of the Constitution;

Cap.1 “Law Officer” has the meaning ascribed to it under the Interpretation of Laws Act;

“Minister” means the Minister responsible for legal affairs;

Cap.2 “Office of the Attorney General” in relation to the functions of the Attorney General, means the Office established by the Article 59(1) of the Constitution;

“public service” for purpose of the discharge of the duties of the Office of the Attorney General, means the service in the Ministry of the Government, Government department and Government Agency;

“State Attorney” means a person appointed as such under section 24 and includes a Parliamentary Draftsman and a Local Government Solicitor;

Objectives of Act
Act No.
7 of 2018
s.61

3A. The objectives of this Act shall be to enhance and strengthen the capacity-

- (a) to deliver advice on matters of law to the Ministries, independent departments, agencies and the local government;
- (b) for efficiency in drafting of legislative instruments and draft resolutions for debate by the National Assembly;
- (c) to deliver advice to Ministries, independent departments, Agencies and the local

- government on legislative process;
- (d) of the Government in dealing with matters instituted or filed in courts of law or arbitral tribunals; and
- (e) of the Government in the negotiation of agreements of commercial or political nature both local or international in which the Government is a party or has interest.

PART II OFFICE OF THE ATTORNEY GENERAL

Administration of
Office
Act No.
7 of 2018
s.62
GN. No.
48 of 2018

4. The administration of the Office of the Attorney General, the discharge of duties, the exercise of the powers and the relationship of the Office of the Attorney General with other officers discharging legal duties in the public service shall be governed by the Constitution, the office of the Attorney General (Re-structure) Order, 2018.

Attorney General
and his functions
Act No.
7 of 2018
s.63

5.-(1) The Attorney General shall be the head of the Office of the Attorney General.

(2) The Attorney General shall, by virtue of his office, be the Head of the Bar and shall, through the Solicitor General, take precedence over all civil matters whenever he appears in court.

(3) Subsection (2) shall apply in relation to the Deputy Solicitor General, Law Officers and State Attorneys appearing in court in the name of the Attorney General.

Powers of
Attorney General
Act No.
7 of 2018
s.64
Cap.4
s.8

6. In the discharge of the functions under sub-article (3) of Article 59 of the Constitution, the Attorney General shall have and exercise the following powers:

- (a) to require any officer in the public service to furnish any information in relation to any matter which is the subject of legal advice;
- (b) to issue directions to any officer performing legal functions in any Ministry of the

Government, Government Department or Government Agency, other than those working in the National Prosecutions Service or the Office of the Solicitor-General.

Deputy Attorney General and his functions

7.-(1) The Deputy Attorney General shall carry out any function, discharge any duty and exercise any power as may be directed by the Attorney General and shall:

Act No.
7 of 2018
s.65

- (a) be the administrative head of the Office of the Attorney General;
- (b) carry out the general supervisory role of the legislative drafting or Bills and other legislative instruments;
- (c) carry out the general supervision of Law Officers and State Attorney in the Ministries, Government departments, agencies and local government;
- (d) administer legal functions performed by Law Officers and State Attorneys in the Office of the Attorney General; and
- (e) be responsible for the discipline of Law Officers and State Attorneys in the Office of the Attorney General.

(2) In performing the duties stipulated under this Act, the Deputy Attorney General shall uphold the division of duties and functions performed by officers in the Office of the Attorney General independent of others and those reserved to the Attorney.

Functions of Office of Attorney General
Act No.
7 of 2018
s.66
Cap. 2
G. N. No.
48 of 2018

8. Without prejudice to the generality of Articles 59 and 59A of the Constitution and the Office of the Attorney General (Re-structure) Order, 2018 the functions of the Office of the Attorney General shall be to:

- (a) advise ministries, independent departments, agencies, local government authorities, public corporations, parastatal organizations and other government institutions and organisations on the legislative process and legal opinion on general issues;

- (b) draft legislative proposals into Bills for enactment into law;
- (c) draft all legislative instruments and resolutions for ratification by the National Assembly;
- (d) advise on proper and purposeful meaning of enactment of Parliament, subsidiary legislation and other legal instruments;
- (e) carry out the general supervision of Law Officers and State Attorneys appointed or employed in the Office of the Attorney General, ministries, local government authorities, independent departments, executive agencies, public corporations, parastatal organisations and government institutions other than those under the National Prosecutions Service and the Office of the Solicitor-General;
- (f) carry out the general supervision of staff employed in the office of the Attorney General;
- (g) administer legal functions performed by Law Officers and State Attorneys in the Office of the Attorney General;
- (h) summon any public officer to give explanation, or information regarding any matter which is the subject of advice;
- (i) prepare and submit biannual report to the Minister;
- (j) appoint or employ and discipline Law Officers, State Attorneys and other staff of the Office of the Attorney General; and
- (k) perform any function as may be necessary for effective discharge of the duties and the exercise of the powers of the Attorney General.

Appointment or
employment of
officers
Act No.
7 of 2018
s.67

9. There shall be employed or appointed in the Office of the Attorney General, Ministries of the Government, Government Departments and Agencies, Law Officers and State Attorneys of the titles explanatory of their functions and duties as prescribed by this Act or any other written law.

PART III
FUNCTIONS OF THE OFFICE OF THE ATTORNEY GENERAL
*(a) Special Provisions in Relation to the National Prosecutions Service,
the Office of the Solicitor General and the Administrator-General*

Relationship of
Office of
Attorney General
and other offices
Act No.
7 of 2018
s.68

10.-(1) Without prejudice to the generality of Article 59B of the Constitution, the Office of the Attorney General shall advise and maintain a link with the National Prosecutions Service, the Office of the Solicitor-General and the Administrator-General for better carrying out of their respective duties.

(2) For the purposes of subsection (1), the Office of the Attorney General shall-

- (a) receive copies of biannual performance reports from the National Prosecutions Service, Office of Solicitor General and the Administrator General;
- (b) follow-up on the implementation of the decisions reached by the Government Legal Team; and
- (c) advise the Government, the National Assembly and the Judiciary accordingly.

(3) The Minister may make rules for better carrying out the provisions of this section.

Repealed

11. Repealed by Act No.7 of 2018 s.70.

(b) Provisions in Relation to Other Matters of Legal Nature

Drafting and
publication of
Bills

12.-(1) The Attorney General shall, through the Chief Parliamentary Draftsman, define drafting instructions and exercise exclusive mandate on drafting legislative proposals into Government Bills.

(2) Where drafting instructions are received, the Chief Parliamentary Draftsman shall draft legislative proposals for approval by the Cabinet.

(3) Where the Cabinet approves the draft legislative proposals, the Chief Parliamentary Draftsman shall cause the Bill to be published in the *Gazette*.

(4) The term “drafting instructions” as used in this section means, directives given by the Cabinet for drafting legislative proposals into a Bill or by an authority delegated by Parliament through an enactment to make a subsidiary legislation.

Repealed

13. Repealed by Act No.7 of 2018 s.70.

Repealed

14. Repealed by Act No.7 of 2018 s.70.

PART IV
THE ATTORNEY GENERAL, LAW OFFICERS AND STATE
ATTORNEYS IN THE PUBLIC SERVICE

Law Officers and
State Attorneys
Act No.
7 of 2018
s.71 and 72

15.-(1) There shall continue in existence in ministries, local government authorities, independent departments, government institutions, agencies, public corporations, parastatal organizations, Law Officers and State Attorneys who by virtue of their qualifications, job description and duties, perform legal functions.

(2) The Attorney General may issue directions either general or specific to any Law Officer or State Attorney in public service other than those under the National Prosecutions Service or the Office of the Solicitor-General with regard to the manner of performing the legal functions within their respective offices.

(3) The Solicitor-General may issue each Law Officer and State Attorney in ministries, local government authorities, independent departments and other government institutions, agencies and organisations with Practice Instrument that will entitle the bearer to appear in court in cases where the Attorney General is a party.

(4) Without prejudice to subsection (2) the Attorney General may direct Ministries, local Government authorities, independent departments, agencies, public corporations, parastatal organizations or other government organizations to submit reports on the performance of legal functions.

Functions to be performed by Law Officers and State Attorneys
Act No. 7 of 2018
s.73

16.-(1) The functions which are, by the Constitution, this Act or by any other written law, required to be performed by or on behalf of the Attorney General, may be performed by a Law Officer or a State Attorney authorised by the Attorney General pursuant to the provisions of this Act.

(2) A person shall not become a Law Officer or State Attorney only for the reason that his job description includes performing legal functions.

(3) For the avoidance of doubt, nothing in this Act shall entitle any officer who is not qualified in law to perform legal functions in the public service.

Professional Association of lawyers in public service
Act No. 7 of 2018
s.74

16A.-(1) The Attorney General may establish a professional association of lawyers in the public service.

(2) The association shall be a professional forum of lawyers in the public service to meet once a year and deliberate on various legal issues including professional development and other matters of concern.

(3) The report of the meeting shall be submitted to the Minister.

(4) The Minister may make regulations for the proper management, leadership, organisation and conduct of the business of the association.

(5) Without prejudice to the foregoing provisions, the Minister may, from time to time, call meetings of lawyers in the public service in order to inform them of policy development issues with regard to the legal sector and the public service in general.

Roll of State
Attorneys
Act No.
7 of 2018
s.74

16B.-(1) The Attorney General shall establish and keep a Roll of all State Attorneys.

(2) The Attorney General shall enter in the Roll the name of every State Attorney and the order of entry of such names shall be according to precedence of such State Attorneys as between themselves.

(3) Nothing in this section shall prejudice or affect the qualification or status of any person who before the establishment of the Roll of State Attorneys was a State Attorney.

Audience by
Attorney General
in matters of
public interest,
etc.
Acts Nos.
8 of 2018
s.74
7 of 2018
s.75

17.-(1) Notwithstanding the provisions of any written law to the contrary, the Attorney General shall through the Solicitor-General have the right to audience in proceedings of any suit, appeal or petition in court or inquiry on administrative body which the Attorney General considers-

(a) to be public interest or involves public property; or

(b) to involve the legislative, the judiciary or an independent department or agency of the Government.

(2) In the exercise of the powers vested in the Attorney General with regards to the provisions of subsection (1), Solicitor-General shall-

(a) notify any court, tribunal or any other administrative body of the intention to be joined to the suit, inquiry or administrative proceedings; and

(b) satisfy the court, tribunal or any other administrative body of the public interest or public property involved,

and comply with any direction of the court, tribunal or any such other administrative body on the nature of pleadings or measures to be taken for purposes of giving effect to the effective discharge of the duties of the Office of the Attorney General.

(3) Where a suit, inquiry or any other proceeding is pending before the court, tribunal or any other administrative body to which the Solicitor-General does not have a right of audience, it shall be sufficient for the Solicitor-General to file a certificate of the intention of the Attorney General to be joined and the court, tribunal or any such administrative body shall immediately forward the record of the proceedings to the nearest court, tribunal or administrative body for purposes of enabling the Solicitor-General to appear.

17A.-(1) A Law Officer or State Attorney shall not, for the whole period of service as a Law Officer or State Attorney, practise as an advocate.

(2) Notwithstanding subsection (1), the Attorney General may, upon application by a Law Officer or State Attorney or, where in his opinion he considers it necessary, exempt a Law Officer or State Attorney from the application of the provisions of subsection (1).

(3) Without prejudice to subsection (2), a Law Officer or State Attorney may, subject to the guidelines prescribed by the Attorney General, administer oaths or attest documents as a commissioner for oaths or as a notary public;

Provided that such attestation or administration shall not have potential conflict of interest with his employer.

(4) The Attorney General shall, by order published in the *Gazette*, issue guidelines to-

- (a) facilitate the implementation of subsection (3); and
- (b) prescribe modality for application of exemption referred to under subsection (2).

Restriction to
practise as
advocate
Act. No.
11 of 2019
s. 44
Cap.4
s.8

**PART V
LEGAL FUNCTIONS OF THE LOCAL GOVERNMENT
AUTHORITIES**

Appointment of a
Law Officer for
local government
authorities
Act No.
7 of 2018
s.76

18.-(1) There shall continue in existence in the Minister responsible for local government authorities, an office of a Law Officer who shall be responsible for the coordination of State Attorneys of the local government authorities.

(2) Where there is a need for appointing a Law Officer to head or to perform the functions referred to in subsection (1), the Permanent Secretary of the Ministry responsible for local government authorities may, after consultation with the Attorney General and Solicitor-General, appoint the Law Officer from the Ministry responsible for local government authorities, Office of the Attorney General or Office of the Solicitor-General.

(3) A Law Officer appointed pursuant to the provisions of subsection (2) shall bear a title of any description that deposits the nature of the functions performed and the position held, provided however, that such title is commensurate to the structure of office acceptable by the Public Service Management Office.

(4) In the coordination of legal functions of the local government authorities, the Attorney General, Director of Public Prosecutions and the Solicitor-General may issue any directive of a general or specific nature concerning professional matters and the Law Officer shall cause such directive to be implemented.

(5) The Law Officer appointed in accordance with this section or any other Law Officer or State Attorney in the service of the local government authority shall, under the auspices of the Solicitor-General, have the right of audience in any matter before the court in which a local government authority or the Attorney-General is a party.

PART VI
CONTROL OF THE PERFORMANCE OF FUNCTIONS AND
THE DISCHARGE OF DUTIES OF THE ATTORNEY GENERAL

Reserve of
matters to
Attorney
General
Act No.
7 of 2018
s.77

19. No Law Officer, State Attorney shall render advice in any matter stipulated under this section without approval of the Attorney General, namely-

- (a) interpretation of the Constitution;
- (b) any matter relating to international agreements and treaties;
- (c) any matter which the law reserves to the Attorney General.

Procedure of
sourcing
consultancy
Act No.
7 of 2018
s.78
Cap.4
s.8

20.-(1) The engagement of consultants by any Ministry, Government Department or Agency for rendering legal services shall be made after obtaining written approval of the Attorney General in respect of issues that require consultancy.

(2) For the purpose of observing standards, maintaining quality or capacity building, the Attorney General may-

- (a) direct a Law Officer, State Attorney to whom the provisions of this Act apply to participate in the work of the consultant;
- (b) prescribe the terms and conditions for a Law Officer or State Attorney who participates in such consultancy.

Power to issue
directives and
practice notes
Act No.
7 of 2018
s.79
Cap.4
s.8

21.-(1) The Attorney General shall exercise powers, issue directives or practice notes to any officer to whom this Act applies for the purpose of maintaining standards and uniformity.

(2) The directives or practice notes issued pursuant to subsection (1) shall be in such form and manner as the Attorney General may determine.

(3) Notwithstanding the provisions of this section, all matters regarding administration or discipline in respect of Law Officers and State Attorneys in the ministries, local

government authorities, independent departments, agencies, public corporations and parastatal organizations shall be under the supervision and control of their respective employers.

(4) Employers of law officers and state attorneys shall have the duty to notify the Attorney General on all disciplinary cases against law officers and state attorneys under their supervision and control.

Reference of matter for opinion of the Attorney General Act No. 7 of 2018 s.80

22.-(1) Any ministry, local government authority, independent department, government institution, agency or organisation may refer or seek the opinion of the Attorney General on any legal matter.

(2) Where the opinion of the Attorney General is requested in relation to any matter reserved to the Attorney General, the ministry, local government authority, independent department, government institution, agency or organisation shall state clearly the matter and issues involved together with any opinion that may have been given from within such ministry, local government authority, independent department, government institution, agency or organisation.

Opinion of Attorney General to be position of Government Act No. 7 of 2018 s.81

23.-(1) The opinion of the Attorney General given pursuant to the provisions of subsection (2) of this section shall remain the legal position of the Government on the matter unless it is otherwise revised by a court of competent jurisdiction, the Cabinet or otherwise recalled by the Attorney General at the instance of the Attorney General.

(2) The Attorney General or the Deputy Attorney General may at the instance of the Attorney General recall any opinion given by a Law Officer, State Attorney or any officer in the public which is made in the name of the Attorney General.

(3) An officer who makes a decision in disregard of the opinion of the Attorney General:

(a) on a matter that sustains loss to the Government, shall be surcharged or otherwise

made to make good of the loss sustained in addition to other appropriate disciplinary measures that may be taken against such officer;

GN No. 168 of 2003

(b) in any other case, shall be a breach of discipline and may be dealt with according to the Public Service Regulations, 2003.

Act No.
7 of 2018
s.82
Cap.4
s.8

**PART VII
ATTORNEY GENERAL, LAW OFFICERS AND
OTHER STATE ATTORNEYS IN THE PUBLIC
SERVICE**

Qualifications
for employment
and appointment
of Law Officers
and State
Attorneys
Act No.
7 of 2018
s.83

24.-(1) Subject to the procedure determined by the Public Service Management, the ministry, local government authority, independent department, government institution, agency or organisation shall employ legally qualified officer in law to be a Law Officer or a State Attorney.

(2) A person shall be qualified for appointment as a Law Officer or a State Attorney who possesses a minimum of a first degree in law or the equivalent qualification from an institution of higher learning accredited or recognized as such by the competent authority.

(3) Where a person takes up employment as a Law Officer or a State Attorney, the Attorney General shall, by an instrument under his hand, appoint that person to be a Law Officer or State Attorney, and in the same or subsequent instruments direct on the nature of functions the officer will discharge.

(4) The Deputy Attorney General shall cause to be published in the *Gazette*, the names of all persons appointed to be Law Officers and State Attorneys.

Government
Legal Team
Act No.
7 of 2018
s.84

25.-(1) There is established a Team to be known as the Government Legal Team which shall undertake strategic legal analysis and forecast with regard to legal services rendered as well as prosecutorial and adjudicatory services provided.

(2) The Team shall consist of-

- (a) the Attorney-General who shall be the Chairman;
- (b) the Director of Public Prosecutions;
- (c) the Solicitor-General;
- (d) the Administrator-General;
- (e) the Executive Secretary of the Law Reform Commission of Tanzania;
- (f) the Chief Parliamentary Draftsman;
- (g) the Director of Legal Services in the Ministry responsible for legal affairs; and
- (h) the Director of Legal Services in the Ministry responsible for local governments.

(3) The Attorney General shall appoint a Law Officer from the Office of the Attorney General to be a Secretary to the Team.

(4) The Team may co-opt any person as it deems necessary.

(5) The Team shall meet at least twice a year but may meet at any time if there is any issue to be discussed for the purpose of improving the legal services.

(6) The quorum at any meeting of the Team shall be half of the members.

(7) The Team may regulate its own proceedings.

(8) The Team shall prepare a report of its deliberations and submit the same to the Minister.

Register of Law
Officers and
State Attorneys
Act No.
7 of 2018
s.85
Cap.4
s.8

26.-(1) There shall a Register into which shall be entered and kept particulars of Law Officers and State Attorneys in the public service.

(2) The Deputy Attorney General shall keep and maintain the Register of the Law Officers and State Attorneys in public service who perform the functions in accordance with this Act.

(3) The Register shall contain names, qualifications titles and occupation of each of such officers.

Code of Ethics
Act No.
7 of 2018
s.86

27.-(1) There shall be a Code of Ethics for Law Officers and State Attorneys in the public service to be prescribed by the Minister.

(2) All matters regarding administration or enforcement of the Code of Ethics for Law Officers and State Attorneys in the public service shall be under the supervision and control of their respective employers.

G.N No. 168 of
2003

(3) Notwithstanding the Public Service Regulations, 2003 the Attorney General may refer allegations of professional misconduct against a Law Officer or a State Attorney to the Advocates Committee.

(4) Each Permanent Secretary and every head of the independent department, government institution, agency or organisation shall liaise with the Ministry in the administration of the Code of Ethics in respect of Law Officers and State Attorneys employed in their respective offices.

(5) The Chief Justice may, in consultation with the Minister, make rules for better carrying out referrals to the Advocates Committee by the Attorney General under subsection (3) of this section.

Orders, etc and
sanctions for
breach of Code
of Ethics
Act No.
7 of 2018
s.86
G.N. No.
168 of 2003

28.-(1) The Attorney General may issue General or Standing Orders, Practice Notes and other instruments as he may deem fit for purposes of better management and organisation of the Office of the Attorney General.

(2) Any Law Officer or State Attorney who breaches the Code of Ethics commits a professional misconduct and shall be liable to disciplinary actions through the employer in accordance to the Public Service Regulations, 2003.

Regulations **29.** The Minister may make regulations for the better carrying out of the provisions of this Act.

Omitted **30 - 33** Amend various written laws.

SCHEDULE

Repealed by Act No.7 of 2018 s.87

Constitution of the United Republic of Tanzania (Office of the Solicitor-General (Establishment))

GOVERNMENT NOTICE NO. 50 published on 13/02/2018

THE CONSTITUTION OF THE UNITED REPUBLIC OF TANZANIA
OF 1977

(CAP.2)

INSTRUMENT

(Made under Article 36 (1))

WHEREAS Article 36 (1) of the Constitution of the United Republic of Tanzania of 1977, Cap.2 vests in the President powers to establish and disestablish such offices in the Services of the Government of the United Republic;

AND WHEREAS the Government of the United Republic desires to enhance and strengthen the role mandate and capacity of institutions charged with representing the Central Government, independent departments, executive agencies and local government authorities in courts of law, arbitral tribunals in any suit or case of ordinary civil, human rights or constitutional nature to which the Central Government, independent department, agency or a local government is a party or has interest;

AND MINDFUL of the spirit of Article 59 and 59A of Constitution, the need and desire of separating the role of appointment, disciplinary and supervision of officers and other staff within the Office of the Solicitor-General in the day to day discharge of duties and performance of functions by the Attorney-General;

NOW THEREFORE I, JOHN POMBE JOSEPH MAGUFULI, the President of the United Republic of Tanzania, in the exercise of the

Constitution of the United Republic of Tanzania (Office of the Solicitor-General (Establishment))

GN. No. 50 (contd.)

powers conferred on the President by Article 36(1) and all other powers enabling the President under the law in that behalf, orders as follows:

OFFICE OF THE SOLICITOR-GENERAL (ESTABLISHMENT)
ORDER, 2018

- Citation 1. This Order may be cited as the Office of the Solicitor-General (Establishment) Order, 2018.
- Office of Solicitor-General 2. (1) There shall be the Office of the Solicitor-General within the organisation structure of the Office of the Attorney-General.
(2) The Office of the Solicitor-General shall be autonomous from the Office of the Attorney-General.
- Objectives 3. The objectives of establishing the Office of the Solicitor-General shall be to-
- (a) enhance and strengthen the Government ability to litigate civil cases including human rights and constitutional matters in courts of law and undertake arbitral proceedings in tribunals;
 - (b) enhance effective supervision of civil cases in courts of law including human rights and constitutional matters; and
 - (c) carry out the general coordination of the conduct of civil litigation and arbitral proceedings on behalf of the Central Government, independent departments, executive agencies and local government authorities.
- Functions of Office of Solicitor-General 4.-(1) The functions the Office of the Solicitor-General shall be to-
- (a) take and conduct civil litigation and arbitration on behalf of the Government and for that purpose, to direct Law Officers, State

Constitution of the United Republic of Tanzania (Office of the Solicitor-General (Establishment))

GN. No. 50 (contd.)

- Attorneys and Legal Officers who conduct civil litigation or arbitration proceedings;
- (b) coordinate civil litigation in the courts of law and arbitral tribunals on matters to which the Central Government, independent department executive agency or local government is a party or has interest;
 - (c) prepare and institute suits, claims in subordinate courts, the High Court, the Court of Appeal and arbitral tribunals in that behalf;
 - (d) carry out the general supervision of Law Officers, State Attorneys and other officers or staff appointed, employed or designated for the Office of the Solicitor-General;
 - (e) administer legal functions performed by Law Officers, State Attorneys and other Officers or staff of the Office of the Solicitor-General;
 - (f) summon any public officer to give explanation, or information regarding any matter which is or likely to be the subject of civil litigation or arbitration;
 - (g) prepare and submit bi-annual report to the Minister and a copy to the Attorney-General on matters and duties discharged of functions performed by the Office of the Solicitor-General;
 - (h) intervene and take over at any stage civil proceedings, appeal, execution or any incidental proceedings before any court of law or arbitral tribunal in which the Central Government, independent departments, agencies or a local government authorities have interest;
 - (i) issue directives to any public officer performing functions relating to civil litigations in courts of law or arbitral tribunals; and
 - (j) appoint or employ and discipline Law Officers,

Constitution of the United Republic of Tanzania (Office of the Solicitor-General (Establishment))

GN. No. 50 (contd.)

State Attorneys and other officers or staff of the Office of the Solicitor-General.

(2) For the purpose of paragraph(1), all matters instituted, filed, taken and conducted in courts of law or arbitral tribunal by the Solicitor General, Deputy Solicitor General, Law Officers, State Attorney or Legal Officers shall be in the name of the Attorney General.

(3) All claims against the Central Government, independent departments, executive agencies and local government authorities to which the Attorney General is a party, shall be taken and conducted in that behalf by the Solicitor-General.

Appointment of
Solicitor-General

5.-(1) There shall be a Solicitor-General who shall be appointed by the President.

(2) There shall be a Deputy Solicitor-General appointed by the President who shall be the principal assistant to the Solicitor-General.

(3) A person shall qualify for appointment as Solicitor-General or Deputy Solicitor-General who has fifteen years of proven experience in litigation in courts of law or tribunals and has unqualified competence and integrity.

(4) The Solicitor-General and Deputy Solicitor-General shall have *locus standi* to appear before courts of law and arbitral tribunals.

(5) Functions and powers of the Solicitor-General may be performed or exercised by Law Officers, State Attorneys, any officer or staff designated as such by the Solicitor-General.

(6) For the purpose of paragraph (5), the Solicitor-General shall, by instrument, appoint or designate any Law Officer, State Attorney or a Legal Officer to perform the functions or exercise powers of the Solicitor-General.

(7) Without prejudice to sub-paragraph (6), any person who was a Law Officer, State Attorney or a Legal Officer appointed or designated to perform the functions

Constitution of the United Republic of Tanzania (Office of the Solicitor-General (Establishment))

GN. No. 50 (contd.)

or exercise powers of a Law Officer or State Attorney shall be deemed to have been appointed or designated as such by the Solicitor-General.

Staff

6.-(1) There shall be appointed or employed to the Office of the Solicitor-General such number of public officers as may be necessary for proper and effective performance of the functions and exercise of powers of the Solicitor-General.

(2) The Deputy Solicitor-General shall be the accounting officer of the Office of the Solicitor-General and shall be responsible in managing day to day affairs and shall be a disciplinary authority of employees appointed or designated to carry duty within the Office of the Solicitor-General terms of this Order and laws governing the public service.

Organizational
Structure

7.-(1) Organizational structure, governance and accountability within the Office of the Solicitor-General shall be as provided in the schedule.

(2) Despite of subparagraph (1), the number and responsibilities of directorates and units under the Office of the Solicitor-General may be reviewed in accordance with the laws governing the public service.

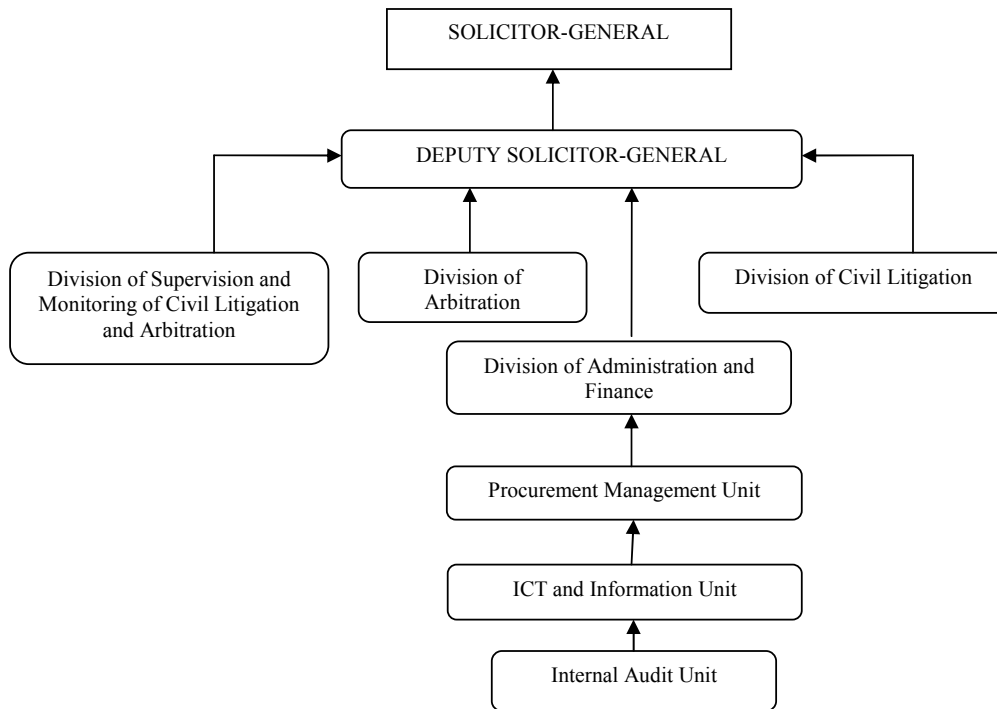
Constitution of the United Republic of Tanzania (Office of the Solicitor-General (Establishment))

GN. No. 50 (contd.)

SCHEDULE

(Made under paragraph 7(1))

OFFICE OF THE SOLICITOR-GENERAL



Dar es Salaam,
12th February, 2018

JOHN P. J. MAGUFULI,
President

THE UNITED REPUBLIC OF TANZANIA

SPECIAL SUPPLEMENT

No. 2

13th February, 2018

to the Gazette of the United Republic of Tanzania No. 3 Vol. 99 dated 13th February, 2018

Printed by the Government Printer, Dar es Salaam by Order of Government

GOVERNMENT NOTICE NO. 48 published on 13/2/2018

THE CONSTITUTION OF THE UNITED REPUBLIC OF TANZANIA OF 1977
(CAP. 2)

INSTRUMENT

(Made under Article 36 (1))

WHEREAS Article 36 (1) of the Constitution of the United Republic of Tanzania of 1977, hereinafter referred to as “the Constitution” vests in the President powers to establish and disestablish such offices in the Service of the Government of the United Republic;

MINDFUL of the spirit of Articles 59,59A and 59B of the Constitution, the Office of the Attorney General (Discharge of Duties) Act, the National Prosecutions Services Act the need and desire to re-structure the office of the Attorney General with a view to enhance, strengthen capacity to efficiently discharge duties it has become necessary to separate mandates and roles of appointment, disciplinary and supervision of officers and staff currently discharging duties under the National Prosecutions Services from the day to day supervision by Office of the Attorney General;

*Constitution of the United Republic of Tanzania (Office of the Attorney-
General (Re-Structure))*

GN. No. 48 (contd.)

FURTHER MINDFUL of the need and desire to enhance and strengthen the role, mandate and capacity of institutions charged with representing the Central Government, independent departments, agencies and local government authorities in courts of law, arbitral tribunals in any suit or case of ordinary civil, human rights or constitutional nature to which the Central Government, independent departments, agencies or a local government authority is a party or has interest;

CONCERNED with the need and desire to enhance and strengthen the legal sector capacity to respond to challenges in the emerging legal jurisprudence, technological, advancement, skills and craft by halving off functions of supervising civil litigation and arbitral proceedings as well as criminal prosecution and civilianization from direct supervision of the Attorney-General and placing such matters under direct control of the Solicitor- General and the Director of Public Prosecutions respectively, and to further placing non-litigant matters relating to constitutional and human rights under direct superintendent of the Minister responsible for constitutional and legal affairs;

NOW THEREFORE I, JOHN POMBE JOSEPH MAGUFULI, the President of the United Republic of Tanzania, in the exercise of the powers conferred on the President by Article 36(1), and all other powers enabling the President under the law in that behalf, restructures the Office of the Attorney General and Orders as follows:

OFFICE OF THE ATTORNEY-GENERAL (RE-STRUCTURE)
ORDER, 2018

Citation 1. This Order may be cited as the Office of the Attorney-General (Re-structure) Order, 2018.

Office of the Attorney-General 2.-(1) The Office of Attorney-General shall be re-structured for purposes stipulated under this Order and shall continue to assume mandates in terms of Article 59 of the Constitution and discharge duties subject to the terms, conditions and the manner provided for under this Order.

Cap. 268 (2) The administration of the Office of the

Constitution of the United Republic of Tanzania (Office of the Attorney-General (Re-Structure))

GN. No. 48 (contd.)

Attorney-General, the discharge of duties, the exercise of the powers and the relationship of the Office of the Attorney General with other officers discharging legal duties in the public service shall be governed by this Order, the Office of the Attorney General (Discharge of Duties) Act, the National Prosecutions Services and other laws governing the public service.

Objectives

3. The objectives for the re-structure of the Office of the Attorney-General shall be to-

- (a) enhance and strengthen the capacity to deliver advice on matters of law to the Ministries, independent departments, agencies and the local government;
- (b) enhance and strengthen capacity for efficiency in drafting of legislative instruments and draft resolutions for debate by the National Assembly;
- (c) enhance and strengthen ability and capacity of the Government in dealing with matters instituted or filed in courts of law or arbitral tribunals;
- (d) enhance efficiency and strengthen capacity to deliver advice to Ministries, independent departments, Agencies and the local government on legislative process; and
- (e) enhance and strengthen the Government capacity in the negotiation of agreements of commercial or political nature both local or international in which the Government is a party or has interest.

Functions of the Office of Attorney-General

4. Without prejudice to the generality of Articles 59, 59A and 59B of the Constitution, the duties of the Office of the Attorney General shall be to:

- (a) advice Ministries, Independent Departments, Agencies and other Government institution and organization on or legislative process and legal opinion on general issues;

Constitution of the United Republic of Tanzania (Office of the Attorney-General (Re-Structure))

GN. No. 48 (contd.)

- (b) draft legislative proposals into Bills for enactment into law;
- (c) draft all legislative instruments and resolutions for ratification by the National Assembly;
- (d) advise on proper and purposeful meaning of enactment of Parliament, subsidiary legislation and other legal instruments;
- (e) advise the Government on any matter of a contract nature including international agreements and treaties to which the United Republic or the Government is a party or has interest;
- (f) advise and maintain a link with the office of the Solicitor-General and the National Prosecutions Services for better and effective way of dealing with any matter instituted in courts of law and tribunals;
- (g) receive and advise on reports from the Solicitor-General and the Director of Public Prosecutions for further advise to the Government, the National Assembly and the Judiciary;
- (h) carry out the general supervision of Law Officers, State Attorneys and other staff appointed or employed in the Office of the Attorney General Ministries, independent departments, executive agencies and local government authorities;
- (i) administer legal functions performed by Law Officers, State Attorneys and other staff of the Office of the Attorney General;
- (j) summon any public officer to give explanation, or information regarding any matter which is the subject of advice;
- (k) prepare and submit bi-annual report to the Minister;
- (l) appoint or employ and discipline Law Officers, State Attorneys and other staff of the Office of the Attorney General; and

Constitution of the United Republic of Tanzania (Office of the Attorney-General (Re-Structure))

GN. No. 48 (contd.)

(m) perform any function as may be necessary for effective discharge of the duties and the exercise of the powers of the Attorney General.

Attorney General
and Deputy
Attorney-General

5.-(1) There shall continue to be the Attorney-General who shall be appointed by the President pursuant to the provisions of Article 59 of the Constitution.

(2) There shall be Deputy Attorney-General appointed by the President pursuant to Article 59A of the Constitution who shall be the principal assistant to the Attorney-General.

Functions of
Attorney General
and Deputy
Attorney-General

6.-(1) The Attorney-General shall continue to be the head of the bar and shall perform the functions stipulated under Article 59 of the Constitution and discharge other respected duties stipulated under the written laws.

(2) The Deputy Attorney General shall carry out any function, discharge any duty and exercise any power as may be directed by the Attorney General and shall:

- (a) be the administrative head of the Office of the Attorney General;
- (b) carry out the general supervisory role of legislative drafting of Bills and other legislative instruments;
- (c) carry out the general supervision of Law Officers and State Attorneys in the Ministries, independent department and local government;
- (d) administer legal functions performed by Law Officers and State Attorneys; and
- (e) be disciplinary authority for Law Officers and State Attorneys within the Office of the Attorney General.

(3) Functions and powers of the Attorney-General may be performed or exercised by a Law

Constitution of the United Republic of Tanzania (Office of the Attorney-General (Re-Structure))

GN. No. 48 (contd.)

Officer, State Attorney, a legal officer or such other public officer designated as such by law and as may further be provided by law.

(4) For the purpose of paragraph (3), the Attorney-General shall by instrument appoint or designate any Law Officer, State Attorney or a Legal Officer to perform the functions or exercise powers of the Attorney-General.

(5) Without prejudice to sub-paragraph (4), any person who was a Law Officer, State Attorney or a Legal Officer appointed or designated to perform the functions or exercise powers of a Law Officer or State Attorney shall be deemed to have been appointed or designated as such.

7.-(1) Every legal officer appointed or employed in the Ministry, independent department, agency or the local government is designated to be Law Officer and State Attorney and shall be under supervision of the Attorney-General.

(2) For the purpose of subsection (1) all State Attorneys designated as such in terms of subsection (1) shall be deemed to undertake the function and exercise powers of the Office of the Attorney-General within their respective Ministries, independent departments, agencies and the local government

Staff

8. There shall be appointed or employed to Office of the Attorney-General such number of public officers as may be necessary for proper and effective performance of the functions and exercise of powers of the Attorney-General.

Organizational structure

9.-(1) Organizational structure, governance and accountability within the Office of the Attorney-General shall be as provided in the schedule.

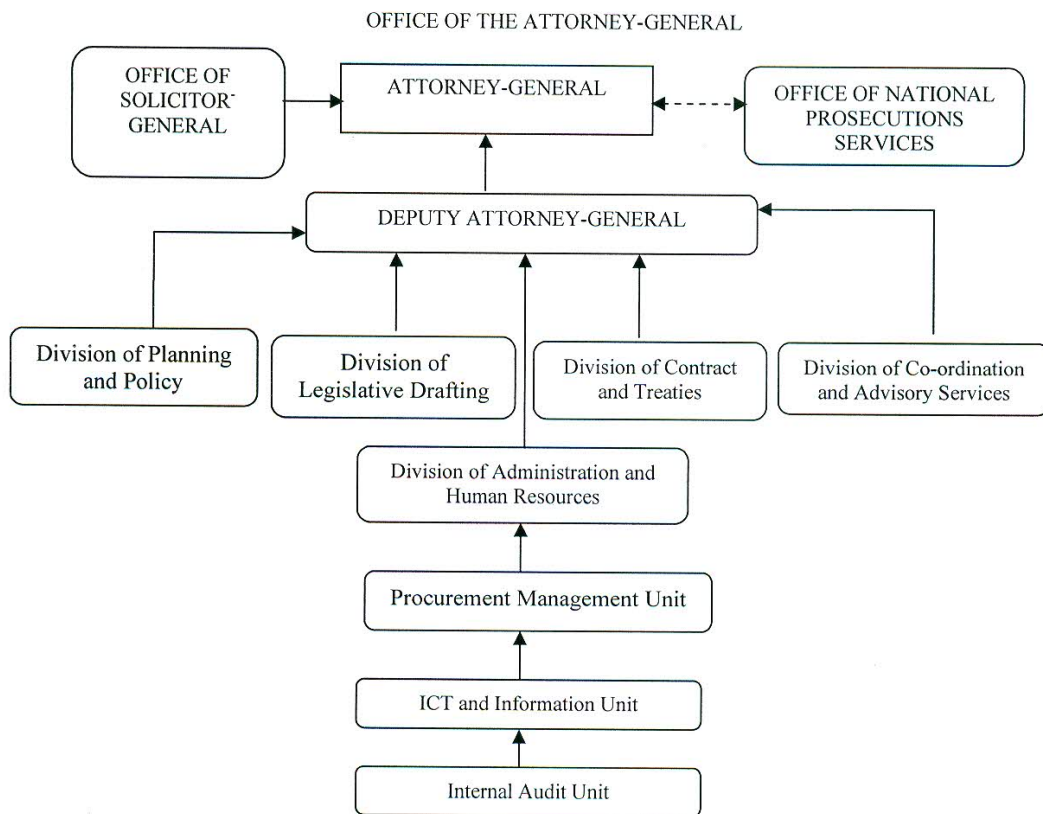
(2) Without prejudice to subparagraph (1), the number and responsibilities of directorates and units under Office of the Attorney-General may be reviewed in accordance with the law governing the public service.

Constitution of the United Republic of Tanzania (Office of the Attorney-General (Re-Structure))

GN. No. 48 (contd.)

SCHEDULE

(Made under paragraph 9(1))



Dar es Salaam,
12th February, 2018

JOHN P. J. MAGUFULI,
President

*Constitution of the United Republic of Tanzania of 1977 (The National
Prosecutions Services (Establishment))*

GOVERNMENT NOTICE NO. 49 published on 13/02/2018

THE CONSTITUTION OF THE UNITED REPUBLIC OF TANZANIA
OF 1977

(CAP.2)

INSTRUMENT

(Made under Article 36 (1))

WHEREAS Article 36 (1) of the Constitution of the United Republic of Tanzania of 1977, Cap.2 vests in the President powers to establish and disestablish such offices in the Services of the Government of the United Republic;

AND WHEREAS the Government of the United Republic desires to strengthen the role of the National Prosecutions Services of representing interests of sovereign of United Republic of Tanzania in courts of law in criminal cases and any other public office undertaking public prosecution on behalf of the United Republic or any other government institution including but not limited to the local government or any criminal appeal to which the United Republic is a party or has interest in prosecuting, defending or advising the Government of the United Republic on matters of a trans-border in nature including but not limited to piracy, terrorism, trafficking in persons, drugs and illicit trafficking in drugs, money laundering, corruption and corrupt practices and mutual assistance in criminal matters;

AND MINDFUL of the spirit of Article 59 and 59B of the Constitution, and need and desire to separate roles of appointment, disciplinary and supervision of officers and other staff of the National Prosecutions Services in day to day discharge of duties and performance of functions of the office of the Attorney General;

*Constitution of the United Republic of Tanzania of 1977 (The National
Prosecutions Services (Establishment))*

GN No. 49 (contd.)

NOW THEREFORE, I, JOHN POMBE JOSEPH MAGUFULI, the President of the United Republic of Tanzania, in the exercise of the powers conferred on the President by Article 36(1), establish and declare that there shall be an independent and autonomous National Prosecutions Services and orders as follows:

THE NATIONAL PROSECUTIONS SERVICES (ESTABLISHMENT)
ORDER, 2018

- | | |
|-------------------------|---|
| Citation | 1. This Order may be cited as the National Prosecutions Services (Establishment) Order, 2018. |
| Independence of the NPS | 2.-(1) There shall be the National Prosecutions Services as an independent and autonomous public office. |
| Objectives | 3. Subject to the National Prosecutions Services Act, the objectives for the National Prosecutions Services shall be to- <ul style="list-style-type: none">(a) manage all criminal cases and related or connected matters as provided or as may further be provided by law;(b) enhance and strengthen the Government ability to conduct public prosecution in courts of law as stipulated under the relevant laws;(c) enhance effective civilization of criminal prosecution in courts of law as stipulated under the relevant laws; and(d) enhance and strengthen general supervision and coordination of the conduct of criminal prosecution on behalf of the sovereign of the United Republic, the Central Government, independent departments, executive |

*Constitution of the United Republic of Tanzania of 1977 (The National
Prosecutions Services (Establishment))*

GN No. 49 (contd.)

agencies and local government
authorities.

Functions

Caps 2

4. Subject to Article 59B of the Constitution and the National Prosecutions Services Act, duties and functions of the National Prosecutions Services shall be to:

- (a) take and conduct criminal cases on behalf of the sovereign of the United Republic, the Central Government, independent departments, executive agencies and the local government and for that purpose, to direct Law Officers, State Attorneys and legal officers who conduct criminal cases in that behalf;
- (b) coordinate and supervise criminal investigation and conduct of criminal prosecution in courts of law;
- (c) carry out the general supervision of Law Officers, State Attorneys and other officers or staff appointed or employed in the National Prosecutions Services;
- (d) administer legal functions performed by Law Officers, State Attorneys and other officer or staff of the National Prosecutions Services;
- (e) summon any public officer to give explanation, or information regarding any matter which is or likely to be the subject of criminal prosecution;
- (f) prepare and submit bi-annual report to the Minister and a copy to the Attorney-General on matters and functions performed by the National Prosecutions Services;
- (g) intervene and take over at any stage of criminal proceedings, appeal, execution

*Constitution of the United Republic of Tanzania of 1977 (The National
Prosecutions Services (Establishment))*

GN No. 49 (contd.)

or any incidental proceedings before any court of law to which the Central Government, independent department, agency or a local government has interest;

- (h) issue directives to any public officer performing functions relating to conduct of criminal prosecution in courts of law; and
- (i) appoint or employ and discipline Law Officers, State Attorneys and other staff of the National Prosecutions Services.

Appointment of
Director of Public
Prosecutions

5.-(1) There shall be the Director of Public Prosecutions who shall be appointed by the President pursuant to Article 59B of the Constitution.

(2) The Director of Public Prosecutions shall be the head of the National Prosecutions Services.

(3) There shall be the Deputy Director of Public Prosecutions appointed by the President who shall be the principal assistant to the Director of Public Prosecutions.

(4) A person shall qualify for appointment as the Director of Public Prosecutions or Deputy Director of Public Prosecutions who possesses qualifications stipulated under the Constitution in relation to appointment of the Director of Public Prosecutions and has unqualified competence and integrity.

(5) Functions and powers of the Director of Public Prosecutions may be performed or exercised by a Law Officer, State Attorney, a legal officer or such other public officer designated as such by the Director of Public Prosecutions and are further provided for under any other laws.

(6) For the purpose of paragraph (4), the Director of Public Prosecutions shall by instrument appoint or designate any Law Officer, State Attorney or

*Constitution of the United Republic of Tanzania of 1977 (The National
Prosecutions Services (Establishment))*

GN No. 49 (contd.)

Legal Officer to perform the functions or exercise powers of the Director of Public Prosecutions.

(7) Without prejudice to sub-paragraph (5), any person who was a Law Officer, State Attorney or a Legal Officer appointed or designated to perform the functions or exercise powers of a Law Officer or State Attorney shall be deemed to have been appointed or designated as such.

Staff

6.-(1) There shall be appointed or employed to the Office of National Prosecutions Services such number of public officers as may be necessary for proper and effective performance of the functions and exercise of powers of the Director of Public Prosecutions.

(2) The Deputy Director of Public Prosecutions shall be an accounting officer and responsible for managing day to day affairs and be a disciplinary authority of employees in accordance with the terms of this Order and laws governing the public service.

Organizational
Structure

7.-(1) Organizational structure, governance and accountability within the National Prosecutions Services shall be as provided in the Schedule:

(2) The number and responsibilities of directorates and units under the National Prosecutions Services may be reviewed in accordance with the law governing the public service.

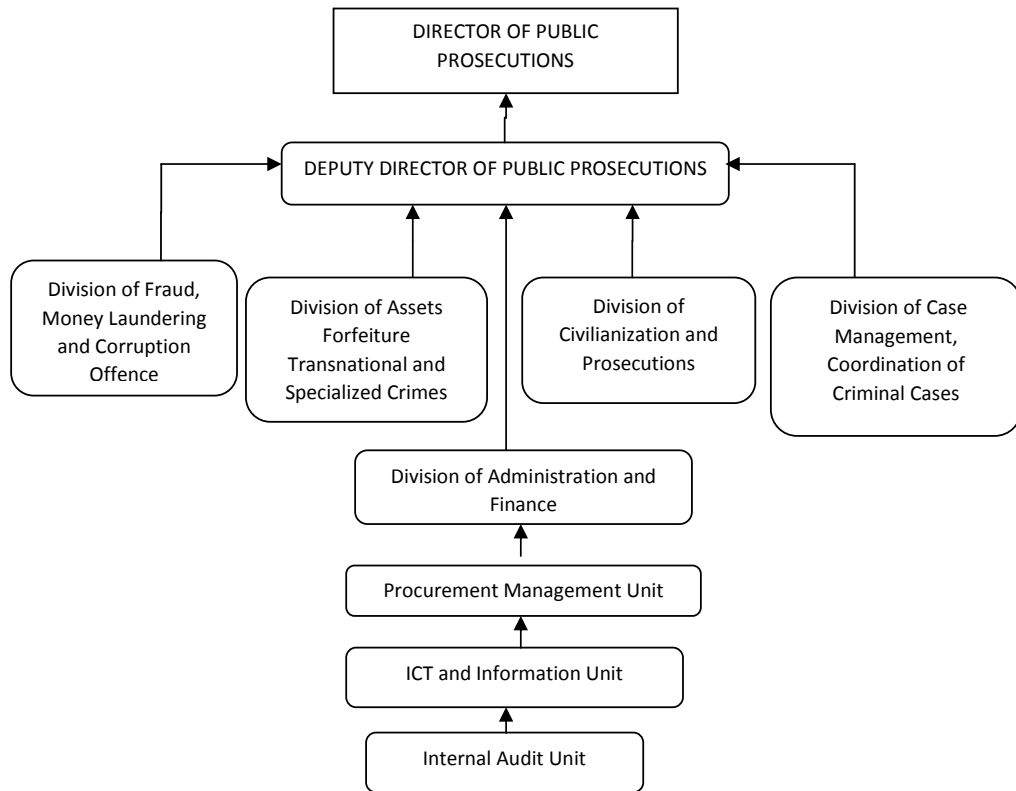
Constitution of the United Republic of Tanzania of 1977 (The National Prosecutions Services (Establishment))

GN No. 49 (contd.)

SCHEDULE

(Made under paragraph 7(1))

THE NATIONAL PROSECUTIONS SERVICES



Dar es Salaam,
12th February, 2018

JOHN P. J. MAGUFULI,
President

*Code of Ethics and Professional Conduct for Law
Officers and State Attorneys,*

GOVERNMENT NOTICE NO.600 published on 16/8/2019

THE OFFICE OF THE ATTORNEY GENERAL (DISCHARGE OF
DUTIES) ACT,
(CAP.268)

—
CODE
—

(Made under section 27(1))

—

THE CODE OF ETHICS AND PROFESSIONAL CONDUCT FOR LAW
OFFICERS AND STATE ATTORNEYS, 2019

1. Citation.
2. Interpretation.
3. Application.
4. Professionalism and integrity.
5. Honesty.
6. Competence.
7. Quality of service.
8. Confidentiality.
9. Justice and administration of justice.
10. Dress and general behaviour.
11. Minimum standards of performance.
12. Obligation to be model legal actor.

*Code of Ethics and Professional Conduct for Law
Officers and State Attorneys,*

GN NO. 600 (contd)

GOVERNMENT NOTICE NO. 600 ,published on 16/8/2019

THE OFFICE OF THE ATTORNEY GENERAL (DISCHARGE OF
DUTIES) ACT,
(CAP.268)

—
CODE
—

(Made under section 27(1))
—

THE CODE OF ETHICS AND PROFESSIONAL CONDUCT FOR LAW
OFFICERS AND STATE ATTORNEYS, 2019

Preamble

WHEREAS, there is a need for every person practising law or performing legal functions as a Law Officer or State Attorney in the public service to make a commitment to the general public to pursue the Vision, Mission and Values of the legal sector to which every Law Officer and State Attorney belong;

AND WHEREAS professionalism, integrity, honesty, probity and uprightness are prized qualities in almost every sphere of life and that these qualities are equally needed in the pursuit of the Vision, Mission and Values of the legal sector;

AND WHEREAS, there is also a need for every person practising law or performing legal functions as a Law Officer or State Attorney to make a commitment to the society to adhere to and attain high ethical standards of conduct;

AND WHEREAS, it is desirable and required by section 27(1) of the Office of the Attorney General (Discharge of Duties) Act, that the standards of conduct which a Law Officer and State Attorney should observe to be promulgated;

NOW THEREFORE, this Code of Ethics and Professional Conduct for Law Officers and State Attorneys in the Public Service is hereby promulgated as follows:

Citation

1. This Code shall be cited as the Code of Ethics and Professional Conduct for Law Officers and State Attorneys, 2019.

*Code of Ethics and Professional Conduct for Law
Officers and State Attorneys,*

GN NO. 600 (contd)

- Interpretation 2. In this Code, unless the context otherwise requires:
“Code” means the Code of Ethics and Professional Conduct for Law Officers and State Attorneys, 2019;
“competence” means the abilities, attitudes, knowledge, and skills that enable a Law Officer or State Attorney to understand and act reasonably and effectively in a job or a wide variety of situations;
“Constitution” means the Constitution of the United Republic of Tanzania, 1977;
“integrity” means doing the right thing in a reliable way or otherwise acting with honesty;
- Cap.1 “Law Officer” has the meaning ascribed to it under the Interpretation of Laws Act;
“model legal actor” means a Law Officer or State Attorney whose exemplary work attitude, behaviour, values, example or success can be emulated by others in the practice of litigation;
“public service” shall mean and include service in a Government Ministry, local government authority, independent department, agency, public corporation, parastatal organizations or any other Government organization;
“quality” means conformity to legal standards while doing the right thing at the right time so as to meet or exceed the expectations of those in need of various legal services;
- Cap.268 “State Attorney” has the meaning ascribed to it under the Office of the Attorney General (Discharge of Duties) Act.
- Application 3.-(1) This Code shall apply to every Law Officer and State Attorney in the public service.
(2) This Code shall be supplementary to other public service instruments including the Public Service Act and Public Service Regulations, 2003, the Public Service Disciplinary Code of Good Practice, Standing Orders for the Public Service 2009 and other public service instruments that may be issued from time to time.
- Cap.298
G.N.No.
53 of 2007
- Professionalism and integrity 4.-(1) Every Law Officer and State Attorney shall perform his functions and discharge duties with professionalism and integrity.
(2) For purposes of this Code, professionalism shall include the following conducts-
(a) a pride in work;
(b) dedication to serving clients before self;
(c) a sincere desire to help;
(d) dedication to serving the public interest;
(e) improving the law and the profession;
(f) devotion to honesty, integrity, and good character;
(g) passion for excellence and commitment to quality;
(h) continuous maintenance of competence in a

*Code of Ethics and Professional Conduct for Law
Officers and State Attorneys,*

GN NO. 600 (contd)

specialised body of knowledge and skills, which are freely shared with other professionals; and

- (i) independence imbued in self-regulation and discipline.

(3) Every Law Officer and State Attorney shall respect and comply with all laws and shall conduct himself both in private and official capacities in a manner that promotes public confidence, the integrity of the public service and the legal profession.

(4) Every Law Officer and State Attorney shall not allow external influences or personal interest to compromise or in any way jeopardize the integrity of the legal profession, independence or competence.

(5) Every Law Officer and State Attorney shall at all times observe a standard of conduct that reflects credit on the legal profession and the public service and administration of justice generally.

(6) Every Law Officer and State Attorney shall desist from conduct capable of drawing an impression of being involved in corruption.

Honesty

5.-(1) Every Law Officer and State Attorney shall be honest and candid when discharging official duties.

(2) For purposes of this Code, honesty shall include the following conducts-

- (a) acting sincerely and truthfully;
- (b) showing courage in doing what a Law Officer or State Attorney believes to be right;
- (c) ensuring the Law Officer or State Attorney's decisions are not influenced by improper considerations of personal gain;
- (d) not knowingly making false, misleading or inaccurate oral or written statements in any professional context;
- (e) not soliciting or accepting offers of any gift, gratuity or hospitality that could compromise impartiality; and
- (f) not using the Law Officer or State Attorney's position to inappropriately coerce any person or to settle personal grievances.

Competence

6. Every Law Officer and State Attorney has a duty to the Government and the public in general to-

- (a) perform functions and discharge duties in a competent manner; and
- (b) handle matters without undue delay, risk or unnecessary expense to the Government.

*Code of Ethics and Professional Conduct for Law
Officers and State Attorneys,*

GN NO. 600 (contd)

- | | |
|---------------------------------------|---|
| Quality of service | 7. Every Law Officer and State Attorney has a duty to serve the Government and the public in a conscientious, diligent and efficient manner in order to provide quality service. |
| Confidentiality | 8.-(1) Every Law Officer and State Attorney has a duty to hold in strict confidence all information concerning the business and affairs of the Government and the public generally where the information is acquired by virtue of office.
(2) Notwithstanding the foregoing, information referred to under this Code may be disclosed where the disclosure is expressly or impliedly authorized by the relevant accounting officer or employer or otherwise required by law. |
| Justice and administration of justice | 9. Every Law Officer and State Attorney has a duty to-
(a) encourage public respect for justice and to uphold and strive to improve the administration of justice;
(b) treat the court with candour, courtesy and respect and shall not attempt to influence court decisions by use of deceptive or reprehensible methods;
(c) deal with other lawyers fairly, courteously and in good faith; and
(d) uphold the integrity and reputation of the legal profession and promote principles of fairness, justice and honesty. |
| Dress and general behavior | 10.-(1) Every Law Officer and State Attorney shall at all times, in and outside the place of work, appear in smart, proper and decent dress and behave in a manner befitting both the public service and the legal profession.
(2) For purposes of this Code, every Law Officer or State Attorney shall, while performing his official duties, appear in the following dresses-
(a) black, blue or grey colors for trousers, skirts or coats; and
(b) white or light blue shirts or blouses. |
| Minimum standards of performance | 11.-(1) When handling prosecutorial issues, every Law Officer and State Attorney shall-
(a) act timely, fairly and dispassionately;
(b) seek justice by leading firm, fair and credible evidence;
(c) not use criminal law or procedure processes to settle a civil, tortuous or administrative dispute;
(d) where, in nature, a matter is both a civil justice issue and criminal justice issue, allow first the civil justice processes to be concluded before, where justifiable, embarking on criminal justice processes; |

*Code of Ethics and Professional Conduct for Law
Officers and State Attorneys,*

GN NO. 600 (contd)

- (e) not allow personal interest to compromise interests of the Republic;
- (f) make adequate preparations on the case before trial; and
- (g) always bear in mind the available diversion measures and options so as to reduce time and cost in handling criminal matters.

(2) Subject to subregulation (1), where a Law Officer is incharge in prosecutorial matter in Region or District shall ensure that those discharging prosecutorial functions or duties adhere to the standard of performance and report any deviance immediately for action.

(3) When drafting legislative proposals, a Parliamentary Draftsman shall-

- (a) fairly and closely interpret Government drafting instructions;
- (b) advise and influence on the prudential, logical and intelligible manner of translating Government Policies into Bills or subsidiary legislation;
- (c) not allow personal interest to compromise interests of the Republic; and
- (d) comply with laws and guidelines on drafting, including the Constitution of the United Republic, the Interpretation of Laws Act, the Laws Revision Act and Presidential Circulars.

Caps 2, 1 and
4

(4) When dealing with matters of probate and registration of births and deaths, a Law Officer or State Attorney, shall-

- (a) ensure that the best interest of the testator and survivors are fairly met;
- (b) have regard to the public interest to promote peace and national security by contributing to agreed measures in controlling illegal immigrants; and
- (c) not allow personal interest to compromise interests of the Republic.

(5) When handling litigation or Alternative Dispute Resolution processes a Law Officer or State Attorney shall-

- (a) interpret provisions of the law and decisions of the courts in good faith;
- (b) deal with claims promptly and not causing unnecessary delay in the handling of claims and related legal processes and thus at all times be mindful of making an early assessment of:
 - (i) the Government's prospects of success in the proceedings that may be brought against the Government; and
 - (ii) the Government's potential liability

*Code of Ethics and Professional Conduct for Law
Officers and State Attorneys,*

GN NO. 600 (contd)

- in claims against the Government.
- (c) ensure that the best interests of the Government and other parties involved are justly and fairly met;
- (d) not allow personal interest to compromise interests of the Republic; and
- (e) make adequate preparations on the case before trial or other alternative procedures.
- (6) When conducting law reform or law development activities, a Law Officer or State Attorney shall-
 - (a) always make sure that the law develops in an orderly and systematic manner;
 - (b) always guard against provisions that are likely to contradict the Constitution;
 - (c) ensure that the opinions of stakeholders are obtained and taken into account in the course of reforming or developing the law; and
 - (d) not allow personal interest to compromise interests of the Republic.

Obligation to
be model
legal actor

12.-(1) Consistently with the Vision and Mission of the legal sector to spearhead a legal system that supports national development, and for the maintenance of proper professional standards and etiquettes in the provision of legal services, every Law Officer and State Attorney performing litigation functions shall behave as a model legal actor in the provision of legal services.

(2) The obligation to be a model legal actor requires that a Law Officer and State Attorney shall not only act honestly and fairly in handling legal service issues but also by-

- (a) settling legitimate claims without need for litigation, including recommending making partial settlements of claims or interim payments, where it is clear that liability is professionally assessed at least to be as much as the amount to be paid;
- (b) acting consistently in the handling of claims and litigation;
- (c) endeavouring to avoid, prevent and limit the scope of legal proceedings wherever possible, including by giving consideration in all cases to alternative dispute resolution before initiating legal proceedings and by participating in alternative dispute resolution processes where appropriate;
- (d) where it is not possible to avoid litigation, keeping the costs of litigation to a minimum, including by:

*Code of Ethics and Professional Conduct for Law
Officers and State Attorneys,*

GN NO. 600 (contd)

- (i) not requiring the other party to prove a matter which the Government or the agency knows to be true;
 - (ii) not contesting liability if the Government or the agency knows that the dispute is mainly about quantum;
 - (iii) monitoring the progress of the litigation and using methods that are considered appropriate to resolve the litigation, including settlement offers, payments into court or alternative dispute resolution; and
 - (iv) ensuring that arrangements are made so that a person participating in any settlement negotiations on behalf of the Government or a Government entity can enter into a settlement of the claim or legal proceedings in the course of the negotiations;
- (e) not taking advantage of a claimant who lacks the resources to litigate a legitimate claim;
- (f) not relying on technical defences unless the Government's or the agency's interests would be prejudiced by the failure to comply with a particular requirement;
- (g) not undertaking and pursuing appeals unless the Government or the agency believes that it has reasonable prospects for success or the appeal is otherwise justified in the public interest, and
- (h) taking measures and advising the authority to offer an apology where the Government or the agency is aware that it or its lawyers or any other officer has acted wrongfully or improperly.
- (3) Ensuring compliance with the obligation to act as a model legal actor shall be primarily the responsibility of the accounting officer who has responsibility for the issues being addressed.
- (4) The duty of a Law Officer or State Attorney to be a model legal actor shall not preclude-
- (a) all legitimate steps being taken to pursue claims by the Government and its entities and testing or defending claims against them;
 - (b) pursuing litigation or other procedures in order to

*Code of Ethics and Professional Conduct for Law
Officers and State Attorneys,*

GN NO. 600 (contd)

- clarify a significant point of law even if the other party wishes to settle the dispute;
- (c) commencement of an appeal or other remedy in the public interest where it is necessary to avoid prejudice to the interests of the Government or its entity pending the receipt or proper consideration of legal advice, provided that a decision whether to continue the appeal or pursue other remedies is made as soon as practicable; and
 - (d) the Government from enforcing orders for costs or seeking to recover its costs.

Dodoma,

AUGUSTINE P. MAHIGA

.....,2019

Minister of Constitutional and Legal Affairs

THE UNITED REPUBLIC OF TANZANIA
Supplement No. 48 *27th November, 2020*

SUBSIDIARY LEGISLATION

to the Gazette of the United Republic of Tanzania No.48. Vol.101 dated 27th November, 2020
Printed by the Government Printer, Dodoma by Order of Government

GOVERNMENT NOTICE NO. 1008 Published On 27/11/2020

THE OFFICE OF THE ATTORNEY GENERAL (DISCHARGE OF DUTIES)
ACT,
(CAP. 268)

GUIDELINES

(Made under section 17A(4))

THE OFFICE OF THE ATTORNEY GENERAL (DISCHARGE OF DUTIES)
GUIDELINES FOR PRACTISING STATE ATTORNEYS AND LAW OFFICERS, 2020

ARRANGEMENT OF PARAGRAPHS

<i>Paragraph</i>	<i>Title</i>
1.	Citation.
2.	Application.
3.	Interpretation.
4.	Restriction on issuance of certificate for practising as an advocate.
5.	Qualifications to practise as notary public or commissioner for oaths.
6.	Unqualified person.
7.	Remuneration.
8.	Stamp on documents.
9.	Attestation of document.
10.	Disciplinary measures.

SCHEDULES

Office of The Attorney General (Discharge of Duties) Guidelines for Practising State Attorneys and Law Officers

GN. No. 1008 (contd.)

THE OFFICE OF THE ATTORNEY GENERAL (DISCHARGE OF DUTIES)
ACT,
(CAP. 268)

GUIDELINES

(Made under section 17A(4))

THE OFFICE OF THE ATTORNEY GENERAL (DISCHARGE OF DUTIES)
GUIDELINES FOR PRACTISING STATE ATTORNEYS AND LAW OFFICERS, 2020

Citation	1. These Guidelines may be cited as the Office of the Attorney General (Discharge of Duties) Guidelines for Practising State Attorneys and Law Officers, 2020.
Application	2. These Guidelines shall apply to all Law Officers and State Attorneys employed in the public service.
Interpretation	3. In these Guidelines, unless the context otherwise requires-
Cap. 268	“Act” means the Office of the Attorney General (Discharge of Duties) Act;
	“Government Legal Team” means a team established under section 25 of the Act;
Cap. 1	“Law Officer” has the meaning ascribed to it under the Interpretation of Laws Act;
Cap. 12	“practice as a Commissioner for Oaths” means perform, <i>mutatis mutandis</i> , the functions and duties commonly performed by a commissioner for oaths in England;
Cap. 12	“practice as a notary public” means perform, <i>mutatis mutandis</i> , the functions and duties commonly performed by a notary public in England;
	“public service” includes service in a Government Ministry, Local Government Authority, Independent Department, Agency, Public Corporation, Parastatal Organisation or any other Government Organisation;
	“State Attorney” has the meaning ascribed to it under the Act; and
Cap. 341	“qualified person” means a person who has been admitted as an advocate under the Advocates Act.

Office of The Attorney General (Discharge of Duties) Guidelines for Practising State Attorneys and Law Officers

GN. No. 1008 (contd.)

Restriction on issuance of certificate for practising as an advocate
Cap. 341

4.-(1) Subject to section 34 of the Advocates Act, a Law Officer or State Attorney shall not, for the whole period of service as a Law Officer or State Attorney, be issued with practising certificate as an advocate.

(2) Notwithstanding the prohibition under subparagraph (1), the Attorney General may, where special reasons exist, grant permission for a Law Officer or State Attorney to be issued with practising certificate as an advocate.

(3) Special reasons for a Law Officer or State Attorney to be issued with practising certificate shall include-

- (a) satisfaction of the Attorney General that the employer of the said Law Officer or State Attorney needs services of an advocate;
- (b) satisfaction of the Attorney General that there is no conflict of interests; or
- (c) any other reason that the Government Legal Team may deem fit.

(4) A Law Officer or State Attorney who wishes to be issued with a practising certificate shall apply to the Attorney General for permission by filling the application form set out in the First Schedule to these Guidelines.

(5) The application referred to under subparagraph (4) shall state clearly the reasons for the application.

(6) The Attorney General shall, upon receipt of the application made under subparagraph (4), forward the application to the Government Legal Team for scrutiny.

(7) The Government Legal Team shall, when scrutinising the application referred to it under this paragraph, consider the following:

- (a) the implication of permission sought with the present role of the applicant;
- (b) potential conflict of interest which may arise;
- (c) approval from the applicant's employer to allow a Law Officer or State Attorney to practise as an advocate; and
- (d) any other matter that the Government Legal team may deem fit to consider.

(8) The Government Legal Team shall, after scrutinising the application, recommend to the Attorney General-

- (a) to grant permission for the applicant to be issued with practising certificate as an advocate; or
- (b) to reject the application with reasons to be provided to the applicant.

*Office of The Attorney General (Discharge of Duties) Guidelines for Practising
State Attorneys and Law Officers*

GN. No. 1008 (contd.)

(9) The Attorney General shall, within thirty days from the date of decision of the Government Legal Team, inform the applicant on the decision of his application.

(10) The Attorney General shall not, without reasonable cause, withhold the permission for a Law Officer or State Attorney whom the Government Legal Team has recommended to practise as an advocate pursuant to subparagraph (8).

Qualifications to
practise as notary
public or
commissioner for
oaths
Cap. 341

5.-(1) A Law Officer or State Attorney shall be qualified to practise as Notary Public or Commissioner for Oaths where such Law Officer or State Attorney-

- (a) is admitted as an advocate under the Advocates Act;
- (b) has met all professional requirements governing Notary Public and Commissioner for Oaths; and
- (c) has complied with any other written laws governing Notary Public and Commissioner for Oaths.

(2) Notwithstanding the requirements of subparagraph (1), a Law Officer or State Attorney employed in the Office of the Attorney General, the National Prosecutions Service or the Office of the Solicitor General shall be entitled to practise as Notary Public and Commissioner for Oaths by virtue of the stamps of their respective offices only.

Unqualified
person

6.-(1) Any action, suit, cause, matter or proceeding involving the Government in relation to which an unqualified person so acts shall be invalid.

(2) An unqualified person shall be incapable of maintaining any action for any costs incurred in respect of anything done by him in the course of so acting.

Remuneration
GN No.
263 of 2015

7. Remuneration of Law Officers and State Attorneys for services rendered under these Guidelines shall be as prescribed under the Advocates Remuneration Order.

Stamp on
documents

8. A Law Officer or State Attorney may, after attesting or administering a document, stamp the same using the stamp bearing his name, title and institution in a manner prescribed in the Second Schedule to these Guidelines.

Attestation of
document

9.-(1) Every attestation or administration of oaths shall be conducted diligently and with caution so as not to cause

*Office of The Attorney General (Discharge of Duties) Guidelines for Practising
State Attorneys and Law Officers*

GN. No. 1008 (contd.)

conflict of interests with the Government.

Cap. 12

(2) Every document shall be attested in accordance with the Notaries Public and Commissioners for Oaths Act.

(3) For the purpose of these Guidelines, a matter shall be deemed to cause potential conflict of interest with the Government where it casts doubt on one's ability to act objectively on the matter when the Government's interest is at stake.

(4) For the purpose of collecting Government revenue, a State Attorney or Law Officer shall be liable to pay tax.

(5) The Commissioner General of Tanzania Revenue Authority shall prescribe means through which the payable tax shall be collected from State Attorneys and Law Officers.

Disciplinary
measures

Cap.268

10. Any person who contravenes the provisions of these Guidelines commits a disciplinary misconduct and shall be liable to the disciplinary measures prescribed under the Office of the Attorney General (Discharge of Duties) Act.

FIRST SCHEDULE

(Made under paragraph 4(4))

APPLICATION FORM FOR PERMISSION TO BE ISSUED A PRACTISING CERTIFICATE

1. Particulars of the Applicant:

Name of applicant:.....
Physical address of the applicant:.....
P. O. Box:
Telephone No.:
Mobile No.....
Email address:
District
Region

2. Particulars of the Employer:

Name of employer:
Physical address of the applicant:.....
P. O. Box:
Telephone No.:

Office of The Attorney General (Discharge of Duties) Guidelines for Practising State Attorneys and Law Officers

GN. No. 1008 (contd.)

Mobile No.....
Email address:
District
Region

3. Approval from applicant's employer to allow the State Attorney or Law Officer to practice as an advocate

Name of the approving officer
Title of the approving officer
Signature of the approving officer
Stamp/seal of applicant's employer

4. Terms and conditions:
The applicant shall comply with standards, terms and conditions for the permission granted.

5. Specify distinctly the reasons for the application sought
.....
.....
.....

6. Declaration:
I have read, understood and agreed to abide with the terms and conditions of this Application.
Signature: Date: Official Seal:

FOR OFFICIAL USE ONLY

OBSERVATION OF THE GOVERNMENT LEGAL TEAM:
.....

RECOMMENDATION(S):
.....

APPROVAL OF THE ATTORNEY GENERAL

GRANT/REJECTION OF PERMISSION SOUGHT

Pursuant to the provision of paragraph 4(4) of the Guidelines for Practising State Attorneys and Law Officers, I do hereby, grant/reject the application by for permission to be issued a practising certificate.
Grounds for rejection (if any) are:

Dated this day of20.....

ATTORNEY GENERAL

*Office of The Attorney General (Discharge of Duties) Guidelines for Practising
State Attorneys and Law Officers*

GN. No. 1008 (contd.)

SECOND SCHEDULE

(Made under paragraph 8)

STAMP

NAME OF THE LAW OFFICER/STATE ATTORNEY

Title.....

Institution.....

Address.....

Date.....

Notary Public and Commissioner for Oaths

Dodoma,
26th November, 2020

ADELARDUS L. KILANGI
Attorney General

THE UNITED REPUBLIC OF TANZANIA
Supplement No. 48 *27th November, 2020*

SUBSIDIARY LEGISLATION

to the Gazette of the United Republic of Tanzania No.48. Vol.101 dated 27th November, 2020
Printed by the Government Printer, Dodoma by Order of Government

GOVERNMENT NOTICE NO. 1011 Published On 27/11/2020

THE OFFICE OF THE ATTORNEY GENERAL (DISCHARGE OF DUTIES)
ACT,
(CAP. 268)

NOTICE

(Made under section 24(3))

THE ATTORNEY GENERAL (APPOINTMENT OF LAW OFFICERS AND
STATE ATTORNEYS) NOTICE, 2020

WHEREAS, pursuant to Article 59(3) of the Constitution of the United Republic of Tanzania, 1977 the Attorney General is the adviser of the Government on all matters of law and is mandated to discharge such other duties or functions as are entrusted upon him by the Constitution of the United Republic of Tanzania or any other written law;

AND WHEREAS, paragraph 7 of the Office of the Attorney General (Re-structure) Order, 2018, GN. No.48 of 2018 places under the supervision of the Attorney General all legal officers employed in the ministries, local government authorities, independent departments, agencies and other similar public institutions who, by virtue of such paragraph, have been designated as Law Officers and State Attorneys;

AND WHEREAS, pursuant to Article 59(3) of the Constitution of the United Republic of Tanzania, section 16 of the Office of the Attorney General (Discharge of Duties) Act, Cap. 268 and such other written laws, the duties of

Attorney General (Appointment of Law Officers and State Attorneys)

GN No. 1011 (contd.)

the Attorney General may, upon authorisation by the Attorney General, be discharged by Law Officers and State Attorneys in such manner as is necessary for effective and efficient delivery of Government legal services for and on behalf of the Attorney General;

AND COGNISANT of the mandates vested in the Director of Public Prosecutions pursuant to Article 59B of the Constitution of the United Republic of Tanzania and other relevant laws with regard to prosecution of criminal cases and the mandates vested in the Solicitor General pursuant to the Office of the Solicitor General (Establishment) Order, 2018 with regard to litigation of all civil cases for or against the Government; AND BEING AWARE of the role of the Attorney General under paragraph 4(f) and (g) of the Office of the Attorney General (Re-structure) Order, 2018, GN. No. 48 of 2018 to maintain link and enhance collaboration with the Office of the Solicitor General and National Prosecutions Service for better implementation of their mandates;

AND WHEREAS, section 24(3) of the Office of the Attorney General (Discharge of Duties) Act, Cap. 268 requires the Attorney General by instrument to formally appoint all persons employed as Law Officers and State Attorneys as such and accordingly, direct on the nature of functions they will perform;

AND MINDFUL of the need to foster effective implementation of paragraph 7 of the Office of the Attorney General (Re-structure) Order, 2018, GN. No. 48 of 2018, through the vesting of certain functions stipulated hereinafter of the Office of the Attorney General;

NOW THEREFORE, I, ADELARDUS LUBANGO KILANGI, the Attorney General for the Government of the United Republic of Tanzania, in exercise of the powers conferred under section 24(3) of the Office of the Attorney General (Discharge of Duties) Act, Cap. 268, DO HEREBY issue Notice as follows:

Citation	1. This Notice may be cited as the Attorney General (Appointment of Law Officers and State Attorneys) Notice, 2020.
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Interpretation	2. In this Notice, unless the context requires otherwise- “Law Officer” means any of the persons specified in the Schedule to this Notice who, in his employment, holds the rank of senior officer and above; “State Attorney” means any of the persons specified in the Schedule to this Notice who, in his current
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Attorney General (Appointment of Law Officers and State Attorneys)

GN No. 1011 (contd.)

employment, holds the rank below senior officer.

Appointment of
Law Officers and
State Attorneys
Cap. 268,
GN. No. 48 of
2018

3.-(1) For the purposes of the provisions of section 24(3) of the Office of the Attorney General (Discharge of Duties) Act and paragraph 6(4) of the Office of the Attorney General (Re-structure) Order, 2018, the persons whose names are appearing in the Schedule to this Notice are hereby appointed as Law Officers or State Attorneys and may, subject to the provisions of this Notice, perform the functions specified in subparagraph (2).

(2) The Law Officers or State Attorneys appointed as such by this Notice, shall have mandate to-

- (a) provide advice on any legal issue including issues relating to vetting of contracts subject to the guidance issued by the Attorney General;
- (b) upon being issued with specific instrument of delegation by the Director of Public Prosecutions pursuant to Article 59B of the Constitution of the United Republic of Tanzania, the Criminal Procedure Act, the National Prosecutions Service Act, National Prosecutions Service (Establishment) Order and any other relevant laws, conduct prosecutions;
- (c) upon being issued with specific instrument by the Solicitor General pursuant to the provisions of the Office of Solicitor General (Establishment) Order, 2018, conduct civil litigation;
- (d) engage in legislative drafting of various legislative instruments subject to the guidance of the Chief Parliamentary Draftsman.

Caps. 2, 20 and 430
GN. No. 49 of
2018

GN. No. 50 of
2018

Provision of notary
and oaths services

Cap. 268

Cap. 12

4. Law Officers and State Attorneys appointed as such under this Notice shall, subject to the guidelines issued by the Attorney General and pursuant to section 17A(4) of the Office of the Attorney General (Discharge of Duties) Act, have powers to provide notary services and administer oaths pursuant to the provisions of the Notaries Public and Commissioners for Oaths Act.

THE NATIONAL PROSECUTIONS SERVICE ACT, 2007

ARRANGEMENT OF SECTIONS

Citation *Title*

**PART I
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1. Short title and commencement.
2. Application.
3. Interpretation.

**PART II
THE NATIONAL PROSECUTIONS SERVICE**

(a) The Service

4. National Prosecutions Service.
5. Appointment of State Attorneys.
6. Appointment of the Acting Director.
7. Appointment of officers.
8. Guiding principles.

(b) Control of Criminal Proceedings

9. Control of Prosecutions.
10. Appeals, revision and applications.
11. Assistance in Criminal matters.

(c) Related Functions

12. Payment and forfeiture to the Government.
13. Assistance to officers of other jurisdictions.
14. Inquests.
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16. Powers of the Director.
17. Director may require information.
18. Director may issue orders, guidelines, instructions.

PART III**TENURE, REMOVAL AND RETIREMENT OF THE DIRECTOR**

19. Tenure of office of the Director.
20. Retirement from Office.
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PART IV**ADMINISTRATIVE PROVISIONS**

22. Power to appoint public prosecutors.
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26. Judicial notice.
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30. Construction.
31. Amendment of the Criminal Procedure Act.
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33. Amendment of the Social Security Fund Act.
34. Amendment of the Marine Park Reserves Act.
35. Amendment of the Excise (Management and Tariff) Act.
36. Amendment of the Merchant Shipping Act.
37. Amendment of the Economic and Organised Crimes Control Act.
38. Amendment of the Companies Act.
39. Amendment of the Beekeeping Act.
40. Amendment of the Dairy Industry Act.
41. Amendment of the National Parks Act.
42. Amendment of the Wildlife Conservation Act.

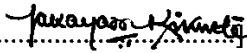
43. Amendment of the Ngorongoro Conservation Act.
44. Amendment of the Factories Act.
45. Amendment of the Forest Act.
46. Amendment of the Income Tax Act.
47. Amendment of the Public Health (Sewerage and Drainage) Act.
48. Amendment of the Public Service Retirement Benefits Act.
49. Amendment of the Parastatal Organisations and Pensions Scheme Act.
50. Amendment of the National Health Insurance Fund Act.
51. Amendment of the Customs (Management and Tariff) Act.
52. Amendment of the Local Authorities Pensions Fund Act.

THE UNITED REPUBLIC OF TANZANIA



No. 27 of 2008

I ASSENT


 [.....]
 President
 04 April, 2008

An Act to make provisions for the establishment of the National Prosecutions Service, to provide for the organisation, management, monitoring, supervision of prosecution and coordination of investigation with a view to promoting and enhancing dispensation of criminal justice, and to provide for related matters.

ENACTED by Parliament of the United Republic of Tanzania

PART I

PRELIMINARY PROVISIONS

- | | |
|---|--------------------------------------|
| <p>1. This Act may be cited as the National Prosecutions Service Act, 2008, and shall come into operation on the date which the Minister may, by notice published in the <i>Gazette</i>, appoint.</p> | <p>Short title, and commencement</p> |
| <p>2. This Act shall apply in relation to all criminal prosecutions and the coordination of investigation of crimes in Mainland Tanzania.</p> | <p>Application</p> |
| <p>3. In this Act, unless the context otherwise requires -</p> | <p>Interpretation</p> |

- "Attorney General" means the Attorney General appointed under Article 59 of the Constitution;
- Cap. 2 "Constitution" means the Constitution of the United Republic of Tanzania of 1977;
- "Deputy Attorney General" means the Deputy Attorney General appointed pursuant to sub article (1) of Article 59A of the Constitution;
- "Director" means the Director of Public Prosecutions appointed pursuant to sub-article (1) of Article 59B of the Constitution;
- Cap. 1 "Law Officer" means the Attorney General and every legally qualified member of the Attorney General's Chambers of the rank of or above Senior State Attorney or Senior Parliamentary Draftsman;
- "Minister" means the Minister responsible for legal affairs;
- "public prosecutor" means a person appointed in accordance with this Act to conduct prosecution of a criminal case in the court of law;
- "Service" means the National Prosecutions Service;
- Cap. 268 "State Attorney" has the meaning assigned to it under the Office of the Attorney General (Discharge of Duties) Act, 2005.

PART II

THE NATIONAL PROSECUTIONS SERVICE

(a) The Service

- National Prosecutions Service
- 4.-(1) There is established a Service to be known as the National Prosecutions Service.
- (2) The Service shall consist of the Director, and such other officers appointed to assist the Director to perform the functions of the Service.
- (3) The Director shall be the head of operations in the Service in relation to prosecutions and coordination of investigation duties conducted by the investigative organs.
- (4) The Director and any officer appointed to exercise the functions of the Service under this Act or any other written law, shall have a *locus standi* in courts of law.

5.-(1) Subject to the Office of the Attorney-General (Discharge of Duties) Act, 2005, there shall be appointed such number of State Attorneys as may be necessary for the proper, efficient and effective performance of the functions of the Service.

Appoint-
ment of
State
Attorneys
Act No. 4
of 2005

(2) Subject to the laws governing the public service, every State Attorney shall be under supervision of the immediate supervisor or in-charge of the work.

(3) Under the superintendence, direction and control of the Director, a State Attorney may exercise general or specific powers and perform general or specific functions of the Director.

(4) Any power exercised or functions performed under this Act by a State Attorney shall be deemed to have been exercised or performed by the Director.

6. The Attorney General shall appoint from amongst qualified Law Officers the Acting Director of Public Prosecutions during the absence of the Director by reason of illness or other cause or vacancy in the office and shall have all the powers and duties, and may exercise any of the functions of the Director.

Appoint-
ment of
Acting
Director

7.-(1) The Deputy Attorney General may appoint such number of other categories of Law Officers as may be necessary for the proper, efficient and effective performance of the functions of the Service.

Appoint-
ment of
officers

(2) A Law Officer so appointed shall exercise powers of the Director and perform the functions of the Service under the general superintendence, direction and control of the Director.

8. In the exercise of powers and performance of his functions, the Director shall observe the following principles-

Guiding
principles

- (a) the need to do justice;
- (b) the need to prevent abuse of legal process; and
- (c) the public interest.

(b) Control of Criminal Proceedings

Control
of
prosecu-
tions

9.-(1) Notwithstanding the provisions of any other law, the functions of the Director shall be to-

- (a) decide to prosecute or not to prosecute in relation to an offence;
- (b) institute, conduct and control prosecutions for any offence other than a court martial;
- (c) take over and continue prosecution of any criminal case instituted by another person or authority;
- (d) discontinue at any stage before judgement is delivered any criminal proceeding brought to the court by another person or authority; and
- (e) direct the police and other investigative organs to investigate any information of a criminal nature and to report expeditiously.

Cap. 20
Cap. 11

(2) The functions referred to in sub-section (1) shall include institution and conducting of summary proceedings, committal proceedings or a preliminary hearing under the Criminal Procedure Act, the Magistrates' Courts Act or any other law relating to criminal proceedings.

(3) Nothing in this section shall prevent the Director to take over and continue proceedings in the name of the person or authority that instituted those proceedings.

(4) The Police Officer or the Officer of any other investigative organ in-charge of any area or authority to be specified by the Director shall, in respect of offences alleged to have been committed within that area, report to the Director any-

- (a) offence punishable with death;
- (b) offence in respect of which a prosecution is by law required to be instituted with the consent of the Director;
- (c) case in which a request for information is made by the Director;
- (d) case in which it appears to such Police Officer or the Officer of any other investigative organ that the advice or assistance of the Director is desirable; or
- (e) other offence specified by the Director to be an offence in respect of which a report under this section is necessary.

(5) The term "area" or "authority" as used in subsection (4) means and includes a geographical jurisdiction of a police post, station, district,

region or zone, a corresponding office of any other investigative organ or a person to whom a command or a directive may be issued as the case may be.

10.-(1) Notwithstanding the provisions of any other law relating to appeals, revisions or application, it shall be the function of the Director to-

Appeals,
revision
and
applica-
tions

- (a) institute, conduct and defend criminal proceedings in courts of law; and
- (b) take over an appeal, revision or application arising from private prosecution, whether as appellant, applicant or respondent and where the Director takes over the appeal as appellant or applicant, he may continue or otherwise withdraw the appeal.

(2) Where the Director takes over an appeal, revision or application pursuant to subsection (1)(b) and subsequently decides to withdraw the appeal, revision or application, he shall give reasons for the decision and inform the appellant or applicant as the case may be.

(3) For avoidance of doubt, the functions specified in this section may also be performed by a State Attorney or a public prosecutor in accordance with the provisions of this Act.

11. The Service, in accordance with the provisions of the Extradition Act, the Mutual Assistance in Criminal Matters Act, the Proceeds of Crimes Act, and any other written law shall take the necessary steps to secure-

Assistance
in
Criminal
matters
Caps. No.
254
256
368

- (a) extradition of any person required to answer a charge of an offence;
- (b) facilitate mutual assistance in criminal matters;
- (c) perform any other function related to facilitation of prosecution or any other criminal matter.

(c) Related Functions

12. Where the Service conducts proceedings under any other law in force and as a result of the proceedings a person becomes liable to pay an amount to the Government or property is forfeited to the Government

Payment
and
forfeiture
to the
Govern-
ment

- Cap. 254 under a court order, the Director shall take any further proceedings or step that may be required to recover the amount or enforce the forfeiture or order.
- Assistance to officers of other jurisdictions **13.-(1)** It shall be the function of the Service to provide assistance in Mainland Tanzania in respect of a corresponding function of a corresponding Public Officer from other governments provided that the applicable law or procedures are complied with.
- (2) In sub-section (1) of this section-
"corresponding function" means a function similar to a function of the Director;
"corresponding public officer" means a public officer having corresponding functions in another jurisdiction.
- Inquests Cap. 24 **14.** The Director may participate in proceedings under the Inquest Act, where he is of the opinion that such participation is relevant to the function of the Service and is justified by the circumstances of the case.
- Related functions **15.** It shall be a function of the Service to-
- (a) institute, intervene and conduct proceedings that are connected with or arise out of a function of the Service; or
- (b) do anything that is incidental or necessary to the performance of the functions of the Service.
- (d) *Coordination of Investigation*
- Powers of the Director **16.-(1)** Notwithstanding the provisions of any other law in force for the time being, the Director shall have powers to do all things that are necessary to be done for the purpose of performing the functions of the Service including the coordination of criminal investigations.
- (2) In the exercise of powers, the Director may require any authority mandated with investigative functions to investigate any criminal allegations that have come to the Director's knowledge and furnish him with a report on the result of such investigations and that the Director shall have power to order that investigation be conducted by an investigative organ named in the order.

(3) Without prejudice to other provisions of this Act or any other law, the Director may order that a State Attorney coordinate an investigation of a crime and every investigating officer shall comply with that order.

(4) The Director shall regularly visit places where inmates are kept such as Prisons, Police Cells and Remand Homes for purposes connected to the administration of criminal justice.

17.-(1) Without prejudice to the provisions of any other law, the Director may, in accordance with sub-section (2), issue a directive in writing to any official as defined in subsection (5) of this section, for the purposes of obtaining information relevant to the investigation or prosecution of an offence.

Director
may
require
informa-
tion

(2) Where the Director has instituted or taken over, or is considering whether to bring or take over a prosecution, appeal, revision or any other proceedings in relation to an offence or suspected offence, a directive may be issued for-

- (a) any specified information, document material or any other relevant information to be furnished to the Director; or
- (b) the provision of assistance, including the carrying out of an investigation or further investigation of a matter, in relation to the offence or suspected offence.

(3) An official to whom a directive is issued under this section shall comply with it and always keep the Director informed of the progress made in complying with the directive.

(4) An official who wilfully refuses or neglects to comply with the directives issued under this section commits an offence and the Director may cause disciplinary measures to be taken against such official by his employer.

(5) Notwithstanding subsection (4), where the offence has caused or is capable of causing infringement of basic human rights to any person or loss to the government, the official shall be liable on conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding twelve months or to both.

- (6) For the purpose of this section-
"document" includes data recorded or stored mechanically, photographically or electronically and any tape, disc or other device or medium on which it is recorded or stored;
"official" means-
- (a) a member of the Police Force, Prisons Service or the Prevention and Combating of Corruption Bureau, or a public officer employed in any other Department or Agency of the Government; or
 - (b) a person employed by an authority or corporation established under any law and authorized by or under the law to investigate or to make a complaint in relation to an offence against any law in force.

Director
may issue
orders,
guidelines,
instru-
ctions

18.-(1) The Director may, subject to the provisions of this Act, from time to time, issue orders, guidelines or instructions for the observance of all officers in the Service in the execution of their functions in relation to the service.

(2) The Director may issue directions in writing to an official referred to in section 17(1) of this Act to the effect that-

- (a) a prosecution for a specified offence or class of offences shall not be brought by that official; and
- (b) all matters relating to any such offence shall be referred to the Director and any directives so issued shall be complied with.

(3) Notwithstanding the provision of sub-section (2), the Director may direct that proceedings be brought in respect of an offence referred to in that sub-section.

PART III

TENURE, REMOVAL AND RETIREMENT OF THE DIRECTOR

Tenure of
office of
the
Director

19.-(1) The Director of Public Prosecutions shall have terms and conditions of service as those of a High Court judge.

(2) A person shall not be qualified to be appointed the Director of Public Prosecutions unless that person is qualified to be appointed a Judge of the High Court.

(3) The Director shall not be removed from Office except for and on the reason of-

- (a) inability to perform his functions for reasons of illness or any other reason; or
- (b) a conduct inconsistent with the Code of Ethics and Professional Conduct for Law Officers, State Attorneys and Legal Officers in the Public Service provided for in the Office of the Attorney General (Discharge of Duties) Act, 2005 or other law concerning ethics of public officials.

(4) Where the President, acting on advice of the Attorney General, considers that the question of removal of the Director from office needs to be investigated, then the President shall appoint a Special Tribunal.

(5) The Tribunal shall consist of a Chairman and two other persons nominated on the advice of the Attorney General from amongst persons who hold or have held the office of or could have qualified to be appointed a Judge of a High Court or a Court of Appeal.

(6) The Tribunal shall investigate the matter and recommend to the President on whether the Director be removed or not.

(7) Where the Tribunal recommends for the removal of the Director, then the President shall remove the Director.

(8) In carrying out its functions, the Tribunal shall have regard to the rules of natural justice, constitutional safeguards and the need to uphold the integrity of the public service.

20. The Director shall retire from office upon attaining the age of compulsory retirement with retirement benefits which are similar to those of a Judge of the High Court.

Retire-
ment
from
office

21. The Director may resign from office by tendering a letter of resignation signed by him to the President.

Resigna-
tion

PART IV
ADMINISTRATIVE PROVISIONS

Power to
appoint
public
prosecu-
tors

22.—(1) The Director may appoint a person to be a public prosecutor from other departments of the Government, local government authority or private practice to prosecute a specified case or cases on his behalf.

(2) A person appointed as public prosecutor shall be required to comply with directives, instructions and guidelines issued by the Director.

(3) Every public prosecutor shall be under superintendence and control of the Director, Law Officer or a State Attorney in charge of the zone, region, district or any other geographical division within which any such public prosecutor is situated in respect of all prosecution matters and shall be required to submit periodic returns to the Director, Law Officer or respective State Attorney.

Delega-
tion of
powers

23.—(1) The Director may by instrument delegate to a member of the Service or a public prosecutor any of the Director's powers and functions other than his power of delegation.

(2) Any power or function delegated under this section, when exercised or performed by a delegatee, shall be deemed to have been exercised or performed by the Director.

(3) A delegation under this section shall not prevent the exercise of such power or performance of such function by the Director.

Coordina-
tion of
investiga-
tion of
crimes

24.—(1) The Director shall coordinate the investigation of crimes.

(2) The Director in consultation with the investigative organs shall develop guidelines to facilitate the effective participation of the Director in the investigative process.

Inspec-
tion of
the
prosecu-
tion
offices

25.—(1) The Attorney General shall appoint a team of inspectors comprising persons with experience in prosecution and investigation matters.

(2) The team shall visit and inspect any specified public prosecution office, zonal, regional or district in which the Service has office as the Attorney General may instruct and shall-

- (a) inspect the available facilities and records to satisfy itself that they are being kept and utilised in accordance with the applicable guidelines or instructions;
- (b) assess the public perception on the performance of the Service in terms of care rendered to victim and witness, handling of complaints and its community links;
- (c) make recommendations aimed at enhancing the efficiency and effectiveness of the Service; and
- (d) report on any matter connected with the Service which the Attorney General has referred to the team.

(3) At the conclusion of every visit of inspection the team shall prepare a report and submit it to the Attorney General and a copy to the Director.

PART V
GENERAL PROVISIONS

26. All person acting in judicial capacity shall be required to take judicial notice of-

- (a) the official signature of a person who is or has been the Director, or a personal acting or has acted on that behalf on any document tendered before the court; and
- (b) the fact that a person is or was the Director, or act or acted on that behalf as the case may be.

27.-(1) There is established a National Criminal Justice Forum whose role shall be to create an opportunity for actors in the criminal justice to meet and discuss strategic issues involved in the administration of criminal justice.

National
Criminal
Justice
Forum

(2) The Forum shall consist of the members appointed by the Minister as follows-

- (a) the Director who shall be the Chairman;
 - (b) the Director of Criminal Investigation who shall be the Secretary;
 - (c) the Registrar of the High Court;
 - (d) the Director General of Tanzania Intelligence and Security Service;
 - (e) the Director of Operations of the Prevention and Combating of Corruption Bureau;
 - (f) the Commissioner of Financial Intelligence Unit;
 - (g) the Principal Commissioner of Prisons;
 - (h) the National Coordinator of Community Service;
 - (i) the Chairman of the National Parole Board;
 - (j) the Commissioner of Social Welfare;
 - (k) the Director of Legal Services in the Ministry responsible for Local Governments;
 - (l) the Director of Immigration Services;
 - (m) the Chief Government Chemist;
 - (n) two legal experts one from an association of public universities and another from an association of private universities;
 - (o) two representatives of civil society organisations dealing with human rights recommended by the umbrella non-governmental organization; and
 - (p) two senior practising advocates recommended by the Tanganyika Law Society..
- (3) The Forum may co-opt any other person as it deems necessary.
- (4) The Forum shall meet at least twice a year but may meet at any time if there is any issue to discuss for the purpose of improving the administration of criminal justice.
- (5) The quorum at any meeting of the Forum shall be half of the members.
- (6) The Forum may regulate its own proceedings.
- (7) The Forum shall prepare a report on its deliberation and submit to the Deputy Attorney General who shall work on the recommendations and give any direction as he deems fit or take action with respect to scrutiny and implementation.

28.-(1) The Minister may make regulations as may be necessary for the better carrying out of the provisions of this Act.

Powers to
make
Regula-
tions

(2) Without prejudice to subsection (1), the Minister may, after consultation with the Attorney General, make regulations providing for-

- (a) administration of the Service; and
- (b) such other matter as may or are required to be prescribed under this Act or as may be necessary for expedient and effective exercise of such powers and performance of the functions by the Service.

29.-(1) The application of this Act, shall extend to offences committed, prosecutions commenced, appeals or revisions preferred in courts of law before the date of coming into operation of this Act.

Transi-
tional and
savings

(2) Upon the coming into operation of this Act-

- (a) the Service shall gradually take over from Government departments or authorities the conduct of criminal proceedings instituted before the commencement of this Act;
- (b) all acts, matters and things lawfully made or done by or on behalf of or in the name of the Republic in relation to criminal proceedings shall be deemed to have been made or done by or on behalf of or in the name of the Director;
- (c) all documents served on or by or on behalf of or in the name of any other person in connection with criminal proceedings shall be deemed to have been served on or by or on behalf of the Director; and
- (d) all appointments of public prosecutors under the Criminal Procedure Act, shall be treated as if they were made under this Act unless any of such appointment is revoked by the Director.

Cap. 20

(3) Notwithstanding the provisions of sub-sections (1) and (2), the powers of any authority, sanction or consent given before the date of

coming into operation of this Act by the Attorney General, the Director, or any other person so empowered to commence proceedings in relation to an offence under any written law shall not abate or be otherwise affected.

PART VI

CONSEQUENTIAL AMENDMENTS

Construc-
tion

30. The laws specified under this Part are amended in the manner specified therein.

Amend-
ment of
the
Criminal
Procedure
Act Cap.
20

31. The Criminal Procedure Act is amended-

(a) in section 2 which relates to interpretation by deleting the definition "Public Prosecutor" and substituting for it the following-

"public prosecutor" means any person appointed under section 22(1) of the National Prosecutions Service Act, 2008 and includes the Director of Public Prosecutions, the Attorney General, the Deputy Attorney General, a Parliamentary Draftsman, a State Attorney and any other person acting in criminal proceedings under the directions of the Director of Public Prosecutions;

(b) by repealing section 95 of the principal Act;

(c) by repealing section 96 of the principal Act;

(d) by repealing section 89 of the principal Act;

(e) by repealing section 90 of the principal Act;

(f) in section 201 by inserting the phrase "or a person acting under his instruction" appearing in the third line between the words "prosecution" and "when" and delete the phrase "when appearing as an advocate";

(g) in subsection (1) of section 379 by-

(i) adding immediately after the word "Prosecutions" appearing at the end of the opening words of that subsection the phrase "or a person acting under his instructions";

(ii) inserting between the word "appeal" and the punctuation "," appearing in paragraph (a) the phrase "and the notice of appeal shall institute the appeal".

32. The Bankruptcy Act is amended in section 148 by deleting the marginal note "Attorney General to act in certain cases" and substituting for it the new marginal note "The Director of Public Prosecutions to act in certain cases".
- Amendment of the Bankruptcy Act
Cap. 25
33. The National Social Security Fund Act is amended in-
- (a) sub-section (3) of section 72 by deleting that subsection and substituting for it the following-
- "(3) Where the Director General is of the opinion that an offence has been committed or is about to be committed under this Act, he shall commence investigation, in relation to that offence and on completion of such an investigation submit the report to the Director of Public Prosecutions."
- (b) section 74 by deleting the phrase "and all criminal proceedings under section 72".
- Amendment of the National Social Security Fund Act
Cap. 50
34. The Marine Park Reserves Act is amended by repealing section 31.
- Amendment of the Marine Park Reserves Act
Cap. 146
35. The Excise (Management and Tariff) Act is amended by repealing section 147.
- Amendment of the Excise (Management and Tariff) Act
Cap. 147
36. The Merchant Shipping Act is amended by repealing section 287.
- Amendment of the Merchant Shipping Act
Cap. 165
37. The Economic and Organised Crimes Control Act is amended by repealing section 27.
- Amendment of the Economic and Organised Crimes Control Act
Cap. 200

Amend-
ment of
the
Compa-
nies Act
Cap. 212

38. The Companies Act is amended in section 137 by deleting all reference to the "Attorney General" appearing in sub-section (1), (2) and in paragraph (a) of subsection (3) and substituting for it the reference "Director of Public Prosecutions".

Amend-
ment of
the
Beekeep-
ing Act
Cap. 224

39. The Beekeeping Act is amended by repealing section 48.

Amend-
ment of
the
Dairy
Industry
Act. Cap.
262

40. The Dairy Industry Act is amended by repealing section 16.

Amend-
ment of
the
National
Parks
Act. Cap.
282

41. The National Parks Act is amended by repealing section 27.

Amend-
ment of
the
Wildlife
Conser-
vation
Act Cap.
283

42. The Wildlife Conservation Act is amended by repealing section 81.

Amend-
ment of
the
Ngoro-
ngoro
Conser-
vation
Act Cap.
284

43. The Ngorongoro Conservation Act is amended by repealing section 40.

Amend-
ment of
the
Factories
Act. Cap.
297

44. The Factories Act is amended by repealing section 70.

- | | |
|---|--|
| <p>45. The Forest Act is amended by repelling section 96.</p> | <p>Amendment of the Forest Act, Cap. 323</p> |
| <p>46. The Income Tax Act is amended by repealing section 124.</p> | <p>Amendment of the Income Tax Act Cap. 332</p> |
| <p>47. The Public Health (Sewerage and Drainage) Act is amended-</p> <p style="margin-left: 20px;">(a) in the marginal notes, by deleting that marginal note and substituting for it with the following "Recovery proceedings";</p> <p style="margin-left: 20px;">(b) by deleting the phrases "or prosecute for any contravention of any offence against" appearing in the second and third lines of that section and the phrase "if the contravention, offence" appearing in the third and fourth lines respectively.</p> | <p>Amendment of the Public Health (Sewerage and Drainage) Act Cap.336</p> |
| <p>48. The Public Service Retirement Benefits Act is amended in section 20(3)(b) by deleting the word "and" and the punctuation mark, "," appearing at the end of that paragraph and adding the following designation, and phrase "and the Director of Public Prosecutions".</p> | <p>Amendment of the Public Service Retirement Benefits Act Cap. 371</p> |
| <p>49. The Parastatal Organisation Pensions Scheme Act is amended by deleting the phrase "and all criminal proceeding under section 45" which appears in section 47.</p> | <p>Amendment of the Parastatal Organisation Pensions Scheme Act Cap. 372</p> |
| <p>50. The National Health Insurance Fund Act is amended in sub-section (2) of section 43 by deleting that subsection and substituting for it the following:-</p> | <p>Amendment of the National Health Insurance Fund Act Cap. 395</p> |

"(2) Where the Director General is of the opinion that an offence has been committed or is about to be committed under this Act, shall commence investigation, and on completion of such an investigation submit the report to the Director of Public Prosecutions."

Amend-
ment of
the
Customs
(Manage-
ment and
Tariff)
Act Cap.
403

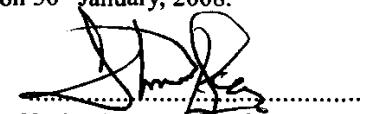
51. The Customs (Management and Tariff) Act is amended by repealing section 172.

Amend-
ment of
the Local
Authori-
ties
Pensions
Fund
Act. Cap.
407

52. The Local Authorities Pensions Fund Act is amended in section 47 by deleting subsection (3) and substituting for it the following:

"(3) The Director General shall commence investigation for an offence where he believes or he is of the opinion that an offence against this Act has been committed or is about to be committed and shall on completion of investigation submit the report to the Director Public of Prosecutions."

Passed in the National Assembly on 30th January, 2008.


.....
Clerk of the National Assembly

SUBSIDIARY LEGISLATION

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THE ATTORNEY GENERAL (DISCHARGE OF DUTIES)
REGULATIONS, 2006

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SCHEDULE
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THE OFFICE OF THE ATTORNEY GENERAL
(DISCHARGE OF DUTIES) ACT, 2005

(No. 4 of 2005)

REGULATIONS

(Made under section 29)

THE ATTORNEY GENERAL (DISCHARGE OF DUTIES) REGULATIONS, 2006

PART I

PRELIMINARY PROVISIONS

1. These Regulations may be cited as the Attorney General (Discharge of Duties) Regulations, 2006. Citation

2. These Regulations shall apply in respect of persons who perform or discharge legal functions in the Office of the Attorney General and other offices in the public service who, by virtue or nature of their job description, are required to seek or consult for legal advice from the Office of the Attorney General. Application

3. In these Regulations, unless the context otherwise requires—
"Act" means the Office of the Attorney General (Discharge of Duties) Act, 2005; Interpre-
tation
Act No. 4
of 2005
"Code of Ethics" means the Code of Ethics for Law Officers, State Attorneys and Legal Officers in the public service;
"Court" means a court of law and includes a tribunal;
"internship" means practical training undertaken by a law student who has completed tutorial training at an institute of higher learning;
"Law Officer" has the meaning ascribed to it under the Interpretation of Laws Act; Cap. I

Attorney General (Discharge of Duties)

G.N. No. 134 (Contd.)

"legal officer" means a holder of duly recognized degree in law by whatever title employed in the public service, other than the Office of the Attorney General and includes a solicitor;

"State Attorney" means a person appointed as such under sections 24 or 25 of the Act.

PART II

RECRUITMENT OF LAW OFFICERS, STATE ATTORNEYS AND LEGAL OFFICERS

Discharge
of duties
of the
Attorney
General

4.—(1) A person shall be qualified for appointment as a Law Officer, a State Attorney or a Legal Officer who has a degree in law from the University or an institute of higher learning duly recognized by the Government and has completed internship or has attended training in advocacy at an institute recognized by the Attorney General.

(2) A person shall not practise as a Law Officer or a State Attorney unless that person has been appointed by the Attorney General to practise as such.

(3) A Legal Officer may practise as Law Officer or State Attorney in relation to the discharge of the duties of the Office of the Attorney General if such Legal Officer has been appointed to perform the functions of a Law Officer or a State Attorney pursuant to subsection (1) of section 25 of the Act.

Conduct
for the
discharge
of duties

5.—(1) In the discharge of the duties of the Office of the Attorney General in relation to matters of the criminal, civil, constitutional nature or in drafting legislative instruments, Law Officers, State Attorneys and Legal Officers shall be guided by the requirements of Part III of the Act.

(2) In the performance of their functions, the Law Officers, State Attorneys and Legal Officers shall adhere to the requirement to seek directions of the heads of respective Directorates Department, Agency, Ministerial Department or Ministry.

(3) Without prejudice to sub-regulation (2), a Law Officer, a State Attorney or a Legal Officer shall be required to seek specific directions from the head of the Directorate, the Department or the Agency of which the subject relates.

Attorney General (Discharge of Duties)

G.N. No. 154 (Contd.)

(4) The Law Officer, State Attorney and Legal Officer shall at all the time discharge the duties of the Office of the Attorney General fairly and dispassionately and shall, in that respect, not compromise personal interest to the Government and generally the public interest or interest of the client.

6.-(1) Every Law Officer, State Attorney and Legal Officer shall have the duty and obligation to maintain respect to the legal profession and to observe the Code of Ethics.

Duties,
rights and
privileges

(2) With a view to maintaining respect to the legal profession, the Law Officer, State Attorney and Legal Officer shall, while appearing in the Court or Tribunal for purposes of the conduct of proceedings, be neat and dressed in court attire in accordance with the norms of the legal profession.

(3) It shall be the right of a Law Officer, a State Attorney and a Legal Officer to enjoy all privileges attached to advocates save for charging and receiving reward in a form of fees and to the extent prohibited or restricted by the Act and laws governing employment in the public service.

(4) The Law Officer, State Attorney or Legal Officer who contravenes the provisions of this Regulation shall be liable to disciplinary actions including but not limited to de-registration, dismissal, termination and reprimand.

~~7.-(1) The Law Officer, a State Attorney or a Legal Officer who has~~
interest in any matter to which he is assigned shall be required to declare that interest.

~~Conflicts
of interest~~

~~(2) Interest shall be assumed to exist where the matter involves a spouse, a child, a father or a mother, a relative, a friend or an employer other than the Attorney General.~~

8.-(1) The Law Officer, a State Attorney and a Legal Officer shall desist from engaging in a matter that is most likely to adversely affect the public confidence in the Office of Attorney General.

Promotion
of public
confidence

Attorney General (Discharge of Duties)

G.N. No. 154 (Contd.)

(2) The Law Officer, a State Attorney or a Legal Officer shall not become a practicing advocate and the Law Officer, a State Attorney or a Legal Officer who accepts a court brief on a matter in which the Government is concerned or is adversely or may be adversely affected shall be deemed to be engaged in a matter that adversely affect the public confidence and jeopardize the credit and integrity of the legal profession and the public service.

(3) The Law Officer, a State Attorney or a Legal Officer who conduct himself contrary to Regulation 6 or 7 shall be deemed to have breached the Code of Ethics and shall be liable for deregistration from the Register.

PART III

REGISTRATION OF LAW OFFICERS, STATE ATTORNEYS AND LEGAL OFFICERS

Registration of Law Officers, State Attorneys and Legal Officers

9-(1) The Deputy Attorney General shall enter into the Register particulars of the Law Officers, State Attorneys and Legal Officers.

(2) The Register shall be in such form and manner and shall be styled as Form AG-1 specified in the Schedule to these Regulations.

(3) The particulars referred to under sub-regulations (1) shall include:

- (a) name and address;
- (b) title and designation;
- (c) professional qualifications;
- (d) date of appointment; and
- (e) any other relevant additional qualification or information.

(4) Without prejudice to the preceding provisions of this Regulation, the Law Officers and the State Attorneys employed prior to the 1st day of July, 2005 shall, and without further requirement, be deemed to have been registered as such and shall be issued with an instrument of appointment in accordance with the provisions of section 24 of the Act.

(5) An instrument of appointment for a Law Officer and a State Attorney shall be made in Form AG-2 specified in the Schedule to these Regulations.

Attorney General (Discharge of Duties)

G.N. No. 154 (Contd.)

10.—(1) Subject to the provisions of section 25 of the Act, the Permanent Secretary, and the Chief Executive Officer of the Independent Department or Agency who employs a Legal Officer shall furnish the Deputy Attorney General with particulars of that person.

Submission of particulars of a legal officer

(2) The particulars required for purposes of sub-regulation (1) shall include:

- (a) name and address;
- (b) title and designation;
- (c) professional qualifications;
- (d) date of appointment; and
- (e) any other relevant qualification or information which may be necessary in the circumstance.

(3) The employer shall further be required to submit to the Deputy Attorney General any change of particulars where there is such change, in order to allow the update of particulars of the Legal Officer concerned in the Register.

(4) An instrument of appointment of a Legal Officer to discharge the functions of Attorney General shall be made in Form AG -3 specified in the Schedule to these Regulations.

11.—(1) The Deputy Attorney General shall make change of particulars of the Law Officers, the State Attorneys and the Legal Officers in the Register when circumstances requires to do so.

Correction of errors in the Register

(2) Where there is an error in the Register, the Deputy Attorney General shall correct the error and keep the record update.

12.—(1) The Law Officer, a State Attorney or a Legal Officer who is deregistered shall not be entitled to discharge the duties of the Office of Attorney General or enjoy any right or privilege attached with the discharge of the duties of the Attorney General.

De-registration

(2) In the case of de-registration of a Legal Officer, that Legal Officer shall also be disqualified from further discharging duties of a legal nature within the public service.

Attorney General (Discharge of Duties)

G.N. No. 154 (Contd.)

(3) Upon deregistration of a Law Officer, a State Attorney or a Legal Officer, as the case may be, such Officer shall be required to surrender the instrument of appointment to the Deputy Attorney General.

(4) Where, following de-registration, a Law Officer, a State Attorney or a Legal Officer fails to surrender an instrument of appointment that instrument shall, in any case, cease to have effect and, in case of continued use of such instrument, a Law Officer, a State Attorney or a Legal Officer concerned shall be deemed to have contravened these Regulations and the regulations governing the use of official documents.

(5) A person who is aggrieved by the decision to de-register his name from the Register may petition the Attorney General for review of the decision.

PART IV

DELIVERY OF ADVICE AND OPINION

Provisions
relating to
delivery
of advice

13.-(1) An advice or an opinion from the Office of the Attorney General shall be given in writing and shall, in no way, be communicated verbally.

(2) Any person being a public officer shall seek the advice or an opinion of the Office of the Attorney General in writing and shall, in relation to the advice or an opinion sought:

- (a) ensure that the full facts of the subject matter are given to the Attorney General and draw attention to any previous legal opinions which have a bearing on the matter;
- (b) set out in a separate paragraph the specific question or questions of law on which the advice or opinion is desired;
- (c) in the case where it is necessary for a legal advice or an opinion to be sought by a personal approach, an appointment shall be made with a Law Officer or a State Attorney from whom the advice is sought and advance notice of the questions upon which a legal advice or opinion is desired to be given; and
- (d) except for routine matters such as scrutinizing of minor documents, requests for legal advice shall be made by a public officer of or above the rank of a Director or an Assistant Director.

(3) The Office of the Attorney General shall always be consulted before:

- (a) any payment of compensation is made or is refused, or in a matter in which proceedings are likely to be taken in the court;
- (b) a Government official produces official documents in court in a civil case in which the State is not a party; or
- (c) criminal proceedings are instituted since the final decision whether or not such proceedings shall be taken or shall proceed rests with the Director of Public Prosecutions.

(4) If a communication to a member of the public entails the decision being based upon a legal opinion expressed by the Office of the Attorney General, the legal advice should not be quoted, nor should the communication indicate that the decision is based upon the opinion of the Attorney General.

PART V

COURT BRIEFS AND DRAFTING INSTRUCTIONS

(a) Provisions relating to civil matters

14.-(1) All documents that are required to be filed in the court to which the Attorney General is a party shall be made under the title of the Attorney General.

Filing of
suits in
the court

(2) The provisions of this Part shall apply to the Legal Officers subject to compliance with the provisions of sub-regulation (3) of Regulation 4.

(3) Documents shall be filed after approval being given by and under the supervision of—

- (a) in the case of the Zonal or Regional Office, the State Attorney in-charge; and
- (b) in the case of Headquarters, the Director or the Assistant Director of the Directorate concerned.

Attorney General (Discharge of Duties)

G.N. No. 154 (Contd.)

Compromise of matter in court

15.-(1) Compromise of the matter which is the subject of proceedings in the court that involves the Government shall not be made without first informing the Attorney General or the Deputy Attorney General and the Permanent Secretary of the Ministry, the Chief Executive Officer, Ministry Department or Agency the conduct of whose office gave rise to the proceedings in the court.

(2) Where, pursuant to sub-regulation (1), it is difficult to consult the Attorney General or the Deputy Attorney General without defeating the logical end of the compromise sought due to the distance, means of communication or other good cause, the Law Officer, State Attorney or a Legal Officer shall seek the direction of the head of the Directorate concerned or, the State Attorney in-charge of the Zone or Region to whose geographical area jurisdiction the matter was filed.

(b) Provision relating to criminal matters

Exercise of power to file a certificate of *Nolle Prosequi* Caps. 20 and 11

16.-(1) No State Attorney or a Legal Officer shall file a certificate of *Nolle Prosequi* pursuant to the provisions of the Criminal Procedure Act, the Magistrates Courts' Act or any other relevant law without obtaining prior consent of the Director of Public Prosecutions or a person authorized by him.

(2) A State Attorney or a Legal Officer who contravenes sub-regulation (1) shall be liable to disciplinary action.

(3) Where in the course of trial circumstances requires the Republic to accept a plea of guilty to a lesser offence, then the State Attorney concerned shall consult the Director of Public Prosecutions indicating the reasons for accepting the plea.

(4) The provisions of sub-regulation (3) shall not be used at the expense of abuse of court process and the discharge of duty with conscience, diligence and efficiency manner.

Withdrawal of appeal

17.-(1) The Law Officer, State Attorney or a Legal Officer shall not withdraw an appeal filed by or on behalf of the Director of Public Prosecutions.

(2) Where circumstances dictates that—

- (a) ends of justice would be defeated by continuing with an appeal;
- (b) ends of public interest would not be met;
- (c) control of criminal prosecutions is made;
- (d) abuse of court process be avoided,

the State Attorney or a Legal Officer shall first consult the Director of Public Prosecutions or a person authorized by him.

(3) The provision of this Regulation shall apply *mutatis mutandis* to the compromise of a civil suit or a civil appeal.

18.—(1) The Law Officer, a State Attorney in-charge or a Legal Officer in-charge shall ensure that assignment of work is given under circumstances that the assignee undertakes the assignment without inordinate delay, in any case the assignment should not be given to a Law Officer, a State Attorney or a Legal Officer who is not able to undertake the assignment immediately for reason of excuse of duty or is discharging other duties away from the duty station.

Prudential
practice

(2) The provisions of sub-regulation (1) shall not relate to an assignment the performance of which may be done at a future time without interference with a chain of routine in the discharge of duties of the Office of the Attorney General and in accordance with the Clients' Service Charter.

(3) Where a Law Officer, State Attorney or a Legal Officer is required to travel outside the duty station, such officer shall inform the immediate superior with a view to re-assigning court briefs or office files to another Law Officer, State Attorney or Legal Officer.

(4) For purpose of upholding objectivity and avoiding possible compromise of quality of service a Law Officer, a State Attorney and a

Attorney General (Discharge of Duties)

G. N. No. 154 (contd.)

(6) The provisions of this Regulation shall be complimentary to the Practice Note stipulated in Form AG-4 specified in the Schedule to these Regulations.

(c) Provisions Relating to Drafting Instructions

Drafting
of legal
instruments

19.-(1) All legislative instruments other than appointments of a routine nature issued under the authority of a law, shall be drafted or scrutinized by Parliamentary Drafters in the Office of the Attorney General.

(2) All Government Bills and subsidiary legislation, other than common form subsidiary legislation and by-laws, shall be drafted by the Chief Parliamentary Draftsman.

(3) Common form subsidiary legislation may be drafted by the appropriate Ministry and sent to the Chief Parliamentary Draftsman for scrutiny.

(4) Except in relation to purely routine subsidiary legislation, a request for the drafting of legislation shall be made by an officer not below the rank of Permanent Secretary, Head of Ministry Department or Regional Administrative Secretary.

Accepting
drafting
instruction

20.-(1) Before the Chief Parliamentary Draftsman is requested to draft any principal legislation involving a question of principle, the approval of the Cabinet to the principles must first be obtained.

(2) Instructions for the drafting of lengthy or complex subsidiary legislation shall not be accepted until, in the case of subsidiary legislation to be made by the President, the Minister concerned has agreed in principle to putting the matter to the Cabinet, and, in other cases, until the person or body having the power to make the subsidiary legislation has agreed in principle to make it.

(3) Request for the drafting or scrutiny of subsidiary legislation of a minor or routine nature may be made by a minute addressed to the Chief Parliamentary Draftsman in the appropriate Ministerial file.

(4) Requests for the drafting of legislation of other kinds shall be made to the Chief Parliamentary Draftsman in a self-contained paper accompanied by the appropriate Ministerial file.

(5) Where the legislation in question is a Bill and instructions are in minute form, the minute shall provide adequate drafting instructions, save that there is no objection to references to folios in files containing more details to which the drafter may refer as drafting instructions given to him.

(6) Without prejudice to the preceding provisions of the Regulation, instructions for the drafting of legislation shall in all cases include a note stating:

- (a) why the legislation is required; and
- (b) what should the Bill provide for.

(7) Where the drafter is asked to draft a Bill under which it is likely that a substantial quantity of subsidiary legislation may be made the drafter shall ensure that:

- (a) in forwarding instructions for the Bill an outline of proposed subsidiary legislation so that the drafter may decide whether the proposed subsidiary legislation will be *intra vires*; and
- (b) if it is desired to bring a Bill, after enactment into operation on a certain date, allow for the time needed for the drafting and enactment not only of the Bill but also for the drafting of such subsidiary legislation required for the operation of the measure.

(8) Where copies of legislation of other countries on the same subject or drafts are submitted, they should not be regarded as substitute for, or as obviating the necessity for giving full instructions.

(9) Priority for the presentation of Bills to the National Assembly shall be decided by the Leader of Government Business in the National Assembly in consultation with the Attorney General and the Legislation Committee of the Cabinet.

21-(1) Instructing Ministry shall be responsible for seeing that other Ministries, Independent Departments, Agencies and other authorities are, where necessary or desirable, consulted before the completion of drafting of any legislation which seeks to regulate the conduct of some matters that concern those Ministries and authorities.

Duty of
instructing
Ministry
and
Ministry
Department

Attorney General (Discharge of Duties)

G. N. No. 154 (contd.)

(2) It is a duty of the instructing Ministry, Independent Department or Agency to scrutinize all drafts sent from the Chief Parliamentary Draftsman to ensure that they meet all questions of principle.

Contrave-
nition of
Regulations

22. A Law Officer, a State Attorney or a Legal Officer who contravenes any of the provisions of Part V commits a disciplinary offence and shall be liable to the following actions either taken jointly or singly:

- (a) de-registration from the Register;
- (b) dismissal from service;
- (c) termination;
- (d) suspension;
- (e) criminal charges; and
- (f) any other action permissible by law to which an act complained of relates.

Revocation
of
appoint-
ment

23.-(1) The Attorney General shall revoke appointment of Law Officer, a State Attorney or Legal Officer who-

- (a) has been de-register from the Register;
- (b) lost qualification for appointment such; or
- (c) has been found guilty of disciplinary offence referred to under Regulation 22.

(2) Revocation of appointment should be made in Form AG-5 specified in the schedule of these Regulations.

SCHEDULE



FORM AG - 1

THE UNITED REPUBLIC OF TANZANIA

THE OFFICE OF THE ATTORNEY GENERAL (DISCHARGE OF DUTIES)
ACT, 2005

THE REGISTER OF LAW OFFICERS, STATE ATTORNEYS AND LEGAL
OFFICERS

(Made under Regulation 9(2))

A: LAW OFFICERS AND STATE ATTORNEYS

S/N	Name and Address	Title	Designation	Professional Qualifications	Date of Appointment	Additional Qualification	Change of Particulars

Attorney General (Discharge of Duties)

G. N. No. 154 (contd.)

<i>S/N</i>	<i>Name and Address</i>	<i>Title</i>	<i>Designation</i>	<i>Professional Qualifications</i>	<i>Date of Appointment</i>	<i>Additional Qualification</i>	<i>Employer</i>	<i>Change of Particulars</i>



FORM AG - 2

THE UNITED REPUBLIC OF TANZANIA

THE OFFICE OF THE ATTORNEY GENERAL (DISCHARGE OF DUTIES)
ACT, 2005

APPOINTMENT AS A LAW OFFICER/ STATE ATTORNEY

(Made under Regulation 9(5))

I,, ATTORNEY GENERAL of the United Republic of Tanzania, in exercise of powers vested in me under section 24(3) of the Office of the Attorney General (Discharge of Duties) Act, 2005, DO HEREBY APPOINT to be a Law Officer/State Attorney.

By VIRTUE of this Appointment, you will discharge the duties of the Office of Attorney General under section 8 of the Office of Attorney General (Discharge of Duties) Act, 2005, shall observe the Code of Ethics and comply with any direction that may be given on that behalf.

Dated at Dar es Salaam thisday of20.....

.....
Attorney General

Attorney General (Discharge of Duties)

G. N. No. 154 (contd.)



FORM AG - 3

THE UNITED REPUBLIC OF TANZANIA

THE OFFICE OF THE ATTORNEY GENERAL (DISCHARGE OF DUTIES)
ACT, 2005

(Made under Regulation 10(4))

INTRUMENT OF APPOINTMENT

I,, ATTORNEY GENERAL of the United Republic of Tanzania, in exercise of powers vested in me under Section 25(1) of the Office of the Attorney General (Discharge of Duties) Act, 2005. DO HEREBY APPOINT, a Legal Officer, to discharge the duties of the Office of Attorney General under section 8 of the Office of Attorney General (Discharge of Duties) Act, 2005.

By VIRTUE of this Appointment you shall be required to observe the Code of Ethics and comply with any direction that may be given on that behalf.

Dated at Dar es Salaam this day of 20.....

.....
Attorney General



FORM AG-4

THE UNITED REPUBLIC OF TANZANIA

THE OFFICE OF THE ATTORNEY GENERAL (DISCHARGE OF DUTIES)
ACT, 2005

PRACTICE NOTE

(Made under Regulation 18(6))

CRITERIA FOR APPOINTMENT OF A LEGAL OFFICER TO DISCHARGE
DUTIES OF THE ATTORNEY GENERAL

1. This Practice Note is intended to provide guidance, subject to which a Legal Officer shall discharge duties of the Attorney General.
2. The Legal Officer assigned to deal with specific matters related to his employment shall demonstrate capacity to deal with those assignments properly, efficiently and to produce the best quality of work.
3. In matters to which litigation is involved the Legal Officer shall demonstrate capacity to conduct such litigation properly and efficiently.
4. The Legal Officer shall be a person able to demonstrate possession of experience and expertise to discharge duties to which the appointment is made.
5. A Legal Officer shall be a person able to determine and demonstrate as to whether or not the matter before him requires the attention of the Attorney General.
6. A Legal Officer who has been enrolled as an Advocate shall not be eligible for appointment as a Law Officer or a State Attorney.

.....
Attorney General

Attorney General (Discharge of Duties)

G. N. No. 154 (contd.)



FORM AG-5

THE UNITED REPUBLIC OF TANZANIA

THE OFFICE OF THE ATTORNEY GENERAL (DISCHARGE OF DUTIES)
ACT, 2005

REVOCATION OF APPOINTMENT

(Made under Regulation 23(2))

I,, DEPUTY ATTORNEY
GENERAL of the United Republic of Tanzania, in the exercise of powers vested in me
under section 24(3) of the Office of the Attorney General (Discharge of duties) Act,
2005, hereby declare that the appointment of as a
Law Officer/State Attorney/Legal Officer, is hereby revoked.

CONSEQUENT UPON revocation, the said....., shall not be
entitled to enjoy any right or privilege attached with or to the discharge any of the
duties of the Office of the Attorney General specifies under section 8 of the Act.

AND FURTHER that any instrument that was issued in respect of the registration of
the said....., is hereby cancelled.

Dated at Dar es Salaam, this 18th day of2006.

.....
Attorney General

Dar es Salaam,
18th August, 2006

MARY M. NAGU,
*Minister for Justice and
Constitutional Affairs*