

LOCAL GOVERNMENT SERVICE COMMISSION ACT

Act 37 of 1975 – 18 August 1983

ARRANGEMENT OF SECTIONS

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LOCAL GOVERNMENT SERVICE COMMISSION ACT

1. Short title

This Act may be cited as the Local Government Service Commission Act.

2. Interpretation

In this Act—

“appointment” means—

- (a) the designation of a person not in the service of a local authority to an office of emolument in the service of a local authority, including a designation in a temporary or an acting capacity or subject to subsequent confirmation;
- (b) the grant of permanent and pensionable terms of service in a pensionable office in the service of a local authority to a person recruited and serving on contract terms or in an unestablished capacity;
- (c) the promotion of a local government officer from one office of emolument to another within the service of the same local authority or from one local authority to another;
- (d) —

“Chairperson” means the Chairperson of the Commission;

“Commission” means the Local Government Service Commission established under section 3;

“District Council” has the same meaning as in the Local Government Act;

“local government office” means an office of emolument in the service of a local authority and includes an office of a temporary nature and any contract appointment;

“local government officer” means a person who holds, or acts in, a local government office;

“member” means a member of the Commission and includes the Chairperson;

“Minister” means the Minister to whom responsibility for the subject of local government is assigned;

“Municipal City Council” has the same meaning as in the Local Government Act;

“Municipal Town Council” has the same meaning as in the Local Government Act;

“Secretary” means the Secretary to the Commission;

“tribunal” means a tribunal appointed under section 6 (6);

“worker” means a local government officer who performs duties other than administrative or technical duties and who is employed at daily rates.

[S. 2 amended by s. 146 (6) (a) of Act 32 of 2003 w.e.f. 1 December 2003; s. 165 (11) (a) of Act 36 of 2011 w.e.f. 15 December 2011.]

3. Establishment of Commission

(1) There is established for the purposes of this Act a Local Government Service Commission, which shall be a body corporate.

(2) The expenses of the Commission shall be a charge on the Consolidated Fund.

4. Powers of Commission

(1) Subject to this section and to the Local Government Act, the power to—

- (a) appoint;
- (b) exercise disciplinary control;
- (c) remove from office or approve retirement; and
- (d) select candidates for the award of scholarships or other similar privileges,

shall, in relation to local government officers, vest exclusively in the Commission.

(2) Subject to subsection (3), the Commission shall not, in the exercise of its functions, be subject to the direction or control of any other person or authority.

(3) Nothing in this Act shall preclude the Supreme Court from exercising jurisdiction in relation to any question whether the Commission has performed its functions in accordance with any law in force or should not perform any function.

(4) The Commission may, subject to such conditions as may be prescribed, delegate any of its powers under subsection (1) to the Chief Executive of any Municipal City Council, Municipal Town Council or District Council.

[S. 4 amended by Act 41 of 1992; s. 146 (6) (b) of Act 32 of 2003 w.e.f. 1 December 2003; s. 165 (11) (b) of Act 36 of 2011 w.e.f. 15 December 2011.]

5. Membership of Commission

(1) Subject to subsection (2), the Commission shall consist of a Chairperson and 4 other members appointed by the President.

(2) No person shall be appointed as a member if he is—

- (a) a member of, or a candidate for election to, the Assembly or a local authority; or
- (b) a local government officer.

(3) Every member shall receive such salary and allowance as the Minister may approve.

[S. 5 amended by s. 146 (6) (c) of Act 32 of 2003 w.e.f. 1 December 2003.]

6. Tenure of office of members

(1) Every member shall hold office for 3 years.

(2) Every member shall be eligible for reappointment.

(3) A member shall vacate office where circumstances have arisen which would disqualify him from appointment as a member.

(4) A member may, in accordance with subsections (5) and (6), be removed from office—

- (a) if he has unreasonably absented himself from 3 consecutive meetings of the Commission;
- (b) on any ground specified in section 37 (3) (b) (ii), (iii), (iv) or (v) of the Interpretation and General Clauses Act.

(5) A member shall be removed from office by the President where—

- (a) the question of his removal from that office has been referred to a tribunal; and
- (b) the tribunal has recommended to the President that the member ought to be removed from office.

(6) Where the President considers that the question of removing a member ought to be investigated, he shall appoint a tribunal—

- (a) consisting of a Chairperson and not less than 2 other persons, being persons who hold or have held office as a Judge of a

Court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or of a Court having jurisdiction in appeals from such a Court;

- (b) which shall enquire into the matter and report to him and recommend whether or not the member ought to be removed from office.

(7) (a) Where the question of removing a member has been referred to a tribunal, the President may suspend the member from office.

(b) Any suspension under paragraph (a) shall cease to have effect where the tribunal recommends to the President that the member ought not to be removed.

[S. 6 amended by s. 146 (6) (d) of Act 32 of 2003 w.e.f. 1 December 2003.]

7. Meetings of Commission

(1) The Commission shall meet at such time and place as the Chairperson may appoint.

(2) The Chairperson and 2 members shall constitute a quorum.

8. Secretary and staff

(1) There shall be a Secretary to the Commission whose office shall be a public office and such number of other public officers as may be required to enable it properly to exercise its powers.

(2) The persons referred to in subsection (1) shall be subject to the administrative control and direction of the Commission.

9. Privilege of communications

(1) Subject to subsection (2), the Commission may not be compelled in any legal proceedings to produce any communication which is in its possession nor shall a member be required to give evidence regarding such a communication.

(2) A communication in the possession of the Commission may be produced or evidence given regarding it where the Chairperson certifies that the production of the communication or the evidence is not against the public interest.

10. Restriction on liability

(1) No liability shall attach to any member in respect of any act done in good faith in the execution or purported execution of the functions of the Commission.

(2) This section shall be in addition to and not in derogation from the Public Officers' Protection Act, and for the purposes of that Act—

- (a) every member shall be deemed to be a public officer;
- (b) section 6 of that Act shall apply to every member.

11. Offences

- (1) Subject to subsection (3), any person who—
- (a) otherwise than in the exercise of his duty, in any manner influences or attempts to influence any decision of the Commission or of a member;
 - (b) in connection with—
 - (i) an application for employment or promotion in a local government office; or
 - (ii) the exercise by the Commission of its functions,gives to the Commission, or to any member or to any person appointed to assist the Commission in the exercise of its functions or duties, any information which to his knowledge is false or misleading by reason of the falsity or omission of a material particular;
 - (c) otherwise than in the exercise of his duty, publishes or discloses the contents or purport of any communication that has come to his notice in the course of his duty under this Act;
 - (d) otherwise than for the purpose of a prosecution under this Act, publishes or communicates any such information which to his knowledge has been disclosed in contravention of paragraph (c);
 - (e) directly or indirectly accepts, obtains, agrees to accept or attempts to obtain any fee or reward from any person—
 - (i) in relation to his duty under this Act;
 - (ii) to do or forbear from doing any act which he alleges or induces any person to believe he is empowered or not bound to do in the ordinary course of his duty under this Act;
 - (f) bribes or corruptly influences a member in relation to any act which the member is entitled or purports to be empowered to do or not to do in the course of his duty under this Act,

shall commit an offence.

(2) Any person who commits an offence shall, on conviction, be liable to a fine not exceeding 50,000 rupees and to imprisonment for a term not exceeding one year.

(3) The giving of a *bona fide* reference or testimonial to any applicant or candidate for appointment in a local government office by a person who, from his own knowledge, can speak as to the qualifications or character of the applicant or candidate, or the *bona fide* answering of any question put to any person by a member, shall not constitute an offence under subsection (1).

[S. 11 amended by s. 146 (6) (d) of Act 32 of 2003 w.e.f. 1 December 2003.]

12. Regulations

(1) The Commission may make such regulations as it thinks fit for the purposes of this Act.

(2) Notwithstanding section 21 of the Interpretation and General Clauses Act, no regulations made under subsection (1) shall require the approval of the Minister.

13. – 15. –
