

Tanzania

Disqualification (National Assembly and Miscellaneous Offices) Act Chapter 316

Legislation as at 31 July 2002

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Tanzania

Disqualification (National Assembly and Miscellaneous Offices) Act

Chapter 316

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[This is the version of this document at 31 July 2002.]

[Note: This legislation has been thoroughly revised and consolidated under the supervision of the Attorney General's Office, in compliance with the Laws Revision Act No. 7 of 1994, the Revised Laws and Annual Revision Act (Chapter 356 (R.L.)), and the Interpretation of Laws and General Clauses Act No. 30 of 1972. This version is up-to-date as at 31st July 2002.]

[C.A. Act No. 7 of 1962; R.L. Cap. 505]

An Act to make provision for disqualifying the holders of certain offices for membership of the National Assembly, for providing relief against such disqualification, and for disqualifying the holders of certain offices for election or appointment as Speaker or Deputy Speaker or presiding member of the National Assembly, or as a member of the Electoral Commission or the Judicial Service Commission.

1. Short title

This Act may be cited as the Disqualification (National Assembly and Miscellaneous Offices) Act.

2. Interpretation

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

"member of the Police Force and Auxiliary Service" does not include a special Police Officer, an auxiliary Police Officer or a reservist (whether or not he is recalled for service), within the meaning respectively ascribed to those expressions in the Police Force and Auxiliary Service Act;

"member of the Tanzania People's Defence Forces" does not include an officer who is on any honorary or retired list or is a member of any reserve of officers of those forces, or a reservist within the meaning ascribed to that expression in the Tanzania People's Defence Forces¹ (whether or not such officer or reservist is recalled for service);

"office in the Public Service" means any paid public office in the service of the United Republic, but shall not include the office of—

- (a) President, Minister, Deputy Minister, Regional Commissioner or District Commissioner;
 - (b) Speaker, Deputy Speaker or member of the National Assembly;
 - (c) a member of any commission, council, board, panel, committee or other similar body (whether incorporated or not) established by or under any law; or
 - (d) a member of the Police Force and Auxiliary Services.
- (2) For the purposes of this Act, a person shall not be considered as holding any office or as being a member of any Force by reason only of the fact that he is in receipt of a pension or other like allowance in respect of his service in any such office or his membership of any such Force.

¹

- (3) Reference in the Act to a person holding an office shall be read and construed as including references to a person acting in any such office.

Disqualification for Election as a Member of the National Assembly (ss. 3-7)

3. Disqualification: National Assembly

Subject to the provisions of this Act, a person is disqualified for election as a member of the National Assembly who, for the time being—

- (a) holds any of the judicial offices specified in the Schedule to this Act;
- (b) holds or acts in a senior office in the Public Service or in the office of District Commissioner;
- (c) is a member of the Police Force; or
- (d) is a member of the Tanzania People's Defence Forces.

4. Relief from disqualification

- (1) Where any person has been elected to the National Assembly notwithstanding that he holds an office or is a member of a Force prescribed by this Act as disqualifying him for election, or is required to vacate his seat therein on account of any such disqualification, if it appears to the National Assembly that the grounds of disqualification under this Act which subsisted or arose at the material time have been removed, and that it is otherwise proper to do so, the National Assembly may by resolution direct that such person shall be deemed not to have held such office or to have been a member of such Force at the material time and where the National Assembly passes any such resolution, the disqualification shall be disregarded:

Provided that no such resolution shall affect the proceedings on any election petition then pending or determined or any determination of the High Court thereon.

- (2) In any case where, apart from this provision, the National Electoral Commission would be required, at a time when the National Assembly is not sitting, to appoint a day for an election of a member to the National Assembly in the place of a member becoming disqualified by reason of his holding an office or being a member of a Force prescribed by this Act as disqualifying him for election, the Commission may, if it appears to them that an opportunity should be given to the National Assembly to consider the passing of a resolution under this section, defer the appointment of such day until the fifth day after the Assembly next sits.

5. No obligation to accept office

No person, being a member of the National Assembly, or for the time being nominated as a candidate for election to that Assembly, shall be required to accept any office or any appointment as a member of a Force prescribed in this Act as disqualifying the holder or such member for election as a member of the National Assembly.

6. Disqualification and vacating of certain offices

- (1) A person shall be disqualified for—
- (a) election as the Speaker, Deputy Speaker or a presiding member of the National Assembly, if he holds or acts in any office in the Public Service or the office of Regional Commissioner, or District Commissioner, and those offices are hereby prescribed for the purposes of sections 84, 85 and 93 of the Constitution of the United Republic ²;

- (b) appointment as a member of the Judicial Service Commission or the Electoral Commission, if he holds or acts in the office of Regional Commissioner or District Commissioner, and those offices are hereby prescribed for the purposes of sections 74 and 112 of the Constitution of the United Republic ³.
- (2) A person appointed a member of the Permanent Commission of Enquiry shall vacate any office in the Public Service and any office of Regional Commissioner or District Commissioner, and those offices are hereby prescribed for the purposes of section 130 of the Constitution of the United Republic ⁴.

7. ***

[Repeals [Cap. 401](#).]

The Schedule (Section 3)

Judicial offices

- (a) The Chief Justice, the Deputy Chief Justice or a Justice of Appeal, or Registrar or Deputy Registrar of the Court of Appeal.
- (b) The Principal Judge, Judge, Acting Judge, Registrar or Deputy Registrar of the High Court.
- (c) Resident Magistrate or any other Magistrate who may be removed from office by the Judicial Service Commission.

³

[Cap. 2](#)

⁴

[Cap. 2](#)