

***Organic Law on the Judicial and Legal Services Commission***

Consolidated: 20/10/2022



## CHAPTER NO. 1.

### *Organic Law on the Judicial and Legal Services Commission.*

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## CHAPTER NO. 1.

### ***Organic Law on the Judicial and Legal Services Commission,***

Being a Provisional Organic Law to implement Section 183(5) (*establishment of the Commission*) of the **Constitution** by making further provision in respect of the Judicial and Legal Services Commission.

MADE by the Constituent Assembly to come into operation on Independence Day<sup>1</sup>.

#### **PART I. - PRELIMINARY.**

##### **1. DEFINITIONS.**

In this Law, unless the contrary intention appears -

“the Chairman” means the Chairman of the Commission;

“the Commission” means the Judicial and Legal Services Commission established by Section 183 (*establishment of the Commission*) of the **Constitution**.

#### **PART II. - CONSTITUTION, ETC., OF THE COMMISSION.**

##### ***Division 1. - Provisions Relating to Certain Members only.***

##### **2. APPLICATION OF THIS DIVISION.**

This Division applies only to the members of the Commission referred to in Section 183(2)(a) and (e) (*establishment of the Commission*) of the **Constitution** (other than the Minister responsible for the National Justice Administration).

##### **3. TERM OF OFFICE.**

(1) The member of the Commission (if any) nominated by the Minister responsible for the National Legal Administration<sup>2</sup> -

(a) subject to paragraphs (b), (c) and (d) remains in office during the pleasure of the Minister; and

(b) vacates his office if the Minister who nominated him ceases to be a Minister; and

(c) may resign his office by notice in writing to the Minister; and

(d) may be dismissed from office in accordance with Division III.2 (*leadership code*) of the **Constitution**, for misconduct in office.

<sup>1</sup> “Adopted” on 15 September 1975, after the adoption of the **Constitution**.

<sup>2</sup> *Semble*, “National Justice Administration” was intended – see **Constitution**, Section 154, where that expression was substituted for “National Legal Administration” by the Constituent Assembly.

- (2) The member of the Commission appointed by the Parliament -
- (a) subject to paragraphs (b) and (c) remains in office during the pleasure of the Parliament; and
  - (b) vacates his office if he ceases to be a member of the Parliament except that if the vacation of office is due to a general election he remains a member of the Commission until the first sitting day of the Parliament after the general election; and
  - (c) may resign his office by notice in writing to the Speaker.

#### **4. CONDITIONS OF EMPLOYMENT.**

The salary and other conditions of employment of the members of the Commission shall be as determined by the Head of State, acting with, and in accordance with, the advice of the National Executive Council given after receiving reports from the Parliamentary Salaries Tribunal and the Public Services Commission.

#### **5. DISQUALIFICATIONS FROM OFFICE.**

A person is not qualified to be, or to remain, a member of the Commission if he is -

- (a) an undischarged bankrupt or insolvent; or
- (b) of unsound mind within the meaning of any law relating to the protection of the person and property of persons of unsound mind; or
- (c) under sentence of death or imprisonment.

#### *Division 2. - General.*

#### **6. ACTING CHAIRMAN AND ACTING MEMBERS.**

A person who is qualified for appointment may be appointed to be an acting Chairman or an acting member of the Commission -

- (a) to fill temporarily a vacancy; or
- (b) in the case of the absence from duty for any reason of the Chairman or a member of the Commission.

#### **7. DECLARATION OF OFFICE.**

Before entering upon the duties of his office, a member of the Commission shall make the Declaration of Office before the Governor-General or a person appointed by the Governor-General for that purpose.

### **PART III. - FUNCTIONS, ETC., OF THE COMMISSION.**

#### **8. FUNCTIONS OF THE COMMISSION.**

The functions of the Commission, in addition to the functions specified in the *Constitution* and in any other Organic Law are -

- (a) to conduct a continuing review of the jurisdiction, practice and procedure of all courts, other than the Supreme Court and the National Court, and, from time to time, to make recommendations to the Law Reform Commission as to legislative changes that to it appear necessary in relation to such jurisdiction, practice and procedure; and
- (b) to ensure the adequate staffing of the courts referred to in paragraph (a); and

- (c) to ensure that adequate and proper statistics relating to the exercise of the jurisdiction of all courts are compiled and kept.

**9. PROCEDURES OF THE COMMISSION.**

- (1) The Commission shall meet at such times and places as are fixed by the Chairman but in any event not less frequently than once every three months.
- (2) The Chairman shall preside at all meetings of the Commission.
- (3) The quorum for a meeting of the Commission is three.
- (4) All matters before a meeting of the Commission shall be decided in accordance with a majority of votes.
- (5) In the event of an equality of votes on a matter, the Chairman has a casting, as well as a deliberative, vote.
- (6) The Commission shall cause minutes of its meetings to be kept.
- (7) Subject to this Law, the procedures of the Commission are as determined by it.

**10. DELEGATION.**

- (1) The Commission may, by instrument in writing under the hand of the Chairman, delegate to any person all or any of its powers and functions (other than this power or function) so that the delegated powers and functions may be exercised and performed by the delegate in relation to the matters or class of matters specified in the instrument of delegation.
- (2) Every delegation under Subsection (1) is revocable, in writing, at will, and no such delegation affects the exercise of a power or the performance of a function by the Commission.

**11. ANNUAL REPORT BY COMMISSION.**

- (1) The Commission shall, at least once during each period of 12 months, at such times as are fixed by the Head of State, acting with, and in accordance with, the advice of the National Executive Council give to the Head of State, for presentation to the Parliament, a report on the work of the Commission with such recommendations as it thinks proper.
- (2) Nothing in Subsection (1) prevents the Commission from making, on its own initiative, or at the request of the Parliament or of the National Executive, other reports on the work of the Commission.

**PART IV. - STAFF OF THE COMMISSION.**

**12. STAFF.**

- (1) Subject to Subsection (2), any staff of the Commission required for the purposes of this Law shall be officers or employees of the National Public Service.

(2) Nothing in Subsection (1) prevents any person from being employed, on contract or otherwise, under any other law to perform functions in relation to the Commission.

**PART V. - MISCELLANEOUS.**

**13. PRIVILEGE.**

A member of the Commission or member of the staff of the Commission is not liable for any act or omission done or made *bona fide* and without negligence under or for the purposes of this Law.

**14. REGULATIONS<sup>3</sup>.**

The Head of State, acting with, and in accordance with, the advice of the National Executive Council, may make regulations, not inconsistent with this Law, prescribing all matters that by this Law are required or permitted to be prescribed for carrying out or giving effect to this Law, and generally for achieving the purposes of this Law, and in particular for prescribing penalties not exceeding K500.00 and default penalties not exceeding K10.00 for offences against or contraventions of any regulations so made.

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Office of the Commissioner-Revised Laws, PNG

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<sup>3</sup> See, however, *Constitution*, Section 258, which provides for the making of “Constitutional Regulations” for the purposes of Organic Laws.