

ACT 482
PUBLIC SERVICES COMMISSION ACT, 1994

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ACT 482
PUBLIC SERVICES COMMISSION ACT, 1994(1)

AN ACT in respect of the Public Services Commission established by article 194 of the Constitution and to provide for related matters.

Establishment of the Commission and its Functions

1. The Public Services Commission

- (1) The Public Services Commission established by article 194 of the Constitution consists of

- (a) the chairman, the vice-chairman and three other members who are full-time members of the Commission,
- (b) the chairperson of the National Council for Tertiary Education, and
- (c) three other persons with extensive experience in the operation of the Public Services.

(2) The President shall, in accordance with article 70 of the Constitution, appoint the chairman and the other members of the Commission.

(3) The members appointed under paragraphs (b) and (c) of subsection (1) shall hold office on a part-time basis only and for the period specified in their letters of appointment.

2. Qualification of members

A person does not qualify to be appointed a member of the Commission

- (a) where that person is not qualified to be elected as a member of Parliament, or
- (b) where that person is otherwise disqualified from holding a public office.

3. Terms and conditions of service of members

(1) Subject to subsection (3), the terms and conditions of service including retiring ages of a Justice of the Court of Appeal shall apply to the chairman of the Commission and those of a Justice of the High Court shall apply to the vice-chairman.

(2) The salaries, allowances, facilities and privileges payable or available to the members of the Commission, other than the chairman, vice-chairman and the full-time members, shall be determined by the President in accordance with article 71 of the Constitution.

(3) The provisions of article 146 of the Constitution relating to the removal from office of a Justice of the Superior Court of Judicature shall apply to the full-time and other members of the Commission.

(4) A member of the Commission other than an ex officio member may resign from office by a letter addressed to the President.

(5) A member of the Commission shall not serve as a member of the governing body of any of the Public Services listed in the Schedule.

4. Functions of the Commission

The functions of the Commission are, in addition to the functions provided for in article 196 of the Constitution,

- (a) to advise Government on the criteria for appointment to public offices as well as persons to hold or act in public offices;
- (b) to promote efficiency, accountability and integrity in the Public Services;
- (c) to prescribe appropriate systems and procedures for the management of personnel records within the Public Services;
- (d) to identify, explore and promote the recruitment of suitable personnel into the Public Services acting in collaboration with educational authorities;
- (e) to undertake planning of the manpower requirements of the Public Services, using data from the educational institutions and any other sources;

- (f) to improve recruitment policies and techniques by introducing modern methods of judging suitability of public officers;
- (g) to conduct examinations and interviews for appointments to posts and for promotions in the Public Services or with the public corporations to ensure uniformity of standards of selection and qualifications;
- (h) *repealed*;2(2)
- (i) to review the organisation, structure and manpower requirements of agencies and bodies in the Public Services and advise Government on the manpower rationalisation necessary for maximum utilisation of human resources in the Public Services;
- (j) to oversee the human resources development activities of the Public Services organisations to ensure career planning and career development in the Public Services;
- (k) *repealed*;
- (l) *repealed*;3(3)
- (m) to conduct in collaboration with training institutions, personnel research into human resources management in the Public Services in order to improve personnel practices and their utilisation in the Public Services; and
- (n) to perform any other functions assigned to it under the Constitution or any other enactment.

5. Independence of the Commission

Except as otherwise provided in the Constitution, or any other law not inconsistent with the Constitution, the Commission is not subject to the control or direction of a person or an authority in the performance of its functions.

6. Meetings of the Commission

(1) The chairman shall preside at the meetings of the Commission and in the absence of the chairman, the vice-chairman, and in the absence of both the chairman and vice-chairman by a full-time member elected from among the members present.

(2) There shall be working meetings and plenary meetings of the Commission.

(3) The chairman or the vice-chairman and two full-time members of the Commission form a quorum for a working meeting.

(4) The chairman or the vice-chairman and any two full-time members of the Commission and two part-time members constitute a quorum for a plenary meeting.

(5) The decisions of the Commission shall be by a majority of members present and voting at the meeting of the Commission but where there is an equality of votes the chairman or the person presiding shall have a casting vote.

(6) The validity of the proceedings of the Commission shall not be affected by a vacancy among its members or a defect in their qualification or appointment.

(7) Except as otherwise provided in this section the Commission shall determine the procedure for its meetings.

The Public Services and Miscellaneous Provisions

7. Composition of the public services

(1) As provided for by article 190 of the Constitution, the Public Services include

- (a) the Civil Service,
the Judicial Service,
the Audit Service,
the Educational Service,
the Prisons Service,
the Parliamentary Service,
the Health Service,
the Statistical Service,
the National Fire Service,
the Customs, Excise and Preventive Service,
the Internal Revenue Service,
the Police Service,
the Immigration Service, and
the Legal Service;
- (b) public corporations other than those set up as commercial ventures;
- (c) public services established by the Constitution; and
- (d) any other public services as Parliament may by law prescribe.

(2) The Civil Service shall, until provision is otherwise made by Parliament, comprise service in both central and local government.

(3) For the purpose of this section “**public corporation**” means a corporation or any other body of persons established by an Act of Parliament or set up out of funds provided by Parliament or any other public funds, other than a public corporation set up as a commercial venture.

8. Appointment of public officers

(1) In accordance with article 195 of the Constitution, the power to appoint persons to hold or to act in an office in the Public Services is vested in the President, acting in accordance with the advice of the governing council of the Service concerned given in consultation with the Commission.

(2) The President may, subject to the conditions determined by the President, delegate a function under subsection (1) by direction in writing to the governing council concerned or to a committee of the council or to a member of that governing council or to a public officer.

(3) The governing councils of the Public Services listed in the Schedule shall consult the Commission in matters of appointments of persons to hold office in the relevant Public Service except otherwise

provided in the Constitution.

- (4) The Commission may amend the Schedule by Regulations made under section 16.

9. Staff of the Commission

- (1) There shall be a secretary to the Commission who shall be appointed in accordance with section 8.
- (2) The secretary is not a member of the Commission.
- (3) The secretary is responsible to the Commission for the day-to-day administration of the secretariat of the Commission and shall keep records of meetings of the Commission.
- (4) The secretary and the other staff of the Commission are public officers and shall not be transferred or seconded without the consent of the Commission.
- (5) The Commission may use the services of consultants and advisers when necessary.

10. Request for information

- (1) The Commission may, in the performance of its functions under this Act, request a public officer, public corporation or public board, to supply relevant information or data and the request is binding on the person or organisation concerned.
- (2) The Commission may require a public officer to attend and give evidence before it concerning a matter which it requires to consider in the performance of a function under this Act.
- (3) Subject to article 135 of the Constitution, the Commission may require the production of an official document relevant to the performance of its functions; and a public officer who submits a matter for the consideration of the Commission shall ensure that the relevant documents and papers are made available to the Commission.
- (4) A public officer shall not under this section be required to produce or disclose information which the public officer would be entitled to refuse to produce or disclose under an existing enactment.

11. Powers of entry and inspection

- (1) A member or officer of the Commission, when authorised by the Commission, may enter the premises of a Ministry, Department, office of a Regional Co-ordinating Council, office of a District Assembly or any other public office and inspect and make copies of records or documents kept there.
- (2) A person who enters premises in pursuance of subsection (1) shall on demand produce a document of that person's identification authenticated by the Commission.
- (3) A public officer shall, where requested, assist the member or officer in the exercise of the member or officer's powers under subsection (1) and give the information in relation to a matter within the knowledge or under the control of the public officer that the member or officer, requests.

12. Failure to comply with request of Commission

A public officer who without reasonable excuse fails to appear before the Commission when notified to do so, or who fails to comply with a request lawfully and properly made by or on behalf of the Commission, or who obstructs the Commission or member or an officer of the Commission in the performance of a function under this section commits a misconduct.

13. Privilege from disclosures in legal proceedings

- (1) A report, statement or record of a meeting, an inquiry or the proceedings which
 - (a) the Commission makes in the performance of its functions,
 - (b) a member or an officer of the Commission makes in the performance of a function,

is privileged in that its production may not be compelled in legal proceedings unless the Supreme Court under article 135 of the Constitution certifies that the production is in the public interest.

- (2) A communication
 - (a) sent to the Commission on a matter with which the Commission is concerned, or
 - (b) sent by the Commission to a public officer in the official capacity of that public officer,

is privileged in that its production may not be compelled in legal proceedings unless the Supreme Court under article 135 of the Constitution certifies that the production is in the public interest.

14. Expenditure of Commission

Parliament shall annually appropriate the moneys as it considers necessary to meet the expenditure of the Commission.

15. Annual report

The Commission shall, within three months after 31st December in each year, submit to the President a report giving details of the administration of the Public Services during the previous twelve months.

16. Regulations

(1) In accordance with article 197 of the Constitution, the Commission may, subject to the approval of the President, by constitutional instrument, make Regulations for the effective and efficient performance of its functions under this Act or any other law.

(2) Regulations made by the Commission shall be signed personally by the chairman or in the absence of the chairman the vice-chairman.

17. Interpretation

In this Act, unless the context otherwise requires,

“**Commission**” means the Public Services Commission established by article 194 of the Constitution;

“**governing council**” includes the board of directors or any other governing body of a Public Service or public corporation;

“**plenary meeting**” means joint meetings of the full-time Commissioners and part-time Commissioners convened to discuss broad issues;

“**public office**” includes an office the emoluments attached to which are paid directly from the Consolidated Fund or directly out of moneys provided by Parliament and an office in a public corporation established entirely out of public funds or moneys provided by Parliament;

“**public service**” includes service in a civil office of the Government, the emoluments attached to

which are paid directly from the Consolidated Fund or directly out of moneys provided by Parliament and service in a public corporation;

“**Regulations**” means Regulations made under section 16;

“**working meeting**” means a meeting convened for normal transaction of the business of the Commission, attended only by full-time Commissioners.

Schedule
[Section 8 (3)]

Public Service	Governing Council
Civil Service	Civil Service Council
Audit Service	Audit Service Board
Parliamentary Service	Parliamentary Service Board
National Fire Service	National Fire Service Board
Health Service	Health Service Council
Customs, Excise and Preventive Service	Customs, Excise and Preventive Service Board
	Revenue Agencies Governing Body Act 558
Internal Revenue Service	Internal Revenue Service Board
Education Service	Education Service Council
Immigration Service	Immigration Service Board
Legal Service	Legal Service Board
Non-commercial Public Corporations	Board of directors
Extra-Ministerial Organisations	Governing bodies
State Media Corporations	Governing bodies of the respective Corporations
National Media Commission	National Media Commission
National Commission for Human Rights and Administrative Justice	National Commission for Human Rights and Administrative Justice
National Commission for Civic Education	National Commission for Civic Education
Serious Fraud Office	Serious Fraud Office Board
National Council for Tertiary Education	National Council for Tertiary Education
Minerals Commission	Minerals Commission
Electoral Commission	Electoral Commission
Forestry Commission	Forestry Commission
Fisheries Commission	Fisheries Commission
National Development Planning Commission	National Development Planning Commission
Lands Commission	Lands Commission
Sub-vented Organisations	Governing bodies

Endnotes

1 (Popup - Footnote)

1. The Act was assented to on 31st August, 1994 and published in the *Gazette* on 9th September, 1994.

2 (Popup - Footnote)

2. Repealed by section 32 of the Fair Wages and Salaries Commission Act, 2007 (Act 737).

3 (Popup - Footnote)

3. Paragraphs *(k)* and *(l)* repealed by section 32 of the Fair Wages and Salaries Commission Act, 2007 (Act 737).