

*LOCAL GOVERNMENT (UNIFIED SERVICE
AND EMPLOYMENT)*

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THE LOCAL GOVERNMENT (UNIFIED SERVICE
AND EMPLOYMENT) ACT

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THE LOCAL GOVERNMENT (UNIFIED SERVICE
AND EMPLOYMENT) ACT

Act
5 of 2016.

[1st March, 2016.]

1. This Act may be cited as the Local Government (Unified Service and Employment) Act. Short title.

2. In this Act— Interpretation.

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

“Commission” means the Local Government Services Commission established by section 3;

“existing officer” means a person who is on the appointed day a unified service officer;

“non-Gazetted employee” means an employee of a Local Authority who is not a unified service officer, whether or not the employment is permanent, temporary or on a fixed term contract;

“unified service office” means an office—

(a) of emolument in the service of a Local Authority; and

(b) referred to in the First Schedule; First
Schedule.

“unified service officer” means the substantive holder of a unified service office.

(2) In this Act, reference to the Council of a Local Authority for any parish shall include reference to any person or persons appointed by the Minister to exercise the powers and perform the duties of the Council pursuant to the provisions of section 11 of the Local Governance Act.

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

Establishment
and
constitution
of Local
Government
Services
Commission.

3.—(1) There is hereby established a Local Government Services Commission which shall consist of not less than seven nor more than nine members appointed by the Governor-General by instrument in writing under the Broad Seal, so however, that subject to the provisions of this section—

- (a) two members shall be appointed upon nomination by the Association of Local Government Authorities of Jamaica, incorporated under the Association of Local Government Authorities of Jamaica (Incorporated and Vesting) Act, 2004;
- (b) two members shall be appointed upon nomination as follows—
 - (i) one member shall be nominated by the Jamaica Association of Local Government Officers, or such other association representing unified service officers as may be prescribed; and
 - (ii) one member shall be nominated by the Jamaica Confederation of Trade Unions, or such other association representing trade unions as may be prescribed; and
- (c) the other members shall be appointed from among persons nominated by the Minister, including—
 - (i) two members from among persons with recognized expertise in human resource management; and
 - (ii) one member who shall be a practicing attorney-at-law.

(2) The procedure set out in subsections (5) to (7) shall apply to every nomination made under subsection (1)(a) or (b) and to the filling of any vacancy in the membership of the Commission arising from the cessation of the membership of any member appointed under subsection (1)(a) or (b).

(3) No person shall be qualified to be appointed as a member of the Commission at any time when that person is—

(a) a member of either House of Parliament; or

(b) a councillor or an employee of a Local Authority,

and any member of the Commission who ceases to be qualified to be appointed under this section shall thereupon be deemed to have vacated that person's office as a member of the Commission.

(4) The Governor-General shall by instrument in writing appoint one of the members of the Commission to be the chairman of the Commission, not being a person employed in a public office as defined by the Constitution of Jamaica or holding any office the emoluments of which are payable out of the funds of any parish.

(5) The Minister shall, in writing issued to the entities entitled to make any nomination under subsection (1)(a) or (b), request that the nomination be supplied to the Minister.

(6) Within fourteen days after the receipt of a written request under subsection (5), the entity concerned shall notify the Minister in writing of the name of the nominee or nominees (as the case may require).

(7) Where the Minister is notified of any nomination made under subsection (1)(a) or (b), the Minister shall—

(a) if the Minister objects to the nomination, by notice in writing so inform the entity who made the nomination, setting out the grounds of the objection, and require the entity to supply the Minister with the name of an alternative nominee within fourteen days after receipt of the notice; or

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(b) if the Minister does not object to the nomination, transmit confirmation of the nomination to the Governor-General.

(8) The nomination of a person for membership of the Commission may, at any time, be cancelled by the entity who made the nomination, and a written notice of the cancellation shall—

(a) in the case of a nomination made pursuant to subsection (1)(a) or (b) forthwith be given to the Minister; and

(b) in the case of a nomination made by the Minister, forthwith be given to the Governor-General,

and the cancellation shall take effect upon the revocation by the Governor-General of the member's appointment under section 4(3)(b).

(9) Where a notice of cancellation is given under—

(a) subsection (8)(a), the entity who made the nomination shall transmit to the Minister along with the notice, the name of a substitute nominee, and the procedure set out in subsection (7) shall apply thereto so, however, that the Minister shall also transmit to the Governor-General, with the confirmation of the nomination, a copy of the notice of the cancellation;

(b) subsection (8)(b), the Minister shall transmit to the Governor-General, along with the notice, the name of a substitute nominee.

(10) The chairman and members of the Commission shall, on appointment, take an oath or make an affirmation (according to the appointee's conscience) in the Form set out in the Second Schedule and administered by a Justice of the Peace.

Second
Schedule.

Third
Schedule.

(11) The provisions of the Third Schedule shall have effect with respect to the proceedings of the Commission and

otherwise with respect thereto.

4.—(1) Subject to the provisions of this section, a member of the Commission shall hold office for a period of five years from the date of the appointment of the member.

Tenure of
office of
Commission
members.

(2) Any member of the Commission may resign as member or as chairman, as the case may be, by notice in writing—

- (a) in the case of the chairman, addressed to the Governor-General and transmitted through the Minister; and
- (b) in any other case, addressed to the Governor-General and given to the chairman for transmission through the Minister.

(3) The Governor-General—

(a) may, at any time, revoke the appointment of a member of the Commission for inability to discharge the functions of the member (whether arising from infirmity of body or mind, or any other cause) or for misbehaviour—

- (i) in the case of a member nominated pursuant to section 3(1)(a) or (b), after consultation with the entity that nominated the member;
- (ii) in the case of a member appointed pursuant to section 3(1)(c), upon the recommendation of the Minister; and

(b) shall, upon receipt of a notice, under section 3(8), of the cancellation of a member's nomination, revoke the appointment of that member.

(4) A member of the Commission who, without excuse satisfactory to the Minister, is absent from—

- (a) three or more consecutive meetings of the Commission; or

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- (b) four or more meetings of the Commission within a six month period,

is liable to have that member's appointment revoked by the Governor-General acting on the recommendation of the Minister.

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

Functions
and powers
of the
Commission.

5.—(1) The objectives of the Commission in the discharge of its functions under this Act shall, in keeping with the policy directions issued by the Minister under section 6, be to foster a workforce that—

- (a) possesses the requisite skills, competencies and outlook, to achieve good governance and sustainable development at the local level; and
- (b) is strongly oriented toward innovation, problem solving and responsiveness to customer needs.

(2) The functions of the Commission shall be to—

- (a) develop an appropriate human resource policy framework for Local Authorities, including standards and procedures to guide and ensure effective management and development of employees of Local Authorities;
- (b) administer and ensure the proper management of employees of Local Authorities;
- (c) ensure the adoption and application of appropriate and evolving standards, procedures and practices for recruitment, appointment, deployment, promotion, development, transfer, discipline and separation, as concerns employees of Local Authorities;
- (d) develop, in collaboration with Local Authorities and the Minister, manpower projections, plans and

strategies, towards determining and satisfying short, medium and long-term personnel needs that are consistent with the strategic direction and alignment of the local government system;

- (e) establish appropriate procedures for enabling Local Authorities to have reasonable input in decisions as they relate to the staffing of Local Authorities;
- (f) establish and maintain, in conjunction with Local Authorities, accurate and comprehensive human resource management information systems that encompass all employees of Local Authorities;
- (g) establish and maintain systems and processes relating to the keeping of records on the performance of all employees of Local Authorities, including systems for the efficient retrieval and production of information kept in such records;
- (h) facilitate the transfer and rotation of staff between Local Authorities, and between Local Authorities and central government;
- (i) develop policies and guidelines for disciplinary measures applicable to employees of Local Authorities, including appeal processes with respect thereto;
- (j) act as an appeal tribunal in respect of appeals brought before it under section 9;
- (k) facilitate and deliver expedient and timely resolution of appeals and any other matters brought before it under this Act or any other law;
- (l) facilitate the process of mediation as a preferred option, whenever appropriate, for the resolution of disputes between any employee of a Local Authority and a Local Authority, and for that purpose may make available personnel or recommend professional

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mediators to assist in such resolution;

- (m) review, from time to time, the operations of Local Authorities relating to employment or any aspect thereof, to determine where improvements to the legal and procedural framework may be required with respect thereto, and make such recommendations thereon as it thinks fit to the Minister;
- (n) ensure fair, equitable and non-discriminatory treatment of all employees in respect of whom it exercises the functions specified in subsection (3), regardless of gender, race, class and religious or political persuasion; and
- (o) carry out such other functions as are assigned to the Commission under this Act or any other law.

(3) Notwithstanding anything to the contrary, from and after the appointed day, such matters as may be prescribed relating to the exercise by a Local Authority of its functions under the provisions of any law in respect of the—

- (a) appointment, promotion or transfer;
- (b) termination of appointment, dismissal or disciplinary control; and
- (c) terms and conditions of service,

of unified service officers of that Local Authority, or any prescribed class of such officers, shall fall within the powers of the Commission, to be dealt with by the Commission in such manner as may be prescribed.

(4) With a view to facilitating the establishment of a unified service for Local Authorities, and subject to the provisions of this section and any regulations made under this Act, the Commission may, at any time, cause any unified service officer to be transferred from the service of one Local Authority to the service of another Local Authority, either with or without the officer's consent or the consent of the Local

Authority from or to whose service the officer is transferred.

(5) An existing officer of a Local Authority for the parishes of Kingston and Saint Andrew may elect, within the period of one year after the appointed day or such longer period as the Minister may prescribe by order published in the *Gazette*, to retain the right to refuse to be transferred (temporarily or otherwise) from the service of that Local Authority to the service of another Local Authority, so, however, that—

- (a) if the election is not made by the existing officer within that period, the right to refuse to be transferred shall thereupon cease to apply to that officer; and
- (b) whether or not the election is made, the right to refuse to be transferred shall cease to apply if the existing officer subsequently accepts a permanent appointment in the service of another Local Authority.

(6) Subject to subsection (5)(b), the Commission shall—

- (a) before transferring a unified service officer pursuant to its power under subsection (4), consult with the Local Authority to whose service the officer is to be transferred, and the Local Authority from whose service the officer is to be transferred, as to the possible impact of the transfer on the operations of those Local Authorities; and
- (b) not exercise its power of transfer under subsection (4) in relation to any existing officer who is entitled to make an election under subsection (5) and who has made the election in accordance with subsection (5).

(7) For the purposes of carrying out its functions under this Act, the Commission may request from any Local Authority information as to any disciplinary processes carried out by the Local Authority with respect to any employee of a Local Authority, and may require the Local Authority to produce to it such records as may be in the possession or control of the Local Authority with respect thereto.

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(8) The Commission may delegate to a Local Authority any aspect of its functions with respect to unified service officers of that Local Authority (including the functions referred to in subsection (3))—

- (a) as the Commission considers appropriate for the more efficient management of personnel employed to Local Authorities, which may include any functions with respect to disciplinary matters; and
- (b) subject to such guidelines, criteria, procedures and conditions, as may be specified by the Commission in the instrument of delegation.

(9) Notwithstanding any delegation made under subsection (8), the Commission shall have the power to directly perform the functions delegated, in any case where it finds that the Local Authority concerned has not performed the function in keeping with the guidelines, criteria, procedures or conditions referred to in that subsection.

Policy
direction.

6. The Minister may—

- (a) give to the Commission general directions as to the policies to be adhered to by the Commission in the discharge of its functions; and
- (b) require that appropriate mechanisms, guidelines and practices be put in place to enable each Local Authority to make reasonable input with respect to—
 - (i) issues of appointment, promotion and transfer of staff to or from service with that Local Authority;
 - (ii) any other human resource management and development decisions that are likely to significantly impact the effective functioning of Local Authorities.

Duties of
Local
Authorities.

7. A Local Authority shall be responsible for—

- (a) the direction, deployment, management, supervision and, to the extent delegated to the Local Authority by the Commission under section 5(8), the disciplinary control of all unified service officers in the service of that Local Authority;
- (b) the recruitment, direction, deployment, management, supervision and disciplinary control of all *non-Gazetted* employees and the establishment of the terms and conditions of service of such employees, subject to applicable national policy guidelines issued, from time to time, by the Minister responsible for the public service, and in keeping with the terms and conditions applicable to unified service officers in a similar capacity;
- (c) performing such functions as may be delegated to it, from time to time, by the Commission under section 5(8), subject to such guidelines, criteria and conditions as may be specified by the Commission;
- (d) collaborating with the Commission and the Minister to develop manpower projections, plans, and strategies, towards determining and satisfying short, medium and long-term personnel needs that are consistent with the strategic direction and alignment of the local government system;
- (e) ensuring fair, equitable and non-discriminatory treatment of all its employees, regardless of gender, race, class and religious or political persuasion, and regardless of whether any employee is a unified service officer or *non-Gazetted* employee;
- (f) executing a performance management and appraisal system with respect to its employees, in accordance with specifications established by the Commission and in keeping with such directions as may be issued by the Minister in connection therewith;

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- (g) ensuring the regular and timely evaluation of the performance of its employees, in keeping with the provisions of paragraph (f);
- (h) establishing and maintaining, in collaboration with the Commission and other Local Authorities, an accurate and comprehensive human capital management enterprise system that encompasses all its employees;
- (i) adopting and executing such human resource management and development policies, tools and concepts as are necessary for the purposes of this section; and
- (j) considering, deciding and responding to recommendations made by the Commission.

Human
resource
functions of
Chief
Executive
Officer.

8. The Chief Executive Officer of a Local Authority shall—
- (a) provide to the Council or the appropriate committee thereof (as the case may require) such policy advice as may be necessary for the proper management of the employees in the service of the Local Authority;
 - (b) undertake operational responsibility for any functions delegated by the Commission under section 5(8);
 - (c) be directly responsible, on a day to day basis, for—
 - (i) in relation to unified service officers of the Local Authority, the matters referred to in section 7(a); and
 - (ii) in relation to *non-Gazetted* employees of the Local Authority, the matters referred to in section 7(b),

subject to such policies and guidelines (including any requirement that the final approval of the Council or any committee thereof be obtained) as may be determined by the Council;
 - (d) ensure the implementation of the human resource policies and strategies approved by the Council, in a

timely and effective manner and in accordance with the laws of Jamaica;

- (e) advise the Council, at such intervals as may be appropriate or as may otherwise be determined by the Council, as to—
 - (i) the status of the Local Authority's human resources and the implications thereof for the work of the Local Authority; and
 - (ii) the short, medium and long-term personnel needs of the Local Authority and the prospects of satisfying those needs; and
- (f) prepare and submit to the Council or any committee thereof as the case may require, regular periodic reports, or such special reports as may be required by the Council, as regards human resource management and development issues, trends and projections, so as to facilitate the taking of timely and appropriate decisions.

9.—(1) An appeal may be made to the Commission—

Appeals.

- (a) by a unified service officer against any disciplinary action taken in respect of that officer by a Local Authority in the purported exercise of any power delegated by the Commission under section 5(8);
- (b) by a *non-Gazetted* employee against any decision taken by a Local Authority in respect of that employee and concerning the employee's service with the Local Authority.

(2) On an appeal under subsection (1), the Commission shall consider and decide on the matter in accordance with subsection (5), so however, that referral of the matter for resolution through mediation shall be the preferred option employed by the Commission whenever appropriate, in accordance with prescribed procedures.

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(3) A unified service officer who is adversely affected by any decision of the Commission, made—

- (a) in respect of an appeal under this section; or
- (b) in the exercise of any powers of the Commission under section 5(3), in respect of which a right of appeal is prescribed by regulations subject to affirmative resolution,

may appeal to the Privy Council against the decision, within fourteen days after the date on which the officer is informed of the decision.

(4) Where any appeal is made under subsection (3), the Privy Council shall consider the case and advise the Governor-General as to what action should be taken in respect of the officer concerned, and the Governor-General shall act in accordance with such advice.

(5) The Commission or the Privy Council, as the case may be, in the exercise of its functions under this section may give such advice to the Governor-General (in the case of the Privy Council) or make such decision (in the case of the Commission) as it thinks fit, including (without prejudice to the generality of the foregoing) advice or a decision, as the case may be, that—

- (a) any action or decision appealed against be confirmed or set aside, or that another action or decision be substituted, whether or not the substituted action or decision is of a like nature to that appealed against; or
- (b) the case be remitted for rehearing, either generally or subject to such instructions as the Privy Council or the Commission (as the case may be) considers necessary.

(6) In this section, “Privy Council” means the Privy Council established under section 82 of the Constitution of Jamaica.

10.—(1) Any person who in connection with—

Offences.

- (a) an application by any person for employment or promotion in the service of a Local Authority; or
- (b) any matter upon which it is the duty of the Commission to decide or to make recommendations to any Local Authority 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 its functions or the discharge of its duties, any information that is false in any material particular, or omits any material particular, commits an offence and shall be liable upon summary conviction before a Resident Magistrate to a fine not exceeding one hundred thousand dollars or in default of payment thereof to imprisonment for a term not exceeding three months.

(2) The Minister may by order published in the *Gazette* amend subsection (1) so as to increase the monetary penalty specified in that subsection.

11.—(1) The Minister may, after consultation with the Commission, make regulations generally for the better carrying out of the provisions of this Act.

Regulations.

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

- (a) the time, place and manner, when, in which, and how, the Commission exercises its functions;
- (b) the conduct of examinations and the interviewing of employees of any Local Authority or candidates for employment in the service of a Local Authority;
- (c) forms and fees in connection with applications to the Commission, reports or communications from the Commission or any other matters required by or

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under this Act;

- (d) any matter required to be prescribed under section 5;
- (e) the terms of, and qualifications for, appointment to any unified service office;
- (f) the transfer of officers or any class of officers from the service of one Local Authority to the service of another Local Authority, and the conditions and restrictions governing such transfers;
- (g) the procedure for appeals to the Commission under section 9, subject in the case of regulations referred to in section 9(3)(b) to affirmative resolution;
- (h) changes in the terms and conditions of service of persons already in the service of a Local Authority at the time when the regulations take effect;
- (i) the establishment of committees with responsibility for—
 - (i) evaluating and implementing recommendations made by the Commission with respect to human resource management issues (including disciplinary matters and appeals);
 - (ii) ensuring that appropriate human resource management tools (such as a human resource policy framework, standards and procedures) are in place to guide the management and development of employees in the service of Local Authorities;
- (j) the design and institution of personnel recruitment and promotion systems, processes and procedures aimed at attracting and retaining suitably qualified staff to serve local authorities;
- (k) the establishment and application of a merit based

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system for the selection, performance appraisal, promotion and conferment of benefits on persons employed in, or seeking employment with, Local Authorities;

- (l) the promotion of a compensation regime to create incentives for the better performance of personnel;
- (m) the submission to the Commission by Local Authorities, upon request by the Commission or periodically, of reports as to the performance of their employees and as to overall human resource management functions;
- (n) the terms and conditions of service applicable to officers in the public service which shall apply to unified service officers.

LOCAL GOVERNMENT (UNIFIED SERVICE AND EMPLOYMENT)

FIRST SCHEDULE (Section 2(1))

Unified Service Offices

- 1. Offices declared to be pensionable under the Pensions (Parochial Officers) Act.
2. Any other pensionable post on the establishment of a Local Authority, which has been duly approved and published in the Gazette as such.

SECOND SCHEDULE (Section 3(10))

Oath or Affirmation Office

I, [Name], having been appointed {to act} as {chairman} {member} of the Local Government Services Commission do {swear} {solemnly and sincerely declare and affirm} that I will freely and without fear or favour, affection or ill-will, give my counsel and advice to every Local Authority in connection with all such matters as may be referred to the Local Government Services Commission under the Local Government (Unified Service and Employment) Act, and that I will not directly or indirectly reveal any such matter to any unauthorized person or otherwise than in the course of duty. {Sworn} {Declared} before me this [Day] day of [Month], 20 [Year].

Justice of the Peace for the Parish of:

THIRD SCHEDULE (Section 3(11))

Proceedings of the Local Government Services Commission

Quorum and decision-making.

- 1.—(1) Subject to the provisions of this Act, the Commission shall regulate its own proceedings, so however, that—
(a) the quorum for meetings of the Commission shall be three of its members;
(b) in any case where the chairman of the Commission is absent from any meeting of the Commission, the members present shall elect one of their number to act as the chairman for the purposes of that meeting.

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THIRD SCHEDULE, *cont'd.*

(2) All decisions of the Commission shall be by a majority of the votes of the members present and voting, and the chairman or acting chairman (as the case may be) shall have a casting vote, as well as an original vote, in any case where voting is equal.

(3) It shall be open to any member of the Commission who is present when any decision is made, to dissent therefrom and to record the dissent and the reasons therefor.

(4) Subject to sub-paragraph (5), questions may also be decided by instrument in writing signed by a majority of the Commission's members, after circulation of the relevant documents or other information in whatever form (including electronic form) among the members.

(5) If on the circulation of any documents or other information pursuant to sub-paragraph (4), a difference of opinion on any matter relating thereto arises among the members, or if any member so requests, the matter shall be discussed at a meeting of the Commission.

(6) The Commission in considering any matter or question referred to it for advice may consult with such heads of departments in the service of a Local Authority or public officers or other persons as the Commission considers proper and desirable.

(7) The Commission shall meet not less than eight times per year for the purposes of discharging its functions under this Act.

2. Minutes of all meetings of the Commission shall be recorded, and copies of such minutes duly confirmed at a subsequent meeting of the Commission, shall as soon as practicable thereafter be forwarded to the Permanent Secretary in the ministry with responsibility for local government.

Record of minutes.

3. The validity of any proceedings of the Commission shall not be affected by any vacancy among its members, or by any defect in the appointment of any of its members.

Validity of proceedings.

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 shall, subject to sub-paragraph (2), 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.

(2) Where leave of absence is granted to—

(a) a member nominated under section 3(1)(a) or (b), a person recommended by the entity that made the nomination shall be appointed to act instead;

(b) a member nominated by the Minister, a person recommended by the Minister shall be appointed to act instead.

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THIRD SCHEDULE, *cont'd.*

(3) Where leave of absence is granted under sub-paragraph (1) to the chairman, the Governor-General shall, subject to the provisions of section 3(4), appoint another member of the Commission to act as chairman during that period.

(4) In sub-paragraph (3), the expression "member of the Commission" includes any person appointed to act as a member of the Commission pursuant to the provisions of sub-paragraph (1).

Remuneration
of chairman
and members
of the
Commission.
Appointment
of staff of
the
Commission.

5. There shall be paid at to the chairman and members of the Commission such remuneration, if any, as the Minister with responsibility for the public service may determine.

6.—(1) Subject to sub-paragraph (2), the Commission shall appoint a secretary to the Commission and such other officers and staff of the Commission as the Commission considers expedient for the proper discharge of its functions.

(2) Except with the prior approval of the Minister with responsibility for the public service—

- (a) no salary in excess of the prescribed rate shall be assigned to any post; and
- (b) no appointment shall be made to any post to which a salary in excess of the prescribed rate is assigned, and for the purposes of this sub-paragraph, "the prescribed rate" shall be such rate as the Minister with responsibility for the public service may by order published in the *Gazette* prescribe.

(3) The Governor-General may, if the Governor-General thinks fit, and subject to such conditions as the Governor-General may impose, appoint any public officer to any office under the Commission, and in relation to pension, gratuity, allowance and other rights as a public officer, such officer shall be deemed to be in the public service while so employed.

Expenses of
the
Commission.

7. 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 that purpose by Parliament.

Protection
of chairman
and members
of the
Commission.

8. The chairman and other members of the Commission shall not be liable in any proceedings for anything done, or omitted to be done, in good faith in the execution of the functions of the Commission under this Act.