

ACT 114

PUBLIC OFFICERS ACT, 1962

ARRANGEMENT OF SECTIONS

SECTION

1. Immunity from actions.
2. Actions against a public officer.
3. Void proceedings.
4. Jurisdiction of the Court.
5. Designation of public officers.
6. Changes in designation.
7. Interpretation.
8. Repeal.
9. Commencement.

ACT 114

PUBLIC OFFICERS ACT, 1962¹

AN ACT to consolidate with amendments enactments providing for the protection of public officers from legal proceedings in respect of certain liabilities, for the protection of persons acting in the execution of public duties, for the change of official designations and for related matters.

1. Immunity from actions

- (1) An action does not lie against a public officer
 - (a) on a promise, express or implied, to repay money paid or advanced to the public officer or to another person at the request of the public officer;
 - (b) on a promise, express or implied, to be answerable for the debt or default of another person; or
 - (c) on a bond, bill of exchange, other than a cheque drawn on a banker, promissory note, or any another personal security made, drawn, accepted, endorsed, or given by the public officer.
- (2) Subsection (1) does not apply to an action which is
 - (a) brought against a public officer who at the time when the cause of action arises is in receipt of a salary of more than three hundred pounds per annum in respect of that public officer's substantive appointment;
 - (b) brought against a person in respect of a liability incurred prior to the date on which that person became a public officer;
 - (c) brought by the holder of a security other than those specified in paragraph (c) of subsection (1) to realise that security.

1. The Act was assented to on 7th March, 1962 and came into force on 27th July, 1962.

2. Actions against a public officer

(1) Where an action, a prosecution, or any other proceeding is commenced against a person for an act done in pursuance or execution or intended execution of an enactment or of a public duty or an authority or in respect of an alleged neglect or a default in the execution of that enactment, duty or authority,

- (a) the action, prosecution, or proceedings shall not lie or be instituted unless it is commenced within three months after the act, neglect, or default complained of, or in the case of a continuance of the injury or damage, within three months after the ceasing of the injury or damage;
- (b) where the action, prosecution or proceedings is brought by a person for a cause arising while that person was a convict, it may be commenced within three months after the discharge of that person from prison;
- (c) where an action is obtained by the defendant, it shall carry costs to be taxed as between solicitor and client;
- (d) where the proceedings is an action for damages, tender of amends before the action was commenced may, in lieu of, or in addition to, any other plea, be pleaded;
- (e) where an action was commenced after the tender, or is proceeded with after payment into Court of a sum of money in satisfaction of the plaintiff's claim, and the plaintiff does not recover more than the sum tendered or paid, the plaintiff shall not recover the costs incurred after the tender or payment, and the defendant is entitled to costs, to be taxed as between solicitor and client, as from the time of the tender or payment, but this provision shall not affect the costs of an injunction in the action;
- (f) where the Court thinks the plaintiff has not given the defendant a sufficient opportunity of tendering amends before the commencement of the proceeding the Court may award to the defendant costs to be taxed as between solicitor and client.

3. Void proceedings

(1) The proceedings and documents in or incidental to an action brought in contravention of this Act is void.

(2) Where a complaint is made that a public officer is dealt with in contravention of this Act by a process, an execution or order issued out of a Court, and is made to that Court or a Court superior to it, the Court

- (a) shall enquire into the complaint, and
- (b) shall, if satisfied that the complaint is well-founded, discharge the public officer without fee, and
- (c) may award reasonable costs to the person making the complaint, which may be recovered as if the costs had been awarded in the public officer's favour in the proceedings instituted against the public officer.

4. Jurisdiction of the Court

(1) On the coming into operation of this Act, a Court other than the Supreme Court, the Court of Appeal, the High Court, a Circuit Court, or a District Court shall not exercise jurisdiction in respect of an action, mentioned in paragraph (a), (b) or (c) of subsection (1) of section 1 brought before or after the commencement of this Act against a public officer.

(2) Subsection (1) does not apply to an action

- (a) brought against a public officer who at the time when the cause of action arose was in receipt of a salary of more than sixty million cedis per annum in respect of the substantive appointment of that public officer;
- (b) brought by the holder of a security, other than those specified in paragraph (c) subsection (1) of section 1 to realise that security.

5. Designation of public officers

The President may, by legislative instrument, declare the holder of an office to be a public officer and may by that or any other instrument specify the functions performable by the public officer or amend an enactment for giving effect to the declaration so made.

6. Changes in designation

The President may, by legislative instrument, change the designation of a public officer and may for that purpose by that or any other instrument amend an enactment for giving effect to the change so made.

7. Interpretation

In this Act, unless the context otherwise requires,

“**action**” includes legal proceedings and processes of every description other than criminal;

“**Court**” means a court of competent jurisdiction;

“**public officer**” means

- (a) a person in the service of the Government,
- (b) a person in the service of a local authority.

8. Repeal

*Spent.*²

2. The section provided that:

“(1) The Public Officers (Liabilities) Ordinance (Cap. 26), the Public Officers (Protection) Ordinance (Cap. 27) and the Public Officers and Government Departments (Change of Designations) Ordinance (Cap. 28) are hereby repealed.

(2) Notwithstanding the repeal of the enactments specified in the preceding subsection, any statutory instruments made thereunder and in force immediately before the commencement of this Act shall continue in force as if made under this Act.”

9. Commencement

*Spent.*³

3. The section provided that the Act would come into operation on a day appointed by the President by legislative instrument. The Public Officers Act, 1962 (Commencement) Instrument, 1962 (L.I. 202) appointed on the 27th day of July, 1962 as the day for the coming into effect of the Act.