

ACTS SUPPLEMENT

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Act 2

Judicial Service Act

1997

THE JUDICIAL SERVICE ACT, 1997

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THE JUDICIAL SERVICE ACT 1997.

An Act to regulate and facilitate the discharge by the President and the Judicial Service Commission of their functions under Chapter Eight of the Constitution pursuant to clause (2) of article 150 of the Constitution, and for other matters related to the Judiciary.

DATE OF ASSENT: 10TH April, 1997.

Date of commencement: 2nd May, 1997.

BE IT ENACTED by parliament as follows:

1. This Act may be cited as the judicial Service Act, 1997.
2. In this Act, unless the context otherwise requires-
 - “Chairperson” means the Chairperson of the Commission;
 - “Commission” means the Judicial Service Commission Established by article 146 of the Constitution;
 - “Commissioner” means a member of the Commission;
 - “Currency point” means the value specified in relation to a currency point in the First Schedule to this Act;
 - “Judicial officer” has the meaning assigned to it in article 151 of the Constitution;
 - “Minister” means the Minister responsible for justice;

Short title

Inter-
pretation

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

“Secretary” means the secretary to the Commission appointed under clause (8) of article 146 of the Constitution.

Appointment
of Commi
ssioners

3. (1) The Chairperson and other members of the Judicial Service Commission shall be appointed by the President with the approval of parliament.

(2) The Attorney-General shall be an ex-officio member of the Commission

Commis
sioners to
Relinquish

4. (1) A person holding any of the following offices shall relinquish that office on appointment as a member of the Commission-

Particular
Offices

- (a) a member of parliament;
- (b) a member of a local government council; or
- (c) a member of the executive of a political party or political organization.

(2) Subject to subsection (1) of this section, after the appointment of a person as Commissioner, the offices specified in that subsection shall, for the purposes of paragraph (b) of offices likely to compromise the independence of the Commission.

Chairperson
of
Commission

5. The Chairperson shall be the head of the Commission and shall be responsible for the administration of the Commission and shall monitor and supervise the work of the Secretary.

Functions of
Commission

6. Subject to the provisions of the Commission, the Commission shall have the functions specified in articles 147 and 148 of the Constitution.

7. (1) There shall be a secretary to the Commission who shall be appointed by the President on the advice of the public Service Commission.

Secretary

Commission

(2) The Secretary shall be a person qualified to be appointed a permanent Secretary.

(3) The Secretary shall be appointed on such terms and conditions as are applicable to a Permanent Secretary.

(4) Subject to the powers of the Chairperson under section 2 and to the general control of the Commission, the Secretary shall be responsible for-

- (a) the carrying out of the decisions of the Commission and the day to day
- (b) administration and management of the affairs of the Commission and the

control of the other staff of the Commission;

(c) arranging the business for and the recording and keeping of the minutes of all decisions and proceedings of the Commission at its meetings; and

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

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

(2) The officers and employees referred to in subsection (1) shall be public officers.

Oath of
Commis
Sioners, the
Secretary and
Others
Cap. 52

9. (1) Every member of the Commission shall, before assuming functions of commissioner, take and subscribe-

- (a) the Official Oath required under section 4 of the Oaths Act;
- (b) the oath specified in part 1 of the schedule to this Act.

(2) The Secretary shall, before assuming the performance of his or her functions under Act, take and subscribe the oath specified in part II of the Schedule to this Act-

(3) Where at the commencement of this Act-

cap.276.

(a) a Commissioner or the Secretary or other officer of the Commission has taken and subscribed an oath under the Judicial Service Act corresponding to an oath required to be taken and subscribed under this section, he or she shall not be required to take and subscribe the equivalent oath under this section;

(b) a person has been appointed a Commissioner or Secretary of the Commission without having taken and subscribed the relevant oath prescribed by This section, then subject to paragraph (a), that person shall take and subscribe that oath as soon as possible after the commencement of this Act.

(4) Any other officer of the Commission may be directed by the Commission to take and subscribe the oath specified in part II of the Schedule.

Meetings
and
decisions of
Commission

10. (1) The Chairperson of the Commission shall preside at all meetings of the Commission and in his or her absence, the Deputy Chairperson shall preside; and in the absence of both of them, the judge of the supreme Court referred to in paragraph (d) of clause (2) of article 146 of the Constitution, shall preside.

(2) The quorum at meetings shall be six.

(3) Every decision of the Commission shall, so far as possible be by consensus,

(4) Where there is no consensus, decisions shall be by a majority of all members.

(5) In any vote under subsection (4), each member of the Commission shall have one vote and none shall have a second or casting vote.

(6) In any matter of discipline or a proposal to remove a judge or other judicial officer, the decision shall be carried by at least six members of the commission at the meeting at which the Attorney-General is present.

(7) Subject to the provisions of the constitution, the Commission may act notwithstanding the absence of any member or any vacancy in the office of a member.

(8) The Commission may regulate its own procedure.

11. (1) Except for matters of appointment, discipline, reviewing and making recommendations on the terms and conditions of service of judges and other judicial officer, decisions may be made by the Commission without a meeting, by circulation of the relevant papers among the members and the expression of their views in writing.

Decision by
circulation
of papers

(2) Any member is entitled to require that a decision under subsection (1) shall be deferred until the subject matter has been considered at the meeting of the Commission.

12. In dealing with matters of discipline, and removal of a judicial officer, the commission shall observe the rules of natural justice and in particular, the Commission shall ensure that an officer against whom discipline or removal proceedings are being taken is-

Rules of
natural
justice

- (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
- (c) case at the meeting of the Commission or at any inquiry set up by the Commission for the purpose;
- (d) where practicable, given the right to engage an advocate of his or her own choice; and
- (e) told the reasons for the decision of the commission.

13. (1) Any judicial officer whose conduct is under consideration by the Commission in a disciplinary matter is entitled to object to the participation of a member of the Commission in the proceedings and decisions of the Commission on the ground of bias.

(2) Where an objection is raised under subsection (1), the Commission shall inquire into and rule on the objection before proceeding further with consideration of the case of the judicial officer who raised the objection.

(3) If the objection is sustained by the commission, the member against whom the objection was raised, shall not take part in the proceedings relating to the judicial officer.

(4) The member of the Commission against whom objection is taken under this article is entitled to be heard at any meeting of the Commission where the objection is being considered, personally or by an advocate of his or her own choice, to defend himself or herself against the objection.

14. (1) The emoluments of the members of the Commission shall be prescribed by parliament by resolution.

(2) The emoluments of members of the Commission and the other administrative expenses of the Commission shall be charged on the Consolidated Fund.

(3) Parliament shall ensure that adequate resources and facilities are provided to the Commission to enable it to perform its functions effectively.

(4) The Commission shall be a self-accounting institution and shall deal directly with the Ministry responsible for finance on matters relating to its finances.

(5) The funds of the Commission may also, with the approval of the Minister responsible for finance, include grants and donations to enable it to discharge its functions.

(6) All funds provided to the Commission under this section shall be administered and controlled by the Secretary who shall be the accounting officer in accordance with the Public Finance Act.

Cap. 149.

15. (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 in the execution of his or her duties, as is given by law to the acts or words spoken by a judge of the High Court in the exercise of his or her judicial functions.

Immunity of members and staff of Commission

(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 in good faith in the performance of those functions.

16. The Commission shall have a seal which shall be in such form as the Commission may determine, and subject to the provisions of any law, be applied in such circumstances as the Commission may determine.

Seal of Commission

17. Unless the Chairperson consents in writing to the production or disclosure, no person shall, in any legal proceedings be permitted or compelled to produce or disclose any communication, written or oral, which has taken place between-

privileges for communication

- (a) the Commission or any member or officer of the Commission and the president, Vice-President, a Minister, the Public Service Commission or any member or officer of it or a public officer; or
- (b) any member or officer of the Commission and the Chairperson; or
- (c) any members or officers of the Commission, in the exercise of or in Connection with the exercise of the functions of the Commission.

Enforce-
ment of
attendance

18. (1) The Commission may require any person to attend and give evidence before it concerning any matter which it may properly consider in exercise of its functions under the Constitution relating to any such matter by any person authorized by the Commission.

(2) The Commission may cause a witness to be examined on oath or affirmation which shall be administered by the Secretary or by any other person authorized by the Commission.

Failure to
Appear or
produce
documents

19. Any person, other than a person who is notified to appear before the commission solely in connection with his or her application for appointment to the public service, who without reasonable cause fails to appear before the Commission when notified to do so, or 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 fine not exceeding fifteen currency points or imprisoned not exceeding six months or both.

Attendance
allowance

20. (1) Any person summoned by and appearing before the Commission as a witness is entitled to be paid by way of reimbursement of his or her expenses, such allowances as are payable to a witness appearing before the High Court in criminal proceedings.

(2) Any other person invited by the Commission to attend any meeting of the Commission to assist the Commission, may be paid by the Commission such allowances as the Commission may consider reasonable.

21. A witness before the Commission shall have the same immunities and Privileges as if he or she were a witness before the High Court.

immunities
Of
witnesses

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

Improper
influence
false
information.

(2) Nothing in this subsection shall be taken to make unlawful the giving of a reference or testimonial to any applicant or candidate for any public office or the supplying of any information or assistance requested by the Commission.

(3) Any person who, in connection with the exercise by the Commission of its functions, wilfully gives to the Commission any information which he or she Knows to be false or 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 thirty currency points or imprisonment not exceeding twelve months or both.

(4) For the purpose of this section, "Commission" means the Commission, any member of the Commission, an officer of the Commission or any person or body of persons appointed to assist the Commission in the exercise of its functions.

23. (1) Any member or officer of the Commission and any other person who, without the written permission of the Chairperson, knowingly publishes or discloses to any person

improper
disclosure.

otherwise than in the exercise of his or her official functions, the contents of any document, communication or information which has come to his or her notice in the course of his or her functions in relation to the Commission, commits an offence and is liable, on conviction, to a fine not exceeding thirty currency points or imprisonment not exceeding twelve months or both.

(2) Any person who knows of any information which to his or her knowledge has been disclosed in contravention of communicates it 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 thirty currency points or imprisonment not exceeding twelve months or both.

Consent to
prosecution

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

Legal
proceedings

25. (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 of any proceedings or decision by the Commission or any person or authority under this Act.

Prescription
Of number
Of registrars

26. The Chief Justice may, in consultation with the Commission, by statutory instrument, prescribe the number of registrars in the Judiciary other than Chief Registrar for the purpose of clause (1) of article 145 of the Constitution.

Under article 145

27. The Commission may, in consultation with the Public Service Commission, by statutory instrument, designate the holder of any office, the functions of which are connected with a court as a judicial officer for the purposes of the definition of judicial officer under paragraph (c) of article 151 of the Constitution.

Commission
to designate
other
judicial
Officers

28. (1) The Commission may, by statutory instrument, make regulations in relation to the discharge of its functions under the Constitution and under this Act.

Regulations.

(2) Without prejudice to the general effect of subsection (1), regulation may be made under it-

(a) regulating the manner in which matters shall be referred to the Commission;

(b) providing for and regulating the conduct of disciplinary proceedings by the Commission

(c) providing for the organization of the work of the Commission and regulating the manner in which it shall exercise its functions;

(d) prescribing disciplinary penalties and awards; and

(e) requiring persons to attend before the Commission to answer questions relating to the exercise by the Commission of its functions.

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

Amendment
Schedule

30. (1) The Judicial Service Act is repealed.

Repeal and
Saving. Cap.

(2) Without prejudice to the general effect of section 12 of the Interpretation Decree, 1976, any regulations made under the judicial Service Act shall, so far as consistent with this Act, continue in force as if made under section 28 of this Act.

No.18 of
1976.

FIRST SCHEDULE

CURRENCY POINT

A currency point represents twenty thousand Uganda Shillings

SECOND SCHEDULE

Section 9

PART 1

OATH OF MEMBER OF JUDICIAL; SERVICE COMMISSION

I being appointed chairperson/member of the Judicial Service Commission swear in the name of the Almighty God/solemnly affirm that I will and truly exercise the functions of Chairperson/member of the Judicial Service Commission in accordance with the Constitution and the laws of the Republic of Uganda without fear or favour, affection or ill-will.(so help me God).

PART II

Section 9

OATH OF SECRETARY OF JUDICIAL; SERVICE COMMISSION

I being appointed Secretary to/officer of/ the Commission being called upon to perform the functions of 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 whatsoever which may come to my knowledge in the course of my duties as such. (so help me God).