

Cross References.

The Local Governments Act, Cap. 243.

The Public Service Act, Cap.288

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Bill No. 4

Public Service Bill

2007

THE PUBLIC SERVICE BILL, 2007.

MEMORANDUM.

The object of this Bill is to repeal and replace the Public Service Act, Cap. 288, with a new Act that conforms and otherwise gives effect to the provisions of the Constitution relating to the Public Service and the Government's Public Service Reform Programme; and to provide for related or incidental matters.

Part I of the Bill (incorporating clauses 1, 2 and 3), deals with the commencement of the proposed Act, interpretation of words and expressions used in the Bill, and specifies certain category of persons to whom this proposed Act shall not apply.

Part II of the Bill (incorporating clause 4), seeks to establish a mechanism whereby any change that occurs in a ministry (e.g. in terms of abolition of that ministry, or the establishment of another ministry in lieu of or in addition to that ministry, or a change in the name of the ministry) is reflected in relation to the concerned ministry by way of an automatic amendment of the First Schedule, which contains a list of existing Government ministries.

Part III of the Bill (incorporating clauses 5, 6 and 7), contains provisions relating to the objective, composition and management of the public service. Clause 5 in particular describes the objective of the public service as "to assist the Government and Local Governments in the formulation and implementation of policies and programs for the development of Uganda."

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Part IV of the Bill (incorporating clauses 8, 9 and 10) deals with, among other things, the appointments of the Head of the Public Service, the Deputy Head of the Public Service and Permanent Secretaries. Clause 8 (1) restates the constitutional mandate of the President under article 173A of the Constitution to appoint the Head of the Public Service on the advice of the Public Service Commission, while clause 8 (2) spells out the constitutional functions of the Head of Public Service. Clause 9 restates the constitutional power of the President (under article 172 of the Constitution) to appoint a Deputy Head of the Public Service on the advice of the Public Service Commission, and spells out his or her functions. Clause 10 also restates the constitutional mandate of the President (under article 174 of the Constitution) to appoint Permanent Secretaries, in accordance with the advice of the Public Service Commission.

Part V of the Bill (incorporating clauses 11, 12, 13, 14 and 15), among other things, outlines the obligations of public officers in relation to the public service; provides for the protection of public officers from victimisation, discrimination or arbitrary dismissal or removal from office. Clause 15 in particular recognises or acknowledges the right of public officers to participate in Trade Union activities in accordance with applicable legislation.

Part VI of the Bill, incorporating clauses 16, 17 and 18, deals with miscellaneous matters such as the power of the Minister to amend the Schedules to the proposed Act and make regulations for giving full effect to the provisions of this proposed Act. Clause 18, in particular, seeks to repeal the Public Service Act, Cap. 288.

HON. HENRY MUGANWA KAJURA,

2nd Deputy Prime Minister and Minister of Public Service.

THE PUBLIC SERVICE BILL, 2007.

ARRANGEMENT OF CLAUSES.

Clause.

PART I—PRELIMINARY

1. Commencement.
2. Interpretation.
3. Act not to apply to certain persons.

PART II—CHANGES IN MINISTRIES OF THE GOVERNMENT.

4. Changes in ministries.

PART III—OBJECTIVE, COMPOSITION AND MANAGEMENT OF THE PUBLIC SERVICE.

5. Objective of the public service.
6. Composition of the public service.
7. Management and administration of the public service.

PART IV—HEAD OF PUBLIC SERVICE AND PERMANENT SECRETARIES.

8. Head of the Public Service.
9. Deputy Head of the Public Service.
10. Permanent Secretaries.

PART V—OBLIGATIONS, RIGHTS AND PRIVILEGES OF PUBLIC OFFICERS.

11. Obligations of public officers in relation to the public service.
12. Protection of public officers.
13. Performance evaluation and disciplining of public officers.

Clause.

14. Rights and privileges of public officers.
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PART VI—MISCELLANEOUS PROVISIONS.

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SCHEDULES.

FIRST SCHEDULE.

Currency Point

SECOND SCHEDULE.

Ministries of the Government.

A BILL for an Act

ENTITLED

THE PUBLIC SERVICE ACT, 2007

An Act to make provision in relation to the Public Service in line with Chapter Ten and other relevant provisions of the Constitution; to give effect to the Government's Public Service Reform Programme; to repeal the Public Service Act, Cap. 288; and to provide for other related matters.

BE IT ENACTED by Parliament as follows:

PART I—PRELIMINARY.

1. Commencement.

This Act shall come into force on a date appointed by the Minister by statutory instrument.

2. Interpretation.

In this Act, unless the context otherwise requires—

“common cadre” means the category of public service positions or employees prescribed by the Minister by regulation to constitute the common cadre;

“common cadre list” means the list of public service positions or employees that constitutes the common cadre;

“currency point” has the value specified in the First Schedule to this Act;

“district” means a district referred to in article 5(2) of the Constitution;

“District Service Commission” means the District Service Commission established by article 198 of the Constitution for each district;

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

“Electoral Commission” means the Electoral Commission established by article 60 of the Constitution;

“employee” means a person other than a public officer employed in the public service;

“Government” means the Government of the Republic of Uganda;

“Health Service Commission” means the Health Service Commission established by article 169 of the Constitution;

“Judicial Service Commission” means the Judicial Service Commission established by article 146 of the Constitution;

“Local Government” has the meaning assigned to it by the Local Governments Act, Cap. 243;

“Minister” means the Minister responsible for the public service;

“ministry” means a ministry of the Government specified in the Second Schedule to this Act, and includes a department of the Government in a ministry;

“private sector” means the part of the economy not under direct Government control;

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

“Public Service Commission” means the Public Service Commission established by article 165 of the Constitution;

“regulations” means regulations made by the Minister by statutory instrument under this Act;

“Service Commission” means any commission established by the Constitution or by Parliament by law in conformity with the Constitution, and includes the Education Service Commission, the Electoral Commission, the Health Service Commission, the Judicial Service Commission, the Public Service Commission and the District Service Commission.

3. Act not to apply to certain persons.

This Act does not apply to—

- (a) a person employed by the Government in an honorary capacity; or
- (b) a person remunerated by fees, allowances or commission.

PART II—CHANGES IN MINISTRIES OF THE GOVERNMENT

4. Changes in ministries.

Where any ministry is abolished or any ministry is established in addition to, or in lieu of any such ministry, or an alteration is made in the name of any ministry, upon notification of the fact in the *Gazette*, the Second Schedule shall be deemed to be amended in the following manner—

- (a) where any ministry is abolished or another ministry established in lieu of any such ministry, by the omission of the reference to the ministry which has been abolished or in lieu of which another ministry has been established;

- (b) where any ministry is established either in addition to or in lieu of any ministry, by the addition of the name of the ministry so established; and
- (c) where an alteration is made in the name of any ministry, by a similar alteration of the name of the ministry.

PART III—OBJECTIVE, COMPOSITION AND MANAGEMENT OF THE
PUBLIC SERVICE.

5. Objective of the public service.

The objective of the public service is to assist the Government and Local Governments in the formulation and implementation of policies and programmes for the development of Uganda.

6. Composition of the public service.

The public service shall be composed of all persons duly appointed by the appropriate Service Commission or other relevant appointing authority to hold or act in any office in that Commission or authority; and persons employed on part-time or other basis on terms and conditions prescribed by regulations.

7. Management and administration of the public service.

- (1) Subject to the provisions of the Constitution, the Minister—
 - (a) shall, subject to subsection (2) of this section, have authority for the overall management and administration of the public Service, including formulation of policies relating to the terms and conditions of service in the public service, staff training and development; and to receive and consider on behalf of the Government, proposals for remuneration and benefits for persons whose emoluments are payable directly from the Consolidated Fund or directly out of moneys provided by Parliament;
 - (b) shall liaise with the President in the performance of the President's functions under article 171 of the Constitution to establish offices in the public service;

- (c) may prescribe or vary the common cadre list by regulations after consultation with the appropriate Service Commission or other relevant authority; and
- (d) shall issue guidelines for the deployment of the common cadre and coordinate the deployment.

(2) Subject to subsection 7(1), the management and administration of the public service of a district shall be the responsibility of the Chief Administration Officer of that district.

PART IV—HEAD OF PUBLIC SERVICE AND PERMANENT SECRETARIES.

8. Head of the Public Service.

(1) In accordance with article 173A (1) of the Constitution, the President shall, acting on the advice of the Public Service Commission appoint the Head of the Public Service.

(2) In accordance with article 173A (2) of the Constitution, the functions of the Head of the Public Service are as follows—

- (a) tendering advice to the President on matters relating to the Public Service;
- (b) coordination of the activities of Permanent Secretaries;
- (c) supervision of the work of Permanent Secretaries;
- (d) serving as a link between the Executive and the Public Service;
- (e) serving as a link between Service Commissions;
- (f) ensuring the implementation of Cabinet and other Government decisions; and
- (g) any other duties assigned to him or her from time to time by the President.

9. Deputy Head of the Public Service.

(1) In accordance with article 172 of the Constitution, the President may, acting in accordance with the advice of the Public Service Commission, appoint the Deputy Head of the Public Service.

(2) The Deputy Head of the Public Service shall deputise for the Head of the Public Service.

(3) The Deputy Head of the Public Service shall perform such other functions or duties assigned to him or her by the Head of the Public Service.

10. Permanent Secretaries.

(1) In accordance with article 174 of the Constitution, a ministry or department of the Government shall be under the supervision of a Permanent Secretary whose office shall be a public office.

(2) A Permanent Secretary shall be appointed by the President, acting in accordance with the advice of the Public Service Commission.

(3) In accordance with clause (3) of article 174 of the Constitution, the functions of a Permanent Secretary shall include—

- (a) organisation or operation of the ministry or department;
- (b) tendering advice to the responsible Minister in respect of the business of the ministry or department;
- (c) implementation of the policies of the Government;
- (d) subject to article 164 of the Constitution, responsibility for the proper expenditure of public funds by or in connection with the ministry or department.

(4) Without prejudice to subsection (3) of this section, the management and administration of a ministry or department shall be the responsibility of a Permanent Secretary who shall be the Chief Executive of that ministry or department.

PART V—OBLIGATIONS, RIGHTS AND PRIVILEGES OF PUBLIC OFFICERS.

11. Obligations of public officers in relation to the public service.

Subject to the provisions of the Constitution and any other written law, every public officer shall—

- (a) owe allegiance and loyalty to the Government and shall advance, develop and defend the policies of the Government at all times;
- (b) unreservedly tender advice to the Government in respect of the business of their ministry or department or district;
- (c) in performing their duties, be transparent, accountable, impartial and professional;
- (d) in performing their duties, exhibit expertise and integrity and portray a good image of the public service;
- (e) in performing their duties, apply such result-oriented management techniques as may be prescribed to ensure cost effective service delivery; and
- (f) promote the growth and development of the private sector as the principal engine of growth of the economy.

12. Protection of public officers.

In accordance with article 173 of the Constitution, a public officer shall not be—

- (a) victimized or discriminated against for having performed his or her duties faithfully in accordance with the Constitution; or
- (b) dismissed or removed from office or reduced in rank or otherwise punished without just cause.

13. Performance evaluation and disciplining of public officers.

(1) The performance evaluation of public officers shall be based on such objective, open and interactive performance appraisal system as may be prescribed.

(2) Public officers shall be disciplined and removed from the public service only in accordance with laid down regulations and procedures.

(3) A public officer aggrieved by any administrative or other decision taken against him or her shall have a right to appeal to the relevant authority, including a court of law.

14. Rights and privileges of public officers.

The rights and privileges of public officers shall be in accordance with the applicable law, including relevant statutory instruments, regulations and administrative instructions issued from time to time by the appropriate Service Commission or other authority in consultation with the Minister.

15. Participation in Trade Union activities by public officers.

The participation of public officers in Trade Union activities shall be in accordance with the provisions of the Constitution and the applicable legislation providing for Public Service Negotiating and Disputes Settlement Machinery.

PART VI—MISCELLANEOUS PROVISIONS.**16. Minister's power to amend Schedules.**

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

(2) The Minister may by statutory instrument, amend the Second Schedule in accordance with, section 4 to reflect any changes in the ministries specified in the Schedule.

17. Regulations.

(1) The Minister may, after consultation with the Public Service Commission and other appropriate Service Commissions, by statutory instrument, make regulations for giving full effect to the provisions of this Act.

(2) Any regulations made under this section may prescribe as a disciplinary penalty for infringement of any such regulations, a fine not exceeding one hundred currency points.

18. Repeal.

(1) The Public Service Act, Cap. 288, is repealed.

(2) Notwithstanding the repeal under subsection (1), any statutory instrument made under the repealed Act or any other Act relating to the Public Service, and in force on the date of commencement of this Act, shall, in so far as it is not inconsistent with the provisions of this Act, continue in force until repealed or new regulations are made under this Act.

SCHEDULES.

FIRST SCHEDULE

SECTION 2

CURRENCY POINT

A currency point is equivalent to twenty thousand shillings.

SECOND SCHEDULE

MINISTRIES OF THE GOVERNMENT

Office of the President

Office of the Prime Minister

Ministry of Defence

Ministry of Public Service

Ministry of Foreign Affairs

Ministry of Justice and Constitutional Affairs

Ministry of Finance, Planning and Economic Development

Ministry of Internal Affairs

Ministry of Agriculture, Animal Industry and Fisheries

Ministry of Local Government

Ministry of Education and Sports

Ministry of Health

Ministry of Tourism, Trade and Industry

Ministry of Works, and Transport

Ministry of Gender, Labour and Social Development

Ministry of Water, and Environment

Ministry of Information and Communications Technology

Ministry of Lands, Housing and Urban Development

Ministry of East African Community Affairs

Ministry of Energy and Mineral Development

Cross References.

The Local Governments Act, Cap. 243.

The Public Service Act, Cap.288