



REPUBLIC OF THE GAMBIA

PUBLIC SERVICE ACT, 1991

Public Service Act, 1991.

PUBLIC SERVICE ACT, 1991

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THE GAMBIA

NO. 16 OF 1991.

**Assented to by The President,
this Eighth day of November, 1991.**



**D. K. Jawara,
*President.***

AN ACT to make provision for matters
relating to the Public Service.

(25th November, 1991)

ENACTED by the Parliament of The Gambia.

Enactment

PART - I PRELIMINARY

1. This Act may be cited as the Public
Service Act 1991.

Short Title

No.)

(1991.

Inter-
pretation.

Public Service Act, 1991

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

“appointing authority” means the Commission or any of its members or other public officer to whom the Commission has delegated any of its powers under section 111 of the Constitution;

“appointment” means the conferment of an offer of emolument in the public service whether or not subject to subsequent confirmation upon a person not in the public service; the grant of permanent and pensionable terms of service in a public office to a person serving on contract in a pensionable or non-pensionable public office; the engagement in a public office of a person on contract on the conclusion of his previous period of engagement on contract in the same or another public office; the paid appointment of a public officer to act in any public office other than the office to which he is substantively appointed; the engagement of a person on a temporary appointment;

“Commission” means the Public Service Commission established under section 110 of the Constitution;

“contract” means an appointment for a specified period at the end of which the person appointed shall be entitled to a gratuity;

“Minister” means the Minister for the time being responsible for this Act;

“organisation” means a public enterprise, local authority or other undertaking which has been approved by the Commission for the purposed of this Act;

“permanent appointment” means an appointment which entitles the person appointed to a pension;

“Permanent Secretary” means a Permanent Secretary of any Ministry appointed by the President under Section 114 of the Constitution;

“Permanent Secretary, Personnel” means the Permanent Secretary of the Personnel Management Office in the Office of the President;

“posting” means the movement of an officer within a department or between departments without any alteration of salary’ grade or status;

“President” means the President of the Republic of The Gambia;

“Promotion” and “promoted” means the advancement of the public officer to a public office to which is attached a higher salary or higher salary grade than that attached to the public office to which he was last substantively appointed;

“public office” means any office or emolument in the public service;

“public officer” means a person holding or acting in any public office;

“public service” means, subject to the provisions of section 133 of the Constitution, the civil service of the Government of The Gambia;

“salary” means basic salary;

“Scheme of service” means the qualifications and levels of experience required for entry into and employment in a public office for which a scheme of service has been approved by the Commission and is applied,

Public Service Act, 1991

“Secretary General” means the Secretary General appointed by the President under section 44 of the Constitution;

“Senior Management Cadre” means an officer holding a post in grade 10 and above;

‘temporary appointment’ means an appointment which does not entitle the person appointed to a pension;

‘transfer’ means an arrangement whereby an officer moves on a permanent basis to other employment either within the Government or with an organisation, approved by Government and there is no foreseeable intention that he will return to employment in the Ministry or Department in which he was employed prior to the move taking place.

PART – II MANAGEMENT AND ADMINISTRATION
OF THE PUBLIC SERVICE

General supervision of the Public Service.

3. (1) The exercise of any powers or the discharge of any duties under this Act shall be subject to the general directions of the President.

(2) Subject to sub-section (1), the Minister shall be responsible for the general supervision of the public service, including the management and training policies of the service.

The Secretary General.

4. (1) The Secretary General as head of the public service shall be the principle adviser to the President on matters affecting the public service and shall have general responsibility for the efficient functioning of the public service.

Public Service Act, 1991.

(2) Without prejudice to the generality of the foregoing, the Secretary General shall be responsible for -

- (a) advising the Minister on matters relating to the senior management cadre; and
- (b) issuing General Orders;-

The permanent Secretary Personnel.

(5) (1) The Permanent Secretary, Personnel, shall be the principal adviser to the Minister on this Act, and shall be responsible for the personnel functions of the public service.

(2) Without prejudice to the generality of the foregoing, the Permanent Secretary, personnel shall be responsible for -

- (a) the administration of General Orders;
- (b) the recruitment of volunteers and technical assistance personnel;
- (c) public service training and staff development policies and implementation;
- (d) staff inspections and organisation and methods;

- (e) formulation and review of schemes of service;
 - (f) policy for and administration of pensions and gratuities;
 - (g) personnel statistics;
 - (h) manpower budgeting and control; and
 - (i) such other matters as may be prescribed by regulations made under this Act.
- (3) In exercising the responsibilities set out in the preceding sub-section, the Permanent Secretary, Personnel, shall consult the Secretary General, the Chairman of the Commission and such other public officers as may be appropriate.
- (4) The Permanent Secretary, Personnel shall promote the effectiveness of the public service and the personal development of public officers by-
- (a) the improvement of operational methods and monitoring and controlling their implementation;
 - (b) carrying out staff inspections and reviews and making recommendations for improvements,
 - (c) drawing up, reviewing and implementing policy statements on personnel management and training; and

Public Service Act, 1991.

(2) The Training Committee shall consist of the following persons :

- (a) the Permanent Secretary, Personnel, as Chairman;
- (b) such Permanent Secretaries as are appointed by the Secretary General; and
- (c) such officials of teaching institutions and other persons as the Secretary General, on the advice of the Permanent Secretary, Personnel may appoint.

(3) Members of the Training Committee may be appointed ex officio or in their personal capacity and on such terms and for such period as the Secretary General may determine.

(4) The Training Committee shall consider and advise the Minister or the Secretary General upon any matter affecting the training of the public service referred to the Training Committee by the Minister, the Secretary General or the Permanent Secretary, Personnel.

(5) The Training Committee shall have the power to co-opt other persons for any particular purpose approved by the Secretary General or the Permanent Secretary, Personnel.

(6) The Training Committee shall regulate its own procedure and meet at such times as the Permanent Secretary, Personnel, may determine.

Public Services Act, 1991.

**PART - III APPOINTMENT, PROMOTION, RETIREMENT
AND DISCIPLINE**

Criteria
for ap-
pointments
to the
public
service.

8. (1) In selecting candidates for appointment, an appointing authority shall have regard primarily to the efficiency of the public service.

(2) When any public office is vacant the following persons shall, subject to satisfying any scheme of service laying down the qualifications for such public office, be qualified for appointment to the office in the following order of preference -

- (a) any public officer who is a citizen of The Gambia;
- (b) any other citizen of The Gambia;
- (c) any public officer who is not a citizen of The Gambia;
- (d) any other person who is not a citizen of The Gambia, on the advice of the Secretary General.

Disqualifi-
cation for
appointment.

9. (1) A person who has been convicted of an offence involving dishonesty or who has been dismissed from the public service shall only be appointed to a public office after a period of four years from such conviction or dismissal as the case may be on the recommendation of the Secretary General.

(2) No person shall be appointed to public office unless he holds the qualifications set out in the scheme of service applicable to that office.

(3) A person who is not a citizen of The Gambia shall not be appointed to any public office on pensionable terms.

Public Service Act, 1991.

Probation.

10. (1) Where any person is appointed to any public office on pensionable terms he shall first serve a probationary period required by General Orders.

(2) Where any person who is on probation has previously been employed in the public service or in other service approved by the appointing authority, the period of any part of such previous service may, at the discretion of the appointing authority, be regarded as service on probation for the purposes of sub-section (1).

(3) At the expiry of a probationary period the appointing authority shall consider in the light of reports submitted under General Orders, whether -

- (a) the public officer should be confirmed in the public office;
- (b) the probationary period should be extended to afford the public officer the opportunity of improvement in any respect in which his work or conduct has been unsatisfactory; or
- (c) the services of the public officer should be terminated.

Promotion.

11. Where a public officer is promoted to any public office, the first six months, exclusive of any period of leave, from the effective date of the promotion may be a trial period, at the end of which, subject to a satisfactory Staff Report on his conduct and performance, he may be confirmed in such office.

Public Service Act, 1991.

Appeal to
the Commis-
sion.

12. An officer who is aggrieved by a decision of any appointing authority, other than the Commission, in the exercise of any of its powers may appeal to the Commission in accordance with regulations made under this Part.

Retire-
ment of
public
officers.

13. A public officer may retire from the Public Service in accordance with the Pensions Act.

Disci-
pline.

14. Where disciplinary proceedings are to be instituted against any public officer under this Act or the Public Service Regulations, he shall -

- (a) be informed of the grounds on which such proceedings are being instituted;
- (b) be afforded an adequate opportunity to be heard in his own defence; and
- (c) if he so requests, be represented by a legal practitioner of his own choice and at his own expense.

Commis-
sion to
make re-
gulations

15. (1) The Commission may make regulations for the better carrying out of the purposes of this Part.

(2) Without prejudice to the generality of sub-section (1) the Commission may make regulations for -

- (a) the procedure for the engagement or re-engagement of public officers ;
- (b) the procedure for taking disciplinary action against public officers ;
- (c) the punishment which may be awarded for breaches of dis-

PART - IV PUBLIC OFFICERS

General
duties
of pub-
lic of-
ficers.

16. It shall be the duty of every public officer to aid and assist the Government of The Gambia according to the Constitution and other Laws of The Gambia, to carry out and obey all lawful orders of the Government and, subject to the Government's authority and direction, to exercise the functions of his office impartially, efficiently and without delay, so as to serve the people of The Gambia and promote their welfare and lawful interests.

Private
work.

17. A public officer may carry out paid work in addition to his normal public service duties: Provided that

- (a) such work shall not be carried out during official working hours or at such other times as to prejudice his official duties;
- (b) no government resources shall be utilised in carrying out such work; and
- (c) the approval of the Secretary General had been previously obtained.

No fees
for
official
services.

18. No fee, reward or remuneration of any kind whatsoever, beyond his emoluments, shall be received and kept for his own use by a public officer for the performance of any service for the Government, unless specially authorised by law or by the terms of his appointment or by the Secretary General.

Publications
inter-views and
use of
official
informa-
tion.

19. (1) Subject to the provisions of any other written law in force, every public officer shall comply with the rules of conduct set out in sub-section (2).

(2) No public officer shall -

(a) without the written permission of the Secretary General, act as the editor of a newspaper, not being a publication of the Government, nor take part directly or indirectly in the management thereof nor publish in any manner anything which may be reasonably regarded as of a political or administrative nature, but he may publish in his own name other matters relating to subjects of general interest unconnected with his official duties;

(b) whether on duty or on leave of absence and except with the authority of the Secretary General, allow himself to be interviewed on questions of, or connected with any matter affecting or relating to public policy, defence, military or economic resources of The Gambia;

(c) whether directly or indirectly reveal, or use for private purposes, any information coming to his knowledge or acquired by him of the nature or the contents of any document communicated to him either in the course of his duties;

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or in his capacity as an officer, otherwise than in the proper discharge of his duties as authorised by law or his Permanent Secretary.

(3) Any public officer who contravenes the rules of conduct in the preceding sub-section commits an offence, and without prejudice to any action which may be taken against him under any other law, shall be subject to disciplinary proceedings under this Act or the Public Service Regulations.

Bonding
of public
officers.

20. (1) The Permanent Secretary, Personnel may require as a condition for the provision of training for a public officer that such officer shall, before the commencement of the training, enter into a Surety Bond covering the cost of the training.

(2) The form of the Surety Bond shall be approved by the Permanent Secretary, Personnel on the advice of the Attorney General and shall be sworn before a Notary Public.

PART - V THE PUBLIC SERVICE COMMISSION

Defini-
tion.

21. In this Part "Member" in relation to the Commission, includes any person or body of persons appointed to assist the Commission in the exercise of its functions.

Protec-
tion of
members of
the Commis-
sion from
legal pro-
ceedings.

22. Every Member of the Commission shall have the same protection and privilege in the case of any action or suit brought against him or any act done or omitted to be done in the bona fide execution of his duties as is by law conferred upon a Judge of the Supreme Court in the exercise of his judicial functions.

Privileged
communications
of the
Commission.

23. No person involved in any legal proceedings shall be permitted or compelled to produce or disclose any communication, written or oral, which has taken place between the Commission or any member or officer thereof, and the Government, or any public officer, or between any member or officer of the Commission and its Chairman, or between members or officers of the Commission, in exercise of, or in connection with the exercise of, the functions of the Commission, unless the Minister consents in writing to such production or disclosure.

Powers
of the
Commission.

24. (1) For the performance of its functions the Commission may -

- (a) inspect Government offices;
- (b) examine official documents, books or other records;
- (c) obtain information and advice from any public officer;
- (d) do all such things, including the taking of evidence on oath and the administration of oaths, as are incidental or conducive to the exercise of the Commission's functions.

(2) The Commission may require any public officer whose evidence appears to be material to the determination of any inquiry or investigation conducted by the Commission, to attend, at such time and place as may be specified by the Commission, to give evidence or produce an official document, book or other record in his possession or under his control which relates to a matter in question at any inquiry or investigation.

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(3) No public officer shall be compelled to answer a question the answer to which may render him liable to prosecution on a criminal charge

(4) Any public officer who without reasonable excuse fails to appear before the Commission when notified to do so, or who fails to comply with any request lawfully and properly made by the Commission commits a breach of discipline and the Commission may direct that disciplinary action shall be taken against him.

(5) Nothing in this section shall be construed as requiring a public officer to disclose information or produce an official document, book or other record, the disclosure or production of which -

(a) is prohibited or restricted in terms of any written laws prohibiting or restricting the disclosure of information; or

(b) is certified in writing by the Minister to be contrary to the public interest.

The Commission's annual report.

25. The Commission shall, as soon as possible after the end of any calendar year, submit a report to the President in respect of the discharge of its functions during that year and the Minister shall lay every such report before Parliament.

Legal
repre-
sentation.

26. Any person appearing before the Commission or any person or body conducting any inquiry or investigation on behalf of the Commission shall be entitled to be represented by legal practitioner of his own choice.

Improperly
influencing
decision.

27. Any person who improperly, directly or indirectly by himself or by any other person, in any manner whatsoever influences or attempts to influence the decision of the Commission commits an offence and is liable on conviction to a fine of two thousand dalasis or to imprisonment for one year: Provided that nothing in this section shall be deemed to make unlawful the giving of any reference or testimonial to any applicant or candidate for any public office or the supplying of any information or assistance requested by the Commission.

Supplying
false infor-
mation.

28. Any person who, in connection with the exercise by the Commission of its functions, willfully gives to the Commission or Member thereof any information which he knows to be false or does not believe to be true, or which he knows or believes to be misleading by reason of the omission of any material particular, commits an offence and is liable on conviction to a fine not exceeding two thousand dalasis or to a term of imprisonment not exceeding one year.

PART - VI MISCELLANEOUS

Regu-
lations.

29. The Minister may, subject to Part III and any directions issued by the President under section 3 make regulations for the better carrying out of the provisions of th
Act.

Public Service Act, 1991.

PASSED in the House of Representatives this Twenty-seventh day of June, in the year of Our Lord One Thousand Nine Hundred and Ninety-One.

R. H. W. SOWE,
Clerk of the House of Representatives

THIS PRINTED IMPRESSION has been carefully compared by me with the Bill which has passed the House of Representatives, and found by me to be a true and correct copy of the said Bill.

R. H. W. SOWE,
Clerk of the House of Representatives.