1960 No. 1059

The Tanganyika (Public Service Commission) Order in Council, 1960

Made - - - -	23*rd June*, 1960
Laid before Parliament	29*th June*, 1960
Coming into Operation	8*th July*, 1960

At the Court at Buckingham Palace, the 23rd day of June, 1960

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue and in exercise of the powers in that behalf by the Foreign Jurisdiction Act, 1890(a), or otherwise in Her Majesty vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows :—

Citation, publication and commencement

1.—(1) This Order may be cited as the Tanganyika (Public Service Commission) Order in Council, 1960.

(2) This Order shall be published in the Gazette and shall come into operation on a day to be appointed by the Governor by Proclamation in the Gazette, which day shall not be earlier than the day after the day on which this Order shall have been laid before both Houses of Parliament.

Interpretation

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

" the Gazette " means the Official Gazette of the Territory ;

" the Commission " means the Public Service Commission established by this Order ;

" the Governor " means the Governor and Commander-in-Chief of the Territory and includes any officer for the time being administering the Government and, to the extent to which a Deputy for the Governor is authorised to act, that Deputy ;

" public office " means any office of emolument in the public service ;

" public officer " means the holder of any public office and includes any person appointed to act in any such office ;

" the public service " means the service of the Crown in a civil capacity in respect of the Government of the Territory ;

" the Territory " means the Territory of Tanganyika.

(a) 53 & 54 Vict. c. 37.

(2) For the purposes of this Order a person shall not be considered to be a public officer by reason only of the fact that he—

(*a*) is a member of the Council of Ministers of the Territory; or

(*b*) is a member of the Legislative Council of the Territory; or

(*c*) holds the office of Speaker of the Legislative Council of the Territory; or

(*d*) is a member of the Commission.

(3) Save as is in this Order otherwise provided, or required by the context, the Interpretation Act, 1889(**a**), shall apply for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

Public Officers

3.—(1) The appointment, promotion, transfer, termination of appointment, dismissal and disciplinary control of public officers is hereby vested in the Governor, acting in his discretion.

(2) The Governor, acting in his discretion, may, by regulations, delegate to, or provide for the delegation to, any public officer or class of public officer, subject to such exceptions, qualifications and conditions as may be prescribed in any such regulations, of any of the powers vested in the Governor by subsection (1) of this section.

(3) The provisions of this section shall be subject to the provisions of any Instructions which may be issued by Her Majesty under Her Sign Manual and Signet or through a Secretary of State, and any power conferred by this section or delegated under this section shall be exercised in accordance with the provisions of such Instructions.

Public Service Commission

4.—(1) There shall be, in and for the Territory, a Public Service Commission, and, subject to the provisions of subsection (3) of this section, the Commission shall consist of such persons, appointed by the Governor, in such manner as may be prescribed by regulations made under section 6 of this Order.

(2) The Governor, acting in his discretion, may terminate the appointment of any member of the Commission at any time and, subject as aforesaid, the members of the Commission shall hold office upon such terms and conditions as may be prescribed by regulations made under section 6 of this Order.

(3) No person shall be appointed as a member of the Commission if he is—

(*a*) a member of the Council of Ministers or of the Legislative Council of the Territory;

(*b*) a member of a municipal council established under the Municipalities Ordinance(**b**), or a member of a council established under the Local Government Ordinance(**c**);

(*c*) an officer of any society or association which the Governor is satisfied is of a political nature; or

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(**a**) 52 & 53 Vict. c. 63.
(**b**) Chapter 105 of the Laws of Tanganyika.
(**c**) Chapter 333 of the Laws of Tanganyika.

(*d*) a person, whether in the public service or not, who is a member of any staff association or of any trade union or of any body as to which the Governor is satisfied that its object, or one of its objects, is to control or influence salaries, wages, pensions or conditions of service of any class of employed person.

(4) The salaries and allowances of the members of the Commission shall be such as may from time to time be fixed by the Governor and shall be paid out of the general revenues of the Territory.

Functions of the Commission

5.—(1) The Governor, acting in his discretion, may refer to the Commission for its advice any question relating to the appointment (including promotion or transfer), or termination of appointment or to the dismissal or other disciplinary control of public officers or of any public officer or to any other matter which, in his opinion, affects the public service or any public officer:

Provided that the provisions of this subsection shall not apply in relation to any of the following—

(*a*) any member of the Council of Ministers of the Territory who is a public officer;

(*b*) Judges of the High Court;

(*c*) the Director of Audit;

(*d*) members of the Governor's personal staff;

(*e*) the Clerk of the Legislative Council of the Territory;

(*f*) the Clerk-Assistant of the Legislative Council of the Territory.

(2) The Governor, acting in his discretion, may, by regulations, authorise any public officer or class of public officer to seek and to receive on his behalf, subject to such exceptions, qualifications and conditions as may be prescribed in any such regulations, the advice of the Commission on any matter on which the Governor may seek advice under the provisions of subsection (1) of this section.

(3) It shall be the duty of the Commission to advise the Governor or any public officer authorised as aforesaid to receive on the Governor's behalf any advice of the Commission on any question which he shall refer to them or cause to be referred to them, as the case may be, by virtue of the provisions of subsection (1) or subsection (2) of this section, but the Governor shall not be required to act in accordance with the advice given to him by the Commission.

(4) The Chairman of the Commission shall at all times have direct access to the Governor.

Regulations regarding the Commission

6. Subject to the provisions of this Order, the Governor, acting in his discretion, may make regulations and give instructions for giving effect to sections 3, 4 and 5 of this Order, and in particular and without prejudice to the generality of the foregoing power may by such regulations and instructions make provision for all or any of the following matters, that is to say—

(*a*) the membership, including the appointment of the Chairman, of the Commission;

(*b*) the appointment, tenure of office and terms of service of members of the Commission;

(*c*) the protection and privileges of members of the Commission in respect of the performance of their duties and the privilege of communications to and from the Commission or its members in case of legal proceedings;

(*d*) the organisation of the work of the Commission and the manner in which the Commission shall perform its functions;

(*e*) the manner and circumstances in which any recommendation, in respect of any question that has been referred to the Commission, made by any officer having authority over a department of government of the Territory, shall be submitted to the Commission by such officer and by the Commission to the Governor;

(*f*) consultation by the Commission with persons other than members of the Commission;

(*g*) the appointment, tenure of office and terms of service of staff to assist the Commission in the performance of its functions;

(*h*) the delegation to any member of the Commission of all or any of the powers or duties of the Commission;

(*i*) the definition and trial of offences connected with the functions of the Commission and the imposition for such offences of penalties not exceeding a fine of two hundred pounds and imprisonment for a term of two years;

(*j*) the definition and trial of offences relating to the discipline of Police and Prisons officers and the imposition for such offences of penalties not exceeding a fine of two hundred pounds and imprisonment for a term of two years;

(*k*) requiring persons to attend before the Commission to answer questions relating to any inquiry held by the Commission or to any business or duties of the Commission;

(*l*) the exclusion from the purview of the Commission of any or all of the matters mentioned in subsection (1) of section 5 of this Order in respect of any public officer or of any specified class of public officer.

Interpretation of regulations

7. The Interpretation and General Clauses Ordinance of the Territory(**a**), as amended from time to time, shall apply to any regulations or instructions made or given under the provisions of this Order as it applies to regulations and instructions made, or given under, the provisions of an Ordinance of the Territory.

Transitional provisions

8.—(1) The Governor may, by order published in the Gazette, at any time within twelve months after the commencement of this Order provide that any existing law shall be read and construed with such adaptations or modifications as may appear to him to be necessary or expedient for bringing that law into conformity with the provisions of this Order, or with the provisions of this section, or otherwise for giving effect or enabling effect to be given to those provisions; and any such law shall have effect accordingly from such date as may be specified in the order, not being a date earlier than the commencement of this Order.

(**a**) Chapter 1 of the Laws of Tanganyika.

(2) The Governor may, by order published in the Gazette, provide that, subject to such qualifications and exceptions as may be specified in the order, the Public Service Commission Ordinance(a), shall cease to have effect; and that Ordinance shall cease to have effect accordingly from such date as may be specified in the order, not being a date earlier than the commencement of this Order.

(3) Any order made under subsection (1) or subsection (2) of this section may be amended or revoked by a further order made in like manner.

(4) In this section " existing law " means any law in force or having effect immediately before the commencement of this Order and includes any instrument made in pursuance of any such law.

W. G. Agnew.

EXPLANATORY NOTE

(This note is not part of the Order, but is intended to indicate its general purpose.)

This Order makes provision for the establishment of a Public Service Commission for Tanganyika.

(a) Chapter 358 of the Laws of Tanganyika.