

INSTITUTE OF JUDICIAL ADMINISTRATION—LUSHOTO
ACT, 1998

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THE UNITED REPUBLIC OF TANZANIA

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SCHEDULE

An Act to establish the Institute of Judicial Administration Lushoto and to provide for its management and control.

1. This Act may be cited as the Institute of Judicial Administration Lushoto Act, 1998.

2. In this Act, unless the context otherwise requires—

“Board” means the board as may be established by the Council under the provisions of this Act;

“Council” means the governing body of the Institute as established under section 6 of the Act;

“Director” means the Director of the Institute appointed under section 11;

“Institute” means the Institute of Judicial Administration established under section 3;

“Member” means a member of the Council and includes a chairperson of the Council;

“Minister” means the Minister responsible for Legal Affairs; and

“Principal” means the Principal of the Institute appointed under section 10.

THE UNITED REPUBLIC OF TANZANIA



NO. 3 OF 1998

I ASSENT,
Benjamin W. Mkapa
President
1st July, 1998.

An Act to establish the Institute of Judicial Administration Lushoto and to provide for the functions Management and control of the Institute and for related matters.

[.....]

ENACTED by the Parliament of the United Republic of Tanzania.

PART I

PRELIMINARY PROVISIONS

1. This Act may be cited as the Institute of Judicial Administration Lushoto Act, 1998 and shall come into operation on such date as the Minister may by notice published in the Gazette, appoint.

Short title and commencement

2. In this Act, unless the context otherwise requires:

Interpretation

"Board" means boards as may be established by the Council under the provisions of this Act;

"Council" means the governing body of the Institute as established under section 6 of the Act;

"Director" means the Director of the Institute appointed under section 11;

"Institute" means the Institute of Judicial Administration established under section 3;

"Member" means a member of the Council and includes a chairperson of the Council;

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"Principal" means the Principal of the Institute appointed under section 10.

PART II

ESTABLISHMENT OF THE INSTITUTE

Establishment of the Institute

3.—(1) There is hereby established an Institute to be known as the Institute of Judicial Administration—Lushoto.

- (2) The Institute shall be a body corporate and shall
- a) have perpetual succession and an official seal
 - b) in its corporate name be capable of suing and being sued.
 - c) be capable of holding, purchasing or otherwise acquiring in any other way, any movable property or immovable property and disposing of any of its property and.
 - d) have power to borrow such sums as it may require for its purposes.

Directorates

4. The Institute shall consist of such number and kind of directorates as the Council may decide.

Functions of the Institute

5.—(1) The functions of the Institute shall be—

- a) to offer and conduct local and international training programmes in legal disciplines as may be prescribed by the Council;
- b) to determine and offer academic awards at the end of training programmes, such as various certificates as may be decided by the Council;
- c) to conduct legal research in priority areas determined by the Council and Institutes' Administration;
- d) to apply research findings for the betterment of academic literature and for continued enrichment of the curriculum and teaching;
- e) to provide consultancy services in legal matters to the Government, public and private organizations, individuals and other clients within and outside the country;
- f) to offer legal counsel to clients in a manner and modality on such terms and conditions as may be determined by the Institutes' Administration;
- g) to arrange for the publication and dissemination of academic literature generated from the academic activities of the Institute as may be determined by the Institutes' Administration;
- h) to sponsor and to provide facilities for short courses and seminars according to internal and public demand;
- i) to establish relationship or association with other colleges, and institutions both nationally and internationally; and
- j) to do all such acts and things and enter into such contracts and transactions as are, in the opinion of the Council expedient or necessary for the proper and efficient discharge of functions of the Institute.

(2) The Institute may for the purposes of extending its services establish branches, campuses or other directorates as the case may be.

PART III

ADMINISTRATION

6.—(1) There is hereby established a Council of the Institute.

Establishment of the Council

(2) The provisions of the Schedule to this Act, shall have effect as to the composition of the Council, tenure of office of its members, termination of their appointments, the proceedings of the Council and other matters in relation to the Council and its members.

(3) The Minister may by order published in the *Gazette*, amend, vary or replace all or any of the provisions of the Schedule.

7.—(1) Subject to the provisions of this Act, the government and control of the Institute shall be vested in the Council.

Powers and duties of the Council

(2) Without prejudice to the generality of subsection (1), the Council shall have powers:—

- (a) to administer the property of the Institute, both movable and immovable;
- (b) to administer the funds and other assets of the Institute;
- (c) to signify the acts of the Institute by using the official seal;
- (d) on behalf of the Institute to receive gifts, donations, grants or other moneys and to make disbursements to other persons or bodies;
- (e) to appoint such officers of the Institute as it may deem necessary;
- (f) to receive and to implement government directives and proposals for the Institute;
- (g) to provide for the welfare of the students and the staff of the Institute;
- (h) to formulate policies of the Institute;
- (i) to set fees of the Institute;
- (j) to establish departments within the Institute for the Organisation and administration of its functions;
- (k) to establish boards and committees as the Council may deem necessary; and;
- (l) to do all acts or things provided for in this Act which may in the opinion of the Council be necessary for the proper carrying out of the functions of the Institute.

8. Notwithstanding subsection (2) of section 7, the Minister may, give to the Council directions of a general or specific character which directions shall be consistent with the purposes and provisions of this Act, as to the performance by the Council of any of its functions under this Act, and the Council shall give effect to the direction given by the Minister.

Powers of Minister

Rules

9.—(1) Subject to section 23 the Council may after consultation with the Minister make rules :

- (a) prescribing enrolment fees and other charges;
- (b) prescribing the terms and conditions of service, including the appointment, dismissal, salaries and retirement benefits of the members of the staff of the Institute.

(2) The Council may, after consultation with other institutions concerned with legal training, make rules relating to the academic management of the Institute and in particular to;

- (a) the qualifications necessary for entry to the Institute, the type of awards to be offered the duration and number of academic terms;
- (b) the grant of scholarship and student ship and the revocation of any such grant.

(3) The Council may make rules regulating discipline among the members of the staff of the Institute and the students.

(4) It shall not be necessary for the Council to publish in the *Gazette* any rules made under this section.

(5) Where any rule made under this section is not published in the *Gazette*, the Council shall in such manner as it may determine, bring or cause the rule to be brought to the notice of any person who is likely to be affected by the rules.

Appointment of the Principal

10.—(1) The President shall after consultation with the Chief Justice and upon recommendation of the Council, appoint a person who is qualified to be the Principal of the Institute.

(2) The Principal appointed under subsection (1) shall hold office upon such terms and conditions as may be specified in relation to his office.

(3) The Principal shall—

(a) be the Chief Accounting and Executive Officer of the Institute and shall be responsible to the Council for overall coordination of the Institute;

(b) exercise such functions of the Institute as the Council may delegate to him to enable him to transact all the day to day business of the Institute;

(c) subject to any directions or restrictions given or imposed by the Council, have the power to exercise supervision and control over acts and proceedings of all employees of the Institute and to decide upon dispose of questions relating to the terms and conditions of service of the employees of the Institute, having due regard to the Scheme of Service.

- (d) develop policies programmes and operations relating to the upkeep, maintenance and development of the Institute's assets and facilities; and academic development;
- (e) supervise the management of the Institute's finances including budgeting, and control of expenditure;
- (f) promote staff and students welfare, good relations between the Institute and the Government, the community including other Institutions and bodies within and outside the country;
- (g) undertake and promote other activities of interest to the Institute as lawful authority may direct; and
- (h) be Secretary to the Council.

(4) In the exercise of the powers vested in him under this section, the Principal shall comply with the direction of policy of a general or specific nature given to him by the Council and shall not without the prior approval of the Council depart or permit departure from the approved estimates of expenditure or the approved establishment of the Institute or the normal procedure in dealing with any particular matter.

11.—(1) The Council shall, after determining which directorates should be established appoint a director to head each directorate.

Directors of the Institute

(2) The functions of directors appointed under subsection (1) shall be prescribed in the regulations.

12. The Council may, from time to time appoint on such terms and conditions such academic and administrative staff of the Institute as it may consider necessary for the proper carrying out of the functions of the Institute.

Appointment of employees

PART IV

ADMISSION, EXAMINATIONS AND EXAMINATION COMMITTEE

13.—(1) Any person may, subject to such terms and conditions as the Council may impose, be admitted to the Institute.

Admission and fees

(2) Any student who is a non-Tanzanian shall pay the fee in convertible foreign currency, sufficient to meet the actual costs of that student at the Institute.

14.—(1) All examinations shall be conducted by Academic Planning Examination Committee of the Council.

Examination Committee

(2) The Academic Planning and Examination Committee shall—

- (a) satisfy itself with regard to the content and academic standard of the relevant course of study offered by the Institute in respect of any professional certificate;
- (b) advise the Principal; the Chief Justice and the Minister on the Standards of proficiency to be obtained in each examination for a relevant certificate;
- (c) decide whether any candidate for the relevant certificate or other award has attained the standards of proficiency required; and
- (d) make proposals to the Council on matters relating to the academic and professional activities of the Institute.

PART V

FINANCIAL PROVISIONS

Funds of
the Insti-
tute

15. The funds and resources of the Institute shall consist of:

- (a) such sums as may be appropriated by Parliament for the purposes of the Institute;
- (b) such sums as the Council may from time to time borrow for the purposes of the Institute;
- (c) such sums as may be payable to the Institute by way of donations, gifts, grants, loans or bequests;
- (d) such sums as may be in any manner become payable to or vested in the Institute as a result or in the course of discharging its functions under this Act.

Annual
Budget
estimates

16.—(1) In this Act, "financial year" means any period not exceeding twelve consecutive months designated in that behalf by the Council.

(2) At least two months before the commencement of any financial year the Principal shall prepare or cause to be prepared for the consideration of the Council estimates of the revenue and expenditure of the Institute for the ensuing financial year.

(3) The Council shall, after receiving the estimates report under subsection (1), consider and adopt the estimates subject to such modifications and amendments as the Council may consider appropriate.

(4) The annual budget estimates shall contain provisions for all the estimated expenditure during the ensuing financial year and in particular,

- (a) for the payment of salaries, allowances and other charges in respect of the staff and the Council and the Committees;
- (b) for the payment of construction improvement, maintenance and replacement of any building or other immovable property of the Institute.

(c) for the proper maintenance and replacement of the furniture, equipments and other supplies of the Institute; and

(d) for the creation of such reserve funds to meet future contingent liabilities as the Council may think fit.

(5) No expenditure shall be incurred for the purposes of the Institute except in accordance with the provisions of the annual budget estimates or any supplementary estimates adopted by the Council.

(6) A copy of the annual estimates and of every supplementary estimates if any; shall, immediately after the Council's adoption be forwarded to the Minister.

(7) The Minister shall, upon receipt of the annual budget or any supplementary budget, approve or disapprove the same or may approve subject to such amendments as he may deem fit.

(8) Where the Minister has approved any annual budget or any supplementary budget, such budget shall be binding on the Council which subject to subsection (9) shall confine the disbursement within the items and the amounts contained in the budget or supplementary budget as approved by the Minister.

(9) The Council may:

(a) make disbursement with the sanction in writing of the Minister notwithstanding that such disbursement is not provided for in any budget;

(b) transfer a sum from the amount of expenditure provided for in any budget in respect of any item, to any other item contained in such budget; or

(c) adjust expenditure limits to take account of circumstances not reasonably fore-seable at the time the budget was prepared, subject to submitting a supplementary budget to the Minister within two months of such alteration of expenditure.

17. The Council shall, with the approval of the Minister, have power to invest the funds of the Institute.

Investment of the Institute

18.—(1) The Council shall cause to be provided and kept proper books of accounts and records with respect to the receipt and expenditure of money by and other financial transactions of the Institute, and shall cause to be made for every financial year a balance sheet showing the details of the income and expenditure of the Institute and all its assets and liabilities.

Accounts and audit

(2) Within three months after the close of each financial year the accounts including the balance sheet of the Institute in respect of that financial year shall be submitted to and audited by the Tanzania Audit Corporation.

(3) Every such audited balance sheet shall be placed before a meeting of the Council and, if adopted by the Council shall be endorsed with a certificate that it has been so adopted.

(4) As soon as the accounts of the Institute have been audited and in any case not later than six months after the close of the financial year, the Council shall submit to the Minister a copy of the audited statement of the accounts together with a copy of the report made by the auditor on the statements of accounts.

Financial report to be laid before the National Assembly

19. The Minister shall, as soon as practicable after receiving the report, lay before the National Assembly a report containing—

- (a) a copy of the audited accounts of the Institute;
- (b) a copy of the audit report, if any and
- (c) a copy of the report regarding the activities of the Institute in the preceding financial year.

PART VI

MISCELLANEOUS PROVISIONS

Remunerations and fees

20.—(1) Subject to subsection (2) of this section, members of the Council shall be entitled to and be paid such remuneration, fees allowances or expenses as the Minister may, upon the recommendations of the Council prescribe from time to time.

(2) The members of the Council shall be paid such other remuneration, fees, allowance or expenses as the Minister may upon advice by the Council approve.

Delegation of powers by the Council

21.—(1) Subject to the provisions of subsection (6) of this section, the Council may from time to time, by writing under the official seal of the Institute and subject to such terms, conditions and restrictions as it may specify, delegate to any committee of the Council all or any of the functions, powers or duties conferred or imposed by this Act on the Council.

(2) Where any delegation is so made the delegated function, power or duty may be performed or exercised by the person so delegated.

(3) The delegation made under subsection (1) shall be made by office and not by name and in every case where delegation is so made, each successive holder of the office in question and any person who occupies or performs the duty of that office shall, without any further authority, perform or exercise the delegated functions power or duty in accordance with the delegation made by the Council.

(4) The Council may revoke a delegation made by it under this section.

(5) No delegation made under this section shall prevent the Council from performing or exercising the power function or duty so delegated.

(6) A delegation made under this section shall be published in the *Gazette* and upon its being so published, shall be judicially noticed and shall be presumed to be in force unless the contrary is proved.

(7) The Council shall not have power under this section to delegate—

- (a) its power of delegation or
- (b) the power to consider the annual budget or any supplementary budget, the annual balance sheet or any statement of accounts.

22. No matter or thing done by any member of the Council or officer of the Institute shall, if done *bonafide* in the execution of the functions conferred upon such member or officer by this Act or by regulations made under this Act, render such member or officer personally liable for such matter or thing.

Protection of members

23.—(1) The Council may, with the approval of the Minister make regulations for the better carrying out of the purposes of this Act, and without prejudice to the generality of this subsection may make regulations;

Regulations

- (a) prescribing awards which may be conferred or granted by the Institute;
- (b) prescribing the conditions which may be satisfied before the grant of particular award;
- (c) prescribing instruction courses to be provided by the Institute;
- (d) regulating the conduct of examinations;
- (e) fixing fees and other charges for the services rendered by the Institute;
- (f) providing for and regulating disciplinary proceedings against the staff of the Institute and the students;
- (g) prescribing terms and conditions of services, appointments, salary and retirement benefits of the members of the institute;
- (h) fixing the duration and number of academic terms.
- (i) providing for any matter or thing which in the opinion of the Council is necessary to provide for the more efficient performance of the functions of the Institute.

(2) The Regulations made under this section shall be published in the *Gazette*.

SCHEDULE

Made under section 6(2)

1.—(1) The Council shall consist of—

- (a) the Chairperson who shall be appointed by the President and
- (b) such other members not more than ten who shall be appointed by the Minister subject to subparagraphs (2) and (3).

Composition of the Council

- (2) Members of the Council appointed under item (b) of subparagraph (1) of paragraph 1 to this Schedule shall include, the Principal who shall be the Secretary to the Council, two members from the Judiciary, two members as may be preferred by the Minister and other six members from qualified persons nominated by appropriate authorities as follows:
- the Attorney General's Chambers;
 - the Faculty of Law-University of Dar es Salaam;
 - the Institute of Development Management (Mzumbe);
 - Institutes' Students' body;
 - Institutes' workers' Council; and
 - Institutes' academic Staff.
- (3) The Minister shall in appointing members under this paragraph ensure that women form at least one third of the total membership of the Council.
- Tenure of office**
- 2.—(1) Subject to the provisions of this Schedule every member of the Council shall hold office for a period of three years from the date of his appointment but may be eligible for re-appointment after the end of that period.
- (2) Notwithstanding sub-paragraph (1) of this paragraph, a member may resign at anytime by giving notice in writing to the appointing authority and from the date specified in the notice or, if no date is so specified in the notice from the date of the receipt of the notice by the appointing authority; he shall cease to be a member.
- (3) A person who is a member by virtue of his holding some other office shall cease to be a member upon his ceasing to hold the office by virtue of which he is a member.
- Termination of appointment**
3. Where any member of the Council absents himself from three consecutive meetings of the Council without reasonable excuse, the Council shall advise the appointing authority of the fact and the appointing authority may terminate the appointment of such a member and appoint a new member in his place.
- Where member ceases to be a member**
4. Where any member of the Council ceases to be such a member by resignation or death or is unable to perform his functions as such member by reason of his absence from the United Republic or by reason of any infirmity of body or mind or where the appointing authority terminates his appointment under paragraph 3, the appointing authority may appoint another member in his place and the member so appointed shall, subject to the provisions of this schedule, hold office for the remainder of the term of his predecessor.
- Temporary member**
5. Where any member of the Council other than chairperson is by reason of illness infirmity or absence from the United Republic or is unable to attend any meeting of the Council, the appointing authority may appoint a temporary member in his place and such temporary member shall cease to hold office on the resumption of office of the substantive member.
- Vice-Chairmen**
6. The Council shall elect one of its members to be a Vice-Chairperson and any member elected as Vice-Chairperson shall, subject to his continuing to be a member hold office of Vice-Chairperson for a term to be fixed by the Council and shall be eligible for re-election after the end of that period.
- Power of Chairman and Vice-Chairman**
- 7.—(1) The Chairperson shall preside at all meetings of the Council.
- (2) Where at any meeting of the Council the Chairperson is absent the Vice-Chairperson shall preside.
- (3) In the absence of both the Chairperson and Vice-Chairperson at any meeting of the Council the members presents may from amongst their number elect a temporary Chairperson who shall preside at that meeting.
- (4) The Chairperson, Vice-Chairperson or temporary Chairperson presiding at any meeting of the Council shall have a vote and in the event of an equality of votes, shall have a casting vote in addition to his deliberative vote.

<p>8.—(1) Subject to any general or specific direction of the Chairperson, the Council shall meet not less than four times during every financial year and at such additional times as may be fixed by the Chairperson or if he is absent from the United Republic or unable for any reason to act the Vice-Chairperson.</p>	<p>Meeting and procedure of the Council</p>
<p>(2) The Secretary to the Council shall give to each member of the Council fourteen days notice of the time and place of every meeting of the Council.</p>	
<p>9. One half of the total number of members shall form a quorum for a meeting of the Council but certain decisions may require a high number of members.</p>	<p>Quorum</p>
<p>10. Subject to the provisions relating to a casting vote, all questions at the meeting of the Council shall be determined by the majority of the votes of the members present; and if any member refuses or fails to vote on any question, he shall be deemed to have casted a negative vote.</p>	<p>Decision by Vote</p>
<p>11.—(1) Notwithstanding the provisions of this schedule decisions may be made by the Council without a meeting by circulation of the relevant papers among the members and the expression of the views of the majority thereof in writing.</p>	<p>Decision by circulation of papers</p>
<p>(2) Any member of the Council shall be entitled to require that any decision made under subparagraph (1) be deferred and the subject matter be considered at a meeting of the Council.</p>	
<p>12.—(1) The seal of the Institute shall be of such shape, size and form as the Council may determine.</p>	<p>Seal of the Institute</p>
<p>(2) The seal shall be authorized by the signature of the Principal or any other officer of the Institute authorized by the Principal in that behalf.</p>	
<p>13. All documents to which the Institute is a party other than documents required by law to be under seal and all decisions of the Council, may be signified under the hand of the Principal or other officer of the Institute authorized by the Principal in that behalf.</p>	<p>Execution of document</p>
<p>14.—(1) Minutes in proper form of each meeting of the Council shall be kept and shall be confirmed by the Council at the next meeting and signed by the Chairperson of the meeting.</p>	<p>Records of proceedings of the Council</p>
<p>(2) The Council shall cause minutes of all proceedings of meetings of the Council to be entered in a book kept for that purpose.</p>	
<p>15. No act or proceeding of the Council shall be invalid by reason of the number of members not being complete at the time of such act or proceedings or of any defect in the appointment of any member or the fact that any member was at the time disqualified or disentitled to act as such.</p>	<p>Proceedings not to be invalidated by irregularity</p>

16. Subject to the provisions of this Schedule the Council may regulate its proceedings.

The
Council to
regulate
its pro-
ceedings

Passed in the National Assembly on the 16th April, 1998


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Clerk of the National Assembly