

ACTS SUPPLEMENT

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Act 15 *Health Service Commission Act* 2001

THE HEALTH SERVICE COMMISSION ACT, 2001.

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THE HEALTH SERVICE COMMISSION ACT, 2001.

An Act to make provision in relation to the Health Service Commission in pursuance of paragraph (d) of clause (1) and clause (5) of article 170 of the Constitution and for other related matters.

DATE OF ASSENT: 13th June, 2001.

Date of commencement: 6th July, 2001.

BE IT ENACTED by Parliament as follows—

PART I—PRELIMINARY.

1. This Act may be cited as the Health Service Commission Act, 2001. Short title.

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

“Chairperson” means the Chairperson of the Commission;

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

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

Inter-
pretation.

“health professional” means any person registered under any of the enactments specified in Part I of the Second Schedule to this Act as any of the categories of professionals specified in Part II of that Schedule;

“health worker” means a health professional, administrative, scientific and support staff employed in the health service, and designated by the Commission in consultation with the Public Service Commission;

“Minister” means the Minister responsible for health;

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

The Health Service.

3. For the purposes of clause (5) of article 170 of the Constitution the public officers who constitute the health service are the following categories of persons employed in the public service—

(a) health professionals;

(b) such administrative, scientific and support staff as may be appointed by the Commission for the efficient administration, management and delivery of health services in Uganda.

PART II—THE HEALTH SERVICE COMMISSION.

Composition of Commission and appointment of Commissioners.

4. (1) The Chairperson, Deputy Chairperson and the five other members of the Commission shall be appointed by the President with the approval of Parliament in accordance with article 169 of the Constitution.

(2) The Chairperson shall be a Senior Medical Practitioner eligible for appointment to the Post of Senior Consultant.

(3) At least three of the members of the Commission, shall be persons who have substantial experience in human health science.

(4) In appointing members of the Commission under article 169 of the Constitution, article 32 shall be taken into account.

(5) A person is not qualified to be a member of the Commission unless he or she is of high moral character and proven integrity.

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

Oath of
Commissioners.

6. (1) A person holding any of the following offices shall relinquish that office on appointment as a member of the Commission—

Commissioners to
relinquish
particular
offices.

(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.

(2) All the members of the Commission shall be full time Commissioners on contract terms.

7. (1) The Chairperson shall be the head of the Commission and shall be responsible for the administration of the Commission and shall monitor and supervise the work of the Secretary and other staff of the Commission.

Chairperson
of
Commission.

(2) The Deputy Chairperson shall deputize for the Chairperson in his or her absence and undertake such other duties as the Chairperson shall assign to him or her from time to time.

Functions of
Commission.

8. (1) The Commission shall have the following functions—

(a) advise the President in performing, in relation to the Health Service, his or her functions under article 172 of the Constitution;

(b) have power to appoint persons to hold or act in any office in the health service, including the power to confirm appointments, to exercise disciplinary control over those persons and to remove them from office;

(c) review the terms and conditions of service, standing orders, training and qualifications of members of the health service and any other matters connected with their management and welfare and make recommendations on them to government;

(d) perform such other functions as may be prescribed by the Constitution, this Act or any other law.

(2) The annual report required by clause (4) of article 170 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 shall be addressed to the Speaker of Parliament and signed by the Chairperson of the Commission; and a copy of it shall be sent to the Minister who shall forward it to the President.

(4) 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 health.

Secretary to
the
Commission.

9. (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 Third 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;

(c) the administration and control of all funds provided to the Commission and shall be the accounting officer in accordance with the Public Finance Act; and

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

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

Other staff
of the
Commission.

(2) The officers and employees referred to in subsection (1) shall be public officers.

(3) Any officer of the Commission, other than the Secretary may be directed by the Commission to take and subscribe the oath specified in Part II of the Third Schedule to this Act.

Meetings
and
decisions of
the
Commission.

11. (1) The Chairperson of the Commission shall preside at all meetings of the Commission and in his or her absence, the Deputy Chairperson shall preside; and in the absence of both of them, a member designated by the President to act as Chairperson under clause (8) of article 169 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) In dealing with matters of discipline including removal from the Service, the Commission shall, subject to article 173 of the Constitution, observe the rules of natural justice and in particular, the Commission shall ensure that an officer against whom disciplinary proceedings are being taken is—

- (a) informed about the particulars of the case against him or her;
- (b) given the right to defend himself or herself and present his or her defence in writing and where necessary appear before a properly constituted meeting of the Commission or at any inquiry set up by the Commission for the purpose;
- (c) where practicable, given the right to engage an advocate of his or her own choice; and

(d) given reasons for the decision of the Commission.

(6) Except as otherwise expressly provided in this section, the Commission may prescribe its own procedure.

12. 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 done in good faith in the performance of those functions.

Immunity of
members
and staff of
the
Commission.

13. (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.

Funds and
expenses of
the
Commission.

(2) Parliament shall ensure that adequate resources and facilities are provided to the Commission to enable it to perform its functions effectively.

(3) The Commission shall be self-accounting and shall deal directly with the Ministry responsible for finance on matters relating to its finances.

(4) The funds of the Commission may, with the approval of the Minister responsible for finance, include grants and donations that may be received by the Commission to enable it to discharge its functions.

14. 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.

Seal of
Commission.

PART III—GENERAL PROVISIONS RELATING TO FUNCTIONS OF THE COMMISSION.

15. Where any function of the President is delegated to the Commission under clause (3) of article 172 of the Constitution, the Commission may perform that function without seeking or acting on the advice of any person.

Performance
of delegated
functions.

Consult-
ation.

16. Before the Commission advises the President to appoint any person to an office in the Health Service in accordance with article 172 of the Constitution, the Commission may, if it considers it expedient, consult the Judicial Service Commission, the Education Service Commission or the Public Service Commission, as the case may be.

Enforcement
of
attendance,
etc.

17. (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.

Failure to
appear or
produce
documents.

18. 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 Health Service, who, without reasonable cause 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.

Attendance
allowance

19. (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.

(3) Notwithstanding anything in this section, the Commission may reimburse any person invited to an interview in connection with his or her application for appointment to the Health Service in respect of his or her travel expenses for that purpose.

(4) Any person aggrieved by a decision of the Commission may appeal.

20. A witness before the Commission shall have the same immunities and privileges as if he or she were a witness before the High Court.

Immunities
of
witnesses.

21. (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 whatsoever, 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.

Improper
influence
and false
information.

(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.

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(3) Any person who, in connection with the performance by the Commission of its functions, wilfully gives 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 twenty currency points or imprisonment not exceeding twelve months or both.

(4) For the purpose 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.

Privilege
of
communic-
ation.

22. Unless the Chairperson consents in writing to the production or disclosure, 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—

(a) the Commission or any member or officer of the Commission and the President, Vice-President, Minister, the Public Service Commission, the Judicial Service Commission, the Education Service Commission or any member or officer of it or a public officer; or

(b) any member or officer of the Commission and the Chairperson; or

(c) any member or officer of the Commission in the exercise of or in connection with the exercise of the functions of the Commission.

Improper
disclosure
of
information.

23. (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, whatsoever 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.

Consent to
prosecution.

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

25. (1) The Commission may, by writing, delegate any of its functions to a District Service Commission or any other authority or officer.

Delegation
of functions
of
Commission.

(2) The Commission shall issue guidelines to be used by District Service Commission under subsection (3) of section 56 of the Local Governments Act, 1997.

(3) The Commission shall render such advice to the districts as may be required regarding personnel management in the district health service.

26. (1) A District Service Commission shall take into account the provisions of section 25 in the performance of its functions in relation to personnel employed in the health service.

District
Service
Commission-
ions.

(2) Each District Service Commission shall submit a report to the Commission on the performance of its functions in relation to the Health Service after every four months and whenever a report is required by the Health Service Commission.

(3) When hearing any disciplinary action against any member of staff in the health services, the District Service Commission shall use guidelines provided by the Health Service Commission.

27. The Commission may, liaise and consult with other Service Commissions established by the Constitution with a view to harmonizing standing orders, regulations and remuneration of public officers.

Consult-
ation with
other
Commis-
sions.

28. The Commission shall from time to time consult with the Minister on matters of policy relating to Health in the carrying out of its functions.

Consult-
ation with
Minister.

PART IV—CODE OF CONDUCT AND ETHICS FOR HEALTH WORKERS.

29. This Part of the Act shall constitute a code of conduct and shall be observed by all health workers.

Code of
conduct.

Responsi-
bility to
patient or
client.

30. (1) A health worker shall hold the health, safety, and interest of the patient or client to be of first consideration and shall render due respect to each patient at all times and in all circumstances.

(2) A health worker shall ensure that no action or omission on his or her part, or within his or her sphere of responsibility, is detrimental to the interest, condition or safety of a patient.

(3) A health worker shall provide a patient or client with relevant, clear and accurate information about his or her health and the management for his or her condition.

(4) Treatment and other forms of medical intervention to a patient who has the capacity to consent shall not be undertaken without the patient's full, free and informed consent, except in emergencies when such intervention may be done in the best interest of the patient; in the case of a minor or other incompetent patients consent shall be obtained from a parent or a relative or guardian.

(5) A health worker shall respect the confidentiality of information relating to a patient and his or her family; such information shall not be disclosed to anyone without the patient's or appropriate guardian's consent except where it is in the best interest of the patient.

(6) A health worker who attends to a person held in detention shall do so in the interest of the detainee, and strict confidentiality must be observed, just as with other patients.

(7) A health worker shall not ask for or accept a bribe.

(8) Maximum care shall be taken not to compromise the confidentiality and interest of a patient when carrying out an examination or supplying a report at the request of an authorised person.

(9) A health worker shall not abandon a patient under his or her care.

31. (1) A health worker shall ensure that no action or omission on his or her part, or within his or her sphere of responsibility is detrimental to the interest, condition or safety of the public.

Responsi-
bility to the
community.

(2) A health worker shall promote the provision of effective health services and shall notify the health and other relevant authorities whenever he or she becomes aware of any hazard to the health of the community.

32. A health worker shall abide by rules and regulations governing the place of work and shall conform with the expectations of the health unit and strive to fulfil the mission of the institution.

Responsi-
bility to
health unit
or place of
work.

33. (1) Subject to subsection (5) of section 30 a health worker shall observe the law, uphold the dignity and honour of his or her profession, and accepted ethical principles.

Responsi-
bility to the
law and
profession.

(2) A health worker shall not engage in activities that bring discredit to his or her profession or the delivery of health services, and shall expose without fear or favour all those engaged in illegal or unethical conduct and practice.

(3) Subject to subsection (5) of section 30 a health worker shall respect the confidentiality of information relating to a patient or client and his or her family; such information shall not be disclosed to anyone without the patient's or appropriate guardian's written consent except where it is required by law.

(4) A health worker shall keep abreast of professional knowledge in order to maintain a high standard of professional competence through continuing professional education proof of which education shall be given by a method that the Commission shall from time to time prescribe.

(5) A health worker shall not directly or indirectly advertise his or her professional skills or allow himself or herself to be advertised directly or indirectly and shall not entice patients from his or her colleagues; except that a health worker shall notify the public of the services available in health facilities.

(6) A health worker shall not perform his or her duties under the influence of alcohol.

(7) A health worker shall not indulge in dangerous life styles such as alcoholism, drug addiction or such other behaviour that can bring his or her personality or the health profession into disrepute.

(8) A health worker shall not support or become associated with occult or unscientific practices professing to contribute to health care.

(9) A health worker shall be registered with his or her relevant professional council and may be a member of the national association.

Responsi-
bility to
colleagues.

34. A health worker shall co-operate with his or her professional colleagues, recognize and respect each other's expertise in the interest of providing the best possible holistic care.

Responsi-
bility in
research.

35. A health worker shall not participate in health research that does not conform with national and internationally accepted guidelines.

PART V—MISCELLANEOUS.

Regulations.

36. The Commission may, by statutory instrument, make regulations—

(a) providing for the organisation and work of the Commission;

(b) providing for consultation by the Commission with other persons other than members of the Commission;

(c) prescribing anything necessary for the better carrying into effect of the provisions of this Act.

37. (1) The Commission shall make standing orders providing for the administration and conduct, and the terms and conditions of service in the health service.

Standing
Orders.

(2) Until the Commission makes standing orders under this section standing orders in force in the Public Service immediately before the commencement of this Act, shall, with the necessary modifications, continue to apply to the health service.

38. (1) Subject to the provisions of this section, any person employed in the service of the Ministry of Health immediately before the commencement of this Act shall continue in service as a member of the health service on terms not less favourable than before.

Saving and
transitional.

(2) Persons employed in the service of the Ministry of Health 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 health service.

(3) 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.

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

Minister to
amend
Schedules.

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FIRST SCHEDULE.

SECTIONS 2, 17 AND 21

CURRENCY POINT.

A currency point represents twenty thousand Uganda shillings.

SECOND SCHEDULE

SECTIONS 2, 3.

ACTS UNDER WHICH HEALTH PROFESSIONALS ARE
REGISTERED.

PART I

1. The Medical and Dental Practitioners Statute, 1996;
2. The Allied Health Professionals Statute, 1996;
3. The Nurses and Midwives Statute, 1996; and
4. The Pharmacy and Drugs Act, 1970.

PART II

SECTIONS 2, 3.

HEALTH PROFESSIONALS.

1. Medical Doctors and Dental Surgeons;
2. Pharmacists;
3. Nurses and Midwives;
4. Allied Health Professionals—
 - (a) Anaesthetic officers;
 - (b) Assistant vector control officers;
 - (c) Clinical officers (Medical Assistants);
 - (d) Dental Technicians;
 - (e) Public Dental Health Assistants (officers);
 - (f) Dispensers;
 - (g) Laboratory Technologists and Technicians;
 - (h) Orthopaedic Assistants (Officers);
 - (i) Occupational Therapists;
 - (j) Ophthalmic Clinical officers;
 - (k) Physiotherapists;
 - (l) Psychiatric Clinical officers;
 - (m) Radiographers;
 - (n) Health Inspectors and Assistants;
 - (o) Orthopaedic Technologists and Technicians.

THIRD SCHEDULE.

SECTION 5.

PART I

OATH OF MEMBER OF HEALTH SERVICE COMMISSION.

I being appointed Chairperson/Member of the Health Service Commission swear in the name of the Almighty God/Solemnly affirm that I will well and truly exercise the function of Chairperson/Member of the Health 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.

I being appointed Secretary to/Officer of the Commission/being called upon to perform the functions of Secretary/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).