

THE EDUCATION SERVICE ACT, 2002.

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**THE EDUCATION SERVICE ACT, 2002.**

**An Act to make provision in relation to the Education Service in pursuance of articles 167 and 168 of the Constitution and for other matters related to the Education Service.**

DATE OF ASSENT: 5th March, 2002.

*Date of commencement:* 5th April, 2002.

BE IT ENACTED by Parliament as follows—

PART I—PRELIMINARY.

**1. Short title.**

This Act may be cited as the Education Service Act, 2002.

**2. 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" means the value specified in the First Schedule to this Act in relation to a currency point;

"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" have respectively the meanings assigned to them by article 175 of the Constitution;

"register" means the register of teachers maintained under the Education Act, 1970;

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

"Secretary" means the Secretary to the Commission appointed under section 9 of this Act;

"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.

### **3. Categories of public officers who constitute the Education Service.**

For the purposes of clause (5) of article 168 of the Constitution, the public officers who constitute the Education Service are the following—

- (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 Act, 1970;
- (b) persons who meet the requirements for issue of a statement of eligibility and a licence to teach in accordance with the Education Act, 1970;
- (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— THE EDUCATION SERVICE COMMISSION.

### **4. Composition and appointment of members of the Commission.**

(1) The Chairperson, the 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 Chairperson(s) of the Commission shall have the following qualifications—

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

### **5. Composition and appointment of members of the Commission.**

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

### **6. 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.

### **7. Remuneration.**

The Chairperson and other members of the Commission shall be paid remuneration and given allowances for service rendered at such rates as are from time to time laid down by the Specified Officers Act, 1999.

8. Functions of the Commission.

(1) The Commission shall have the following—

- (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, to confirm such appointments, to exercise disciplinary control over such persons and to 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 Government;
- (c) 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;
  - (ii) instruments of appointment;
  - (iii) ethics and conduct;
  - (iv) disciplinary control;
- (f) to tender advice to the Ministry responsible for education in the process of formulating of education policy with respect to—
  - (i) training;
  - (ii) management of public officers in the Education Service;
  - (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 clause (3) of article 168 of the Constitution;
- (j) to perform such other functions as may be prescribed by this or any other law.

(2) The annual report required by clause (4) of article 168 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.

#### **9. Secretary to the 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 performance of his or her functions under this Act, take and subscribe the Oath specified in Part II of the Second Schedule to this Act.

(4) 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 of the minutes of all decisions and proceedings of the Commission at its meetings; and
- (b) performing any other functions assigned to him or her by the Commission.

(5) 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 falling to be decided by the Commission at any such meeting.

#### **10. Other staff of the Commission**

(1) The Commission shall also 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 subsection (3) of section 9, all officers of the Commission, shall take and subscribe the oath specified in Part II of the Second Schedule to this Act.

#### **11. Meetings and decisions of the 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 clause (8) of article 167 of the Constitution shall preside.

(2) In accordance with article 251 of the Constitution, a decision of the Commission requires the concurrence of the 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 and 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 is entitled to require that a decision under subsection (5) 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 the 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 the 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 Act.

#### **14. Seal of the 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 THE COMMISSION.**

#### **15. Independence of the 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 do so, or who wilfully fails to produce any document in his or her possession when required to do so by the



Commission under section 17 of this Act, commits an offence and is liable on conviction, to a fine not exceeding five currency points or imprisonment not exceeding three months or both.

### **19. Attendance allowance**

(1) Any 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 as a witness 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 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 any decision of the Commission, commits an offence and is liable on conviction, to a fine not exceeding thirty currency points or imprisonment 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 or does not believe to be true, or 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 imprisonment not exceeding twelve months or both.

(4) For the purposes of this section, "Commission" means the Commission, any member of the Commission, any 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) Any 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 imprisonment 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) of this section, 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 imprisonment for a period not exceeding six months or both.

### **23. Consent to prosecution**

A prosecution for an offence against this Act shall not be instituted except with the consent of the Director of Public Prosecutions.

### **24. Delegation of functions of the Commission**

(1) The Commission may, by 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 subsection (3) of section 56 of the Local Governments Act, 1997.

(4) Guidelines issued under this section shall be binding on the District Service Commission.

(5) Without prejudice to section 25 of this Act, 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, giving the District Service Commission 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. 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 the 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 THE EDUCATION SERVICE.**

#### **28. Administration of public officers in Education Service**

(1) The administration of public service officers in relation to public officers in the Education Service and the ordering of 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 paragraph (c) of clause (1) of article 168 of the Constitution.

(2) Until the Commission makes standing orders under this Act, any standing orders in force in the public service immediately before the coming into force of this Act shall, with the necessary modifications, continue to apply to the Education Service as if made under this section.

(3) For the avoidance of doubt the standing orders continued to apply 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 decisions 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;
- (g) for giving effect to the functions of the Commission under this Act.

### **32. Power of Minister to amend First Schedule**

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

### **33. Repeals, savings and transitional provisions**

- (1) The Public Service (Teachers) Act, 1969 is repealed.
- (2) Notwithstanding the repeal effected by subsection (1) but subject to the Constitution—
  - (a) any person employed in the service of the Ministry responsible for education immediately before the commencement of this Act shall continue in service as a member of the Education Service on terms not less favourable than before;
  - (b) persons employed, in the service of the Ministry responsible for education who at the commencement of this Act, are employed in the service of a district shall continue to be employed in the service of the district but shall form part of the Education Service;
  - (c) the Public Service Commission may, in consultation with the Commission, make such arrangements as may be expedient for the practical implementation of this section and may, for that purpose in co-operation with the Commission and any other Service Commission, effect such steps including transfers or other measures as may appear to be prudent without prejudicing the interests of the public officers concerned;
  - (d) any proceedings pending under the enactment repealed by this Act may be continued and completed under this Act so far as is consistent with this Act.

## FIRST SCHEDULE

## SECTION 2

### CURRENCY POINT

A currency point is equivalent to twenty thousand shillings.

SECOND SCHEDULE

SECTION 5

OATHS

PART I

OATH OF MEMBER OF EDUCATION SERVICE 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 9, 10

OATH OF SECRETARY/ OFFICER OF COMMISSION.

T ..... 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 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).