

CHAPTER 85

THE EDUCATION SERVICE ACT

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CHAPTER 85

THE EDUCATION SERVICE ACT

Commencement: 5 April, 2002

**An Act to provide for the Education Service in pursuance of Articles
167 and 168 of the Constitution and for related matters.**

PART I—PRELIMINARY

1. Interpretation

In this Act, unless the context otherwise requires—

“Chairperson” means the Chairperson of the Commission;

“Commission” means the Education Service Commission established
by Article 167 of the Constitution;

“currency point” has the value assigned to it in Schedule 1 to this Act;

“Deputy Chairperson” means a Deputy Chairperson of the Commission;

“education service” means the education service referred to in Article
168 of the Constitution;

“licensed teacher” means a person who is not professionally trained as
a teacher but is issued with a licence to teach by the appropriate
authority and has been entered on the roll of licensed teachers;

“Minister” means the Minister responsible for education;

“public office” and “public officer” respectively, have the meanings
assigned to them by Articles 175 and 257 of the Constitution;

“register” means the register of teachers maintained under the Education
(Pre-primary, Primary and Post-primary) Act;

“school” means any educational institution, private or public, at pre-
primary, primary, secondary and tertiary level which has been
licensed and registered by the Ministry responsible for education;

“Secretary” means the Secretary to the Commission appointed under
section 8;

“teacher” means a person who has successfully completed a course of
training approved by the Ministry responsible for education
and has been entered on the register of teachers.

2. Categories of public officers who constitute education service

For the purposes of Article 168(5) of the Constitution, the public officers who constitute the education service are—

- (a) persons who have successfully completed an approved course of teacher education leading to an award of a recognised certificate in teaching, and whose names have been entered in the register of teachers in accordance with the Education (Pre-primary, Primary and Post-primary) Act;
- (b) persons who meet the requirements for issue of statement of eligibility and a licence to teach in accordance with the Education (Pre-primary, Primary and Post-primary) Act; and
- (c) such other professional, administrative and support staff as may be appointed by the Commission for the efficient administration, management and delivery of education services in Uganda.

PART II—EDUCATION SERVICE COMMISSION**3. Composition and appointment of members of Commission**

(1) The Chairperson, deputy chairpersons and all other members of the Commission shall be appointed by the President with the approval of Parliament in accordance with Article 167 of the Constitution.

(2) In appointing members of the Commission under Article 167 of the Constitution, gender balance and marginalised groups shall be taken into account.

(3) A person is not qualified to be a member of the Commission unless he or she is of high moral character, proven integrity and has substantial experience in the field of education.

(4) The Chairperson and deputy chairpersons of the Commission shall have the following qualifications—

- (a) a post graduate qualification in education or in a field related to education from a recognised university or equivalent institution; and
- (b) at least ten years working experience in education management or a related field.

4. Oath of members of Commission

Every member of the Commission shall, before assuming his or her duties as a member of the Commission, take and subscribe the oath specified in Part I of Schedule 2 to this Act.

5. Members of Commission to relinquish particular offices

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

- (a) a member of Parliament;
- (b) a member of a local government council;
- (c) a member of the executive of a political party or political organisation;
- (d) a member of any board or other authority responsible for the management of any school or college; or
- (e) a public officer.

(2) All the members of the Commission shall be full time commissioners appointed for a period of four years, and shall be eligible for re-appointment for one more term.

6. Remuneration

The Chairperson and other members of the Commission shall be paid remuneration and given allowances for services rendered at such rates as are laid down by the Salaries and Allowances (Specified Officers) Act.

7. Functions of Commission

- (1) The functions of the Commission are—
 - (a) to advise the President in performing his or her functions in relation to the education service under Article 172 of the Constitution;
 - (b) to appoint persons to hold or act in any office in the education service, confirm such appointments, exercise disciplinary control over such persons and remove them from office;
 - (c) to review the terms and conditions of service, standing orders, training and qualifications of public officers in the education

- service and matters connected with their management and welfare, and make recommendations on them to the Government;
- (d) to report to Parliament annually on the performance of the functions of the Commission;
 - (e) to research, analyse, develop and formulate national standards for the education service in respect of—
 - (i) training and qualifications of officers in the education service;
 - (ii) recruitment and appointment procedures;
 - (iii) instruments of appointment;
 - (iv) ethics and conduct; and
 - (v) disciplinary control;
 - (f) to advise the Ministry responsible for education in the process of formulating of the education policy with respect to—
 - (i) training;
 - (ii) management of public officers in the education service; and
 - (iii) research, analysis, grading and registration of all teachers in Uganda;
 - (g) to establish and maintain a record of all public officers in the education service;
 - (h) to monitor, offer technical advice, support, and training to the district service commission in matters relating to the education service;
 - (i) to hear and determine grievances from persons appointed by the district service commission under powers delegated by the Commission under Article 168(3) of the Constitution; and
 - (j) to perform such other functions as may be prescribed by this or any other law.

(2) The annual report required by Article 168(4) of the Constitution to be submitted to Parliament shall be submitted within three months after the financial year or such other date as Parliament may require.

(3) The report referred to in subsection (2) shall be addressed to the Speaker of Parliament and signed by the Chairperson, and a copy of it shall be sent to the Minister who shall forward it to the President.

8. Secretary to Commission

(1) The Commission shall have a Secretary who shall be a public officer appointed by the President on the advice of the Public Service Commission.

(2) The Secretary shall be a person qualified to be appointed to the office of Permanent Secretary.

(3) The Secretary shall, before assuming the duties of his or her office under this Act, take and subscribe the oath specified in Part II of Schedule 2 to this Act.

9. Functions of Secretary to Commission

(1) The Secretary shall, subject to the general control of the Commission, be responsible for

- (a) carrying out the policy decisions and the day-to-day administration and management of the affairs of the Commission and the control of the other staff of the Commission;
- (b) arranging the business for and recording and keeping the minutes of all decisions and proceedings of the Commission at its meetings; and
- (c) performing any other functions assigned to him or her by the Commission.

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

10. Other staff of Commission

(1) The Commission shall 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.

(3) In addition to the Secretary as required by section 8(3), all officers of the Commission shall take and subscribe the oath specified in Part II of Schedule 2 to this Act.

11. Meetings and decisions of Commission

(1) The Chairperson of the Commission shall preside at all meetings of the Commission and in his or her absence, either of the deputy chairpersons shall preside, and in the absence of all of them, a member designated by the President to act as Chairperson under Article 167(8) of the Constitution shall preside.

(2) In accordance with Article 251 of the Constitution, a decision of the Commission requires the concurrence of a majority of all its members.

(3) The quorum of the Commission at any meeting shall be four.

(4) The Commission may, subject to the provisions of the Constitution, act notwithstanding the absence of any member or any vacancy in the office of a member.

(5) The Commission may invite any person to any of its meetings for advice and such person may deliberate on any matter before the Commission but shall have no right to vote on any matter.

(6) Except in the case of matters relating to appointment, discipline, reviewing and making recommendations on the terms and conditions of service of persons in the education service, decisions may be made by the Commission without a meeting by circulation of the relevant papers among members of the Commission and the expression of their views in writing.

(7) Any member of the Commission is entitled to require that a decision under subsection (6) be deferred until the subject matter has been considered at a meeting of the Commission.

(8) Except as otherwise expressly provided in this section, the Commission may prescribe its own procedure.

12. Immunity of members and staff of Commission

A member of the Commission or any employee or other persons performing any function of the Commission under the direction of the Commission, shall not be personally liable to any civil or criminal proceedings for any act done in good faith in the performance of those functions.

13. Funds and expenses of Commission

(1) The emoluments of the members of the Commission and other administrative expenses shall be prescribed by Parliament and shall be charged on the Consolidated Fund.

(2) The Commission may, with the approval of the Minister responsible for finance, receive grants from the Government or any other source for the discharge of any of its functions.

(3) 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 Management Act.

14. Seal of Commission

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.

PART III—GENERAL PROVISIONS RELATING TO FUNCTIONS OF COMMISSION

15. Independence of Commission

In the exercise of its functions, the Commission shall be independent and shall not be subject to the direction or control of any person or authority; except that it shall take into account Government policy relating to education.

16. Consultation

Before the Commission advises the President to appoint any person to an office in the education service in accordance with Article 172 of the

Constitution, the Commission may, if it considers it expedient, consult with any other authority, as the case may be.

17. Enforcement of attendance to give evidence

(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 and this Act, and may require the production of any document relating to any matter by any person attending before it.

(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 authorised by the Commission.

18. Failure to appear or produce documents

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 education service, who, without reasonable cause fails to appear before the Commission, or wilfully fails to produce any document in his or her possession when required to do so by the Commission under section 17, commits an offence and is liable, on conviction, to a fine not exceeding five currency points or to imprisonment for a term not exceeding three months, or both.

19. Attendance allowance

(1) A 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.

20. Immunities and privileges of witnesses

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

21. Improper influence and false information

(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 a decision of the Commission, commits an offence and is liable, on conviction, to a fine not exceeding thirty currency points or to imprisonment for a term not exceeding twelve months, or both.

(2) Nothing in this section 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 performance by the Commission of its functions, wilfully gives to the Commission any information 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 to imprisonment for a term not exceeding twelve months, or both.

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

22. Improper disclosure of information

(1) A member or officer of the Commission and any other person who, without the written consent of the Commission, knowingly publishes or discloses to any person, otherwise than in the performance 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 duties in relation to the Commission, commits an offence and is liable, on

conviction, to a fine not exceeding fifteen currency points or to imprisonment for a term not exceeding six months, or both.

(2) Any person who knows of any information which to his or her knowledge has been disclosed in contravention of subsection (1), who publishes or 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 fifteen currency points or to imprisonment for a term for a period not exceeding six months, or both.

23. Consent of Director of Public Prosecutions

Prosecution for an offence under this Act shall not be instituted except with the consent of the Director of Public Prosecutions.

24. Delegation of functions of Commission

(1) The Commission may, in writing, delegate any of its functions to a district service commission or any other authority or officer.

(2) A district service commission shall, when considering any matter relating to a person employed in the education service, co-opt as a non-voting member, a representative of the department of education in the district or urban authority of a rank not lower than education officer or inspector of schools.

(3) The Commission shall issue guidelines to be used by the district service commission under section 60(4) of the Local Governments Act.

(4) Guidelines issued under this section shall be binding on the district service commission.

(5) Without prejudice to section 25, the Commission shall have the right to request in writing from the district service commission, any information reasonably necessary for ensuring that guidelines issued under this section are complied with; and the district service commission shall be bound to give effect to the request.

(6) The Commission shall set aside any action taken by a district service commission which contravenes any guidelines issued by the Commission under this section.

(7) Before setting aside any action under subsection (6), the Commission shall give written notice to the district service commission pointing out the act which constitutes the contravention and giving the district service commission—

- (a) reasonable opportunity to show cause why the action should not be set aside; and
- (b) whenever practicable, reasonable time to take necessary steps to rectify the contravention.

(8) The Commission shall render such advice to the districts as may be required regarding personnel management in the district education service.

25. Reports of district service commissions

A district service commission shall submit a report to the Commission on the performance of its functions in relation to the education service after every four months and whenever a report is required by the Education Service Commission.

26. Consultation with other commissions

The Commission may liaise and consult with other service commissions established by the Constitution with a view to harmonising standing orders, regulations and remuneration of public officers.

27. Consultation with Minister

(1) The Commission shall, from time to time, consult with the Minister on matters of policy in the carrying out of its functions.

(2) Subject to the provisions of Article 168(2) of the Constitution, the Minister may make representations to the Commission on matters within its competence and the Commission shall take such representations into account.

PART IV—ADMINISTRATION OF PUBLIC OFFICERS IN
EDUCATION SERVICE

28. Administration of public officers in education service

(1) The administration of public officers in the education service and the conditions of service of such persons shall be in accordance with the provisions of the Constitution.

(2) The Minister responsible for education may, after consultation with the Minister responsible for public service, the Minister responsible for local governments, and the relevant local government councils, require teachers in the public service of a district council to serve in any other district on any appropriate duties.

(3) Transfers of teachers between the public service of the Government and the public service of local governments, may be done only with the approval of the appropriate authority after consultation with the Minister responsible for local governments, the Minister responsible for education and the relevant local government council.

29. Standing orders

(1) The Commission may make standing orders providing for the administration and conduct of, and the terms and conditions of service of public officers in the education service as required by Article 168(1)(c) of the Constitution.

(2) Until the Commission makes standing orders under this Act, any standing orders in force in the public service shall, with the necessary modifications, apply to the education service as if made under this section.

(3) For the avoidance of doubt the standing orders under subsection (2) may be amended or revoked by the Commission under this section.

PART V—MISCELLANEOUS

30. Appeals

(1) A person aggrieved by a decision of the Ministry responsible for education or any other authority in relation to registration of teachers or grant of a licence to teach, may appeal to the Commission within thirty days after the decision is communicated to that person and the Commission may confirm, vary or reverse the decision.

(2) A person aggrieved by the decision of the Commission on appeal may within thirty days after the decision is communicated to him or her, appeal to the High Court against the decision; and the High Court may confirm, vary or reverse the decision or remit it to the Commission for reconsideration.

(3) The decision of the High Court under this section is final.

31. Regulations

The Commission may, by statutory instrument, make regulations—

- (a) providing for the formulation of national standards, in respect of qualifications, appointment and staff development of public officers in the education service;
- (b) providing for the organisation of the work of the Commission and guidelines for the district service commissions regulating the manner in which they shall perform their functions in respect of functions delegated to them by the Commission;
- (c) providing for consultation by the Commission and the district service commissions with persons other than members of the Commission or district service commissions;
- (d) regulating the manner in which matters shall be referred to the district service commissions by the Commission and *vice-versa*;
- (e) prescribing disciplinary penalties and awards;
- (f) regulating the procedure for appeals heard and determined by the Commission under this Act; and
- (g) for giving effect to the functions of the Commission under this Act.

32. Power to amend Schedule 1

The Minister may, by statutory instrument, with the approval of Cabinet, amend Schedule 1 to this Act.

SCHEDULES

Schedule 1

Sections 1, 32

Currency Point

A currency point is equivalent to twenty thousand shillings.

Schedule 2

Section 4

Oaths

Part I

Oath of Member of Commission

I, _____, _____, _____, _____, being appointed Chairperson/deputy chairperson/member of the Education Service Commission, swear in the name of the Almighty God/solemnly affirm that I will well and truly exercise the functions of Chairperson/deputy chairperson/ member of the Education 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

Sections 8(3), 10(3)

Oath of Secretary/Officer of 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 unauthorised person or otherwise than in the course of duty, the contents or any part of the contents of any document, communication or information whatsoever which may come to my knowledge in the course of my duties as such. (So help me God).

History: Act 6/2002

Cross References

Constitution

Education (Pre-Primary, Primary and Post-Primary) Act, Cap. 247

Local Governments Act, Cap. 138

Public Finance Management Act, Cap. 171

Salaries and Allowances (Specified Officers) Act, Cap. 94
