

Malawi

Government Teaching Service Commision Act Chapter 30:08

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Government Teaching Service Commission Act

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Government Teaching Service Commission Act

Chapter 30:08

Commenced on 1 June 1997

[This is the version of this document at 31 December 2014.]

[Note: This version of the Act was revised and consolidated in the Fifth Revised Edition of the Laws of Malawi (L.R.O. 1/2018), by the Solicitor General and Secretary for Justice under the authority of the Revision of the Laws Act.]

An act to provide for the establishment, functions and powers of the Government Teaching Service Commission, to regulate the appointment and terms and conditions of persons employed in the Government Teaching Service, and to make provision for matters connected therewith or incidental thereto

Part I – Preliminary

1. Short title

This Act may be cited as the Government Teaching Service Commission Act.

2. Interpretation

In this Act, unless the context otherwise requires—

“**Commission**” means the Government Teaching Service Commission established under [section 3](#);

“**Government Teaching Service**” means that body of teachers who, as such are public officers;

“**Minister**” means the Minister responsible for education;

“**Public Appointments Committee**” means the Public Appointments Committee established under section 56 (7) of the Constitution;

“**Service**” means the Government Teaching Service;

Part II – Establishment of the Government Teaching Service Commission

3. Establishment and composition of the Government Teaching Service Commission

There is hereby established a Commission to be known as the Government Teaching Service Commission (in this Act otherwise referred to as the “Commission”) which shall have the powers and functions conferred upon by this Act, and which shall consist of a Chairperson, a Deputy Chairperson and not less than six nor more than ten other members.

4. Appointment of members of the Commission

- (1) Members of the Commission shall be appointed by the President and the appointment shall be confirmed by the Public Appointments Committee.
- (2) A person shall not be qualified for appointment as a member of the Commission if that person—
 - (a) is a President, a Vice President, a Minister or Deputy Minister, a Member of Parliament or an officer in the Service;
 - (b) is an undischarged bankrupt;

- (c) has, within the three years immediately preceding, been convicted of any offence by a court and sentenced therefor to a term of imprisonment of six months or more without the option of a fine;
- (d) has, within the seven years immediately preceding been convicted of an offence involving fraud or dishonesty.

5. Tenure of office of members of the Commission

- (1) Subject to subsections (3), (4) and (5), every member of the Commission shall hold office as such member for such period not exceeding three years from the date of his or her appointment, as may be specified in the instrument of appointment.
- (2) Any retiring member of the Commission, other than a member who is disqualified under [section 4 \(2\)](#), shall be eligible for reappointment.
- (3) Upon the expiry of the period for which a member is appointed he or she shall continue to hold office until his or her successor is appointed, but in no case shall such further period exceed three months.
- (4) The office of a member of the Commission shall be vacated—
 - (a) upon his or her death;
 - (b) if, save through illness, he or she is absent from three consecutive meetings of the Commission without the permission of the Commission or the Minister;
 - (c) upon the expiry of one month's notice in writing of his or her intention to resign given by him or her to the Minister;
 - (d) if he becomes physically or mentally unfit, and the Minister and the Commission are of the opinion that, by reason of such unfitness, he or she is no longer capable of performing his or her duties as a member of the Commission:

Provided that, in the case of the Chairperson, this paragraph shall not apply if, upon the submission of the opinion of the Commission and the Minister to the President by the Minister, the President does not approve of its application; and
 - (e) if he or she becomes disqualified from membership of the Commission under [section 4 \(2\)](#).
- (5) A member of the Commission may be removed from office by the President at any time, subject to the Public Appointments Committee being satisfied that the member is no longer competent to discharge his or her duties.
- (6) A member of the Commission who is removed from office under this section may appeal to the High Court against the decision to remove him or her from office.

6. Remuneration and allowances of members of the Commission

The Chairperson and other members of the Commission shall receive such remuneration and allowances as may, from time to time, be determined by the Minister.

Part III – Powers and Functions of the Commission

7. Powers and functions of the Commission

- (1) Subject to the Public Service Act, the Commission shall—
 - (a) have power to appoint persons to hold or act in offices in the Service, including power to promote persons to, and to remove persons from, office;

- (b) exercise disciplinary control over persons holding or acting in any office in the Service.

[Cap. 1:03]

8. Delegation

- (1) The Commission may, subject to the general or special directions of the Minister, delegate its powers under this Act by directions in writing to any member of the Commission or any public servant or public body.
- (2) Where any person or body exercises powers under this section on behalf of the Commission in accordance with subsection (1), the Commission shall—
 - (a) require that person or body to furnish reports in such manner or form as may be specified in the directions by which the Commission delegated powers;
 - (b) hear complaints or appeals from persons with sufficient interest relating to the exercise of powers under this section, and the Commission may—
 - (i) quash the decision of a person or body exercising such powers;
 - (ii) exercise such disciplinary powers relating to such persons or body, subject to the conditions laid down by an Act of Parliament;
 - (iii) revoke directions delegating powers to any person or body:

Provided that nothing in this subsection shall prejudice the right of any person who is the subject of a decision made by or on behalf of the Commission to appeal to the High Court, or the right of any person with sufficient interest in such a decision to petition the High Court for judicial review or otherwise of that decision.

Part IV – Miscellaneous

9. Application of Cap. 1:03

Save as otherwise provided in this Act, the provisions of the Public Service Act, shall apply to the Service, and the Commission shall, in the exercise of its powers and the performance of its functions be bound and guided by the provisions of that Act.

10. Regulations

- (1) The Minister may make regulations for the administration, regulation and disciplinary control of the Service and for matters incidental thereto.
- (2) Without restriction on the generality of subsection (1), any such regulations may make provision for—
 - (a) the terms and conditions of service of members of the Service;
 - (b) the performance of the function of any appropriate authority and the forms and procedures to be followed by such authority in the exercise of its functions or by a person to whom such functions have been lawfully delegated.

11. Savings

Any regulations or other subsidiary legislation applicable with respect to the terms and conditions of service of members of the Service immediately before the commencement of this Act and which are or is capable of being made under [section 10](#)—

- (a) shall continue in force and be deemed to be regulations or other subsidiary legislation made under this Act; and
- (b) may be amended or replaced by regulations or other subsidiary legislation made under this Act.