

**ACT 737**  
**FAIR WAGES AND SALARIES COMMISSION ACT, 2007**

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**ACT 737**  
**FAIR WAGES AND SALARIES COMMISSION ACT, 2007(1)**

**AN ACT to establish the Fair Wages and Salaries Commission and to provide for related purposes.**

*Fair Wages and Salaries Commission*

**1. Establishment of Fair Wages and Salaries Commission**

- (1) There is established by this Act a body to be known as the Fair Wages and Salaries Commission.
- (2) The Commission is a body corporate with perpetual succession and a common seal and may sue and be sued in its corporate name.
- (3) The Commission may for the performance of its functions acquire and hold movable and immovable property and may enter into a contract or any other transaction.
- (4) Where there is hindrance to the acquisition of property, the property may be acquired for the Commission under the State Property and Contracts Act, 1960 (C.A. 6) or the State Lands Act, 1962 (Act 125) and the costs shall be borne by the Commission.

**2. Object of the Commission**

The object of the Commission is

- (a) to ensure fair, transparent and systematic implementation of the Government public service pay policy,
- (b) to develop and advise Government on and ensure that decisions are implemented on matters related to
  - (i) salaries, wages, grading, classification,
  - (ii) job analysis and job evaluation,
  - (iii) performance management and indicators, and
  - (iv) allowances and benefits in the public service with the ultimate objective of consolidation of the allowances and benefits; and
- (c) to undertake negotiations where compensation is financed from public funds.

### **3. Functions of the Commission**

To achieve its objects, the Commission shall

- (a) implement public service pay policy, except the determination of emoluments under article 71 of the Constitution,
- (b) develop and monitor allowances and benefits of public servants and the consolidation of salaries of public servants,
- (c) undertake job analysis and job evaluations,
- (d) develop and ensure a consistent review of standard job evaluation methodology,
- (e) develop and ensure implementation of grading and classification structures,
- (f) review requests for the re-grading of positions,
- (g) co-ordinate, manage and monitor collective bargaining processes in which Government is the direct or indirect employer,
- (h) develop salary structures for the public service,
- (i) ensure that the balance of internal consistency, external competitiveness and employee performance are fully reflected in the public service pay system,
- (j) advise on performance management processes and indicators,
- (k) develop a mechanism within the public service salary system to attract and retain critical skill,
- (l) undertake research on salaries, benefits and allowances,
- (m) review and propose changes to salary related components in enactments, and
- (n) perform other functions related to the objects of the Commission.

### **4. Scope of the Act**

This Act applies to the public service, except as provided in article 71 of the Constitution.

### **5. Governing body of the Commission**

(1) The governing body of the Commission is a Board consisting of

- (a) the chairperson,
- (b) the vice-chairperson,
- (c) the chief executive of the Commission who shall be the member secretary, and
- (d) four other persons at least one of whom is a woman,

who have expertise in human resource management, wage and salary administration or law.

(2) The members of the Board shall be appointed by the President in accordance with article 70 of the Constitution.

(3) The Board shall perform the functions of the Commission.

## **6. Tenure of office of members**

(1) A member of the Board shall hold office for a period not exceeding three years and is eligible for re-appointment.

(2) Where a member of the Board, resigns, dies, is removed from office or is for a sufficient reason unable to act as a member, the Minister shall notify the President of the vacancy and the President in consultation with the Council of State shall appoint another person to hold office for the unexpired portion of the member's term of office.

(3) A member of the Board may at any time resign from office in writing addressed to the President through the Minister.

(4) The President may by letter addressed to a member revoke the appointment of that member.

## **7. Meetings of the Board**

(1) The Board shall meet at least once each month for the despatch of business at the times and in the places determined by the chairperson.

(2) The chairperson shall at the request in writing of not less than one-third of the membership of the Board convene an extraordinary meeting of the Board at the place and time determined by the chairperson.

(3) The quorum at a meeting of the Board is four members of the Board.

(4) The chairperson shall preside at meetings of the Board and in the absence of the chairperson the vice-chairperson shall preside and in the absence of the vice-chairperson, a member of the Board elected by the members present shall preside.

(5) Matters before the Board shall be decided by a majority of the members present and voting and in the event of an equality of votes, the person presiding shall have a casting vote.

(6) The Board may co-opt a person to attend a Board meeting but that person shall not vote on a matter for decision at the meeting.

(7) The proceedings of the Board shall not be invalidated by reason of a vacancy among the members or a defect in the appointment or qualification of a member:

(8) Subject to this section, the Board may determine the procedure for its meetings.

## **8. Disclosure of interest**

(1) A member of the Board who has an interest in a matter for consideration by the Board shall disclose that interest in writing and is disqualified from participating in the deliberations of the Board in respect of that matter.

(2) A member who contravenes subsection (1) ceases to be a member.

## **9. Establishment of committees**

The Board may establish committees consisting of members of the Board or non-members or both to perform a function.

## **10. Allowances**

A member of the Board and a member of a committee of the Board shall be paid the allowances approved by the Minister in consultation with the Minister responsible for Finance.

#### **11. Ministerial directives**

Subject to section 3, the Minister may give directives to the Board on matters of policy and the Board shall comply.

#### **12. Collaboration with other bodies**

The Board shall collaborate with other relevant bodies in the performance of its functions under this Act.

### *Administrative Matters*

#### **13. Secretariat to the Commission**

There shall be a Secretariat of the Commission to be headed by a Chief Executive.

#### **14. Chief Executive**

(1) The President shall, in accordance with article 195 of the Constitution, appoint the Chief Executive.

(2) The Chief Executive shall hold office on the terms and conditions specified in the letter of appointment.

#### **15. Functions of the Chief Executive**

(1) The Chief Executive is responsible for the day to day administration of the secretariat of the Commission and is answerable to the Board in the performance of functions under this Act.

(2) The Chief Executive may delegate a function to the Deputy Chief Executive or any senior member.

#### **16. Deputy Chief Executive**

(1) The President shall, in accordance with article 195 of the Constitution, appoint a Deputy Chief Executive.

(2) In the absence of the Chief Executive, the Deputy Chief Executive shall perform the functions of the Chief Executive.

#### **17. Technical team**

The Board shall constitute a technical team to perform the functions of the Commission.

#### **18. Appointment of other staff**

(1) The President shall in accordance with article 195 of the Constitution, appoint other staff of the Commission that are necessary for the proper and effective performance of the functions of the Commission.

(2) Other public officers may be transferred or seconded to the Commission or may otherwise give assistance to the Commission.

(3) The Commission may engage the services of advisers on the recommendation of the Board.

### *Grievance Review Committee*

#### **19. Establishment of the Grievance Review Committee**

In furtherance of section 9, there is hereby established a Grievance Review Committee.

#### **20. Composition of the Committee**

The Committee shall be chaired by a member of the Board and consist of at least two other persons who are non-members of the Board with experience in

- (a) the development of salary systems, and
- (b) grading, classification and job evaluation.

#### **21. Functions of the Committee**

The Committee shall

- (a) examine documentation and recommendations presented to the Committee from the Chief Executive to grade or re-grade positions in the public service,
- (b) determine matters related to grading or re-grading, based on the analysis of the information provided by the secretariat, and
- (c) determine the guidelines and procedure to be followed by the staff of the Commission in the analysis of a complaint about grading or re-grading before a grievance is submitted to the Committee.

#### **22. Tenure of office of members of the Committee**

(1) A member of the Committee shall be appointed by the Board and shall hold office for a period of not more than three years and is eligible for re-appointment.

(2) A member of the Committee shall hold and vacate office in accordance with the terms of appointment and may resign from office by notice in writing to the Board.

(3) If a member of the Committee is by reason of illness, absence or other reasonable cause unable to discharge the duties of office generally or in relation to particular proceedings, the Board may appoint another person to discharge the duties of the member in relation to those proceedings for a period of not more than six months at a time.

(4) The person appointed by the Board shall have the same powers during the period of the appointment as the member in whose place the person is appointed.

#### **23. Allowance of members of the Committee**

A member of the Committee shall have the remuneration that the Minister determines in consultation with the Minister responsible for Finance.

## **24. Appeal**

A person dissatisfied with a decision

- (a) of the Committee may apply to the Board for a review of the decision, or
- (b) of the Board may apply to the National Labour Commission for a review of the decision.

### *Financial and Miscellaneous Provisions*

## **25. Funds of the Commission**

The funds of the Commission include

- (a) moneys approved by Parliament,
- (b) donations, grants and gifts, and
- (c) any other moneys approved by the Minister responsible for Finance.

## **26. Accounts and audit**

(1) The Board shall keep books of account and proper records in relation to them in the form approved by the Auditor-General.

(2) The Board shall submit the accounts of the Commission to the Auditor-General for audit within three months after the end of the financial year.

(3) The Auditor-General shall, not later than three months after the receipt of the account, audit the accounts and forward a copy of the audit report to the Minister.

(4) The financial year of the Commission shall be the same as the financial year of the Government.

## **27. Annual report and other reports**

(1) The Board shall within one month after the receipt of the audit report, submit an annual report to the Minister covering the activities and the operations of the Commission for the year to which the report relates.

(2) The annual report shall include the report of the Auditor-General.

(3) The Minister shall, within one month after the receipt of the annual report, submit the report to Parliament with a statement that the Minister considers necessary.

(4) The Board shall also submit to the Minister any other reports which the Minister may require in writing.

## **28. Power to obtain information**

(1) The technical team may require any person to provide information related to this Act by notice in writing.

(2) The information shall be provided within twenty-one days after service of the notice.

(3) A person who fails to provide the information requested commits an offence and is liable on summary conviction to a fine not exceeding five hundred penalty units or to a term of imprisonment not

exceeding two years or to both and in the case of a continuing offence to a further fine of ten penalty units for each day during which the offence continues after written notice has been served on the offender by the Commission.

(4) Where the offence is committed by a company or body of persons, the penalty shall be a fine of not more than one thousand penalty units, and

- (a) in the case of a body corporate, other than a partnership, each director or officer of the body is considered to have committed that offence, and
- (b) in the case of a partnership, each partner or officer of that body is considered to have committed that offence.

(5) A person is not considered to have committed the offence under subsection (3), if the person proves that the offence was committed without the person's knowledge or connivance and that the person exercised due care and diligence to prevent the commission of the offence having regard to all the circumstances.

## **29. Existing arrangements**

(1) A public agency concerned with

- (a) the classification of salaries, and
- (b) negotiation of terms and conditions of service for public servants,

before the commencement of this Act, shall cease to be responsible for the classification or negotiation twelve months after the commencement of this Act.

(2) To be concerned with classification or negotiation means placement on pay scales, adjustments to salaries and any other aspect connected to these.

## **30. Regulations**

(1) The Minister may, on the advice of the Board, by legislative instrument, make Regulations

- (a) on the form of notice or other documentation required under this Act;
- (b) on grievance procedure; and
- (c) generally for the effective implementations of this Act.

## **31. Interpretation**

In this Act, unless the context otherwise requires

**“Commission”** means the Commission established under section 1;

**“Committee”** means Grievance Review Committee;

**“classification”** means grouping jobs with the same content and value in the same class;

**“critical skill”** means performance in a job where personnel is in short supply;

**“enactment”** means legislation made in accordance with the Constitution;

**“Government”** means any authority by which the executive authority of the country is exercised;

**“Labour Commission”** means the Commission established under the Labour Act, 2003 (Act 651);

**“Minister”** means Minister responsible for Employment;

**“public agency”** means a body set up by the Government in the public interest with or without an Act of Parliament;

**“public interest”** includes a right or advantage which enures to or is intended to enure the general benefit of the people of this country;

**“public service”** includes service in any civil office of Government, the emoluments attached to which are paid directly from public funds and service with a public corporation;

**“public funds”** means the Consolidated Fund, the Contingency Fund and other funds that may be established by or under an Act of Parliament;

**“salary”** includes allowances, and retiring benefits;

**“wage”** means money payable by an employer to an employee at intervals of less than a month in respect of service rendered.

### **32. Repeal**

The Public Services Commission Act, 1994 (Act 482) is amended in section 4 by the repeal of paragraphs *(h)*, *(k)* and *(l)*.

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## Endnotes

### 1 (Popup - Footnote)

1. This Act was assented to on 4th June, 2007 and notified in the *Gazette* on 8th June, 2007.