

C.A. 10
JUDICIAL SERVICE ACT, 1960

ARRANGEMENT OF SECTIONS

Structure of the Service

1. Members of the Judicial Service.
2. Circuit Judges.
3. Judicial Secretary.
4. District Magistrates.
5. Creation of further posts.

Filling of Vacancies

6. Methods of filling vacancies.
7. Appointing authority.
8. Principles for filling vacancies.
9. Appointment procedure.
10. Limited engagements.
11. Probationary and trial periods.
12. Acting assignments.
- 12A. Former Justice may practise as a lawyer.

Conditions of Service

13. Regulation of conditions of service.
14. Schemes of service of executive officers.
15. Training of executive officers.

Misconduct

16. General definition of misconduct.
17. Penalties.
18. Disciplinary authorities.
19. Proceedings for misconduct.
20. Conduct of disciplinary proceedings.

Leaving the Service

21. Modes of leaving the Service.

22. Compulsory retirement.
23. Voluntary retirement.
24. Retirement for medical reasons.
25. Transfer on approved employment.
26. Abolition of post.
27. Discharge of non-pensionable staff.

Miscellaneous

28. Official language.
29. Annual report.
30. Legal proceedings.
31. Regulations and instructions.
32. Interpretation.
33. Transitional provisions.
34. Commencement.

C.A. 10
JUDICIAL SERVICE ACT, 1960(1)

AN ACT to provide for the creation of Judicial Service posts, for the appointment, promotion and retirement of members of the Judicial Service and for conditions of service, disciplinary proceedings and other matters relating to the Judicial Service.

Structure of the Service

1. Members of the Judicial Service

(1) The Judicial Service consists of

- (a) the Chief Justice, as Head of the Judicial Service,
- (b) the other Justices of the Superior Court of Judicature,
- (c) the chairmen of the Regional Tribunals,
- (d) persons holding posts created by virtue of paragraph (b) of clause (1) of article 126 of the Constitution,
- (e) persons holding posts by virtue of article 148 of the Constitution, and
- (f) persons holding posts created by or under any other enactment, which are posts designated by law as Judicial Service posts.

(2) The Regulations may designate posts created by or under an enactment, other than this Act, as Judicial Service posts.

2. Circuit Judges

Omitted.2(2)

3. Judicial Secretary

The Judicial Secretary is responsible to the Chief Justice, subject to the Constitution for securing the general efficiency of the Judicial Service.

4. District Magistrates

Omitted.3(3)

5. Creation of further posts

(1) In addition to the established posts of Circuit Judges, Judicial Secretary and District Magistrates provided for under the Courts Act, 1993 (Act 459), the Regulations may provide for the creation of further established or unestablished posts, including additional posts of Circuit Judges and District Magistrates.

(2) The Regulations creating established posts shall specify in relation to each post the name of the post, the salary or salary scale attached to the post and the number of posts constituting each grade.

(3) The Regulations creating unestablished posts shall specify in relation to each post the name of the post and the salary attached to the post.

(4) The Regulations may designate an established or unestablished post in the executive grade of the Judicial Service.4(4)

(5) *Omitted.5(5)*

(6) For the purposes of discipline, an officer seconded to the Judicial Service is a holder of a Judicial Service post.

Filling of Vacancies

6. Methods of filling vacancies

(1) A vacancy in a post may be filled

- (a) by promotion, that is by appointing a person in the Judicial Service to a higher post with an immediate increase in salary;
- (b) by recruitment, that is by appointing a person
 - (i) who is not a member of the Judicial Service to a post in the Service, or
 - (ii) who would cease to be a member of the Judicial Service if the appointment were not made.

(2) In addition to subsection (1), a vacancy in the post of a judicial officer may be filled

- (a) by transfer within the Service, that is by appointing a person in the Judicial Service from one post to another post without an alteration in salary, or
- (b) on reduction in rank, that is by appointing a person in the Judicial Service from one post to a lower post with an immediate reduction in salary.

7. Appointing authority

(1) Subject to the Constitution, the Chief Justice is the appointing authority empowered to fill vacancies in the Judicial Service.

(2) The Chief Justice is the appointing authority for the Judicial Service posts; but by virtue of article 148 of the Constitution the Chief Justice shall seek the approval of the President before filling a vacancy.

(3) Subject to article 148 of the Constitution,

(a) the Regulations may provide for the delegation by the President to the Chief Justice, subject to the prescribed conditions, the power of approval to fill vacancies in the post of a judicial officer; and in relation to the posts to which the delegation applies the Chief Justice is the appointing authority;

(b) the Regulations may provide for the delegation by the Chief Justice to the Judicial Secretary, subject to the prescribed conditions, the power to fill vacancies in the post of an executive officer; and in relation to posts to which the delegation applies, the Judicial Secretary is the appointing authority.

8. Principles for filling vacancies

(1) Where practicable, a vacancy in a post shall be filled by promotion or transfer within the Service.

(2) Promotions shall be made according to merit.

(3) A person shall not be appointed as a Circuit Judge or as a District Magistrate unless that person is,

(a) in the case of Circuit Judge, of not less than five years standing as a legal practitioner, and

(b) in the case of a District Magistrate, not less than eighteen months.⁶⁽⁶⁾

(4) For the purposes of subsection (3), the period of a person's standing as a legal practitioner includes a period during which that person has been qualified to practise law in a Commonwealth country, in Ireland, or in any other country having a system of law analogous to that prevailing in the Republic.

(5) A person who to the knowledge of the appointing authority has attained the prescribed voluntary retiring age shall not be appointed by recruitment to the pensionable post of a judicial officer or executive officer otherwise than on a limited engagement.

(6) Subsection (5) does not apply if that person has the accrued entitlement to the prescribed retirement benefits.

(7) A person shall not be appointed to the post of Judicial Secretary unless that person is a legal practitioner with considerable knowledge of, and has not less than ten years experience in, administration.⁷⁽⁷⁾

9. Appointment procedure

(1) An appointment to the post of a judicial officer or executive officer shall be made by a letter of appointment addressed to the person appointed and signed by or on behalf of the appointing authority.

(2) A person who does not hold a pensionable post shall not be appointed to a pensionable post unless that person has been medically examined and found to be fit to be appointed to pensionable service.

10. Limited engagements

(1) A vacancy in a post which is not the post of a Justice of the Superior Court of Judicature or a chairman of a Regional Tribunal or a Circuit Judge, may be filled by appointment on a limited engagement.

(2) The letter of appointment of a person appointed to a post on a limited engagement

(a) shall specify the period for which that person will remain in the post, and

(b) may provide that this Act and a statutory instrument made under this Act shall apply subject to the modifications set out in the letter of appointment.

(3) Where a person who is not a citizen agrees to be appointed on a limited engagement, the letter of appointment constitutes, unless it otherwise provides, a contract between the Republic and that person; and this Act and a statutory instrument made under this Act shall apply in relation to that person as a term of the contract subject to the modifications set out in the letter of appointment.

(4) Subject to the prescribed conditions, the period of a limited engagement may be extended by the consent of the person serving under the engagement and the appointing authority.

11. Probationary and trial periods

(1) An appointment by recruitment to a pensionable post, which is not the post of a Justice of the Superior Court of Judicature or a chairman of a Regional Tribunal or a Circuit Judge, is subject to satisfactory service in that post for a probationary period of three years.

(2) An appointment by promotion to a pensionable post, which is not the post of a Justice of the Superior Court of Judicature or a Circuit Judge, is subject to satisfactory service in that post for a trial period of the duration specified in the letter of appointment.

(3) Where a post is held by a person on probation or on trial and it appears to the appointing authority at the end of the probationary or trial period, or during that period, that the requirements of the post are unlikely to be fulfilled by that person, the appointing authority may provide for the transfer or reduction in rank of that person; or, in the case of probation, may order that person to cease to be a member of the Judicial Service.

(4) The appointing authority for a post held by a person on probation or on trial may reduce or extend the probationary or trial period.

12. Acting assignments

(1) Where a post is vacant or the holder of the post is absent from duty for a sufficient reason, the appointing authority for the post may assign a member of the Service or, in the case of the post of an executive officer, a public officer who has been seconded to the Service, to carry out the duties of the post.

(2) An assignment under subsection (1) shall cease to have effect

(a) on the filling of the vacancy or the return to duty of the holder of the post, or

(b) if another person is assigned to carry out the duties of the post, or

(c) if the assignment is revoked by the appointing authority.

12A. Former Justice may practise as lawyer

(1) A Justice of a superior court who ceases to be a Justice of that Court by reason of removal from office or resignation under article 45 of the Constitution⁸⁽⁸⁾ may practise as a lawyer subject to the Legal Profession Act, 1960 (Act 32) and to the other provisions of this section.

(2) Except where the President otherwise directs in writing, a Justice referred to in subsection (1) shall not, in the performance of functions as a lawyer appear before, and shall not be heard by, a Court, a Justice in chambers or a tribunal performing judicial functions.

(3) The President may give a direction under subsection (2) whether before, at, or after the time when the person in whose case the direction is given ceases to be a Justice as described in subsection (1).

(4) Where the President gives a direction under subsection (2) in the case of a person before that person first assumes office as a Justice of a superior court, or at the commencement of service as a Justice, the direction is irrevocable unless that person ceases to be a Justice of a superior court by reason of retirement or resignation.⁹⁽⁹⁾

Conditions of Service

13. Regulation of conditions of service

As respects a judicial officer or an executive officer, the Regulations or the Judicial Service instructions may provide

- (a) for the determination, subject to the salary or salary scale attached to the post, of the salary payable to the officer;
- (b) for regulating the award of increments of salary, and the payment of allowances and any other additional remuneration;
- (c) for regulating the hours of work and the granting of leave with or without pay or allowances;
- (d) for making available to the officer, with or without charge, housing accommodation, medical treatment or any other facilities;
- (e) for regulating the presentation of petitions; and
- (f) for any other matters relating to the conditions of service.

14. Schemes of service of executive officers

(1) The Chief Justice may require the Judicial Secretary to prepare, in relation to the posts of executive officers, a scheme of service giving details of the duties assigned to the posts, modes of entry and qualifications required, prospects of promotion, training facilities and any other matters relating to service as an executive officer.

(2) A scheme of service made under subsection (1) shall not be promulgated without the consent of the President given after consultation with the Chief Justice.

15. Training of executive officers

(1) There shall be a branch of the Judicial Service with the functions of supervising and co-ordinating, under the general direction of the Chief Justice, arrangements for the training of executive officers.

(2) Subject to subsection (1), the Judicial Secretary shall ensure so far as is practicable, that facilities exist, and are used, to enable executive officers to undergo the necessary training for the discharge of the duties of their posts and for enabling them to qualify for advancement within the Service.

Misconduct

16. General definition of misconduct

An act constitutes a misconduct by a judicial officer or executive officer

- (a) if done without reasonable excuse;
- (b) which amounts to a failure to perform in a proper manner a duty imposed on that officer;
- (c) which contravenes an enactment relating to the Service; or
- (d) which is otherwise prejudicial to the efficient conduct of the Service or tends to bring the Service into disrepute.

17. Penalties

(1) The following penalties may be imposed in disciplinary proceedings in respect of the misconduct or unsatisfactory service of a judicial officer or executive officer:

- (a) dismissal, that is termination of an appointment with forfeiture of retirement benefits;
- (b) removal, that is termination of an appointment with or without a reduction in retirement benefits;
- (c) reduction in rank, that is removal to another rank with an immediate reduction of salary;
- (d) reduction of salary, that is an immediate adjustment of salary to a lower point on the salary scale attached to the post;
- (e) deferment of increment, that is a postponement of the date on which the next increment is due, with corresponding postponements in subsequent years;
- (f) stoppage of increment, that is non payment for a specified period of an increment otherwise due;
- (g) in the case of executive officers, suspension from duty with consequent loss of pay and allowances for a period not exceeding fourteen days.

(2) Dismissal, removal and reduction in rank are major penalties and any other penalties are minor penalties.

18. Disciplinary authorities

(1) In accordance with article 148 of the Constitution, the Chief Justice is the disciplinary authority for judicial officers and executive officers.

(2) The Regulations may provide, subject to the prescribed conditions, for the delegation by the President to the Chief Justice of the powers of approval in disciplinary matters in respect of the post of a judicial officer; and in relation to a post to which the delegation applies the Chief Justice is the disciplinary authority.

(3) The Regulations may provide, subject to the prescribed conditions, for the delegation by the

President to the Judicial Secretary of the disciplinary powers in respect of the post of an executive officer; and in relation to a post to which the delegation applies the Judicial Secretary is the disciplinary authority.

19. Proceedings for misconduct

- (1) Disciplinary proceedings in the case of a misconduct are summary or formal.
- (2) A major penalty shall not be imposed on a pensionable officer in summary proceedings not arising out of a conviction.

20. Conduct of disciplinary proceedings

- (1) The Regulations shall provide for the conduct of disciplinary proceedings in cases of misconduct or unsatisfactory service.
- (2) The Regulations governing cases of misconduct shall include provisions
 - (a) requiring a written charge to be preferred in the proceedings,
 - (b) enabling the accused in formal proceedings to call appropriate witnesses,
 - (c) enabling persons to be compelled to give evidence or produce exhibits in formal proceedings,
 - (d) requiring that a major penalty imposed on a judicial officer shall not take effect unless confirmed by the President, and
 - (e) enabling the accused in the proceedings to appeal against a decision involving the imposition of a penalty, which is not a decision requiring confirmation by the President under paragraph (d) of this subsection.
- (3) Subject to this Act and except as may be otherwise provided by the Regulations, the authority by whom an appeal is decided under this section may make an appropriate order.

Leaving the Service

21. Modes of leaving the Service

- (1) A Justice of the Superior Court may leave the Service on removal, retirement or resignation under articles 145, 146 and 147 of the Constitution.
- (2) The modes by which a judicial officer or executive officer may leave the Service are,
 - (a) on dismissal or removal in consequence of disciplinary proceedings;
 - (b) on compulsory retirement;
 - (c) on voluntary retirement;
 - (d) on retirement for medical reasons;
 - (e) on resignation in accordance with the prescribed conditions;
 - (f) on the expiry or any other termination of a limited engagement;
 - (g) on transfer on approved employment;
 - (h) on the abolition of the post of a judicial officer;

- (i) in the case of an officer on probation, on the making of an order under subsection (3) of section 11;
- (j) in the case of an officer holding a non-pensionable post, on being discharged by the appointing authority.

22. Compulsory retirement

(1) A person holding a pensionable post otherwise than on a limited engagement shall retire from the Service on reaching the prescribed compulsory retiring age.

(2) Subsection (1) does not prevent the appointment of a person on a limited engagement.

23. Voluntary retirement

A person holding, otherwise than on a limited engagement, a pensionable post as a judicial officer or executive officer may retire from the Service at any time after reaching the prescribed voluntary retiring age, or with the consent of the Chief Justice, at an earlier time.

24. Retirement for medical reasons

A judicial officer or executive officer shall retire from the Service if, in accordance with the prescribed procedure, the officer is found incapable by reason of infirmity of mind or body of discharging the duties of the post of the officer and that the infirmity is likely to be permanent.

25. Transfer on approved employment

(1) The Regulations may provide for the transfer of a judicial officer or executive officer to employment in another Public Service or to any other approved employment.

(2) An officer shall not be transferred under subsection (1) unless the officer consents to the transfer.

26. Abolition of post

(1) Where a post in a grade is abolished by the repeal or amendment of the enactment by which it was created, the appointing authority shall, if two or more persons hold posts in that grade, determine which of those persons is to be treated as the person whose post is abolished.

(2) Unless the person in respect of whom a determination is to be made under subsection (1) is to be promoted or transferred, that person shall be afforded an opportunity to make representations to the appointing authority, who shall consider the representations before making the determination.

27. Discharge of non-pensionable staff

(1) The appointing authority may discharge a person holding a non-pensionable post where that person

- (a) is physically incapable of performing the functions of the post,
- (b) has not held a Service post during the whole of the preceding twelve months, on the ground that that person is generally unsuitable for the post, or
- (c) the post is not required to be occupied.

(2) Where a person is discharged under subsection (1), the appointing authority shall furnish that

person with a statement in writing of the ground of the discharge.

Miscellaneous

28. Official language

Written and oral communications, examination questions and answers, and any other transactions of the Service shall be expressed in the official language.

29. Annual report

(1) As soon as may be after 30th June in each year the Judicial Secretary shall prepare a report giving details of the administration of the Service during the previous twelve months.

(2) The report shall be submitted by the Judicial Secretary to the Chief Justice, who shall cause it to be laid before Parliament.

30. Legal proceedings

(1) Except in relation to contracts subsisting by virtue of section 10, proceedings shall not be brought in a Court on the ground only that compliance has not been made with this Act or a statutory instrument made under this Act.

(2) Subsection (1) does not prevent the institution of criminal proceedings in respect of an offence under the instrument.

31. Regulations and instructions

(1) The President, after consulting the Chief Justice, may by legislative instrument, make Regulations providing for a matter which under this Act is to be provided for by Regulations or which otherwise relates to the administration of the Service.

(2) The Regulations may make provision, including the amendment of enactments necessary or expedient for or in connection with the inclusion within the Service at a future time of local court magistrates and any other persons connected with local courts.

(3) Subject to a statutory instrument made under a provision of this Act, other than this subsection, and to directions given by the Chief Justice, the Judicial Secretary may issue Service instructions providing for a matter which under this Act may be provided for by the instructions or which otherwise relates to the administration of the Service.

32. Interpretation

In this Act, unless the context otherwise requires,

“**citizen**” means a citizen of Ghana;

“**executive officer**” means a member of the Judicial Service who is neither a Justice of a superior court nor a judicial officer, and is the holder of a post designated by the Regulations as the post of an executive officer;

“**grade**” means a series of established or unestablished posts with the same title and salary or salary scale;

“**judicial officer**” as defined in article 161 of the Constitution, includes a Circuit Judge, the

Judicial Secretary, a District Magistrate, or a holder of a post designated by article 169 of the Constitution as the post of a judicial officer;

“**Justice**” includes a chairman of a Regional Tribunal;

“**official language**” means the English language;

“**pensionable post**” means service in a post which is pensionable service under the enactments relating to Service Pensions, and “**non-pensionable post**” shall be construed accordingly;

“**post**” means a Judicial Service post;

“**prescribed**” means prescribed by the Regulations or instructions issued under subsection (3) of section 31;

“**Regulations**” means Regulations made under this Act;

“**salary**” includes wages;

“**Service**” means the Judicial Service;

“**vacancy**” includes a prospective vacancy.

33. Transitional provisions

Regulations may be made,

- (a) *omitted* ;10(10)
- (b) for continuing as appointments to posts created by or under this Act, appointments made before the commencement of this Act;
- (c) for making amendments in the enactments relating to Judicial Service pensions that are necessary in consequence of this Act;
- (d) for any other matters including the repeal or amendment of enactments that need to be provided for in consequence of the passing of this Act.

34. Commencement

*Spent.*11(11)

Endnotes

1 (Popup - Footnote)

1. Passed on the 29th June, 1960. It was enacted by the Constituent Assembly by virtue of the Constituent Assembly Plebiscite Act, 1960 (No. 1). The Preamble states that,
“WHEREAS by section 2 of the Constituent Assembly and Plebiscite Act, 1960 (No. 1) this Constituent Assembly is authorised to enact such provisions for or in connection with the establishment of a new Constitution as it thinks fit:
AND WHEREAS it is expedient to enact the provision hereinafter appearing in consequence of the enactment of [the Constitution](#):
NOW THEREFORE, be it enacted by the Constituent Assembly as follows.”

2 (Popup - Footnote)

2. As covered by [section 40](#) of the Courts Act, 1993 ([Act 459](#)). The omitted section reads,
“2. There shall be a Circuit Judge for each Circuit Court established under the Courts Act, 1960 (C.A. 9).”

3 (Popup - Footnote)

3. As covered by [section 45](#) of the Courts Act, 1993 ([Act 459](#)). The omitted section reads,
“There shall be a District Magistrate for each District established under section 47 of the Courts Act, 1960 (C.A. 9).”

4 (Popup - Footnote)

4. [Subsections \(4\), \(5\) and \(6\)](#) added by section 1 of the Judicial Service (Amendment) Act, 1965 (Act 281).

5 (Popup - Footnote)

5. Now not applicable under [article 190](#) of [the Constitution](#). The provision reads,
“Without prejudice to [section 6](#), posts in the Judicial Service designated as Civil Service posts shall be filled by officers from the Civil Service seconded to the Judicial Service.”

6 (Popup - Footnote)

6. The references to Justices of the Superior Court of Judicature have been omitted as [articles 128 \(4\), 136 \(3\), 139 \(4\) and 142 \(4\)](#) of [the Constitution](#) deal with the matter. The subsection was also amended by [paragraph \(a\)](#) of the Judicial Service (Amendment) Law, 1984 (P.N.D.C.L. 85) by the deletion of the reference to the Judicial Secretary.

7 (Popup - Footnote)

7. Amended by paragraph (b) of the Judicial Service (Amendment) Law, 1984 (P.N.D.C.L. 85).

8 (Popup - Footnote)

8. That is the 1960 Constitution. The corresponding provisions in the 1992 Constitution are articles 145, 146 and 147.

9 (Popup - Footnote)

9. Amended by section 1 of the Judicial Service (Amendment) Act, 1964 (Act 245). The amendment was deemed to have come into operation on the 1st day of July, 1960. The section was further amended by the Judicial Service (Amendment) Act, 1965 (Act 281) by the substitution of [subsection \(2\)](#) and the addition of [subsections \(3\) and \(4\)](#). The amendment was also deemed to have come into force on the 1st day of July, 1960.

10 (Popup - Footnote)

10. The paragraph provides that for the continued application to executive officers subject to the prescribed modifications of the Public Service Commission Regulations, 1957, General Orders and any other provisions applicable to those officers immediately before the commencement of this Act.

11 (Popup - Footnote)

11. This section provided for the coming into operation of the Act “at the same time as [the Constitution](#)”, that is on the 1st day of July, 1960.