

ACTS SUPPLEMENT

to The Uganda Gazette No. 36 Volume CI dated 11th July, 2008.

Printed by UPPC, Entebbe, by Order of the Government.

Act 11 *Public Service Commission Act* 2008

THE PUBLIC SERVICE COMMISSION ACT, 2008.

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THE PUBLIC SERVICE COMMISSION ACT, 2008.

An Act to make provision in relation to the Public Service Commission, in line with articles 165 and 166 and other relevant provisions of the Constitution; and to provide for other matters related to the Public Service Commission.

DATE OF ASSENT: 20th May, 2008.

Date of Commencement: See section 1.

BE IT ENACTED by Parliament as follows:

PART I—PRELIMINARY.**1. Commencement.**

This Act shall come into force on such day as the Minister may, by statutory instrument, appoint.

2. Interpretation.

In this Act, unless the context otherwise requires—

“Chairperson” means the Chairperson of the Commission;

“Commission” means the Public Service Commission established by Article 165 of the Constitution;

“currency point” means the value specified in the First Schedule in relation to a currency point;

“Deputy Chairperson” means a Deputy Chairperson of the Commission;

“District Service Commission” means a Commission established for each district by article 198 of the Constitution;

“Minister” means the Minister responsible for the public service;

“public officer” shall have the meaning assigned to it by article 175 (a) and 257(1)(x) of the Constitution;

“public service” shall have the meaning assigned to it by article 175 (b) and 257(1)(y) of the Constitution;

“Secretary” means the Secretary to the Commission appointed under section 12.

PART II—THE PUBLIC SERVICE COMMISSION.

3. Composition and appointment of members of the Commission.

(1) In accordance with the provisions of the Constitution, the Commission shall consist of a Chairperson, a Deputy Chairperson and seven other members appointed by the President with the approval of Parliament.

(2) A person is not qualified to be appointed a member of the Commission unless he or she is of high moral character and proven integrity.

(3) A person holding any of the following offices shall relinquish his or her position in that office on appointment as a member of the Commission—

(a) a member of Parliament;

(b) a member of a local government council;

- (c) a member of the executive of a political party or political organization; or
- (d) a public officer.

(4) A member of the Commission shall hold office for a term of four years but is eligible for reappointment; except that of the first members appointed to the Commission under the Constitution, four shall be appointed to hold office for three years, which shall be specified in their instruments of appointment.

(5) In accordance with the provisions of the Constitution, the emoluments of members of the Commission shall be charged on the Consolidated Fund.

(6) In the absence of both the Chairperson and the Deputy Chairperson, the President may designate one of the members to act as Chairperson.

4. Removal or vacation of office of member of the Commission.

(1) A member of the Commission shall vacate his or her office if that member is under a sentence of death or a sentence of imprisonment exceeding nine months without the option of a fine imposed by a competent court.

(2) A member of the Commission may be removed from office by the President only for—

- (a) inability to perform the functions of his or her office arising from infirmity of body or mind;
- (b) misbehaviour or misconduct; or
- (c) incompetence.

(3) Any question as to the removal of a member of the Commission shall be referred to a tribunal appointed by the President, which shall submit its findings to the President; and the President may remove the member if the tribunal recommends that the member should be removed on any ground specified in subsection (2).

(4) Where a tribunal is appointed by the President under subsection (3) in respect of any member of the Commission, the President shall suspend that member from performing the functions of his or her office.

(5) A suspension under subsection (5) shall cease to have effect if the tribunal advises the President that the member should not be removed.

(6) Where the question as to the removal of a member of the Commission involves an allegation that the member is incapable of performing his or her office, arising from infirmity of body or mind, the President shall, on the advice of the head of the Health Services Commission, appoint a medical board which shall investigate the matter and report its findings to the President, with a copy to the tribunal.

5. Oath of members of the Commission.

(1) Every member of the Commission shall, before assuming the functions of his or her office, take and subscribe—

(a) the Official Oath set out in the Second Schedule to the Oaths Act; Cap. 19;

(b) the Oath specified in Part I of the Second Schedule to this Act.

(2) Where at the commencement of this Act, any member of the Commission had taken and subscribed an Oath under the Official Oaths Act, he or she shall not be required to take and subscribe the equivalent oath under this section.

(3) A person appointed by the Commission shall subscribe to the Oaths prescribed under subsection (1)(a) and (b) of this section, as soon as possible, after the commencement of this Act.

6. Seal of the Commission.

The Commission shall have a seal which—

- (a) shall be in such a form as the Commission may determine; and
- (b) subject to the provisions of any written law, shall be applied or affixed to a document or otherwise used in such circumstances as the Commission may determine.

7. Remuneration.

The Chairperson, Deputy Chairperson and members of the Commission shall be paid salaries and allowances at such rates as are from time to time prescribed by the Salaries and Allowances (Specified Officers) Act, or any other applicable legislation.

PART III—FUNCTIONS OF THE COMMISSION**8. Functions of the Commission.**

Except as otherwise provided in the Constitution, the functions of the Commission include—

- (a) to advise the President in the performance of his or her functions relating to the establishment of offices in the public service, as provided for under Article 171 of the Constitution;
- (b) to appoint, promote and exercise disciplinary control over persons holding office in the public service of Uganda as provided for under Article 172 of the Constitution;
- (c) to review the terms and conditions of service, standing orders, training and qualifications of public officers and matters connected with personnel management and development of the public service and make recommendations on them to the Government;
- (d) to guide and coordinate District Service Commissions;
- (e) to hear and determine grievances from persons appointed by District Service Commissions;

- (f) to make regulations for the effective and efficient performance of its functions under the Constitution, this Act, or any other law; and
- (g) to perform such other functions prescribed by the Constitution or any other law.

9. Independence of the Commission.

In accordance with the provisions of the Constitution, the Commission shall, in the exercise of its functions, be independent and shall not be subject to the direction or control of any person or authority; except that it shall take into account government policy relating to the public service.

10. Reports of the Commission.

(1) The Commission shall make a report to Parliament in respect of each year, on the performance of its functions.

(2) The annual report referred to in subsection (1) shall be—

- (a) signed by the Chairperson and addressed to the Speaker of Parliament with a copy to the President; and
- (b) submitted within three months after the commencement of the subsequent financial year.

11. Functions of Chairperson.

(1) The Chairperson shall—

- (a) be the head of the Commission;
- (b) preside at all meetings of the Commission attended by him or her;
- (c) be responsible for the direction of the affairs and for the administration of the Commission; and

- (d) monitor and supervise the work of the Secretary of the Commission.

(2) In the absence of the Chairperson, the Deputy Chairperson shall perform the functions of the Chairperson and perform such other duties as the Chairperson shall assign to him or her from time to time.

12. Secretariat of the Commission.

(1) There shall be a Secretary to the Commission who shall be appointed by the President acting in accordance with the advice of the Commission.

(2) The Secretary shall be a person qualified to be appointed to the office of Permanent Secretary in the Public Service.

(3) The appointment of the Secretary shall be on terms and conditions applicable to a Permanent Secretary.

13. Functions of Secretary to the Commission.

(1) The Secretary shall, subject to the general control of the Commission, be responsible for—

- (a) the execution or carrying out of the policy decisions of the Commission and the day-to-day administration and management of affairs of the Commission;
- (b) the control of the staff of the secretariat;
- (c) management and control of the staff of the secretariat;
- (d) general administration and management of the financial and other resources of the Commission; and
- (e) implementation of the policies of the Government.

(2) The Secretary is, unless in any particular case the Commission otherwise directs in writing, entitled to attend all meetings of the Commission, but shall have no vote on any matter falling to be decided by the Commission at any such meeting.

14. Other staff of the Commission.

The Commission shall have such other officers and employees as may be necessary for the discharge of its functions.

15. Oath of Secretary to the Commission.

(1) The Secretary shall, before assuming the performance of his or her functions under this Act, take and subscribe the oath specified in Part II of the Second Schedule to this Act.

(2) Any other officer or employee of the Commission shall be directed by the Commission to take and subscribe the oath specified in Part II of the Second Schedule to this Act.

(3) Where, at the commencement of this Act, the Secretary or any other officer or employee of the Commission had taken and subscribed the oath under the Official Oaths Act, he or she shall not be required to take and subscribe the equivalent oath under this section.

(4) A person who has become the Secretary or other officer or employee of the Commission without having taken and subscribed the relevant oath prescribed by this section shall, subject to subsection (3), take and subscribe that oath as soon as possible after the commencement of this Act.

16. Immunity of members and staff of the Commission.

(1) A member of the Commission shall have similar protection and privilege in the case of any action or suit brought against him or her for any act or omission done or suffered in good faith in the execution of his or her duties, as is accorded by law to any act or omission done or suffered by a Judge of the High Court in the exercise of his or her judicial functions.

(2) An employee or other person performing any function of the Commission under the authority of the Commission shall not be personally liable to any civil proceedings for any act or omission done in good faith in the performance of those functions.

17. Funds and expenses of the Commission.

(1) The emoluments of the members of the Commission and other administrative expenses shall be prescribed by Parliament and shall be charged on the Consolidated Fund.

(2) The Commission may, with the prior approval of the Minister responsible for finance, receive grants from the Government or any other source for the discharge of any of its functions.

(3) All funds provided to the Commission under this section shall be administered and controlled by the Secretary to the Commission who shall be the Accounting Officer in accordance with the Public Finance and Accountability Act.

PART IV—GENERAL PROVISIONS RELATING TO THE FUNCTIONS OF THE COMMISSION.

18. Application of rules of natural justice.

In dealing with matters of discipline, whether or not requiring severe punishment, including removal from the public service, the Commission shall, in the spirit of article 173 of the Constitution, observe the rules of natural justice and in particular, the Commission shall ensure that an officer against whom disciplinary proceedings are being taken is—

- (a) informed about the particulars of the case against him or her;
- (b) given the right to defend himself or herself and present his or her defence in writing within a specified time, and where necessary, appear before a properly constituted meeting of the Commission or at any inquiry set up by the Commission for the purpose.

19. Privilege of communication.

Subject to the Constitution, but notwithstanding any applicable written law, unless the Chairperson, or in his or her absence the Deputy Chairperson, consents in writing, no person shall, in any legal proceedings, be permitted or compelled to produce or disclose any communication, written or oral, between—

- (a) the Commission or any member or officer of the Commission and the President, the Vice-President, a Minister, any Commission established by the Constitution or any member or officer of any such Commission or any other Government institution or a public officer; or
- (b) any member or officer of the Commission and the Chairperson; or
- (c) a member or officer of the Commission and another member or officer of the Commission,

in the exercise of or in connection with the exercise of the functions of the Commission.

20. Failure to appear or produce documents.

A person, other than a person who is notified to appear before the Commission solely in connection with his or her application for appointment to, or employment in, the public service who—

- (a) without reasonable cause or excuse, fails to appear before the Commission when notified to do so; or
- (b) who willfully fails to produce any documents in his or her possession when requested to do so by the Commission,

commits an offence and is liable, on conviction, to a fine not exceeding one hundred currency points or imprisonment for a term not exceeding six months, or both.

21. Immunities of witnesses.

A witness before the Commission shall have the same immunities and privileges enjoyed by or applicable to a witness before the High Court.

22. Improper influence.

(1) Any person who, otherwise than in the course of his or her official duty, directly or indirectly and whether by himself or herself or by any other person, in any manner whatsoever influences or attempts to influence any decision of the Commission, commits an offence and is liable, on conviction, to a fine not exceeding two hundred currency points or imprisonment for a term not exceeding twelve months, or both.

(2) Nothing in subsection (1) shall be construed as making it unlawful for a person to give or provide a reference or testimonial to an applicant or a candidate for any public office, or provide or supply any information or assistance requested by the Commission.

(3) Any person who, in connection with the performance by the Commission of its functions, willfully gives to the Commission any false information or information that he or she does not believe to be true, or which he or she knows to be false by reason of the omission of any material particular, commits an offence and is liable on conviction to a fine not exceeding two hundred currency points or to imprisonment for a term not exceeding twelve months, or both.

(4) For the purposes of this section, “Commission” means the Public Service Commission, and includes any member of the Commission, any officer of the Commission or any person or body of persons appointed to assist the Commission in the performance of its functions and duties.

23. Improper disclosure of information.

(1) Any member or officer of the Commission or any other person who, without the written permission of the Chairperson, knowingly publishes or discloses to any person otherwise than in the exercise of his or her official functions or duties, the contents of any document, communication or information which has come to his or

her notice in the course of his or her functions or duties in relation to the Commission, commits an offence and is liable on conviction to a fine not exceeding one hundred currency points or imprisonment for a period not exceeding six months, or both.

(2) Any person who knows of any information that to his or her knowledge has been disclosed in contravention of the provisions of sub-section (1) of this section and who publishes or communicates that information to any other person otherwise than for the purpose of any prosecution under this Act, or in the course of his or her official duty, commits an offence and is liable, on conviction, to a fine not exceeding two hundred currency points or to imprisonment for a term not exceeding twelve months, or both.

24. Consent of Director of Public Prosecutions.

A prosecution for an offence against any provision of this Act shall not be instituted except with the consent of the Director of Public Prosecutions.

25. Legal proceedings.

(1) Subject to subsection (2), no proceedings shall be brought in any court on the ground that any provision of this Act has not been complied with.

(2) Subsection (1) does not apply to—

- (a) criminal proceedings for an offence against this Act;
- (b) proceedings for judicial review by the High Court on the ground of nullity or any proceedings or decision by the Commission or any person or authority under this Act.

26. Recommendations to Government.

Any recommendation the Commission makes to the Government in the exercise of its functions under the Constitution, this Act or any written law shall be channeled through the Minister.

27. Regulations.

In accordance with the provisions of the Constitution, the Commission may, by statutory instrument, make regulations for the better carrying into effect the purposes and principles of this Act and for its due administration.

28. Amendment of First Schedule.

The Minister may, by statutory instrument and with the approval of the Cabinet, amend the First Schedule to this Act.

29. Transitional provisions.

(1) A person holding or acting in any office or appointment as Chairperson, Deputy Chairperson or member of the Commission under article 165 of the Constitution, shall on the date of commencement of this Act, continue to hold or act in that office as if appointed under this Act.

(2) A person holding or acting in any office as Secretary to the Commission or an officer or other employee of the Commission, shall on the date of commencement of this Act, continue to hold or act in that office as if appointed under this Act.

(3) Any regulations made by the Commission and in force on the date of commencement of this Act shall, on the date of commencement of this Act, continue in force as if made under commencement of this Act, in so far as they are not inconsistent with the provisions of this Act.

SCHEDULES.

Act 11

Public Service Commission Act

2008

FIRST SCHEDULE

SECTION 2

CURRENCY POINT

A currency point is equivalent to twenty thousand shillings.

SECOND SCHEDULE

SECTIONS 5 AND 15

Oaths.

Part I

Oath of member of the Public Service Commission

I, being appointed Chairperson/member of the Public Service Commission, swear in the name of the Almighty God/solemnly affirm that I will well and truly exercise the functions of Chairperson/member of the Public Service Commission and do right to all manner of people in accordance with the Constitution and in accordance with the laws of the Republic of Uganda without fear or favour, affection or ill-will. (So help me God.)

Part II

Oath of Secretary/Deputy Secretary/Officer of the Commission.

I,, being appointed Secretary/Deputy Secretary to /Officer of the Commission, being called upon to perform the functions of Secretary/Deputy Secretary to/Officer of the Commission, swear in the name of the Almighty God/solemnly affirm that I will not directly or indirectly reveal to any unauthorized person, or otherwise than in the course of duty, the contents or any part of the contents of any documents, communication or information which may come to my knowledge in the course of my duties as such, (So help me God.)

Cross References.

The Constitution of Uganda, 1995.

The Oaths Act, Cap. 19.

The Public Finance and Accountability Act, 2003, Act No. 6 of 2003.

The Salaries and Allowances (Specified Officers) Act, Cap. 291.