

THE UNITED REPUBLIC OF TANZANIA

SPECIAL SUPPLEMENT

No. 2

13th February, 2018

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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;

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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

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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;

- (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

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(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

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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.

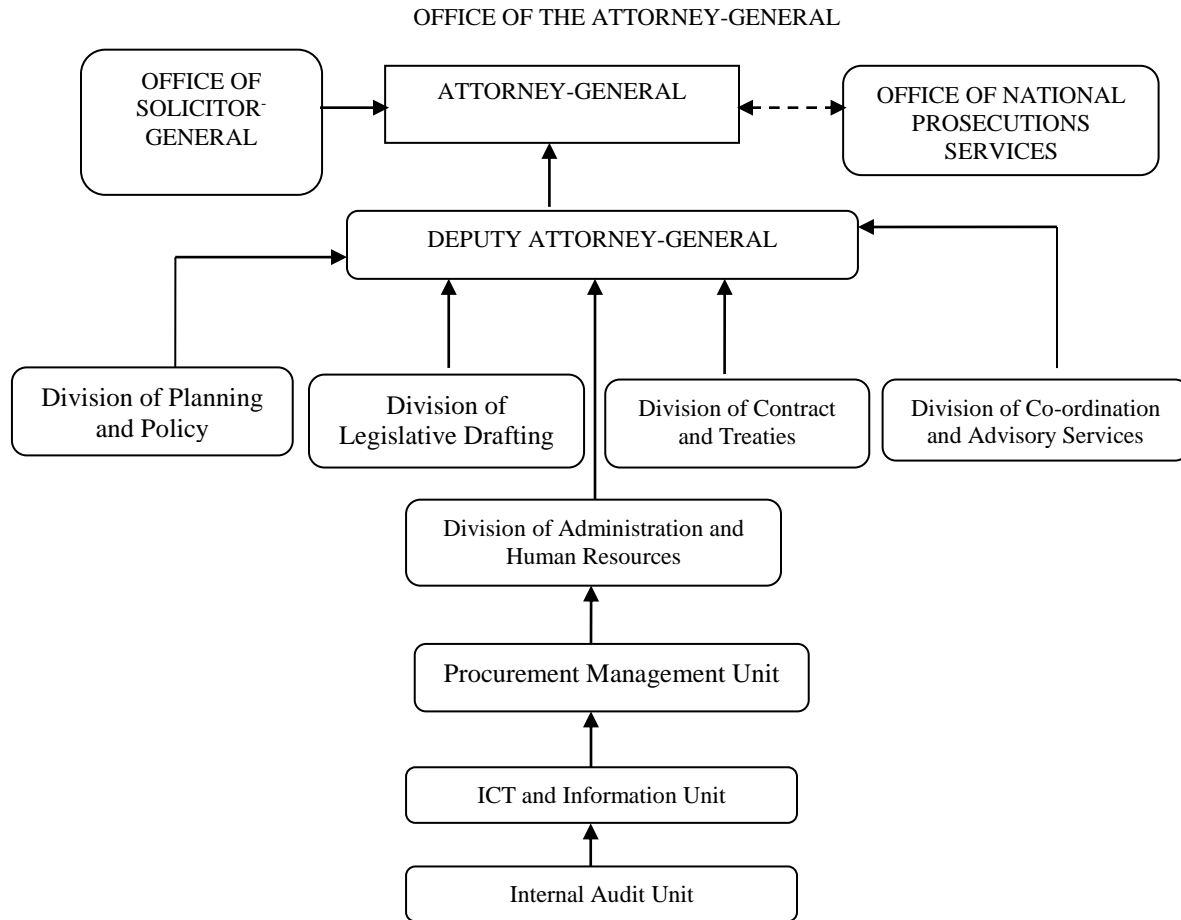
(2) Without prejudice to subparagraph (1), the number and responsibilities of directorates and units under Office of the Attorney-General may be reviewed in accordance with the law governing the public service.

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SCHEDULE

(Made under paragraph 9(1))



Dar es Salaam,
12th February, 2018

JOHN P. J. MAGUFULI,
President