

THE MUNICIPAL SERVICE COMMISSION ACT

ARRANGEMENT OF SECTIONS

1. Short title.
2. Interpretation.
3. Establishment and constitution of the Municipal Service Commission.
4. Grant of leave of absence to members.
5. Tenure of office.
6. Remuneration of chairman and members of the Commission.
7. Validity of proceedings.
8. Appointment of officers and servants of the Commission.
9. Expenses of the Commission.
10. The chairman and members of Commission shall take an oath.
11. Protection of chairman and members of the Commission.
12. Offence of giving false information to the Commission.
13. Functions of the Commission.
14. Regulations.

SCHEDULES

THE MUNICIPAL SERVICE COMMISSION ACT

[21st June, 1956.]

Law
20 of 1956.
Acts
11 of 1964
S. 2,
23 of 1977.

1. This Act may be cited as the Municipal Service Commission Act. Short title.

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

“chairman” means the chairman of the Commission and includes any person appointed to act as chairman of the Commission;

“Commission” means the Municipal Service Commission constituted under this Act;

“Council” means the Council of the Kingston and St. Andrew Corporation;

“municipal service” means service in a civil capacity under the Council;

“nominating body” means a body authorized under the provisions of this Act to nominate persons for membership of the Commission;

“principal Act” means the Kingston and St. Andrew Corporation Act.

(2) Except as provided in subsection (1) any expression appearing in this Act which is defined in the principal Act shall have the meaning assigned to that expression by the principal Act, unless the context otherwise requires.

3.—(1) There is hereby established a Municipal Service Commission which shall consist of not less than four nor more than six members appointed by the Governor-General by instrument in writing under his hand, so, however, that— Establishment and constitution of the Municipal Service Commission.

MUNICIPAL SERVICE COMMISSION

- (a) one member shall be appointed from among persons nominated by the Jamaica Association of Local Government Officers in accordance with subsection (4); and
- (b) one member shall be appointed from among persons nominated by the Council in accordance with the said subsection.

(2) No person shall be appointed as a member of the Commission at any time when he is a member of either House of Parliament or the Council or a Parish Council or an employee of the Council or a Parish Council and any member of the Commission who becomes a member of any of the bodies aforesaid or an employee of the Council or a Parish Council, shall thereupon be deemed to have vacated his office as a member of the Commission.

(3) The Governor-General shall by instrument in writing appoint one of the members of the Commission, not being a person holding any office of emolument—

- (a) under the Crown; or
- (b) under the Government of Jamaica; or
- (c) the emoluments of which are payable out of the funds of the public or of any parish, to be chairman thereof.

(4) Each nominating body shall as soon as possible after the commencement of this Act furnish to the Minister a panel of the names of not less than three persons whom they nominate for appointment under paragraphs (a) and (b) of subsection (1), respectively, as occasion may require.

(5) A nominating body may at any time by instrument in writing addressed to the Minister cancel the nomination of any person whose name appears on the panel of persons nominated by them.

(6) Whenever the occasion requires each nominating body shall submit to the Minister an additional name or names for inclusion in the panel concerned, in place of any name or names which may for any reason have been removed therefrom.

(7) The Governor-General may, if he thinks it expedient so to do, at any time revoke the appointment of—

(a) the chairman;

(b) any member of the Commission:

Provided that—

(i) he shall not revoke the appointment of a member nominated by a nominating body except after consultation with such nominating body; and

(ii) whenever a nominating body have in accordance with the provisions of subsection (5) of this section cancelled the nomination of a person who has been appointed a nominated member he shall revoke the appointment of that member.

4.—(1) The Governor-General on the application of any member of the Commission (including the chairman) may grant to such member leave of absence for any period not exceeding six months and may appoint some other person to act as a member during the period of leave of absence so granted:

Grant of
leave of
absence to
members.

Provided that where leave of absence is granted to a nominated member, a person nominated by the nominating body concerned in accordance with the provisions of this Act, shall be appointed to act instead.

(2) Where leave of absence is granted under subsection (1) to the chairman, the Governor-General shall, subject to the provisions of subsection (3) of section 3, appoint some member of the Commission to act as chairman during the period of leave of absence so granted.

(3) In subsection (2) the expression "member of the Commission" includes any person appointed to act as a member of the Commission pursuant to the provisions of subsection (1).

Tenure of
office.

5.—(1) Subject to the provisions of subsection (2) of section 3 every member of the Commission shall hold office for a period of two years from the date of his appointment, or until the Governor-General revokes his appointment, whichever shall be the earlier, so, however, that any member of the Commission may, by notice in writing—

(a) if he is the chairman of the Commission, addressed to the Minister; and

(b) in any other case, addressed through the chairman of the Commission to the Minister,

resign his office as chairman or as a member of the Commission, or both, as the case may be.

(2) Subject to the provisions of this Act every person who has vacated the office of a member of the Commission shall be eligible for reappointment thereto from time to time.

Remunera-
tion of
chairman
and mem-
bers of the
Commission.

6. There shall be paid to the chairman and members of the Commission such remuneration, if any, as the Minister may determine.

Validity of
proceedings.

7. The validity of any proceedings of the Commission shall not be affected by any vacancy amongst the members thereof or by any defect in the appointment of a member thereof.

Appoint-
ment of
officers and
servants of
the Commis-
sion.

8.—(1) The Governor-General shall appoint a secretary to the Commission and such other officers and servants thereto as he may consider expedient for securing the proper discharge of the functions of the Commission under this Act.

(2) The Governor-General may, if he thinks fit, and subject to such conditions as he may impose, appoint any officer in the service of the Government of this Island to any office under the Commission:

Provided that in relation to pension, gratuity, allowance and to other rights as a public officer, such officer shall be deemed to be in the service of the Government of this Island while so employed.

9. The expenses of the Commission (including the remuneration of members and staff thereof) shall be defrayed out of sums provided from time to time for the purpose by the Legislature.

Expenses
of the
Commission.

10. The chairman and members of the Commission shall on first appointment take an oath or make an affirmation, each according to his conscience, in the form in the First Schedule. Such oath shall be administered by a Justice of the Peace.

The chair-
man and
members of
Commission
shall take
an oath.
First
Schedule.

11. The chairman and any other member of the Commission shall have such and the like protection and privileges in case of any action or suit brought against him for any act done or omitted to be done in the execution of his duty as is by law given to any Judge of the Supreme Court acting in the execution of his office.

Protection
of
chairman
and mem-
bers of the
Commission.

12. Any person who in connection with an application by any person for employment or promotion in the service of the Council or with any matter upon which it is the duty of the Commission to decide or to make recommendations to the Council under this Act, wilfully gives to the Commission or to the chairman or a member thereof or to any person or body of persons appointed to assist the Commission in the exercise of their functions or the discharge of their duties any information which is false by reason of

Offence of
giving false
information
to the
Commission.

the falsity of, or by reason of the omission of, a material particular, shall be guilty of an offence and upon summary conviction thereof before a Resident Magistrate shall be liable to a fine not exceeding one thousand dollars or in default of payment thereof to be imprisoned for any term not exceeding two years or to both such fine and imprisonment.

Functions
of the
Commission.

13. Notwithstanding anything to the contrary in the principal Act or any other enactment, from and after the commencement of this Act, such matters as may be prescribed relating to the exercise by the Council of their functions under the provisions of sections 19 to 22 of the principal Act or any other provisions thereof or the provisions of any other enactment, in respect of the appointment, transfer, termination of appointment, dismissal and disciplinary control of persons in the municipal service or any prescribed class of such persons and their terms and conditions of service, shall stand referred to the Commission to be dealt with by the Commission in such manner as may be prescribed.

Regulations.

14.—(1) The Minister may make regulations generally for the better carrying out of the provisions of this Act.

(2) Regulations made under subsection (1) may, without prejudice to the generality of the power thereby conferred, provide for—

- (a) the time, place and manner, when, in which and how the Commission shall exercise their functions and duties;
- (b) the conduct of examinations and the interviewing of municipal servants or candidates for the municipal service by the Commission;

- (c) forms and fees in connection with applications to the Commission, reports or communications from the Commission or for any other matters required by or under this Act;
- (d) any matter which under section 13 requires to be prescribed;
- (e) the terms of, and qualifications for, appointment to any office in the municipal service or the method of recruitment thereto;
- (f) appeal from any decision of the Council in disciplinary proceedings against any employee of the Council;
- (g) changes in the terms and conditions of service of persons already in the municipal service at the time when the regulations take effect.

23/1977
S. 2.

(3) The Regulations contained in the Second Schedule shall be deemed to have been made under the provisions of subsections (1) and (2).

Second
Schedule.

MUNICIPAL SERVICE COMMISSION

FIRST SCHEDULE

(Section 10)

Oath of Office

I.

chairman

having been appointed (to act) as _____ of the Municipal Service
member

swear

Commission do _____ that I will

solemnly and sincerely declare and affirm
freely and without fear or favour, affection or ill will, give my counsel
and advice to the Council in connection with all such matters as may
be referred to the Municipal Service Commission under the Municipal
Service Commission Act, and that I will not directly or indirectly reveal
any such matters to any unauthorized person or otherwise than in
course of duty.

Sworn

_____ before me this

day of

Declared

19 .

.....
Justice of the Peace

SECOND SCHEDULE

(Section 14)

Short title.

1. These Regulations may be cited as the Municipal Service Com-
mission Regulations.

Interpreta-
tion and
application.

2—(1) In these Regulations—

“Commission” means the Municipal Service Commission con-
stituted under the Act;

“municipal office” means any office of emolument in the municipal
service set out in the Appendix;

“municipal officer” means the substantive holder of a municipal
office.

11/1964
S. 2.

(2) Notwithstanding anything to the contrary these Regulations
shall not apply to the Superintendent, officers and firemen of the
Kingston and St. Andrew Fire Brigade employed by the Council.

23/1977
S. 3.
G.N.
690/1977
L.N.

(3) From and after the 1st day of October, 1977, these Regula-
tions other than regulation 10 shall not apply to any weekly-paid
person in the municipal service whether or not the person was in the
municipal service before that date.

41 R/1982
Functions
of the
Commission.

3.—(1) Pursuant to the provisions of section 13 of the Act the
matters contained in the following sub-paragraphs shall stand referred
to the Commission and the Commission shall—

[The inclusion of this page is authorized by L.N. 55/1983]

MUNICIPAL SERVICE COMMISSION

11

- (a) make recommendations to the Council in relation to the appointment (including the appointment of deputies and the making of acting appointments), transfer outside the service of the Council, termination of appointment, dismissal and disciplinary control of municipal officers:

Provided that in respect of the decision to interdict a municipal officer from the exercise of his duties until the determination of any proceedings against him, the Commission may act in their discretion; L.N. 232/1960.

- (b) consider any appeal which may be made by a municipal officer in regard to his transfer from one department to another or in regard to his transfer from one office to another within the same department, not involving promotion to a higher grade or class, and submit a recommendation to the Council in each case;
- (c) consider any question in relation to awards to municipal officers to enable them to obtain further training and make recommendations to the Council thereon;
- (d) advise the Council from time to time with regard to the training of municipal officers;
- (e) interview candidates for the award of scholarships to municipal officers under any scheme approved by the Minister or any other scheme, and make recommendations to the Council;
- (f) consider and determine any appeal made by a permanent employee of the Council under paragraph (2) of regulation 10.

(2) In any case where a recommendation is made by the Commission to the Council pursuant to sub-paragraph (a), (b), (c) or (e) of paragraph (1) the Council shall act in accordance with such recommendation, but before doing so may not later than fourteen days after the first meeting of the Council subsequent to the making of such recommendation, request the Commission to reconsider their recommendation:

L.N. 228/1962.

Provided that any recommendation which the Commission may make as a result of such request shall be accepted by the Council as final.

4.—(1) The Commission shall meet from time to time as may be necessary but at least twice in each year, in June and December, for the purpose of considering the appointment of candidates to such municipal offices as may be vacant, and shall consider the following in respect of each candidate—

Procedure regarding appointments.

- (a) educational record;
- (b) general fitness;
- (c) any previous service in the municipal service or the service of the Government of this Island or any other employment; and
- (d) any reports for which the Commission may call.

[The inclusion of this page is authorized by L.N. 480/1973]

MUNICIPAL SERVICE COMMISSION

(2) Where the terms and qualifications for appointment to any municipal office or the method of recruitment thereto shall have been prescribed, the Commission in making recommendations for appointment to such office shall ensure that such requirements have been complied with.

(3) All candidates for appointment to the municipal service as Clerical Officers Grade II and Stenographers and Typists who possess the necessary qualifications for appointment shall be interviewed by the Commission.

Quorum.

5. At any meeting of the Commission the chairman or acting chairman and any two members shall form a quorum for the transaction of business. All decisions of the Commission shall be by a majority of the votes of the members present and voting:

Provided that the chairman or acting chairman, as the case may be, shall have a casting vote (as well as an original vote) wherever the voting shall be equal.

Dissent of member.

6. It shall be open to any member of the Commission who is present when any decision is made to dissent therefrom and to record his dissent and his reasons for dissenting.

Circulation of papers.

7. Questions may also be decided by the Commission by circulation of the relevant papers among the members. If, however, on circulation of the papers relating to any question a difference of opinion arises among the members, or if any member so desires, the question shall be discussed at a meeting.

Consultation with heads of departments.

8. The Commission in considering any matter or question referred to them for their advice may consult with such heads of departments in the municipal service or public officers or other persons as the Commission may consider proper and desirable.

Record of minutes.

9. Minutes of all meetings of the Commission shall be recorded. Copies of such minutes duly confirmed at a subsequent meeting shall, as soon as practicable thereafter, be forwarded to the Minister.

Appeals.

L.N.
8/1961.

10.—(1) A municipal officer who suffers dismissal or any other disciplinary punishment shall be entitled to appeal to the Privy Council against such dismissal or punishment.

(2) A permanent employee of the Council, not being a municipal officer, who suffers dismissal shall be entitled to appeal to the Commission against such dismissal.

(3) For the purpose of paragraph (2) "a permanent employee" means an employee, other than a daily paid or temporary employee, in the service of the Council who is the substantive holder of an office for which provision is made in the estimates of the Council.

MUNICIPAL SERVICE COMMISSION

13

- (4) Where an appeal is taken under this regulation—
- (a) to the Privy Council, the Privy Council shall consider the case and shall advise the Governor-General what action should be taken in respect of the officer concerned, and the Governor-General shall then act in accordance with such advice;
- (b) to the Commission, the Commission shall consider and decide the case,
- and any action of the Governor-General or decision of the Commission shall be final.
- (5) The Privy Council or the Commission, as the case may be, in the exercise of their functions under this regulation may—
- (a) consider and deal with any case at such time and in such manner either in the presence or absence of the appellant as they think fit; and
- (b) give such advice to the Governor-General or, in the case of an appeal to the Commission, make such decision, as they think fit including, without prejudice to the generality of the foregoing, advice or a decision, as the case may be—
- (i) that any penalty imposed be confirmed or that another penalty be substituted therefor whether or not the substituted penalty is of a like nature to that originally imposed;
- (ii) that the case be remitted for hearing either generally or subject to such instructions as the Privy Council or the Commission (as appropriate) may consider necessary.

L.N.
8/1961.

L.N.
228/1962.

APPENDIX

(Regulation 2)

1. Offices declared to be pensionable under the Pensions (Parochial Officers) Act.
2. Permanent Offices the minimum emoluments of which are not less than \$1,100 per annum.
3. The offices set out hereunder—
 - (a) Superintendent (Cemeteries);
 - (b) Senior Market Clerk;
 - (c) Junior Market Clerk;
 - (d) Chief Mechanic (Abattoir);
 - (e) Dispenser (Public Health Department);
 - (f) District Midwives;
 - (g) Assistant Inspector of Poor (Grade II).

L.N.
81/1957.
11/1964
S. 2.

[The inclusion of this page is authorized by L.N. 480/1973]