

CHAPTER 139**THE LOCAL GOVERNMENT FINANCE COMMISSION****ACT Arrangement of Sections**

Section

PART I—INTERPRETATION

1. Interpretation

**PART II—ESTABLISHMENT OF LOCAL GOVERNMENT
FINANCE COMMISSION**

2. Establishment of Local Government Finance Commission
3. Commission to be body corporate
4. Oath of members
5. Removal of member of Commission
6. Chairperson and Vice Chairperson of Commission
7. Emoluments and status of members

PART III—FUNCTIONS OF COMMISSION

8. Functions of Commission
9. Exercise of powers and functions
10. Committees of Commission
11. Proceedings of Commission

PART IV—SECRETARIAT

12. Secretariat
13. Secretary of Commission
14. Other officers and employees of Commission

PART V—FINANCIAL AND OTHER MATTERS

15. Financial year
16. Funds of
Commission
17. Accounts and audit

PART VI—GENERAL

18. Seal of Commission
19. Powers of Minister
20. Meetings of Commission
21. Enforcement of attendance
22. Failure to appear or produce documents
23. Validity of proceedings not affected by vacancy
24. Report of Commission
25. Immunity of members and staff of Commission
26. Regulations
27. Power to amend Schedule 1

SCHEDULES

- | | |
|-------------------|----------------|
| <i>Schedule 1</i> | Currency Point |
| <i>Schedule 2</i> | Oaths |

CHAPTER 139**THE LOCAL GOVERNMENT FINANCE COMMISSION***Commencement:* 17 November, 2003

An Act to provide for the establishment and functions of the Local Government Finance Commission as provided by the Constitution and for related matters.

PART I—INTERPRETATION**1. Interpretation**

In this Act, unless the context otherwise requires—

“Chairperson” means the Chairperson of the Commission and “Vice Chairperson” shall be construed accordingly;

“Commission” means the Local Government Finance Commission established by Article 194 of the Constitution;

“council” means a council referred to in section 3 or 47 of the Local Governments Act;

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

“local government” means a local government established under section 3(2), (3), (4) and (5) of the Local Governments Act;

“Minister” means the Minister responsible for local governments;

“Secretary” means the Secretary to the Commission appointed under section 13.

**PART II—ESTABLISHMENT OF LOCAL GOVERNMENT
FINANCE COMMISSION****2. Establishment of Local Government Finance Commission**

(1) There is established a Local Government Finance Commission consisting of seven members.

(2) The members of the Commission shall be persons of high moral character, proven integrity and demonstrated competence in the conduct of public affairs.

(3) The members of the Commission shall be appointed by the President for a period of four years and shall be eligible for re-appointment for one further term.

(4) The seven members to be appointed by the President shall be nominated for appointment as follows—

- (a) three persons shall be nominated by the district councils;
- (b) one person shall be nominated by the urban councils; and
- (c) three members shall be nominated by the Minister in consultation with the Minister responsible for finance.

(5) At least two members of the Commission shall be persons qualified in financial management or qualified accountants.

(6) A person shall not qualify to be appointed as a member of the Commission if that person—

- (a) is under eighteen years of age;
- (b) is suffering from mental illness;
- (c) is an undischarged bankrupt;
- (d) has been convicted of an offence under this Act or an offence involving fraud or dishonesty by a competent court in Uganda or elsewhere; or
- (e) has been convicted of an offence and sentenced to a term of imprisonment of six months or more by a competent court in Uganda or elsewhere.

3. Commission to be body corporate

The Commission shall be a body corporate with perpetual succession and a common seal and may sue and be sued in its corporate name and may, subject to the provisions of the Constitution, do, enjoy or suffer anything that may be done, enjoyed or suffered by a body corporate.

4. Oath of members

(1) Subject to subsection (3), every member of the Commission shall, before assuming his or her duties as member, take and subscribe the oath specified in Part I A of Schedule 2 to this Act.

(2) Subject to subsection (3), a person elected Chairperson or Vice Chairperson shall, before assuming his or her duties as Chairperson or Vice Chairperson, take and subscribe the oath specified in Part I B of Schedule 2 to this Act.

5. Removal of member of Commission

(1) A member of the Commission may be removed from office by the President on the recommendation of the nominating authority through the Minister, on the following grounds—

- (a) inability to perform the functions of that office arising out of physical or mental incapacity;
- (b) abuse of office;
- (c) corrupt tendencies, misbehaviour or misconduct;
- (d) incompetence;
- (e) failure to attend three consecutive ordinary meetings without valid reasons acceptable to the Commission;
- (f) if for any reason, he or she is permanently incapable of performing the duties of a member;
- (g) where information relating to the conduct of a member, which could have precluded his or her appointment if it had been made available to the nominating authority or the Minister, is brought to the attention of the Minister; or
- (h) if he or she neglects the duties of a member or behaves in a manner unbecoming of the office of a member.

(2) The Chairperson or the Vice Chairperson may be removed by the President upon the recommendation of not less than two-thirds of the members of the Commission.

(3) Where it appears to the Minister that there is cause to remove a member, the Minister shall notify the member concerned in writing and shall give the member an opportunity to submit his or her explanation to the Minister.

(4) Where the Minister is not satisfied with the explanation, the Minister may, with the approval of Cabinet, recommend to the President the removal of the member.

(5) Where a member is removed from office under this section, the nominating authority shall nominate, for appointment by the President, another person to replace the member and to hold office for the remainder of the term of the member.

(6) If it is the Chairperson or the Vice Chairperson who has been removed, the Commission shall elect a new Chairperson or Vice Chairperson under section 6.

6. Chairperson and Vice Chairperson of Commission

(1) The members of the Commission shall elect from among themselves a Chairperson and Vice Chairperson.

(2) The Chairperson shall be the head of the Commission and shall be responsible for the administration of the Commission and shall monitor and supervise the work of the Secretary.

(3) The Chairperson and the Vice Chairperson shall hold office on a full time basis.

- (4) A person holding any of the following offices shall relinquish that office on election as a Chairperson or Vice Chairperson 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; or
 - (d) a public officer.

7. Emoluments and status of members

(1) The members of the Commission shall be paid such emoluments as Parliament may determine.

(2) For the avoidance of doubt, the members of the Commission, other than the Chairperson and Vice Chairperson, shall hold office on a part—time basis.

PART III—FUNCTIONS OF COMMISSION

8. Functions of Commission

The Commission shall—

- (a) advise the President on all matters concerning the distribution of revenue between the Government and local governments and the allocation to each local government, of money out of the Consolidated Fund;
- (b) in consultation with the National Planning Authority, consider and recommend to the President the amount to be allocated as equalisation and conditional grants and their allocation to each local government;
- (c) consider and recommend to the President potential sources of revenue for local governments;
- (d) advise the local governments on appropriate tax levels to be levied by local governments;
- (e) in case a financial dispute arises between local governments, mediate and advise the Minister accordingly;
- (f) analyse the annual budgets of local governments to establish compliance with the legal requirements and notify the councils concerned and the President through the Minister for appropriate action;
- (g) recommend to the President, through the Minister, the percentage of the national budget to be transferred to local governments every financial year;
- (h) recommend to the President, the Government taxes that may be collected by local governments in their respective jurisdictions on an agency basis; and
- (i) perform such other functions as may be prescribed by law.

9. Exercise of powers and functions

The Commission shall perform its functions and exercise its powers in a manner that—

- (a) is open and objective;
- (b) is fair and reasonable;
- (c) is non-discriminatory; and
- (d) promotes good governance and economic development.

10. Committees of Commission

- (1) The Commission may appoint one or more adhoc committees—
 - (a) to inquire into and advise the Commission on such matters within its jurisdiction as the Commission may determine; or
 - (b) to exercise such powers or perform such duties of the Commission as the Commission may determine.

(2) A committee shall have a Chairperson who shall be a member of the Commission and such other persons as the Commission may determine.

(3) Subject to any directions that may be given by the Commission, a committee may regulate its own procedure.

(4) A committee shall not disclose any information in its possession to any person, organisation or authority without the written permission of the Commission.

11. Proceedings of Commission

(1) Every decision of the Commission shall, as far as possible, be by consensus.

(2) Where, on any matter, consensus cannot be obtained, the matter shall be decided by a majority of votes of the members present and in case of an equality of votes, the person presiding shall have a casting vote in addition to his or her deliberative vote.

(3) The Secretary shall cause to be recorded the minutes of all proceedings of the Commission.

(4) The Secretary shall have custody of the minutes of the Commission.

PART IV—SECRETARIAT

12. Secretariat

(1) The Commission shall have a Secretariat which shall be responsible for the day-to-day operations of the Commission.

(2) The Secretariat shall have such departments as may be necessary to discharge the functions of the Commission.

13. Secretary of Commission

(1) The Commission shall have a Secretary who shall be a public officer appointed by the Commission, upon such terms and conditions as may be determined by the Commission in consultation with the Public Service Commission and specified in the instrument of his or her appointment.

(2) The Secretary shall be a person of high moral character and proven integrity, possessing the relevant qualifications.

(3) The Secretary shall, subject to section 16, perform such functions as may be assigned to him or her by the Commission.

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

- (5) The Secretary may be removed by the Commission only for—
- (a) inability to perform the functions of his or her office arising out of physical or mental incapacity;
 - (b) misbehaviour or misconduct;
 - (c) incompetence; or
 - (d) corruption or dishonesty.

14. Other officers and employees 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 appointed by the Commission acting in consultation with the Public Service Commission, and shall hold office upon such terms and conditions as shall be determined by the Commission in consultation with the Public Service Commission.

(3) The Commission shall require any officer or employee of the Commission to take and subscribe the oath of secrecy specified in Part III of Schedule 2 to this Act.

PART V—FINANCIAL AND OTHER MATTERS

15. Financial year

The financial year of the Commission shall be a period of twelve months commencing on the 1st day of July and ending on the 30th day of June of the following year.

16. Funds of Commission

(1) All funds of the Commission shall be administered and controlled by the Secretary who shall be the accounting officer in accordance with the Public Finance Management Act.

(2) All money required to defray all expenses that may be incurred in the discharge of the functions of the Commission or in the carrying out of the purpose of this Act, including the payment of allowances, salaries and pension payable to or in respect of persons serving with the Commission, shall be submitted to Parliament for approval, without alteration and when so approved, shall be directly charged on the Consolidated Fund.

(3) The funds of the Commission may, with the prior approval of the Minister, include grants and donations from sources within or outside Uganda to enable the Commission to discharge its functions.

(4) The Commission shall be a self-accounting institution and shall deal directly with the Ministry responsible for finance on matters relating to its finances.

(5) Where the budget has been approved by Parliament, no expenditure which is not approved within the budget shall be incurred by the Commission in respect of the financial year in relation to which the budget was approved.

17. Accounts and audit

(1) The Commission shall maintain accounts of all its incomes and expenditure in a form approved by the Auditor General.

(2) The accounts of the Commission shall be audited by the Auditor General in accordance with Article 163 of the Constitution.

PART VI—GENERAL**18. Seal of Commission**

The Commission shall have a seal which shall be in such a form as the Commission may determine and shall, subject to the provisions of any law, be applied in such circumstances as the Commission may determine.

19. Powers of Minister

(1) The Minister may give guidance, in writing, to the Commission with respect to the policy to be observed and implemented by the Commission.

(2) The Minister may refer to the Commission for advice or resolution, any matter that the Minister considers to be within the mandate of the Commission.

20. Meetings of Commission

(1) The Commission shall ordinarily meet for the discharge of its functions at least once in every two months, at a time and place that the Chairperson may determine.

(2) Notwithstanding the provisions of this section, the Chairperson may, at any time, call a special meeting of the Commission if in his or her opinion a situation has arisen requiring the Commission to meet and take a decision.

(3) Five members of the Commission shall form quorum at any meeting of the Commission.

(4) Every meeting of the Commission shall be presided over by the Chairperson and in his or her absence by the Vice Chairperson.

(5) The Commission may invite any person to any meeting of the Commission to assist it on any matter if the Commission is satisfied that the person's qualifications and experience are likely to assist the Commission.

(6) A person invited to assist the Commission under subsection (5) is entitled to take part in the proceedings of the Commission at the meeting concerning the matter in connection with which he or she is invited, but is not entitled to vote or take part in any other proceedings of the Commission.

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

21. Enforcement of attendance

The Commission may require any person to attend and give evidence and tender any document in his or her possession concerning any matter which the Commission may properly consider in the 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.

22. Failure to appear or produce documents

Any person who is notified to appear before the Commission who, without reasonable cause fails to do so, or who wilfully fails to produce any document in his or her possession when required to do so by the Commission, commits an offence and is liable, on conviction, to a fine not exceeding fifty currency points or to imprisonment for a term not exceeding six months, or both.

23. Validity of proceedings not affected by vacancy

The validity of any proceedings of the Commission shall not be affected by any vacancy among its members or by any defect in the appointment of any of them.

24. Report of Commission

(1) The Commission shall submit to Parliament, at least once every twelve months, a report on the performance of its functions making such recommendations as it considers necessary and containing such information as Parliament may require.

(2) A copy of the report referred to in subsection (1) shall be forwarded to the President through the Minister.

(3) The Minister shall cause to be laid before Parliament the report submitted under subsection (1) within thirty days after it has been submitted, and if Parliament is not in session, within thirty days after the commencement of its next following session.

25. Immunity of members and staff of Commission

A member of the Commission, an employee or other person performing any function of the Commission under the direction of the Commission, shall not be personally liable to any civil proceedings for any act or omission on his or her part in good faith in the performance of those functions.

26. Regulations

The Minister may, by statutory instrument, in consultation with the Commission, make regulations—

- (a) providing for the organisation and work of the Commission;
- (b) providing for the engagement of experts and consultants in connection with any of the functions of the Commission and the remuneration to be paid to such experts and consultants; and
- (c) generally prescribing anything necessary for better carrying into effect the provisions of this Act.

27. 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, 27

Currency Point

A currency point is equivalent to twenty thousand shillings.

Schedule 2

Sections 4(1), (2), 13(4),
14(3) **Oaths**

Part I A

Oath of member

I, _____ being appointed member of the Local Government Finance Commission swear in the name of the Almighty God/solemnly affirm that I will well and truly exercise the functions of member of the Local Government Finance 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.)

Signature of Declarant

Sworn before me at _____ this ____ day _____, 20 _____

Signature of person authorised to administer oath
(Judge of the High Court, Magistrate, Commissioner for Oaths)

Part I B

Oath of Chairperson

I, _____ being appointed Chairperson/ Vice Chairperson of the Local Government Finance Commission swear in the name of the Almighty God/solemnly affirm that I will well and truly exercise the functions of Chairperson/Vice Chairperson of the Local Government Finance 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.)

Signature of Declarant

Sworn before me at _____ this ____ day _____, 20 _____

Signature of person authorised to administer oath
(Judge of the High Court, Magistrate, Commissioner for Oaths)

Part II

Oath of Secretary/officer of Commission

I, _____ being appointed Secretary/officer of the Local Government Finance Commission swear in the name of the Almighty God/solemnly affirm that I will not directly or indirectly reveal to any unauthorised persons or otherwise than in the course of duty, the contents or any part of the contents of any documents, commission or information whatsoever which may come to my knowledge in the course of my duties as such (So help me God.)

Signature of Declarant _____

Sworn before me at _____ this _____ day _____, 20 _____

Signature of person authorised to administer oath

Part III

Oath of secrecy

I, _____ swear that I will not directly or indirectly communicate or reveal any matter to any person which shall be brought under my consideration or shall come to my knowledge in the discharge of my official duties except as may be required for the discharge of official duties or as may be specially permitted by the Commission.

Signature of Declarant

Sworn before me at _____ this _____ day _____, 20 _____

Signature of person authorised to administer oath

History: Act 18/2003

Cross References

Constitution

Local Governments Act, Cap. 138

Public Finance Management Act, Cap. 171