

ACTS

SUPPLEMENT No. 9

7th November, 2003.

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Local Government Finance

Act 18

Commission Act **2003**

THE LOCAL GOVERNMENT FINANCE COMMISSION
ACT, 2003.

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THE LOCAL GOVERNMENT FINANCE COMMISSION ACT, 2003.

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

DATE OF ASSENT: 26th October, 2003.

Date of commencement: 17th November, 2003.

BE IT ENACTED by Parliament as follows:

PART I—PRELIMINARY.

1. Short title.

This Act may be cited as the Local Government Finance Commission Act, 2003.

2. Inter-pretation.

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 4 or 46 of the Local Governments Act, 1997;

“currency point” means the value specified in relation to a currency point in the First Schedule to this Act;

“Local Government” means the Local Councils established under subsections (2), (3), (4) and (5) of section 4 of the Local Governments Act, 1997;

“Government” means the Government of Uganda;

“Minister” means the Minister responsible for local governments;

“Secretary” means the Secretary to the Commission appointed under Section 9 of this Act.

PART II—ESTABLISHMENT AND FUNCTIONS OF THE COMMISSION.

3. Establishment of the Commission

(1) There shall be a Local Government Finance Commission consisting of seven members.

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

(3) Members of the Commission shall be appointed by the President for a period of four years and shall be eligible for-reappointment 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;

(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 who are qualified accountants.

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

(a) is less than eighteen years of age;

(b) is of unsound mind;

(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.

4. Commission to be a 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.

5. Oath of Members

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

(3) Where before the commencement of this Act any person has been appointed a member, Chairperson or Vice Chairperson of the Commission, that person shall, as soon as practicable, take and subscribe the oath referred to in subsection (1) or (2) of this section.

6. 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 but can only be removed 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) if for any reason, he or she is permanently incapable of performing the duties of a member;~~

(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 member or behaves in a manner unbecoming of the office of 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 the 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 7 of this Act.

7. Chairperson and vice-Chairperson of the Commission

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

~~(2) The Chairperson of the Commission shall hold office for a term of five years.~~

(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 a political organisation;
or
- (d) a public officer.

8. Emoluments and status of Members.

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

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

9. Functions of the 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) advise the Commission on the levying of Local Government Rates;~~

~~(g) advise the Minister on the Non-Budgetary Fund for Local Government Finance;~~

~~(h) advise the Minister on the technical and policy aspects of the management of the~~

- (i) perform such other functions as may be prescribed by law.

10. 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.

11. Commission

- (1) The Commission may appoint one or more adhoc Committees—

(a) to inquire into and advise the Commission on such matters within the jurisdiction of the Commission as the Commission may determine; or

~~(b) to exercise powers conferred on the Commission by this Act.~~

(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.

12. Proceedings of Com

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

~~(2) Minutes of the proceedings of the Commission shall be kept in such form and by such means as the Commission may determine.~~

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

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

PART IV—THE SECRETARIAT.

13. The 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.

14. Secretary of the Com

(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 his or her instrument of appointment.

~~(2) The Secretary shall have such powers and duties as may be assigned to him or her by the Commission.~~

(3) The Secretary shall, subject to section 17 of this Act, 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 to the oath specified in Part I of the Second Schedule 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.

15. Other officers and employees of the Commission

(1) The Commission shall have such other officers and employees as may be necessary for the discharge of its functions.

~~(2) The Commission shall, before appointing any other officer or employee, require that person to take and subscribe to the oath of secrecy specified in Part III of the Second Schedule to this Act.~~

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

PART V—FINANCIAL PROVISIONS.

16. Financial year.

The Financial year of the Commission shall be the same as the financial year of the Government.

17. Funds of the 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 Act.

~~(2) All moneys 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.

18. 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.

19. Seal of Commission

The Commission shall have a seal which shall be in such 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.

20. Powers of Minister.

(1) The Minister may, from time to time, 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.

21. 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 a 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 that 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.

22. ~~15~~ 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.

23 Failure to appear or produce documents.

~~Any person who fails to appear before the Commission or to produce any document in his possession or control as required by the Commission in accordance with the provisions of this section shall be liable to a fine of not more than \$1000.~~

24. 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.

25. Report of the ~~Commission~~

~~(1) The Commission shall submit a report to the President of the Commission and to the President of the Senate, and a copy of the report shall be laid before Parliament.~~

(2) A copy of the report referred to in subsection (1) of this section 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) of this section 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.

26. Immunity of members and staff of the ~~Commission~~

A member of the Commission or any 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.

27. Regulations.

The Minister may, in consultation with the Commission, by statutory instrument, 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;
- (c) generally prescribing anything necessary for the better carrying into effect of the provisions of this Act.

28. Minister's power to amend First Schedule.

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

29. Consequential repeal of existing provisions in Local ~~C~~Act, 1997.

Sections 75, 76 and 77 of the Local Governments Act, 1997 are repealed.