

STATUTORY INSTRUMENTS SUPPLEMENT

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STATUTORY INSTRUMENTS

2005 No. 88.

THE JUDICIAL SERVICE (COMPLAINTS AND DISCIPLINARY
PROCEEDINGS) REGULATIONS, 2005.

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Hearing Notice

STATUTORY INSTRUMENTS

2005 No. 88.

The Judicial Service (Complaints and Disciplinary Proceedings) Regulations, 2005.

(Under section 27 of the Judicial Service Act, Cap. 14)

IN EXERCISE of the powers conferred on the Judicial Service Commission by section 27 of the Judicial Service Act, these Regulations are made this 8th day of November, 2005.

1. These Regulations may be cited as the Judicial Service (Complaints and Disciplinary Proceedings) Regulations, 2005. Title

2. In these Regulations unless the context otherwise requires— Inter-pretation

“Commission” means the Judicial Service Commission;

“disciplinary committee” means the disciplinary committee of the Commission;

“judicial officer” means—

(a) a Judge or any person who presides over a court or tribunal howsoever described;

(b) the Chief Registrar or a registrar of a court;

(c) such other person holding any office connected with a court as may be prescribed by law;

“Secretary” means the Secretary to the Judicial Service Commission.

3. (1) A person or organisation aggrieved by the improper conduct of a judicial officer or with a complaint concerning the judiciary or the administration of justice generally may make a complaint to the Commission. Filing of complaint

(2) Where an aggrieved party cannot make a complaint on his or her own, a relative, friend or legal representative may make a complaint on his or her behalf.

Subject of
complaint

4. A person may submit a complaint to the Commission against the following persons—

- (a) a Judge;
- (b) the Chief Registrar or a Registrar of a court;
- (c) a magistrate;
- (d) a chairperson or member of a land tribunal established under the Land Act;
- (e) the chairperson or member of the Communications Tribunal established under the Uganda Communications Act;
- (f) the Chairperson or member of the Electricity Disputes Tribunal established under the Electricity Act;
- (g) any other person holding any office connected with a court or a tribunal as may be prescribed by law.

Form of
complaint

5. (1) A complaint made to the Commission may either be oral or written.

(2) An oral complaint shall be reduced in writing.

(3) A complaint made to the Commission may be based on any one or more of the following—

- (a) improper conduct;
- (b) corruption and abuse of office;
- (c) neglect of duty; or
- (d) mal-administration of justice.

(4) The complaint shall contain the following information—

- (a) the full names, age, sex, address, physical location and occupation of the complainant;
- (b) if the complainant is an organisation or institution or group of persons, the organisation or institution or group of persons shall give their name and physical address and any other particulars;
- (c) facts of improper conduct and the dates when the acts complained of happened; and
- (d) any other information relevant to the complaint.

(5) The complaint shall be written in simple English without insults directed at the person or institution complained about.

6. A complaint shall be made within three years from the time when the alleged improper conduct took place, and where a complaint is brought after the three years, the Commission may, for good cause receive the complaint.

Time within which complaint may be made

7. The Commission shall by notice in a widely circulating newspaper designate officers to receive, transmit, translate and transcribe complaints.

Commission to designate officers

8. A complaint may be lodged with the Commission in any of the following ways—

Receiving a complaint

- (a) by submitting a written complaint or a letter to the Commission headquarters or any other place designated by the Commission for that purpose; or
- (b) by making an oral complaint to the desk officer or any other person designated by the Commission, who shall reduce the complaint into writing and request the complainant to date and sign the same.

Procedure
for
submitting
complaints

9. (1) A person or organisation may make an oral complaint to the Secretary or such other designated person, who shall reduce the complaint in writing.

(2) The recorded complaint shall be read back to the complainant who shall sign or endorse a thumbprint as proof that it is a true and accurate statement.

(3) The complaint shall be in English or in a local language which shall be translated into English; the vernacular complaint shall be forwarded to the Commission together with the translated copy.

(4) The complainant may indicate the names and addresses of possible witnesses.

(5) The Commission may, before considering a complaint, require the complainant to supply further information and documents relating to the complaint as the Commission may consider necessary.

Procedure
for handling
complaints

10. (1) The respondent shall be served the copy of the complaint and shall be required to file a reply within fourteen days from the date of service.

(2) Where after considering a complaint, the Commission decides that a *prima facie* case has been established, it shall fix a date for the hearing of the complaint.

(3) The Secretary shall serve a hearing notice on each party to the proceedings together with a copy of the complaint and the hearing notice shall be in the form set out in the Schedule.

(4) Personal service shall be effected by tendering a copy of the complaint to the party in person, and where personal service cannot be rendered, service shall be by registered post, substituted service or any other mode the Commission may prescribe.

(5) A period of fourteen days shall lapse between the service of the notice and the day set out for the hearing of the complaint.

(6) A hearing notice shall be in the form set out in the Schedule and shall require the persons to whom it is addressed to furnish the Secretary with one copy of each of the documents that he or she wishes to produce at the hearing at least ten days before the date fixed for hearing.

(7) If any of the parties to the proceedings fails to appear on the hearing day, the Commission may upon proof of service of the hearing notice proceed to hear and determine the complaint.

(8) Where the complaint has been determined by the Commission in the absence of either party to the proceedings, the party or both parties who failed to appear may apply to the Commission for the re-hearing of the complaint.

(9) If the Commission is satisfied that the hearing notice was not duly served or that the party who failed to appear at the hearing was prevented from appearing by a reasonable cause, it may order for the re-hearing of the complaint.

(10) The application for a re-hearing referred to in subregulation (8) shall be made within fourteen days from the date of the decision of the Commission but the Commission may extend the period for good cause.

(11) The Commission may accept evidence by affidavit at a hearing, if it considers that the respondent shall not be prejudiced by the absence from the hearing of the person who has given evidence by affidavit.

(12) The Commission may request any person other than the parties or their witnesses to attend before it and give evidence that may be of assistance to the Commission while considering a complaint.

(13) Where the Commission has accepted evidence by affidavit, it may, if it is satisfied that it is in the interest of the respondent, require the person making the affidavit to appear before the Commission for cross-examination at such place and time as the Commission may direct.

(14) A hearing of a complaint by the Commission and the pronouncement of the decision shall be in camera unless otherwise decided by the Commission or due to public interest.

(15) The Commission may pronounce its decision immediately after the conclusion of the hearing of the complaint or may reserve its decision to a specific date.

(16) Where the decision of the Commission is reserved, the Secretary shall communicate to the parties of the proceedings a notice of the date on which the decision of the Commission is to be pronounced.

(17) The decision of the Commission shall be in writing.

(18) The Secretary may, in addition, cause notification of a final order to be published in at least one of the local newspapers circulating in Uganda, or announce its decision on a radio of its choice.

(19) The Commission may send copies of its decision—

(a) to persons, organisations or institutions having an interest in the proceedings;

(b) to the Judiciary;

(c) to a department or tribunal; or

(d) upon request, to any member of the legal profession or any legal institution, on payment of a fee to be prescribed by the Commission.

(20) The Secretary shall supply a copy of the decision of the Commission to all parties to the proceedings.

11. (1) A complaint shall be rejected if—

Rejection of
complaint

- (a) it has nothing to do with administration of justice or operations of the courts;
- (b) it does not deal with the conduct of a judicial officer or any other persons performing judicial functions; or
- (c) it is manifestly frivolous, vexatious, unwarranted or unfounded in law.

(2) Where a complaint is rejected, the Commission shall inform the complainant in writing of the reasons why his or her complaint was rejected.

12. (1) On receipt of a complaint, the Commission shall expeditiously conduct investigations into the allegations contained in a complaint.

Procedure
for investigations

(2) Investigations shall be carried out by the Commission or by any other person or institution authorised by the Commission.

(3) Investigations shall include—

- (a) interviewing witnesses, the complainant, respondent;
- (b) collecting documentary or any other evidence; or
- (c) a written report of the investigations.

13. (1) Upon completing investigations, if there is a report, it shall be forwarded to the Commission.

Hearing,
prosecution
and determination of
complaints

(2) The Commission may delegate its functions to the Disciplinary Committee.

(3) The Commission shall designate an officer to prosecute and handle cases before it.

(4) The Commission, if it considers that the evidence adduced by the complainant requires the respondent to reply, shall call him or her to reply and defend him or herself.

(5) The respondent may adduce evidence in his or her defence.

(6) Where the respondent completes his or her defence, the prosecutor may address the Commission in reply.

(7) A witness shall give testimony on oath and may be cross-examined.

(8) The Commission may, on the application of any party to the complaint or on its own motion, adjourn the hearing of any complaint upon such terms and conditions, as it may think fit.

Disciplinary
Committee
of the
Commission

14. (1) Subject to regulation 13(2), the Disciplinary Committee of the Commission, shall comprise at least three members who shall also constitute the quorum.

(2) The Chairperson and the other two members shall be nominated by the Commission.

(3) Where the Disciplinary Committee is unable to raise quorum, it shall request the Chairperson of the Commission to appoint another member of the Commission to the Committee.

(4) A member of the Disciplinary Committee may disqualify himself or herself on the following grounds—

(a) conflict of interest; or

(b) bias.

(5) Where a member of the Disciplinary Committee does not disqualify himself or herself, the other members of the Disciplinary Committee shall request the Commission to replace that member.

15. After the Disciplinary Committee has heard the evidence and submissions of both parties, it shall give notice to both parties of the date and time at which it shall pronounce its decision.

Notice of
date and
time of
order

16. (1) The evidence of witnesses shall be recorded in written form, by the Chairperson of the Disciplinary Committee or any person authorized by him or her.

Record of
proceedings

(2) Where the evidence is taken down by another person, it shall be taken down in long hand or in short hand, by mechanical means or by such other method as the Chairperson may direct.

(3) Where the evidence is taken down in shorthand, the shorthand writer shall prepare a transcript of the shorthand notes and certify it as being an accurate transcript.

(4) The Chairperson shall satisfy himself or herself that the evidence taken down by any person in long hand, the record, or, in the case of evidence taken down in shorthand, the transcript of the shorthand notes accurately represent the evidence or the substance of the evidence to which it relates.

17. (1) Where during the course of the hearing it appears to the Commission that—

Amend-
ments

(a) the complaint is incomplete or defective;

(b) the evidence discloses or is likely to disclose other complaints not referred to in the complaint; or

(c) the complaint requires to be amended in any other way,

the Commission may permit such amendment to be made provided there is no miscarriage of justice.

(2) A party to the proceedings shall be given an opportunity to respond to any amendments that may be made.

Appeals

18. A judicial officer who is dissatisfied with the decision of the Commission, may appeal within thirty days after the decision has been made, to a panel of three judges of the High Court stating the reasons for which he or she is not satisfied.

Proceedings
to be
governed by
general
principles of
law

19. (1) Proceedings before the Disciplinary Committee shall be governed by general principles of law applicable in Uganda.

(2) The Commission shall handle complaints in the best interest of the public and of the Judiciary.

SCHEDULE
REGULATION 10(3)
HEARING NOTICE
THE REPUBLIC OF UGANDA
THE JUDICIAL SERVICE COMMISSION
AT.....
COOMPLAINT No.....OF.....

IN THE MATTER OF

.....(COMPLAINANT)

AND

.....(RESPONDENT)

HEARING NOTICE

(Under Rule 10(2) of the Judicial Service (Complaints and Disciplinary Proceedings) Regulations, 2005)

To

WHEREAS the above named complainant has instituted a complaint against the above named respondent(s) for (Subject of complaint).

You are hereby required to appear before this Commission on theday ofato'clock in the forenoon/afternoon and to bring witnesses with you.

You are required to furnish the Secretary to the Commission with a copy of each of the documents you intend to produce at the hearing. If no appearance is made by you or the person authorized by law to act for you, the case may be heard and decided in your absence.

DATED thisday of200.....

.....

Secretary

HON, JUSTICE JAMES MUNANGE OGOOLA,

Chairperson, Judicial Service Commission.