

CHAPTER 237

THE JUDICIARY ADMINISTRATION ACT

ARRANGEMENT OF SECTIONS

Section Title

PART I

PRELIMINARY PROVISIONS

1. Short title.
2. Application.
3. Interpretation.

PART II

ADMINISTRATION

(a) Judiciary Service

4. Judiciary Service.
5. Judicial Scheme.
6. Divisions and Units of Service.

(b) Chief Court Administrator

7. Appointment of Chief Court Administrator.
8. Functions of Chief Court Administrator.
9. Disciplinary authority.
10. Performance of functions and exercise of powers of Chief Court Administrator.
11. Courts administrators.
12. Transfer of staff.

(c) Judicial Service Commission

13. Judicial Service Commission.
14. Powers of Commission.
15. Secretary of Commission.
16. Oaths.
17. Vacancy in membership.
18. Procedure.
19. Protection of members.
20. Communication of commission to be privileged.



(d) Functions and Powers of President

21. Advice.
22. Regulations.

PART III
CHIEF JUSTICE AND CHIEF REGISTRAR

(a) Chief Justice

23. Chief Justice.
24. Powers of Chief Justice.
25. Judicial functions.
26. Jaji Kiongozi.

(b) Chief Registrar and other Registrars

27. Chief Registrar.
28. Functions of Chief Registrar.

PART IV
FUNCTIONS OF THE COMMISSION

29. Functions of Commission.
30. Employee of Service.
31. Review of benefits.
32. Review of terminal benefits.
33. Delegation of functions.
34. Appointment of certain members.
35. Powers of dismissal and removal.

PART V
JUDICIAL OFFICERS ETHICS COMMITTEES

36. Establishment of Judicial Officer's Ethics Committees.

(a) Judge Ethics Committee

37. Establishment and Composition of Judges Ethics Committee.
38. Function of Judges Ethics Committee.
39. Complaints before Judges Ethics Committee.
40. Who may lodge a complaint.
41. Form and content of complaint.
42. Procedure of handling complaints by Chief Justice.
43. Handling of complaint by Committee.
44. Procedure where a judge does not admit complaint.
45. Proceedings of Committee.

(b) Judicial Officers Ethics Committee

46. Establishment and composition of Judicial Officers Ethics Committee.
47. Functions of Judicial Officers Ethics Committee.
48. Complaints before Judicial Officers Ethics Committee.
49. Procedure.

(c) Regional Judicial Ethics Committee

50. Establishment of Regional Judicial Officers Ethics Committee.

(d) District Judicial Officers Ethics Committee.

51. Establishment of District Ethics Officers Committee.

**PART VI
FINANCIAL PROVISIONS**

(a) Establishment of the Fund

52. Funds of Judiciary.
53. Other sources of funds.
54. Accounts and audit.
55. Internal financial regulations.
56. Annual report.

(b) Budget Estimates

57. Budget of Judiciary.
58. Presentation of budget estimates to Commission.
59. Estimates of revenue and expenditure for Judiciary.

**PART VII
OFFENCES AND PENALTIES**

60. Offence to influence or attempt to influence Commission.
61. Offence of false information to Commission.
62. Construction of term "Commission".
63. Unauthorised disclosure of information prohibited.
64. Prosecutions.

**PART VIII
GENERAL PROVISIONS**

65. Performance of functions under this Act.
66. Protection of judicial officer.
67. Regulations.
68. Repeal and Savings.

**PART IX
CONSEQUENTIAL AMENDMENTS**

69–70. Omitted.

SCHEDULES

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CHAPTER 237

THE JUDICIARY ADMINISTRATION ACT

An Act to make better provisions for the administration of the Judiciary; to establish the Judiciary Service; to put in place the offices of the Chief Court Administrator and the Chief Registrar; to provide for the establishment of the Judiciary Fund; to repeal the Judicial Service Act, and to provide for related matters.

[1st March, 2012]

[GN. No. 65 of 2012]

Acts Nos.
4 of 2011
11 of 2015
2 of 2016
6 of 2020
11 of 2023

PART I

PRELIMINARY PROVISIONS

- Short title **1.** This Act may be cited as the Judiciary Administration Act.
- Application **2.** This Act shall apply to Mainland Tanzania.
- Interpretation
Act No.
11 of 2023 s. 42 **3.** In this Act, unless the context otherwise requires-
“Chairman” means the Chairman of the Commission;
“Chief Court Administrator” means the Chief Court Administrator appointed under section 7;
“Chief Justice” shall have a meaning ascribed to it under the Constitution;
“Chief Registrar” means the Chief Registrar appointed under section 27(1);
“Commission” means the Judicial Service Commission referred to under section 29;
“Commissioner” means a member of the Commission;
- Cap. 2

“Committee” means the Judicial Officers Ethics Committee, Non-Judicial Officers Committee and any other Committee established under this Act;

Cap.2

“Constitution” means the Constitution of the United Republic of Tanzania, 1977;

Cap.2

“Jaji Kiongozi” shall have a meaning ascribed to it under the Constitution;

“judicial officer” means a person in the Service, appointed to perform the functions and exercise the powers of adjudication or determination of cases in the courts of law;

“Judge in-charge” means a Judge in-charge of a High Court Zone or Division of the High Court;

“Judiciary” means the Court of Appeal, the High Court and the courts subordinate thereto;

“Judicial Service Office” means an office constituted under the Act;

“Minister” means the Minister responsible for justice;

“non-judicial officer” means a person who performs the functions and exercises the powers, in the Service, other than a judicial officer;

“Secretary” means the Secretary to the Commission referred to in section 15(1);

“Service” means the Judiciary Service established under this Act; and

“Service Scheme” means administrative document stipulating a formal or official order or way of doing things for the purpose of enabling judicial and non-judicial of the Service to serve in an orderly and accountable manner.

PART II

ADMINISTRATION

(a) Judiciary Service

Judiciary Service

4.-(1) There shall be, for the purpose of administration of the Judiciary, a Service to be known as the Judiciary Service.

(2) The Service shall consist of judicial and non-judicial officers.

(3) The employees, including judicial and non-judicial officers and other staff of the Service shall not, in the performance of their functions, receive directions from any authority outside the Service.

Judiciary Scheme **5.**—(1) The Commission shall, in consultation with the Minister responsible for public service-

- (a) formulate a Judiciary Scheme of Service for the effective constitution of the Service;
- (b) make provisions in the Judiciary Scheme of Service as it considers necessary for the promotion, development, maintenance and control of an efficient service;
- (c) formulate a Service Scheme for purposes of proper description and distribution of the functions performed by the Divisions, Units and Sections in the Service.

(2) The Commission shall, in consultation with the Minister responsible for Public Service, formulate a Scheme of Service setting out terms and conditions for the appointment of the employees of the Service which shall provide for-

- (a) the appointment and confirmation of appointments of non-judicial officers;
- (b) promotions, resignation and termination of appointments;
- (c) the scales of salaries and allowances; and
- (d) the designation and grades of employees of the Service.

(3) The Judiciary Scheme of Service and the Service Scheme shall be signed by the Chief Justice and published in the *Gazette*.

Divisions and
Units of Service

6. There shall be established by the Commission for the purpose of the Service such number of Divisions, Units and Sections as may be necessary for effective performance of the functions of the Judiciary.

(b) Chief Court Administrator

Appointment
of Chief Court
Administrator

7.–(1) There shall be a Chief Court Administrator, who shall, on the recommendation of the Commission, be appointed by the President.

(2) For the purpose of subsection (1), the Commission shall recommend to the President three names from which the President shall appoint the Chief Court Administrator.

(3) A person shall be qualified for appointment as the Chief Court Administrator if that person-

- (a) has held a senior position in the public service;
- (b) has a proven knowledge and experience in public administration and finance; and
- (c) is of high integrity and good character.

(4) The Chief Court Administrator shall be the head of the general administration of the Service and shall be responsible to the Commission.

(5) The Chief Court Administrator shall-

- (a) be the Chief Executive Officer of the Service;
- (b) be responsible to the Chief Justice for the day-to-day administration of the Service and for the implementation of resolutions of the Commission in respect of the Service; and
- (c) perform functions and exercise such other powers as is or may be conferred on him by or under this Act or any other written laws.

(6) The Chief Court Administrator shall hold office on such terms and conditions as the President shall determine.

Functions of
Chief Court
Administrator

8.–(1) The functions of the Chief Court Administrator shall be to-

- (a) carry out the general administration of the Service;
- (b) prepare and submit quarterly reports on the administration of the Service; and
- (c) perform functions and exercise powers vested in the Chief Court Administrator by section 53 of this Act.

(2) Notwithstanding the provisions of this section, the powers of the Chief Court Administrator shall not extend to any matter assigned by law to judicial officers.

Disciplinary
authority

9. The disciplinary authority of a person holding the office of the Chief Court Administrator shall be the President.

Performance of
functions and
exercise of powers
of Chief Court
Administrator

10.—(1) Where the office of the Chief Court Administrator is vacant or the Chief Court Administrator is unable to perform the functions or exercise his powers, the Chief Justice shall -

(a) if the vacancy is for the reason of temporary absence-

(i) appoint any person, from amongst senior persons employed in the Service to perform functions and to exercise the powers of the Chief Court Administrator; and

(ii) inform the Commission accordingly;

(b) if the vacancy relates to the absence of the Chief Court Administrator for a period of more than thirty days, refer the matter to the Commission for appointment of a person to act in that position.

(2) Upon appointing a person to perform the functions and exercise powers of the Chief Court Administrator under subsection (1), the Chief Justice shall inform the President accordingly.

(3) A person appointed to act in the position of the Chief Court Administrator shall act in that capacity until the Chief Court Administrator returns to the office or until such time when the President appoints the substantive Chief Court Administrator.

Court
administrators

11.—(1) There shall be appointed by the Commission such number of court administrators whose terms and conditions of service shall be prescribed in their letters of appointment.

(2) The court administrators shall perform such functions and undertake assignments as may be directed by the Chief Court Administrator.

(3) For the purposes of implementation of section 10, a court administrator shall carry out the day to day administration of the Service at the Court where he is posted, and shall -

- (a) prepare and submit quarterly reports on the administration of the Service to the Chief Court Administrator;
- (b) advise immediate court administrator of a higher court on matters relating to finances, procurement and other non-judicial functions; and
- (c) manage funds allocated for the court to which he is posted.

(4) In the performance of the duties stipulated in subsection (3), the court administrator shall be responsible to the Jaji Kiongozi, Judge in-charge or the magistrate in-charge, as the case may be.

(5) Without prejudice to the provisions of this section, a court administrator at a subordinate court shall take instructions of a general nature from a court administrator of immediate higher court.

Transfer of staff

12.-(1) All officers who prior to the commencement of this Act were employed as non-judicial officers of the Judiciary shall, upon the commencement of this Act, but not later than six months, thereafter, have and exercise the option to join the Service or to be transferred to the jurisdiction of the Public Service Establishment.

(2) Upon the exercise by a non-judicial officer of the option to join the Service or if six months expire after the commencement of the Act before such officer exercises the option, the officer concerned shall be deemed for all purposes to have been appointed in the service and his Service shall, for all purposes be continuous with his service immediately before the commencement of this Act.

(3) An officer who opts not to join the Service shall be transferred to the Public Service Establishment for deployment in the Public Service.

(c) Judicial Service Commission

Judicial Service
Commission

13.-(1) There shall continue to be the Judicial Service Commission established by the Constitution.

(2) Members of the Commission appointed by the President shall hold office for three years but shall be eligible for reappointment for one further term.

(3) A member of the Commission shall not be represented in a meeting by a proxy and no member shall delegate the performance of any function or the exercise of a duty ordinarily performed by him or exercised by him by virtue of being member of the Commission to any person.

(4) The conduct of meetings and the procedure for making decision by the Commission shall be as provided for in the First Schedule to this Act.

Powers of
Commission

14.-(1) The Commission shall, in addition to the powers conferred on it by the Constitution, have and exercise powers and authority in relation to the appointment, confirmation, promotion and discipline over non-judicial officers.

(2) The Commission shall, for the purposes of recruitment, confirmation, promotion and discipline of non-judicial officers, establish an Employment Advisory Committee.

(3) The Commission shall decide on the composition and modalities of the Employment Advisory Committee and prescribe rules for the better carrying into effect its functions.

(4) Any non-judicial officer who is aggrieved by the decision of the Commission with respect to the exercise of its powers under this section may appeal to the Public Service Commission.

(5) Any person who is aggrieved by the decision of the Public Service Commission may appeal to the President.

Secretary of
Commission

15.—(1) The Chief Court Administrator shall be the Secretary to the Commission.

(2) The Secretary shall be responsible for securing and facilitating the implementation of all decisions of the Commission.

Oaths

16.—(1) The members of the Commission and the Secretary shall, on first appointment, subscribe to the oath or affirmation in the form set out in the Second Schedule to this Act.

(2) The Chairman of the Commission may require any member of the Secretariat of the Commission to take, on first appointment, an oath or affirmation in the form set out in the Third Schedule to this Act.

(3) Where any member of the Commission or the Secretary to the Commission required to take an oath or affirmation under this section has no religious belief or the taking of an oath or affirmation is contrary to his religious belief, he may make and subscribe a solemn affirmation in the form of the oath or affirmation appointed, substituting the words “solemnly and sincerely declare and affirm for the word “swear” and omitting the words “So help me God”.

(4) Every oath or affirmation subscribed by a member of the Commission shall be administered by the President and every oath or affirmation subscribed by a member shall be administered by the Chairman of the Commission.

Vacancy in
membership

17.—(1) Subject to its rules of procedure, the decisions and actions of the Commission shall not be invalid by reason only of vacancy in its membership or the absence of any member.

(2) Notwithstanding the provisions of subsection (1), any decision of the Commission shall require the concurrence of a majority of all the members present.

Procedure

18. Subject to the provisions of this Act and to any regulation made by the President, the Commission shall regulate its own procedure.

Protection of
members

19. Every member of the Commission shall, in case of any action or suit brought against that member for any act done or omitted to be done in the good faith in the execution of duties, have like protection and privileges as is by law given to the acts done or words spoken by a Judge of the High Court in the performance of a judicial function.

Communication
of Commission to
be privileged

20. A person shall not in any legal proceedings be permitted or compelled to produce or disclose any communication, written or oral, which has taken place-

- (a) between the Commission, or any member or officer of the Commission and the President or a delegate, or the Public Service Commission, Police Force and Prisons Service Commission or any member of either such Commission;
- (b) between any member or officer of the Commission and the Chairman thereof; or
- (c) between any member or officers of the Commission, in exercise of, or in connection with the exercise of, the functions of the Commission,

unless the Chairman of the Commission consents in writing to such production or disclosure.

(d) Functions and Powers of the President

Advice

21.—(1) The President may refer to the Commission for its advice any matter relating to the exercise of the functions conferred on the President by the Constitution or any function of establishing or abolishing any judicial office or non-judicial office and the Commission shall advise the President on any such matter so referred to it.

(2) Subsection (1) shall not be construed as limiting or precluding the President from seeking advice in respect of any such matter from any other person.

- Regulations **22.**—(1) The President may make regulations—
- (a) for any matter which, by this Act, may be regulated by the President;
 - (b) prescribing the performance of the functions conferred on him by the Constitution and this Act.
- (2) The President may delegate any of the powers conferred on him under this section to the Commission or the Chief Justice.

PART III

CHIEF JUSTICE AND CHIEF REGISTRAR

(a) Chief Justice

- Chief Justice **23.** The Chief Justice shall, in addition to functions provided for under the Constitution or any other written law, perform functions and exercise powers provided for under this Act.

- Powers of Chief Justice **24.**—(1) The Chief Justice shall, for the purpose of achieving better, effective and efficient performance of the functions of the offices of Justice of Appeal, the Jaji Kiongozi and a Judge, supervise the disposal and management of cases.
- (2) In the exercise of powers of supervision, the Chief Justice may—
- (a) call for any judicial officer to submit returns of the disposition of cases within a specified period;
 - (b) receive and investigate any complaint relating to the disposal of any case;
 - (c) take any such measures as may be necessary to address any matter which is subject of a complaint; or
 - (d) recommend that any matter which is subject of complaint, be referred to the Commission.
- (3) The Chief Justice may, in relation to the management of the Judiciary, delegate any of the powers and functions under this section to a Justice of Appeal, Jaji Kiongozi or a Judge In-Charge.

Judicial functions **25.**—(1) The Chief Justice shall be responsible for overseeing performance of judicial functions of the courts, including the giving of direction and supervision over court sittings and the assignment of judicial duties.

(2) The direction and supervision over court sittings and the assignment of judicial duties shall include, without restricting the generality of those terms, the power to-

- (a) determine the sittings of the court;
- (b) assign judges to sittings;
- (c) assign cases and other judicial duties to judges;
- (d) determine the sitting schedules and places of sittings for judges;
- (e) determine the total annual, monthly and weekly work load of judges; and
- (f) prepare hearing lists and assign courtrooms.

(3) Officers, clerks and employees of the Service shall act at the direction of the Chief Justice in matters that are assigned by law to the Judiciary.

(4) The persons referred to in subsection (3) who are assigned duties in a courtroom shall, on the direction of a judge who is presiding over proceedings in the courtroom, discharge such duties.

Jaji Kiongozi
Cap. 2

26. The Jaji Kiongozi appointed in terms of the provisions of the Constitution shall be the head of the High Court and the special assistant to the Chief Justice in the performance of functions and exercise of the powers of the High Court and court subordinates to it.

(b) Chief Registrar and other Registrars

Chief Registrar

27.—(1) There shall be a Chief Registrar to be appointed by the President upon recommendation by the Commission.

(2) A person shall be qualified for appointment as the Chief Registrar if that person-

- (a) has held a senior position in the judicial service for a period of not less than five years;

(b) has proven knowledge and experience in the performance of judicial functions; and

(c) is of high integrity and good character.

(3) The Chief Registrar shall be assisted by the Registrar of the Court of Appeal, the Registrar of the High Court and such number of Deputy Registrars as the Commission may determine.

(4) The Chief Registrar shall be responsible to the Chief Justice for effective performance of the judicial functions.

Functions of
Chief Registrar

28.—(1) Without prejudice to the generality of subsections (3) and (4) of section 27, the Chief Registrar shall—

(a) facilitate and supervise performance of the judicial functions;

(b) coordinate judicial matters;

(c) synchronise, synthesize and produce comprehensive performance report of the judicial functions;

(d) provide a link between the Judiciary and the Commission on appointment, promotion and disciplinary matters of judicial officers;

(e) communicate to the Government on matters relating to judicial profession or any other matters which the Government may be concerned.

(2) For the purpose of subsection (1), the Registrar of the Court of Appeal shall be responsible to the Chief Registrar and shall, in that respect, perform functions and carry out duties as may be assigned to him by the Chief Registrar or any other written law.

(3) The Registrar of the Court of Appeal shall—

(a) prepare annual calendar of the Court of Appeal;

(b) discharge such duties as provided for under the Court of Appeal Rules;

(c) draw court orders or decrees as directed by the Court of Appeal;

(d) execute or ensure compliance with court's orders;

- (e) be, and discharge duties of a taxing master; and
- (f) supervise duties relating to the Court of Appeal as delegated to Deputy Registrars of the High Court Divisions and Zones.

(4) A person shall be qualified for appointment as the Registrar of the Court of Appeal if that person-

- (a) has held a senior position in the judicial service for a period of not less than three years;
- (b) has proven knowledge and experience in judicial functions; and
- (c) is of high integrity and good character.

(5) For the purposes of this section, the Registrar of the High Court shall be immediately responsible to the Registrar of the Court of Appeal and shall, in that respect, perform functions and carry out duties as may be assigned to him, by the Chief Registrar, the Registrar of the Court of Appeal or by any other written law.

- (6) The Registrar of the High Court shall-
 - (a) prepare annual calendar of the High Court;
 - (b) perform duties as provided by the High Court Rules;
 - (c) draw court orders or decrees as directed by the High Court;
 - (d) execute or ensure compliance with court's orders;
 - (e) be, and discharge duties of a taxing master; and
 - (f) supervise duties relating to the High Court as delegated to the Deputy Registrars of the High Court Divisions and Zones.

(7) A person shall be qualified for appointment as the Registrar of the High Court if that person-

- (a) has held a senior position in the judicial service for a period of not less than three years;
- (b) has a proven knowledge and experience in judicial functions; and
- (c) is of high integrity and good character.

(8) A Deputy Registrar of the High Court shall be responsible to the Registrar of the High Court and in that respect, shall carry out duties as may be assigned to him by the Registrar of the High Court or by any other written laws.

(9) The Registrar of the High Court may, in the course of the discharging duty, delegate some of his powers to the Deputy Registrar.

PART IV FUNCTIONS OF THE COMMISSION

Functions of
Commission

29.—(1) The functions of the Commission shall be to:

- (a) advise the President in respect of-
 - (i) appointment of the Jaji Kiongozi and Judges of the High Court;
 - (ii) appointment of the Chief Court Administrator, Chief Registrar, Registrar of the Court of Appeal and the Registrar of the High Court;
 - (iii) inability of a Justice of Appeal, the Jaji Kiongozi, or a Judge of the High Court to perform functions of the office of a Justice of Appeal, a Jaji Kiongozi or a Judge;
 - (iv) misconduct by a Justice of Appeal, Jaji Kiongozi, a Judge, the Chief Court Administrator, the Chief Registrar, the Registrar of the Court of Appeal or the Registrar of the High Court which is inconsistent with the ethics of their respective offices or with the law governing ethics of public leaders;
 - (v) salaries and remuneration of judicial and non-judicial officers in the Judiciary Service;
- (b) scrutinize a complaint against a Justice of Appeal, the Jaji Kiongozi, a Judge or any other judicial officer;
- (c) take administrative measures against a Justice of Appeal, Jaji Kiongozi or a Judge other than measures referred to under the Constitution;

- (d) appoint, promote and discipline any judicial officer other than the Chief Registrar, Registrar of the Court of Appeal or the Registrar of the High Court; and
- (e) recruit, promote and take any disciplinary or administrative measures against any non-judicial officer as provided under this Act.

(2) A person appointed under this section shall, subject to this Act, hold office on such terms and conditions as the Commission may determine.

Employee of
Service

30.—(1) An employee of the Service shall be employed on such terms and conditions of service, and shall be paid such salary and allowances as may be determined by the Commission.

(2) The complementing, grading and rates of pay for employees of the Service shall be determined by the Commission.

(3) In making a determination pursuant to the provisions of subsections (1) and (2), the Commission shall ensure that, the complementing, grading and the rates of pay for the employees of the Service are kept broadly in line with those in the Public Service and that, so far as it is consistent with the requirements and standards set by the Commission, other conditions of service of employees in the Service are also kept broadly in line with those in the Public Service.

(4) All allowances payable to employees of the Service pursuant to the provision of subsection (1) shall be exempted from payment of income tax.

Review of benefits

31.—(1) Where it is desirable and necessary to review salary, allowances, benefits and terms and conditions of services of employees of the Service, the Commission shall review salaries, allowances, benefits and the terms and conditions of service and make recommendations to the President.

(2) In making recommendations, the Commission shall be guided by the National Economic Policy and the National Wages Policy and shall, where desirable, seek and obtain information from any authority as it deems fit.

Review of
terminal benefits

32. In the exercise of powers to review the salaries, allowances or other terminal benefits for employees under this Act, the President shall have regard to the national economy and any other consideration necessary for arriving at or making an appropriate decision.

Delegation of
functions
Act No.
11 of 2023 s. 43

33.—(1) Subject to the provisions of this Act, the Commission may, by regulations, delegate the exercise of any function conferred on it by the Constitution other than the power of removal in the public interest to the Committees established or which may be established under this Act.

(2) Without prejudice to the provisions of subsection (1), the Commission may delegate its functions as follows—

- (a) investigation and inquiry of complaints against Justices of Appeal, Jaji Kiongozi and Judges, to the Judicial Officers Ethics Committee established under this Act;
- (b) investigation and inquiry into discipline relating to judicial officers, to the Judicial Officers Ethics Committee established under this Act;
- (c) investigation and inquiry into discipline relating to any Magistrate, to the Regional Judicial Ethics Officers Committees established under this Act;
- (d) interdiction of any Magistrate to the Judge in-charge of the Zone or Division of the High Court, pending the continuation and completion of disciplinary proceedings;
- (e) reprimanding or warning a Justice of Appeal or a Judge for minor matter to which he admits in writing to the Chief Justice or Jaji Kiongozi.

(3) In any regulations made for the purpose of this section, the Commission shall specify the officers to which each delegation applies.

(4) The Commission may exercise any of such functions aforesaid notwithstanding the delegation of the exercise thereof to some other person.

(5) In conducting its business, the Commission shall be guided by the procedure stipulated in the First Schedule to this Act.

Appointment of
certain members
of Service
Act No.
11 of 2023 s. 44

34.—(1) The holders of the following offices shall be appointed by the Commission-

- (a) Registrars, other than the Chief Court Administrator, Chief Registrar, Registrar of the Court of Appeal and the Registrar of the High Court; and
- (b) the Principal Magistrate, senior magistrate, magistrate and Court Administrators.

(2) A person appointed under this section shall, subject to this Act, hold office on such terms and conditions as the Commission may determine.

Powers of
dismissal and
removal

35.—(1) The powers to remove from office or terminate the appointments of judicial officers other than the Chief Justice, Justices of Appeal, Jaji Kiongozi, Judges of the High Court, the Chief Registrar, the Registrar of the Court of Appeal and the Registrar of the High Court, shall be exercised in accordance with this section.

(2) A judicial officer shall not be dismissed unless the Commission is satisfied that-

- (a) a disciplinary charge has been made and proved on a balance of probability against such officer on any or all of the following grounds -
 - (i) misconduct incompatible with the holding of judicial office;
 - (ii) gross negligence in the discharge of judicial duties;
 - (iii) breach of the Code of Judicial Ethics; and
 - (iv) bad reputation incompatible with the holding of judicial office;

- (b) such officer has had an opportunity to answer a charge under paragraph (a); and
- (c) an inquiry has been held into the charge.

PART V

JUDICIAL OFFICERS ETHICS COMMITTEES

Establishment
of Judicial
Officers Ethics
Committees

36. There shall be Judicial Officers Ethics Committees of different levels which shall be responsible for making investigations and inquiries against Judicial Officers.

(a) Judges Ethics Committee

Establishment
and composition
of Judges Ethics
Committee

37.—(1) There shall be the Judges Ethics Committee.

(2) The Committee shall be composed of the following members—

- (a) a Justice of Appeal appointed by the Chief Justice who shall be the Chairman;
- (b) three Justices of Appeal appointed by the Chief Justice; and
- (c) three Judges of the High Court appointed by the Chief Justice.

(3) The Chief Registrar shall be the Secretary to the Committee.

(4) Members of the Committee shall hold office for three years but shall be eligible for re-appointment for one further term.

(5) The Committee shall not delegate the performance of any function or the exercise of any power to any person.

(6) A Justice of Appeal, Jaji Kiongozi or a Judge who is a member of the Committee against whom a complaint has been served shall not participate in the sitting of the Committee which determines that complaint.

Functions of
Judges Ethics
Committee

38.—(1) The functions of the Committee shall be to—

- (a) receive and investigate complaints against Justice of Appeal, Jaji Kiongozi or a Judge;

- (b) serve a Justice of Appeal, Jaji Kiongozi or a Judge with a complaint;
- (c) forward a complaint to the Commission;
- (d) hear the complaint;
- (e) warn a Justice of Appeal, Jaji Kiongozi or a Judge in respect of any complaint which does not warrant reference to the Commission; and
- (f) take any other measures as it may deem necessary in the circumstances.

(2) A complaint against a Justice of Appeal, Jaji Kiongozi or a Judge which the Committee considers to be grave shall be submitted to the Commission for consideration.

(3) In conducting business, the Committee shall be guided by the procedure stipulated in the Fourth Schedule to this Act.

Complaints
before Judges
Ethics Committee

39. A complaint against a Justice of Appeal, Jaji Kiongozi or a Judge may be raised by-

- (a) the Committee on its own motion;
- (b) anyone of the complainants stipulated in subsection (1) of section 40.

Who may lodge
complaint

40.-(1) Any complaint against a Justice of Appeal, Jaji Kiongozi or a Judge may be lodged with the Commission or the Committee by-

- (a) judicial officer;
- (b) a law officer;
- (c) a Government agency;
- (d) an advocate;
- (e) a person who has an interest in the matter; or
- (f) in any other case, a person who can produce adequate evidence on the complaint.

(2) A complaint shall be filed with the Secretary to the Commission, or the Committee, as the case may be.

Form and content of complaint **41.**-(1) A complaint shall be made in writing and shall be signed by the complainant.

(2) A complaint shall contain adequate information disclosing an act or omission complained about and circumstances upon which that act or omission was committed.

(3) Without prejudice to subsection (2), a complaint may be made regarding any of the following matters-

- (a) handling of cases;
- (b) allegation of corruption;
- (c) behavior inconsistent with the Code of Judicial Ethics; or
- (d) inability to perform the functions of a Justice of Appeal, Jaji Kiongozi or a Judge.

(4) A complaint shall not be rejected only for the reason that it is defective in form.

Procedure of handling complaints by Chief Justice

42. The Chief Justice may, upon receipt of a complaint and where he considers it appropriate so to do-

- (a) remit it to the Chairman of the Committee to be dealt with by the Committee;
- (b) serve the Justice of Appeal, Jaji Kiongozi, or a Judge concerned with the complaint and require him to respond within a period not exceeding twenty one days; or
- (c) in a matter which is minor and does not warrant consideration and determination by the Commission or to which the Judge concerned admits fault, take such steps as may be necessary to address the complaint.

Handling of complaint by Committee

43. The Committee may, upon receipt of a complaint from the complainant or directions from the Chief Justice or remittance from the Commission-

- (a) where appropriate, serve the Justice of Appeal, Jaji Kiongozi or Judge concerned with the complaint and ask him to respond within a period not exceeding twenty one days;

- (b) where the Justice of Appeal, Jaji Kiongozi or Judge admits the complaint, take any such steps such as reprimanding or warning; or such acts within a specified time as shall appear necessary to address the complaint; or
 - (c) where he considers it desirable, cause investigation to be made on the inquiry;
 - (d) where the complaint appears to be grave to warrant inquiry,
- the Committee shall inquire into the matter.

Procedure where Judge does not admit complaint

44. Where a matter is placed before the Committee and the Judge concerned does not admit the complaint and the Committee considers the complaint to be of a grave nature, the Committee shall refer the matter to the Commission.

Proceedings of Committee

45. The Committee shall, upon receipt of a complaint from the Chief Justice or, the Commission, deal with it in accordance with the provisions of section 39 of this Act.

(b) Judicial Officers Ethics Committee

Establishment and composition of Judicial Officers Ethics Committee

46.-(1) There is established the Judicial Officers Ethics Committee for judicial officers other than Justice of Appeal, Jaji Kiongozi and Judges of the High Court.

(2) The Judicial Officers Ethics Committee shall be composed of the following members-

- (a) Jaji Kiongozi who shall be the Chairman;
- (b) two Judges of the High Court appointed by the Chief Justice; and
- (c) two judicial officers appointed by Chief Justice other than Justice of Appeal or Judges of the High Court.

(3) The Registrar of the High Court shall be the Secretary to the Judicial Officers Ethics Committee.

(4) Members of the Committee shall hold office for three years but shall be eligible for re-appointment for one further term.

(5) The Committee shall not delegate the performance of function or the exercise of any power to any person.

(6) The Registrar against whom a complaint has been served shall not act as secretary to the Committee which determines that complaint.

(7) A judicial officer against whom a complaint has been served shall not sit as a member of the Committee which determines that complaint.

Functions of
Judicial Officers
Ethics Committee

47.—(1) The functions of the Judicial Officers Ethics Committee shall be to-

- (a) receive complaints against judicial officers other than Justices of Appeal, Jaji Kiongozi or Judges of the High Court;
- (b) serve a judicial officer with a complaint;
- (c) forward a complaint to the Commission;
- (d) inquire into the complaint;
- (e) warn a judicial officer for any complaint which does not warrant reference to the Commission; and
- (f) take any other means as it may deem necessary in the circumstances

(2) A complaint against a judicial officer which the Judicial Officers Ethics Committee considers to be grave shall be submitted to the Commission for inquiry.

(3) In conducting business, the Judicial Officers Ethics Committee shall be guided by the procedure stipulated in the Fourth Schedule to this Act.

Complaints
before Judicial
Officers Ethics
Committee

48. A complaint against a judicial officer may be raised by -

- (a) the Judicial Officers Ethics Committee on its own motion;
- (b) anyone of the complainants stipulated in section 40(1);
or
- (c) may be remitted to it by the Commission.

Procedure **49.** The provisions of sections 41, 42, 43, 44 and 45 relating to the complaints procedure shall *mutatis mutandis* apply to complaints against judicial officers.

(c) *Regional Judicial Officers Ethics Committee*

Establishment of
Regional Judicial
Officers Ethics
Committee
Act No.
11 of 2023 s. 45

50.—(1) There is established in each Region, the Regional Judicial Officers Ethics Committee which shall be composed of-

- (a) the Regional Commissioner, who shall be the Chairman;
- (b) the Resident Magistrate in charge of a Region;
- (c) the Regional Administrative Secretary;
- (d) two other members, appointed by the Regional Commissioner from among prominent persons in the region, who are of proven high integrity, knowledgeable and have the ability necessary to usefully, participate in the effective discharge of the functions of the Committee; and
- (e) two judicial officers appointed by the Judge in-charge.

(2) The resident magistrate in-charge against whom a complaint has been filed shall not sit as a member to the Committee which is considering that complaint.

(3) The Secretary of the Regional Judicial Officers Ethics Committee shall -

- (a) in a Region where there is established an office of the Attorney General, be the Regional State Attorney;
- (b) in a region where there is no office of the Attorney General, be the Regional Administrative Secretary.

(4) Where the Secretary of the Regional Judicial Officers Ethics Committee is the Regional Administrative Secretary, he shall establish a system of close consultation, co-ordination and cooperation with the Regional State Attorney.

(5) Every Regional Judicial Officers Ethics Committee shall-

- (a) receive and investigate complaints submitted by members of the public concerning District or Resident

Magistrates in the regional and submit reports to the Commission;

- (b) carry out inquiries into the conduct of a District or Resident Magistrate in consequence of a direction so to do given by the Judge in charge, and report back to him or take other appropriate action according to law; and
- (c) perform such other functions as the Chief Justice may in writing under his hand to the Chairman, direct.

(6) The quorum at any meeting of the Regional Judicial Officers Ethics Committee shall be the Chairman and three other members.

(7) A person complaining against the District or Resident Magistrate shall file the complaint with the Secretary to the Regional Judicial Officers Ethics Committee.

(8) The Secretary to the Regional Judicial Officers Ethics Committee shall after receiving a complaint under subsection (6), forward that complaint to Judge in-charge of the zone in which, that region is situated.

(9) A Secretary shall, after receiving a complaint under subsections (6) or (7), forward that complaint to the Judge in charge of the zone in which that region is situated, who after studying the matter and after receiving opinion of the complaints shall send it to the Regional Judicial Officers Ethics Committee with directions for inquiry or take any other action as shall appear appropriate and just in the circumstances of the case.

(10) The complaint against the Resident Magistrate in charge which is submitted to the Judge in charge shall be forwarded to the Judicial Officers Ethics Committee for further action.

(11) Where the Chief Justice or Jaji Kiongozi receives any complaint against any Magistrate, and he considers that the public interest requires that magistrate to cease forthwith to exercise his judicial powers may suspend that magistrate from the exercise of those powers and functions provided that inquiry or investigation to his complaint or proceedings for his dismissal are being taken or about to be taken.

(12) The Judge in-charge may, on recommendation of the Regional Judicial Officers Ethics Committee, interdict magistrate pending the disciplinary proceedings against him in the Regional Judicial Officers Ethics Committee.

(13) At the end of the inquiry, investigation or disciplinary proceedings against any magistrate, the Regional Judicial Officers Ethics Committee shall submit a report thereof to the Judge in charge who shall further submit it to the Commission.

(14) The Chief Justice, Jaji Kiongozi or Judge in-charge, may interdict judicial officer who is charged with a criminal offence which is also a disciplinary offence.

(d) District Judicial Officers Ethics Committee

Establishment
of District
Ethics Officers
Committee

51.—(1) There shall be established, in each district, the District Judicial Officers Ethics Committee which shall be composed of -

- (a) the District Commissioner, who shall be the Chairman;
- (b) the District Magistrate or the Resident Magistrate in charge of the district;
- (c) the District Administrative Secretary, who shall be the Secretary;
- (d) two other members, one of them being a religious leader appointed by the District Commissioner from among prominent persons who in his opinion, are of proven high integrity, knowledgeable and have the ability necessary to usefully participate in the effective discharge of the functions of the District Judicial Officers Ethics Committee; and
- (e) two judicial officers appointed by the Judge in charge.

(2) The quorum at any meeting of the District Judicial Officers Ethics Committee shall be the Chairman and three other members.

(3) Every District Judicial Officers Ethics Committee shall-

- (a) receive and investigate complaints submitted by members of the public concerning primary court

magistrates in the district and submit reports to the Commission;

- (b) carry out inquiries into the conduct of the Primary Court Magistrate in consequence of a direction so to do given by the Judge in charge, and report back to him; and
- (c) perform such other functions as the Minister may direct.

(4) Any person who has a complaint against a Primary Court Magistrate shall file the complaint with the Secretary.

(5) The Judge in-charge may suspend a Magistrate pending the continuation and completion of the disciplinary proceedings against him in the District Judicial Officers Ethics Committee.

(6) At the completion of the disciplinary proceedings against any Magistrate, the District Judicial Officers Ethics Committee shall submit a report in that respect to the Judge in charge who shall further submit it to the Commission.

Cap. 329

(7) For the purpose of this Part, “grave offence” shall include offences under the Prevention and Combating of Corruption Act.

PART VI FINANCIAL PROVISIONS

(a) Establishment of the Fund

Funds of
Judiciary

52.—(1) There is established for purposes of the Judiciary, a special fund to be known as the Judiciary Fund.

(2) Subject to the provision of the Constitution, the sums of money required for purposes of the Judiciary shall be paid by the Treasury into the Judiciary Fund.

(3) The overall administration and control of the Judiciary Fund is vested in the Chief Court Administrator.

(4) The Chief Court Administrator shall be the accounting officer and shall be responsible for day to day administration operation of the Judiciary Fund.

Other sources of funds **53.**—(1) Without prejudice to the provisions of section 52, the Judiciary may receive for and on behalf of the Judiciary, any grant made for the purpose of the Judiciary by a foreign government, international, national organisations or association or by an individual person.

Caps.134 and 348 (2) Any sums received as grant made to the Judiciary pursuant to subsection (1) shall be subject to the requirements of Part V of the Government Loans, Guarantees and Grants Act and the Public Finance Act.

Accounts and audit **54.**—(1) The Chief Court Administrator shall cause to be kept proper books of accounts and shall, within and not later than three calendar months after the end of each financial year, cause to be prepared a statement of income and expense during the financial year.

Caps. 418, 410 and 418 (2) The accounts relating to the operations of the Judiciary Fund on the last day of the financial year shall be submitted for audit by the Controller and Auditor-General in accordance with the Public Audit Act, the Public Procurement Act and the Public Finance Act.

Internal financial regulations **55.**—(1) The Commission shall, in consultation with the Minister responsible for finance, make internal financial regulations for the proper management and financial control of the operations of the Judiciary Fund.

Caps. 348, 410 and 418 (2) In the performance of its function under subsection (1), the Commission shall ensure that, the regulations are broadly kept in line with the regulations made under the Public Finance Act, the Public Procurement Act and the Public Audit Act.

Annual report **56.** The Chief Court Administrator shall, in each year, submit to the Minister, copies of a statement of income and expenditure and a copy of the auditor's report, together with a report on the activities of the Commission during the financial year, and the Minister shall submit the reports to the National Assembly.

(b) *Budget Estimates*

Budget of
Judiciary

57.—(1) Prior to the beginning of each fiscal year, the Commission shall direct the Chief Court Administrator to prepare estimates of the sums of money which the Judiciary may require for the payment of various costs and expenses to be incurred by the Judiciary during the next fiscal year for the following purposes—

- (a) administrative and support services provided to the Judiciary;
- (b) salaries and remuneration of judicial and non judicial officers; and
- (c) funding requirements for Judiciary purposes.

(2) In preparing estimates, the Chief Court Administrator shall consider the following:

- (a) the nature, quantity and quality of administrative services and support services required for the effective operation of the Judiciary;
- (b) the nature, quantity and quality of administrative services and support services which judicial and non-judicial officers require for the effective performance of their functions; and
- (c) the need for fiscal responsibility.

(3) The Chief Court Administrator shall prepare the estimates for the Judiciary within the funding requirements for the relevant fiscal year.

Presentation of
budget estimates
to Commission

58.—(1) The Chief Court Administrator shall, before making a presentation to the Commission, separately make presentation of the budget estimates to the Workers' Council whereupon, the Workers' Council shall review and make alterations which are found to be appropriate so to do.

(2) The Chief Court Administrator shall present to the Commission the estimates of the sums of money required to be appropriated by the Parliament for the purposes of the Judiciary, and the Commission shall review the estimates and make any alteration considered and found

to be appropriate and shall then, concur and adopt those estimates.

Estimates of
revenue and
expenditure for
Judiciary
Acts Nos.
11 of 2015 s. 75
2 of 2016 s. 36

59.—(1) The Chief Court Administrator shall, in each year, prepare estimates of revenues and expenditure for the Judiciary and submit to the Commission for review and adoption.

(2) The Chief Court Administrator shall submit the estimates adopted under subsection (1) to the Parliamentary Budget Committee for consideration and adoption in a consultative meeting with the Minister responsible for finance and planning.

(3) The Minister shall submit to the National Assembly estimates for revenue and expenditure of the Judiciary for approval.

PART VII OFFENCES AND PENALTIES

Offence to
influence
or attempt
to influence
Commission

60.—(1) Without prejudice to the provisions of any other law, any person who otherwise than in the course of his duty directly or indirectly by himself or by any other person, in any manner whatsoever, influences or attempts to influence any decision of the Commission shall be guilty of an offence and on conviction shall be liable to a fine of not less than one hundred thousand shillings but not exceeding two hundred thousand shillings or to imprisonment for two years or to both.

(2) Nothing in this section shall prohibit any person from giving a certificate or testimonial to any applicant or candidate for any office or from supplying any information or assistance at the request of the Commission.

Offence of false
information to
Commission

61. Without prejudice to the provisions of any other law, any person who in connection with the exercise by the Commission of its functions or duties willfully gives to the Commission any information which he knows to be false or does not believe to be true, or which he knows to be false by reason of the omission of any particular material, shall be guilty of an offence and on

conviction shall be liable to a fine of not less than five hundred thousand shillings but not exceeding one million shillings or to imprisonment for a term of two years or to both.

Construction
of term
“Commission”

62. For the purposes of sections 60 and 61, the term “Commission” shall include the Commission, any member of the Commission, Secretary, any Committee of the Commission, any officer of the Commission or any person or body of persons appointed to assist the Commission in the exercise of its functions or duties.

Unauthorised
disclosure of
information
prohibited

63.—(1) A member of the Commission, or any officer of the Commission, or any other person, shall not, without the written permission of the Chairman of the Commission, publish or disclose to any person otherwise than in exercise of his official functions the contents of any document, communication or information whatsoever which has come to his notice in the course of his duties in relation to the Commission, and any person who knowingly acts in contravention of the provisions of this subsection, shall be guilty of an offence, and on conviction shall be liable to a fine of not less than five hundred thousand shillings but not exceeding one million shillings or to imprisonment for a term of twelve months or to both.

(2) A person who knows any information which to his knowledge has been disclosed in contravention of the provisions of subsection (1) and who publishes or communicates it to any other person otherwise than for the purpose of any prosecution under this Act or in the course of his official duty, shall be guilty of an offence and on conviction shall be liable to a fine of not less than five hundred thousand shillings but not exceeding one million shillings or to imprisonment for a term of twelve months or to both.

Prosecution

64. Any prosecution in respect of any offence under this Part shall not be instituted except with the consent of the Director of Public Prosecutions.

PART VIII

GENERAL PROVISIONS

Performance of functions under this Act

65. The Chief Court Administrator and the Chief Registrar shall, in the exercise of their functions under this Act, establish a system of close consultation, coordination and cooperation.

Protection of judicial officer Act No. 6 of 2020 s. 35

66. A judicial officer shall not be liable in an action or suit in respect of anything done or omitted to be done in good faith in the performance of judicial function.

[s. 65A]

Regulations

67.—(1) The Commission may, make regulations for the administration of the Judiciary.

(2) Without prejudice to the generality of subsection (1), the regulations may -

- (a) require persons to attend before the Commission to answer questions relating to the exercise of powers by judicial officers;
- (b) make different provisions for different levels of judicial officers;
- (c) prescribe the Code of Conduct and Ethics for Judicial Officers and Non-Judicial Officers; and
- (d) prescribe the procedures and functions of the Regional Judicial Officers Ethics Committee.

(3) Regulations made under this Act shall be published in the *Gazette*.

[s. 66]

Repeal and Savings Act No. 2 of 2005

68.—(1) [Repeals the Judicial Service Act.]

(2) Notwithstanding the repeal of the Judicial Service Act-

- (a) all proceedings commenced under the repealed Act and pending before the Commission or any Committee immediately before the commencement of this Act, shall be continued and concluded as if this Act has not been enacted; and

- (b) all orders, notices, regulations, rules, directions, appointments and other acts lawfully made, issued or done under any of the provisions of the Act and made, issued or done before the commencement of this Act, shall be deemed to have been made, issue or done under the corresponding provision of this Act and shall continue to have effect accordingly.

[s. 67]

PART IX CONSEQUENTIAL AMENDMENTS

Omitted

69.–70. [Omitted.]

[ss. 68–69]

FIRST SCHEDULE

(Made under section 13(4) and 33(5))

MEETINGS AND PROCEEDINGS OF THE JUDICIAL SERVICE COMMISSION

Meetings of
Commission

1.–(1) The Commission shall ordinarily meet for the transaction of its business at the time and at the places determined by it, but shall meet at least once every three months.

(2) The Chief Justice may, at any time upon a written request by a majority of the members in office, call a special meeting of the Commission.

(3) The Chief Justice, shall preside at every meeting of the Commission and in the absence of the Chief Justice, the members present shall appoint one of their member to preside over the meeting.

(4) The Chief Justice may invite any person who is not a member to participate in the deliberations at any meeting of the Commission, but any person so invited shall not be entitled to vote.

Quorum

2. The quorum at any meeting of the Commission shall be the majority of members in office.

Decisions of
Commission

3.–(1) Questions proposed at a meeting of the Commission shall be decided by a majority of the votes of the members present and voting and in the event of an equality of votes, the person presiding shall have a second or casting vote in addition to his original or deliberative vote.

- Minutes of meetings (2) Notwithstanding the provisions of subparagraph (1), a decision may be made by the Commission without a meeting by circulation of the relevant papers among the members, by the expression in writing of the majority of the members.
- Minutes of meetings 4.-(1) The Secretary shall record and keep minutes of all business conducted or transacted at its meetings, and the minutes of each meeting of the Commission shall be read and confirmed, or amended and confirmed, at the next meeting whose minutes they purport to be.
- Minutes of meetings (2) Any minutes purporting to be signed by the person presiding at a meeting of the Commission shall, in the absence of proof of error, be deemed to be a correct record of the meeting whose minutes they purport to be.
- Vacancies not to invalidate proceedings 5. The validity of any act or proceedings of the Commission shall not be affected by any vacancy among its members.
- Orders, directions etc. 6. All orders, directions, notice or other instruments made or issued on behalf of the Commission shall be signed by -
 - (a) the Chief Justice; or
 - (b) the Secretary or any other member of the Commission authorised in writing in that behalf by the Chief Justice.
- Commission may regulate its own proceedings 7. Subject to the provisions of this Schedule, the Commission may regulate its own proceedings.

SECOND SCHEDULE

(Made under section 16(1))

OATH OF A MEMBER

I, having been appointed as chairman/member of the Judicial Service Commission/Secretary, do swear/ affirm/declare that I will freely and without fear or favour, affection or ill-will, discharge the functions of Chairman/Member/Secretary of the Commission, and that I will not directly or indirectly reveal any matters relating to such functions to any unauthorised person or otherwise than in the course of duty.

SO HELP ME GOD

Sworn/Affirmed/Declared before me this day of 20

THIRD SCHEDULE*(Made under section 16(2))**(a) Commission***OATH OF OFFICER OF THE COMMISSION**

I,..... being called upon to exercise the functions of an Officer of the Judicial Service Commission, do swear/affirm/declare that I will not, directly or indirectly, reveal to any unauthorised person or otherwise than in the course of duty the contents or any part of the contents of any document, communication or information whatsoever which may come to my knowledge in the course of my duties as an Officer of the Commission or under the provisions of this Act.

SO HELP ME GOD

Sworn/Affirmed/Declared before me this day of
20

Chairman

*(b) Secretary***OATH OF THE SECRETARY OF THE COMMISSION**

I,..... being called upon to exercise the functions of the Secretary of the Commission, do swear/affirm/declare that I will not, directly or indirectly, reveal to any unauthorised person or otherwise than in the course of duty the contents or any part of the contents of any document, communication or information whatsoever which may come to my knowledge in the course of my duties as a Secretary of the Commission or under the provisions of this Act.

SO HELP ME GOD

Sworn/Affirmed/Declared before me this day of
20

Chairman

FOURTH SCHEDULE

(Made under section 47(3))

MEETINGS AND PROCEEDINGS OF THE JUDGES ETHICS COMMITTEE AND JUDICIAL OFFICERS COMMITTEES

Meetings of
Committee

1.-(1) The Committee shall ordinarily meet for the transaction of its business at the time and at the places determined by it, but shall meet at least once every three months.

(2) The Chairman, may, at any time upon a written request by a majority of the members in office, call a special meeting of the Committee.

(3) The Chairman shall preside at every meeting of the Committee and in the absence of the Chairman, members present shall appoint one of their number to preside over the meeting.

(4) The Committee may invite any person who is not a member to participate in the deliberations at any meeting of the Committee, but any person so invited shall not be entitled to vote.

Quorum

2. The quorum at any meeting of the Committee shall be half of the members in office.

Decisions of
Commission

3.-(1) Questions proposed at a meeting of the Committee shall be decided by a majority of the votes of the members present and voting and in the event of an equality of votes, the person presiding shall have a second or casting vote in addition to his original or deliberative vote.

(2) Notwithstanding the provisions of subparagraph (1), a decision may be made by the Committee without a meeting by circulation of the relevant papers among the members, by the expression in writing of the majority of the members.

Minutes of
meetings

4.-(1) The Committee shall cause to be recorded and kept minutes of all business conducted or transacted at its meetings, and the minutes of each meeting of the Committee shall be read and confirmed, or amended and confirmed, at the next meeting whose minutes they purport to be.

(2) Any minutes purporting to be signed by the person presiding at a meeting of the Committee shall, in the absence of proof of error, be deemed to be a correct record of the meeting whose minutes they purport to be.

Vacancies not
to invalidate
proceedings

5. The validity of any act or proceedings of the Committee shall not be affected by any vacancy among its members or by any defect in the appointment of any of them.

- Orders, directions etc. **6.** All orders, directions, notices or other documents made or issued on behalf of the Committee shall be signed by-
- (a) the Chairman; or
 - (b) the Secretary; and
 - (c) any other member authorised in writing in that behalf by the Chairman.
- Committee may regulate its own proceedings **7.** Subject to the provisions of this Schedule, the Committee may regulate its own proceedings.
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