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THE PUBLIC SERVICE COMMISSION ACT, 2012

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THE PUBLIC SERVICE COMMISSION ACT, 2012

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THE PUBLIC SERVICE COMMISSION ACT, 2012

No. 13 of 2012

An Act of Parliament to make further provisions as to the functions and powers, and the administration of the Public Service Commission established under Article 233 of the Constitution; the qualifications and procedures for the appointment of the chairperson, members and secretary of the Commission, and for connected purposes

ENACTED by the Parliament of Kenya, as follows—

PART I—PRELIMINARY

Short title.

1. This Act may be cited as the Public Service Commission Act, 2012.

Interpretation.

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

"Cabinet Secretary" means a Cabinet Secretary responsible for matters relating to the Public Service;

"chairperson" means the chairperson of the Commission appointed in accordance with Article 233(2) of the Constitution;

"Commission" means the Public Service Commission established under Article 233 of the Constitution;

"member" means a member of the Commission appointed in accordance with Article 233 (2) and includes the chairperson and vice-chairperson;

"Secretary" means the Secretary to the Commission appointed in accordance with Article 233(6) of the Constitution and the procedure set out in section 16 of this Act;

"vice-chairperson" means the vice-chairperson of the Commission appointed under Article 233(2) of the Constitution.

(2) Notwithstanding the provisions of subsection (1), until after the first general elections under the Constitution, references in this Act—

(a) to a Cabinet Secretary shall be construed to mean Minister;

and

- (b) to a Principal Secretary shall be construed to mean Permanent Secretary.

Objects and purpose of the Act.

3. The object and purpose of this Act is to—

- (a) constitute the Commission in accordance with the Constitution and provide for its structure, operations, functions and powers; and
- (b) provide a legal framework for the identification and appointment of the chairperson, members and secretary of the Commission in accordance with Article 233(6) of the Constitution.

Guiding principles.

4. The Commission shall, in fulfilling its mandate be guided by the national values and principles of governance in Article 10 and the values and principles of public service in Article 232 of the Constitution.

PART II—COMPOSITION AND ADMINISTRATION

Powers of the Commission as a body corporate.

5. (1) In addition to the powers of the Commission under Article 253 of the Constitution, the Commission shall have the power to—

- (a) acquire, hold, charge and dispose of movable and immovable property; and
- (b) do or perform all such other things or acts for the proper discharge of its functions under the Constitution, this Act and any written law, as may lawfully be done or performed by a body corporate.

(2) The headquarters of the Commission shall be in Nairobi, but the Commission may establish offices at any place in Kenya.

Composition and appointment of the Commission.

6. (1) As provided for under Article 233 (2) of the Constitution, the Commission shall consist of a chairperson, vice-chairperson and seven other members appointed in accordance with Article 233 (2) of the Constitution and the provisions of this Act.

(2) The procedure set out in the First schedule shall apply to the appointment of the Commission and with necessary modifications whenever there is a vacancy in the Commission.

(3) The members of the Commission shall serve on a full-time basis.

(4) The Commission shall be properly constituted notwithstanding a vacancy in its membership.

Qualifications for appointment as chairperson or member.

7. (1) A person shall be qualified for appointment as the chairperson or vice-chairperson of the Commission if that person—

- (a) is a citizen of Kenya;
- (b) holds a degree from a university recognized in Kenya;
- (c) has at least fifteen years experience in their respective profession;
- (d) has at least six years experience in top level management in either the public or private sector; and
- (e) meets the requirements of leadership and integrity in Chapter Six of the Constitution.

(2) A person shall be qualified for appointment as a member if such person—

- (a) is a citizen of Kenya;
- (b) holds a degree from a university recognized in Kenya;
- (c) has at least ten years experience in their respective profession; and
- (d) meets the requirements of leadership and integrity in Chapter Six of the Constitution.

Oath or affirmation of office.

8. The chairperson, vice-chairperson and members shall, before assuming office, take and subscribe to the oath or affirmation of office prescribed in the Second Schedule.

Vacancy.

9. (1) The office of the chairperson, vice-chairperson or member of the Commission shall become vacant if the holder—

- (a) dies;

(b) by a notice, in writing, addressed to the President resigns from office;

(c) is removed in accordance with Article 251 of the Constitution.

(2) The President shall as soon as practicable notify every resignation, vacancy or removal as the case may be in the Gazette.

Filling of vacancy.

10. (1) Where a vacancy occurs in the office of the chairperson, vice-chairperson or member of the Commission in accordance with section 9, the appointment procedure provided for in the Constitution and this Act, shall apply.

(2) The chairperson, vice-chairperson and members of the Commission shall be appointed for a single term of six years and are not eligible for re-appointment.

Functions of the Commission.

11. In addition to the functions set out in Article 234 of the Constitution, the Commission shall—

(a) formulate policies necessary for the achievement of its mandate;

(b) provide strategic direction, leadership and oversight to the secretariat; and

(c) do all such other things as may be necessary for the effective, discharge of its functions and the exercise of its powers.

Powers of the Commission.

12. The Commission shall have all powers necessary for the execution of its functions under the Constitution and this Act and in the performance of its functions and exercise of its powers, the Commission—

(a) may require any person or state organ to provide to it any information that may be necessary for the proper performance of its functions;

(b) is not bound by the strict rules of evidence.

Committees of the Commission.

13. (1) The Commission may from time to time establish such committees as may be necessary for the better carrying out of its functions and the exercise of its powers.

(2) In addition to the committees established under subsection (1), the Commission shall, in order to perform the functions conferred on it by Article 234 (2)(g) of the Constitution, establish a consultative committee on the conditions of service of officers in the public service.

(3) Without prejudice to the generality of subsection (1) such committees may deal with matters relating to the recruitment, promotion, terms and conditions of service, discipline of public officers and such other matters as the Commission may specify.

(4) The Commission may co-opt into the membership of any of the committees established under subsection (1) any person or persons whose knowledge and skills are necessary for the proper performance of the functions of the Commission.

(5) A person co-opted under subsection (3) shall have no right to vote at any meeting of the committee.

Units of the Commission.

14. (1) The Commission may create within itself such directorates, divisions or units and appoint thereto such staff as it may determine.

(2) Every directorate, division or unit created by the Commission shall act in accordance with the mandate approved by the Commission and directives given by the Secretary, in writing.

(3) The Commission may do such other things as may be necessary to give effect to the provisions of Article 234(5) of the Constitution.

Conduct of business and affairs of the Commission.

15. (1) The conduct and regulation of the business and affairs of the Commission shall be as provided for in the Third Schedule but subject thereto, the Commission may regulate its own procedure.

(2) The Commission may invite any person to attend any of its meetings and to participate in its deliberations, but such a person shall not have a vote in any decision of the Commission.

Secretary to the Commission.

16. (1) The Commission shall, through an open, transparent and competitive recruitment process, appoint a suitably qualified person to be the Secretary to the Commission.

(2) A person shall be qualified for appointment as the Secretary if

that person—

- (a) is a citizen of Kenya;
- (b) holds a degree from a university recognized in Kenya;
- (c) has at least ten years relevant professional experience;
- (d) has at least five years experience in a leadership position at senior management level in a Public Service or Private Sector organization; and
- (e) meets the requirements of leadership and integrity as prescribed in Chapter Six of the Constitution.

(3) The secretary appointed under subsection (1) shall be a state officer.

(4) The secretary shall, before assuming office, take and subscribe to the oath or affirmation of office prescribed in the Fourth Schedule.

(5) The secretary shall hold office for a term of five years but shall be eligible for re-appointment for one further term of five years.

(6) The secretary shall, in the performance of the functions and duties of office, be accountable to the Commission.

(7) The secretary shall be—

- (a) the chief executive officer of the Commission;
- (b) head of the secretariat;
- (c) the accounting officer of the Commission;
- (d) custodian of the commission's records;
- (e) responsible for—
 - (i) the execution of the decisions of the Commission;
 - (ii) assignment of duties and supervision of the staff of the Commission;
 - (iii) facilitating, co-coordinating and ensuring the execution of Commission's mandate;

- (iv) the preparation and submission of the programmes necessary for the achievement of the Commission's mandate for approval by the Commission;
- (v) ensuring staff compliance with public service values, principles and ethics; and
- (vi) the performance of such other duties as may be assigned by the Commission or any other written law.

(8) The secretary may only be removed from office by the Commission on grounds of—

- (a) inability to perform functions of the office arising out of physical or mental infirmity;
- (b) incompetence;
- (c) gross misconduct;
- (d) bankruptcy;
- (e) violation of the Constitution; and
- (f) any other ground that would justify removal from office under the terms and conditions of service.

(9) Before removal under subsection (8), the Secretary shall be—

- (a) informed in writing of the reasons for the intended removal; and
- (b) given an opportunity to put a defence against any such allegations, either in person or through a representative.

(10) Where the Commission does not intend to reappoint the secretary after the first term, the Commission shall notify the secretary and shall cause the vacancy to be advertised at least three months before the expiry of the incumbent's term.

The secretariat and staff of the Commission.

17. (1) There shall be a secretariat of the Commission which shall be headed by the Secretary.

(2) The secretariat shall comprise of—

- (a) such professional, technical and administrative officers and support staff, as may be appointed by the Commission; and

(b) such public officers as may be seconded to the Commission upon its request.

(3) The staff of the Commission may be appointed, subject to its approved establishment.

(4) The Commission shall ensure that in the appointment of its staff, not more than two thirds shall be of the same gender taking into account—

(a) persons with disabilities; and

(b) regional and ethnic diversity of the people of Kenya.

Seal of the Commission.

18. (1) The seal of the Commission shall be such device as may be determined by the Commission and shall be kept by the secretary.

(2) The affixing of the seal shall be authenticated by the chairperson and the secretary or any other person authorized in that behalf by a resolution of the Commission.

(3) Any document purporting to be under the seal of the Commission or issued on behalf of the Commission shall be received in evidence and shall be deemed to be so executed or issued, as the case may be, without further proof, unless the contrary is proved.

Legal proceedings against the Commission.

19. (1) Proceedings against the Commission shall be deemed to be proceedings against the Government and shall be subject to the law relating to Government Proceedings.

(2) Any notice or other processes in respect of legal proceedings under subsection (1) shall be served upon the Secretary to the Commission.

Protection from personal liability.

20. (1) Nothing done by a member of the Commission or by any officer, member of staff or agent of the Commission shall, if done in good faith for the purpose of executing the powers, functions or duties of the Commission under the Constitution or this Act, render such member, officer, member of staff or agent personally liable for any action, claim or demand.

(2) The provisions of subsection (1) shall not relieve the Commission of the liability to pay Compensation or damages to any person for an injury suffered by them, their property, or any of their

interests arising directly or indirectly from the exercise of any power conferred by this Act or by the failure, whether wholly or partially, or from any works.

Code of conduct.

21. The members and the employees of the Commission shall subscribe to such code of conduct as the Commission may, by regulations, prescribe.

PART III—FINANCIAL PROVISIONS

Funds of the Commission.

22. The funds of the Commission shall, subject to the law relating to Public Finance Management, consist of—

- (a) monies allocated by Parliament for purposes of the Commission;
- (b) any grants, gifts, donations or other endowments given to the Commission;
- (c) such funds as may vest in or accrue to the Commission in the performance of its functions under this Act or under any other written law.

Expenses of the Commission to be a charge on the Consolidated Fund.

23. The administrative and other expenses of the Commission, including the salaries, allowances, gratuities and pensions of the members of the Commission shall be a charge on the Consolidated Fund.

Remuneration and allowances.

24. (1) The members of the Commission shall be paid such remuneration or allowances as the Salaries and Remuneration Commission shall determine.

(2) The employees of the Commission shall be paid such remuneration and allowances as the Salaries and Remuneration Commission may advise.

Annual estimates.

25. (1) Before the commencement of each financial year, the secretary with the approval of the Commission shall cause to be prepared estimates of the revenue and expenditure of the Commission for that year.

(2) The Cabinet Secretary responsible for finance shall present the estimates approved by the Commission for consideration and approval by the National Assembly.

Financial year.

26. The financial year of the Commission shall be the period of twelve months ending on the thirtieth June in each year.

Accounts and audit.

27. (1) The Commission shall cause to be kept all proper books and records of account of the income, expenditure and assets of the Commission.

(2) Within a period of three months after the end of each financial year, the Commission shall submit to the Auditor-General, the accounts of the Commission together with—

- (a) a statement of the income and expenditure of the Commission during that year; and
- (b) a statement of the assets and liabilities of the Commission on the last day of that year.

(3) All accounts kept under this Act shall be audited by the Auditor-General at least once in every financial year.

(4) The Commission shall be entitled, upon application to the Cabinet Secretary responsible for finance, to exemption from duty chargeable under the Stamp Duty Act, Cap. 480 in respect of any instrument executed by or on behalf of, or in favour of the Commission which, but for this section, the Commission would be liable to pay.

(5) The Commission may establish, control, manage, maintain and contribute to pension and provident funds for the benefit of the members and employees of the Commission and may grant pensions and gratuities from any such fund to the said officers upon their resignation, retirement or separation from the service of the Commission or, as the case may be, to the dependants of any such officer upon such officer's death.

Annual report.

28. (1) Every December after the end of each financial year, the Commission shall present its annual report to the President and submit the same to Parliament.

(2) The annual report shall in respect of the year to which it relates, contain—

- (a) the financial statements of the Commission;
- (b) the activities the Commission has undertaken;
- (c) an evaluation on the extent to which the values and principles referred to in Articles 10 and 232 of the Constitution are complied with in the public service; and
- (d) any other information that the Commission may consider relevant, including a summary of the nature of appeals dealt with pursuant to Article 234 of the Constitution.

(3) The Commission shall publish the annual report in the Gazette and in at least one newspaper of national circulation.

PART IV— MISCELLANEOUS, SAVINGS AND TRANSITIONAL PROVISIONS

Management of information.

29. (1) The Commission shall publish and publicize all important information within its mandate affecting the nation.

(2) A request for information by a citizen, in the public interest—

- (a) shall be addressed to the secretary or such other person as the Commission may for that purpose designate and may be subject to the payment of a reasonable fee in instances where the Commission shall incur an expense in providing the information; and
- (b) may be subject to confidentiality requirements of the Commission.

(3) Subject to the provision of Article 35 of the Constitution and to the law relating to Data Protection and Freedom of Information, the Commission may decline to give information to an applicant where —

- (a) the request is unreasonable in the circumstances;
- (b) the information requested is at a deliberative stage by the Commission;
- (c) failure of payment of the prescribed fee; or
- (d) the applicant fails to satisfy any confidentiality requirements by the Commission.

(4) The right of access to information under Article 35 of the Constitution shall be limited to the nature and extent specified under this section.

(5) Every member and employee of the Commission shall sign a confidentiality agreement.

Offences.

30. (1) Without prejudice to any other law, no member or officer of the Commission nor any other person shall publish or disclose to any unauthorized 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 has come to his or her knowledge in the course of his or her duties under this Act or under any regulation made there under.

(2) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding two years, or to both such fine and such imprisonment.

(3) Without prejudice to any other law, any person who discloses or publishes any information other than in accordance with Article 35 of the Constitution and the law relating to data protection and freedom of information commits an offence and shall be liable, on conviction, to a fine not exceeding one hundred thousand or imprisonment for a term not exceeding two years:

Provided that no person shall be guilty of an offence if the disclosure relates to acts or conduct of any person that constitute a crime under any law.

(4) Without prejudice to any other law, any person who, in connection with an application by himself or any other person for employment or appointment, promotion or transfer in the service of the Government, or in connection with any matter upon which it is the duty of a Commission to require information or evidence, or into which it is the duty of the Commission to inquire, willfully gives to a Commission or to any member thereof any information which is false or misleading in any particular material commits an offence and is liable, on conviction, to a fine not exceeding two hundred thousand or to imprisonment for a term not exceeding two years, or to both such fine and such imprisonment.

Regulations.

31. (1) The Commission may make regulations for the better carrying out of its functions under the Constitution, this Act and any other national legislation.

(2) Without prejudice to the generality of subsection (1), such regulations may provide for—

- (a) the establishment and abolition of offices in the public service;
- (b) the appointment, including the power to confirm appointments of persons, promotions, and deployment to any office in respect of which the Commission is responsible under this Act;
- (c) the disciplinary control of persons holding or acting in any office in respect of which the Commission is responsible under this Act;
- (d) promotion of values and principles of governance in the public service;
- (e) the investigation, monitoring and evaluation of the organization, administration and personnel practices of the public service;
- (f) promotion of efficiency and effectiveness in the public service;
- (g) the review of conditions of service, code of conduct and qualifications of officers in the public service;
- (h) the hearing and determination of appeals in respect of county governments' public service;
- (i) the termination of appointments and the removal of persons from any office, in respect of which the Commission is responsible under this Act;
- (j) the practice and procedure of the Commission in the exercise of its functions under this Act;
- (k) the delegation of the Commission's functions or powers; and
- (l) any other matter required under the Constitution, this Act or any other written law.

(3) The power to make regulations conferred to the Commission under this Act shall be—

- (a) for the objective and purpose of giving effect to the Constitution and this Act;

- (b) limited to the nature and scope specifically stipulated in the Constitution and this Act; and
- (c) based on the general principles and standards contained in the Constitution and this Act.

Transition.

32. (1) The members of the Public Service Commission existing immediately before the commencement of this Act shall continue in office for the unexpired period of the term of the member.

(2) A person who immediately before the commencement of this Act was an officer of the Public Service Commission existing immediately before the commencement of this Act, may, subject to the provisions of the Constitution, this Act and any other relevant law, be an officer of the Commission.

(3) Any disciplinary proceedings that are pending before the Public Service Commission before the commencement of this Act shall be continued as if the Commission was the Commission existing before the effective date of the Constitution.

Transfer of assets etc.

33. (1) All property, assets, rights, liabilities, obligations, agreements and other arrangements existing at the commencement of this Act and vested in, acquired, incurred or entered into by or on behalf of the Public Service Commission existing immediately before the commencement of this Act, shall upon the commencement of this Act subject to the law relating to Transition to Devolved government, be deemed to have vested in or to have been acquired, incurred or entered into by or on behalf of the Commission to the same extent as they were enforceable by or against either of the former Commissions before the commencement of the Act.

(2) Where the transfer of any property transferred to or vested in the Commission under subsection (1) is required by any written law to be registered, the Commission shall, within three months from the commencement of this Act or within such other period as the written law may prescribe, apply to the appropriate registering authority for the registration of the transfer and thereupon the registering authority shall, at no cost to the Commission or any person by way of registration fees, stamp or other duties—

- (a) make such entries in the appropriate register as shall give effect to the transfer;
- (b) where appropriate, issue to the Commission a certificate of title

or other statutory evidence of ownership of the property or make such amendments on such certificates or in the appropriate register as may be necessary; and

- (c) make any necessary endorsements on such deeds or other documents as may be presented to such registering authority relating to the title, right or obligation concerned.

Repeal of Cap. 185.

- 34.** The Service Commissions Act Cap.185 is repealed.

FIRST SCHEDULE

(s. 6(2))

PROCEDURE FOR APPOINTMENT OF CHAIRPERSON AND MEMBERS OF THE COMMISSION**Selection Panel.**

1. (1) Within fourteen days of the commencement of this Act, and whenever a vacancy arises, the President shall by notice in the Gazette declare vacancies in the Commission and constitute a selection panel comprising seven professionals drawn, through an open and competitive process, from the public and private sector.

(2) The panel shall elect a chairperson from amongst its number.

(3) Subject to the provisions of this Schedule, the panel shall determine its own procedure.

(4) The Office of the Secretary to the Cabinet shall provide facilities and any support required by the panel in the performance of its functions.

Oath or affirmation of office.

2. The chairperson and members of the panel shall, before assuming office, take and subscribe the oath or affirmation of office prescribed in the Third Schedule.

Selection of nominees.

3. (1) The panel shall, within fourteen days of appointment, invite applications from qualified persons and publish the names of all applicants and their qualifications in the Gazette, at least two newspapers with nationwide circulation and on the Commission's website.

(2) The panel shall consider the applications, shortlist and interview the applicants.

(3) After carrying out the interviews, the panel shall—

- (a) select three persons qualified to be appointed as chairperson;
- (b) select three persons qualified to be appointed as vice-chairperson; and
- (c) at least three persons qualified to be appointed as members of the Commission for each vacancy; and
- (d) forward the names of the persons selected under paragraphs

(a), (b) and (c) to the President for nomination as the chairperson, vice-chairperson or member respectively or as the case may be.

(4) The President shall within fourteen days forward the names of nominees to the National Assembly for vetting and approval.

(5) In nominating or appointing persons as members of the Commission, the panel and the President shall—

(a) observe the principle of gender equity, ethnic and other diversities of the people of Kenya, and shall ensure equality of opportunity for persons with disabilities; and

(b) take into account the national values and principles set out in Articles 10 and 232 of the Constitution.

Approval by the National Assembly.

4. (1) The National Assembly shall within fourteen days of its sitting, consider all nominations received and approve or reject any of them.

(2) Upon approval by the National Assembly, the Speaker shall within seven days of the approval, forward the names of the approved persons to the President for appointment.

Rejection by National Assembly.

5. (1) Where the National Assembly rejects any nomination pursuant to paragraph 4(1), the Speaker shall, as soon as practically possible, notify the President of the rejection.

(2) The President shall within fourteen days of the rejection, submit to the National Assembly a fresh nomination from amongst the list of nominees received from the panel under paragraph 3(3).

(3) If the National Assembly rejects all or any subsequent nominee submitted under sub-paragraph (2), the panel shall forward to the President fresh names from the persons shortlisted and interviewed under paragraph 3(2) and the provisions of paragraphs 3(4), 4 and 5 shall with necessary modifications, apply.

Appointment of chairperson, vice-chairperson and members.

6. (1) The President shall by notice in the Gazette, appoint the chairperson, vice-chairperson and the members approved and forwarded by the National Assembly within seven days upon receipt of the approved names.

(2) Until after the first general election under the Constitution, the President shall in appointing the panel and nominating persons for appointment as chairperson, vice- chairperson or member of the Commission, act in consultation with the Prime Minister.

Dissolution of panel.

7. (1) The panel shall stand dissolved upon the appointments under paragraph 6.

(2) Where the provisions of paragraph 5 apply, the panel shall continue to exist but shall stand dissolved upon the requisite appointments being made under paragraph 6.

8. Despite the foregoing provisions of this Schedule, the President may, by notice in the Gazette, extend the period specified in respect of any matter under this section by a period not exceeding twenty-one days.

SECOND SCHEDULE

(s. 8)

OATH OR SOLEMN AFFIRMATION OF CHAIRPERSON/VICE-CHAIRPERSON/ MEMBER OF THE COMMISSION

I
having been appointed as (Chairperson/Vice-Chairperson/Member) of the Public Service Commission, do swear/solemnly affirm that I will without fear or favour, affection or ill-will, discharge the functions of the office of (Chairperson/Vice-Chairperson/Member) of the Commission, and that I will not, directly or indirectly, reveal any matter relating to such functions to unauthorized persons or otherwise than in the course of duty.

So help me God.

Signed

.....

Sworn/Declared before me this day of 20

.....

Chief Justice

THIRD SCHEDULE

(s.15)

PROVISIONS AS TO THE CONDUCT OF THE BUSINESS AND AFFAIRS OF THE COMMISSION

1. The Commission shall meet in plenary as often as may be necessary for the carrying but of its business but it shall meet at least once every calendar month.

2. A meeting of the Commission shall be held on such date and at such time as the chairperson shall decide.

3. The chairperson shall, on the written application of one- third of the members, convene a special meeting of the Commission.

4. Unless the majority of the total membership of the Commission otherwise agree, at least fourteen days' written notice of every meeting of the Commission shall be given to every member of the Commission.

5. The quorum for the conduct of business at a meeting of the Commission shall be at least five members of the Commission.

6. The chairperson shall preside at every meeting of the Commission and in the absence of the chairperson at a meeting, the vice-chairperson shall preside and in the absence of both the chairperson and the vice-chairperson, the members present shall elect one of their number to preside and who shall, with respect to that meeting and the business transacted thereat, have all the powers of the chairperson.

7. Unless a unanimous decision is reached, a decision on any matter before the Commission shall be by concurrence of a majority of all the members.

8. Subject to paragraph 5, no proceedings of the Commission shall be invalid by reason only of a vacancy among the members thereof.

9. The secretary shall be the secretary at all meetings of the Commission.

10. The Commission shall cause minutes of all proceedings of meetings of the Commission to be entered in books for that purpose.

11. Except as provided by this Schedule, the Commission may regulate its own procedure.

12. (1) If any person is present at a meeting of the Commission or any committee at which any matter is the subject of consideration and in which matter that person or that directly or indirectly interested in a private capacity, that person shall as soon as is practicable after the commencement of the meeting, declare such interest and shall not, unless the Commission or committee otherwise directs, take part in any consideration or discussion of, or vote on any question touching such matter.

(2) A disclosure of interest made under subsection (1) shall be recorded in the minutes of the meeting at which it is made.

(3) A person who contravenes subsection (1) commits an offence and upon conviction is liable to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding seven years or to both such fine and imprisonment.

(4) A member or employee of the Commission shall not transact any business or trade with the Commission.

FOURTH SCHEDULE (s. 16)(3)

OATH OR SOLEMN AFFIRMATION OF A SECRETARY OF THE COMMISSION

I being called upon to exercise the functions of Secretary of the Public Service Commission, do swear/solemnly affirm that I will not, directly or indirectly, reveal to any unauthorized 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 an officer of the Commission.

So help me God.

Signed
.....

Sworn/Declared before me this day of 20

.....
Chief Justice

