

The Teaching Service Commission Act 1983

ACT NO. 15 OF 1983

[Date of Assent: 19.8.83]
[Commencement: 1.1.85]

*Applied repealed
by constitution*

*see Act 4 of 19
not yet in operation*

ACT

To establish a Teaching Service Commission and to provide for related matters.

Enacted by the Assembly.

1. This Act may be cited as the Teaching Service Commission Act, 1983 and shall come into operation on a date to be appointed by the Minister by notice in the Gazette.

Short Title
and
commence-
ment

2. In this Act, unless the context otherwise requires,

Interpre-
tation

"Chairman" means the chairman of the Commission;

"Commission" means the Teaching Service Commission established under Section 3;

"Committee" means a Committee established under section 16;

"Member" means member of the Commission;

"Minister" means the Minister responsible for Education;

"Public Officer" has the meaning assigned to it in the Public Service Order 1970;

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of 1970

"Public Service" has the meaning assigned to it in the Public Service Order 1970;

"Secretary" means Secretary to the Commission appointed under section 4;

"Teacher" means a person who regularly instructs persons in a school other than a person who gives only religious instructions.

3. There is established a Teaching Service Commission which shall consist of a chairman and six other members, all of whom shall be appointed by the Minister.

Establish-
ment of
Teaching
Service
Commission

4. (1) The Minister shall appoint a public officer to be the Secretary to the Commission but such Secretary shall not be a member of the Commission.

Secretary to
Commission

(2) The Secretary shall be responsible for the taking of minutes of the meetings of the Commission, the keeping of its records and shall perform such other duties as the Commission may direct.

5. (1) Subject to this section the office of a member of the Commission shall become vacant,

Tenure
of Office

- (a) at the expiration of three years from the date of his appointment;
- (b) if he resigns his office by notice in writing addressed to the Minister; or
- (c) if any circumstances arise that, if he were not a member of the Commission, would cause him to be disqualified for appointment as such.

(2) A member of the Commission may be removed from office by the Minister only for inability to discharge the functions of his office, whether arising from infirmity of body or mind or any other cause, or for misbehaviour.

(3) A member of the Commission shall not be removed from office except in accordance with this section.

(4) If the office of chairman of the Commission is vacant or if the person holding that office is for any reason unable to perform the functions of his office, then, until a person has been appointed to and has assumed the functions of that office or until a person holding that office has resumed those functions, as the case may be, those functions shall be performed by such one of the other members of the Commission as may be designated in that behalf by the Minister.

(5) A member of the Commission who ceases to be an appointed member or ceases to be chairman shall be eligible for re-appointment.

(6) If at any time there are less than two members of the Commission besides the chairman or if any such member is appointed to act as chairman or is for any reason unable to perform the functions of his office, the Minister may appoint a person who is qualified for appointment as a member of the Commission to act as a member, and the person so appointed shall, subject to subsection (1) (c), continue to act until the office in which he is acting is filled or, as the case may be, until the holder thereof resumes his functions or until his appointment to act is revoked by the Minister.

(7) The Minister may give to the Commission or to any public officer to whom the functions of the Commission are delegated under section 6 such general directions with respect to the exercise of the functions of the Commission under that section as the Minister may consider necessary and the Commission or that public officer shall comply with those directions.

(8) The Minister may require the Commission or the public officer to whom the functions of the Commission are delegated to refer any matter relating to the functions of the Commission under section 6 which is under consideration by the Commission or that public officer, as the case may be, to the Minister and the Minister may himself in such a case exercise any of the powers conferred by section 6(1).

6. (1) Subject to this section, power to appoint persons to hold or to act in any office in the teaching service, including power to confirm appointments, to exercise disciplinary control over persons holding or acting in such offices and to remove such persons from office shall vest in the Minister.

Appoint-
ment etc of
officers in
teaching
service

(2) The powers of the Minister to make appointments to any office in the teaching service and to exercise disciplinary control over persons holding or acting in such offices and to remove such persons from office shall be exercised by the Commission acting in the name and on behalf of the Minister.

(3) The Commission may, by directions in writing and subject to such conditions as it thinks fit, delegate any of its functions under subsection (2) to any public officer.

7. The functions of the Commission shall be:

Functions
of
Commission

- (a) to establish and keep a register of teachers;
- (b) to establish and maintain a teaching service adequate for the needs of schools in Lesotho;
- (c) to recruit and recommend teachers for employment in various schools within the country;
- (d) to process the remuneration of teachers;
- (e) to draw up a promotional professional career structure;
- (f) to compile and publish a code of professional conduct which shall apply to all teachers employed through the Commission;
- (g) to encourage the development of a viable teaching profession and a sound code of professional ethics in Lesotho; and
- (h) to advise and make recommendations to the Minister on matters affecting teachers.

8. (1) The Commission shall meet at least once a month at such time and place as it deems expedient for the transaction of its business.

Meetings
of
Commission

(2) The Chairman shall preside at every meeting of the Commission and, in his absence, such member of the Commission as the members present may appoint shall preside.

(3) At every meeting of the Commission four members including the Chairman shall form a quorum.

(4) Subject to this Act, the Commission may determine its own procedure at a meeting of the Commission.

(5) The chairman shall, in addition to his deliberative vote as a member of the Commission have a casting vote.

(6) The Commission may, subject to its rules of procedure, act notwithstanding any vacancy in its membership or the absence of any member and its proceedings shall not be invalidated

by the presence or participation of any person not entitled to be present at or to participate in those proceedings:

Provided that any decision of the Commission shall require the concurrence of a majority of the members present and voting.

Report of
Commission

9. (1) The Commission shall, as soon as practicable after the 31st day of December of each year, prepare a report on matters that have been dealt with by the Commission during the preceding year, and also from time to time, prepare such special reports as may seem desirable to the Commission.

(2) Every report prepared by the Commission pursuant to subsection (1) shall be submitted to the Minister who shall lay it before the National Assembly.

Enforce-
ment of
attendance

10. (1) The Commission may require any person to attend or give evidence before it concerning any matter which it may properly consider in the performance of its functions under this Act and may require the production of any documents relating to any such matter by any person attending before it.

(2) Any person,

(a) other than a person who is notified to appear before the Commission solely in connection with his application for appointment to the teaching service, who, without reasonable cause fails to appear before the Commission when required so to do; or

(b) who wilfully fails to produce any document in his possession when required so to do by the Commission under this section,

commits an offence and is liable on conviction to a fine of fifty maloti.

(3) Any person attending before the Commission at the request of the Commission, other than a person who is applying for appointment to the teaching service, shall be entitled to be paid by the Commission the same allowance as a witness who appears before the High Court in criminal proceedings.

Improper
influence
etc.

11. (1) Any person who otherwise than in the course of his duty, directly or indirectly by any other person in any manner whatsoever, influences or attempts to influence any decision of the Commission commits an offence and is liable on conviction to a fine of 100 maloti and to a term of imprisonment for two years, but nothing in this subsection shall be deemed 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.

(2) Any person who, in connection with the performance by the Commission of its functions, wilfully gives to the Commission any information which he knows to be false, or does not believe to be true, or which he knows to be false by reason of

omission of any material particular commits an offence and is liable on conviction to a fine of 100 maloti and to imprisonment for a term of two years.

12. A member of the Commission shall have such and the like protection and privileges in case of any action or suit brought against him for any act done or omitted to be done in the bona fide execution of his duties as is by law given to the acts, done or words spoken by a judge of the High Court in the exercise of his judicial office.

Privilege of members

13. No person shall, in any legal proceedings, be permitted or compelled to produce or disclose any communication, written or oral, which has taken place between,

Privilege of communication

- (a) the Commission or any member or officer thereof and the Minister, the Public Service Commission, the Judicial Service Commission, or any member or officer thereof or a public officer;
- (b) any member or officer of the Commission and the chairman; or
- (c) any member or officer of the Commission in the performance of, or in connection with the performance of, the functions of the Commission,

unless the Minister consents in writing to such production or disclosure.

14. (1) A member or officer of the Commission and any other person who, without the written permission of the Minister, knowingly publishes or discloses to any person, otherwise than in the performance of his official functions the contents of any document, communication or information whatsoever which has come to his notice in the course of his duties in relation to the Commission commits an offence and is liable on conviction to a fine of 50 maloti and to imprisonment for a term of twelve months.

Divulgence of information

(2) Any person who knows of any information which to his knowledge has been disclosed in contravention of subsection (1) 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 official duty commits an offence and is liable on conviction to a fine of 50 maloti and to imprisonment for a term of twelve months.

15. A prosecution in respect of an offence under section 11 or 14 shall not be instituted except with the consent of the Director of Public Prosecutions.

Consent to prosecution

16. (1) There is established for each district and urban council a committee to be known as Teaching Service Committee.

Teaching service committees

(2) The Committee shall consist of a chairman and not less than three nor more than seven other members, all of whom shall be appointed by the Minister.

Functions
of
committee

17. A Committee shall make recommendation to the Commission in respect of matters relating to offices of teachers and may perform such other functions as may be assigned to it under this Act.

Transaction
of
business

18. A decision of the Committee shall require the concurrence of a majority of the members thereof, but subject to this provision, a Committee may act notwithstanding the absence of any member or any vacancy in the Committee.

Application
of certain
sections

19. Section 10, 11, 14 and 15 shall apply to a Committee as if in all instances "Committee" were substituted for "Commission" wherever the word appears therein.

Remunera-
tion and
allowances
of
members

20. (1) There shall be paid to members of the Commission such remuneration and allowances as the Minister may, after consultation with the Minister responsible for Finance, determine.

(2) In addition to their salaries and allowances there shall be paid to the members of the Commission such gratuities and allowances and there shall be granted to them such privileges in respect of leave of absence, transfer, transportation, passage and official quarters, as would have been paid or granted to them had they been public officers.

Regulations

21. (1) The Minister may make regulations —

- (a) regulating the manner in which questions shall be referred to the Commission;
- (b) providing for and regulating the conduct of disciplinary proceedings of the Commission;
- (c) providing for the organisation of the work of the Commission and regulating the manner in which it shall exercise its functions; and
- (d) providing for the administration of the teaching service.

(2) Without prejudice to the generality of subsection (1), regulations made under that subsection may,

- (a) prescribe disciplinary penalties and awards;
- (b) provide for consultation by the Commission with persons other than members of the Commission; or
- (c) require persons to attend before the Commission to answer questions relating to the exercise of its functions by the Commission.

(2) Nothing in this section shall restrict the power to issue administrative instructions or orders in relation to the teaching service and teachers.