

ACTS
SUPPLEMENT No. 9

7th November, 2003.

ACTS SUPPLEMENT

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Act 18 *Local Government Finance 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. This Act may be cited as the Local Government Finance Commission Act, 2003. Short title.

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

“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 sub-sections (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. (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 re-appointment 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;

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(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. 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.

Commission
to be a body
corporate.

5. (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.

Oath of
Members.

(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.

Removal of
member of
Commission.

6. (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) failure to attend three consecutive ordinary meetings without valid reasons acceptable to the Commission;
- (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. (1) The members of the Commission shall elect from among themselves, a Chairperson and Vice-Chairperson.

Chairperson
and vice-
Chairperson
of the
Commission.

(2) 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.

(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.

Emoluments
and status
of
Members.

8. (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.

PART III—FUNCTIONS OF THE COMMISSION.

Functions of
the
Commission.

9. 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) analyse the annual budgets of Local Governments to establish compliance with the legal requirements and notify the Councils concerned and the President through the Minister for appropriate action;
- (g) recommend to the President through the Minister, the percentage of the National Budget to be transferred to Local Governments every financial year;

(h) recommend to the President central government taxes that can be collected by local governments in their respective jurisdictions on an agency basis;

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

10. The Commission shall perform its functions and exercise its powers in a manner that—

Exercise of powers and functions.

(a) is open and objective;

(b) is fair and reasonable;

(c) is non-discriminatory; and

(d) promotes good governance and economic development.

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

Committees of the Commission.

(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 such powers or perform such duties of the Commission as the Commission may determine.

(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.

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Proceedings
of
Commission.

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

(2) Where on any matter consensus cannot be obtained, the matter shall be decided by a majority of votes of the members present and in case of an equality of votes, the person presiding shall have a casting vote in addition to his or her deliberative vote.

(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.

The
Secretariat.

13. (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.

Secretary of
the
Commission.

14. (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 be a person of high moral character and proven integrity, possessing the relevant qualifications.

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

Other
officers and
employees
of the
Commission.

(2) The officers and employees referred to in subsection (1) shall be appointed by the Commission acting in consultation with the Public Service Commission, and shall hold office upon such terms and conditions as shall be determined by the Commission in consultation with the Public Service Commission.

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

Financial
year.

17. (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.

Funds of the
Commission.

(2) All monies 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

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- (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
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Other officers and employees of the Commission.

(2) The officers and employees referred to in subsection (1) shall be appointed by the Commission acting in consultation with the Public Service Commission, and shall hold office upon such terms and conditions as shall be determined by the Commission in consultation with the Public Service Commission.

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Funds of the Commission.

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(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. (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.

Meetings of
Commission.

(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. 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.

Enforcement
of
attendance.

Failure to
appear or
produce
documents.

23. A person who is notified to appear before the Commission who, without reasonable cause fails to do so, or who willfully fails to produce any document in his or her possession when required to do so by the Commission, commits an offence and is liable on conviction, to a fine not exceeding fifty currency points or imprisonment not exceeding six months or both.

Validity of
proceedings
not affected
by vacancy.

24. 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.

Report of
the
Commission.

25. (1) The Commission shall submit to Parliament at least once every twelve months a report on the performance of its functions making such recommendations as it considers necessary and containing such information as Parliament may require.

(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.

Immunity of
members
and staff of
the
Commission.

26. 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.

Regulations.

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

Minister's power to amend First Schedule.

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

Consequential repeal of existing provisions in Local Governments Act, 1997.

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FIRST SCHEDULE.

S. 2, 28

CURRENCY POINT.

A currency point is equivalent to twenty thousand shillings.

SECOND SCHEDULE.

OATHS

Ss. 5, 13.

PART I A

OATH OF MEMBER

I, being appointed Member of the Local Government Finance Commission swear in the name of the Almighty God/Solemnly affirm that I will well and truly exercise the functions of Member of the Local Government Finance 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).

.....
Signature of Declarant.

Sworn before me at thisday.....

.....
Signature of Person authorised to administer Oath.
(Judge of the High Court, Magistrate, Commissioner for Oaths)

PART I B

OATH OF CHAIRPERSON

I, being appointed Chairperson/Vice-chairperson of the Local Government Finance Commission swear in the name of the Almighty God/Solemnly affirm that I will well and truly exercise the functions of Chairperson/Vice-chairperson of the Local Government Finance 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).

.....
Signature of Declarant.

Sworn before me at thisday.....

.....
Signature of Person authorised to administer Oath.
(Judge of the High Court, Magistrate, Commissioner for Oaths)

PART II

OATH OF SECRETARY/OFFICER OF COMMISSION

I,being appointed Secretary to/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 documents, commission or information whatsoever which may come to my knowledge in the course of my duties as such (so help me God).

.....
Signature of Declarant

Sworn before me atthis.....day of

.....
Signature of Person authorised to administer Oath.

PART III

OATH OF SECRECY

I, swear that I will not directly or indirectly communicate or reveal any matter to any person which shall be brought under my consideration or shall come to my knowledge in the discharge of my official duties except as may be required for the discharge of official duties or as may be specially permitted by the Commission.

.....
Signature of Declarant

Sworn before me atthis.....day of

.....
Signature of Person authorised to administer Oath.