
THE EAST AFRICAN COMMUNITY

BILL SUPPLEMENT

No. 4

21st May, 2010

to the East African Community Gazette No. 4 of 21st May, 2010.

Printed by the Uganda Printing and Publishing Corporation, Entebbe by Order of the East African Community.



THE EAST AFRICAN COMMUNITY

THE EAST AFRICAN COMMUNITY SERVICE COMMISSION
BILL, 2010

MEMORANDUM

The object of this Bill is to establish an East African Community Service Commission for the organs and institutions of the Community. The Commission shall be responsible for making recommendations to the Council of Ministers on appointments of all staff of the organs and institutions of the Community, and on their terms and conditions of service; except where it is otherwise specifically provided for in the Treaty or in an Act of the Community.

HON. FRÉDÉRIC NGENZEBUORO,
Chairperson, Committee on Legal Rules and Privileges.

THE EAST AFRICAN COMMUNITY SERVICE COMMISSION
BILL, 2010

ARRANGEMENT OF CLAUSES

Clause

PART I—PRELIMINARY

1. Short title
2. Commencement
3. Interpretation

PART II—CONSTITUTION OF THE COMMISSION

4. Establishment of Commission
5. Membership of Commission
6. Qualification for membership of Commission
7. Tenure of office of members of Commission
8. Casual vacancies and temporary appointments
9. Remuneration of members of Commission
10. Functions of Commission
11. Secretary of Commission
12. Other Staff of Commission

PART IV—IMMUNITIES AND PRIVILEGES OF THE COMMISSION

13. Protection from legal proceedings

PART V—FINANCIAL PROVISIONS

14. Funds of Commission
15. Accounts, records and audits
16. Annual report

PART VI—OFFENCES AND PENALTIES

17. Disclosure of false information
18. Unauthorised publication

Clause

PART VII—MISCELLANEOUS

- 19. Forms
- 20. Oaths
- 21. Regulations

SCHEDULES

THE EAST AFRICAN COMMUNITY SERVICE
COMMISSION BILL, 2010.

A Bill for an Act

ENTITLED

THE EAST AFRICAN COMMUNITY SERVICE ACT,
2010

An Act to provide for the establishment and functions of the East African Community Service Commission, to vest responsibility for the public service of the East African Community, its organs and institutions, in the Commission and to provide for other related matters.

Enacted by the East African Community and assented to by the Heads of State.

PART I—PRELIMINARY

1. This Act may be cited as the East African Community Service Commission Act, 2010. Short title

2. This Act shall come into force on such a date as the Council may, by notice published in the Gazette appoint. Commence-
ment

3. (1) In this Act, unless the context otherwise requires— Inter-
pretation

“authorised officer” means an administrative head of an organ or institution of the Community; and includes the Secretary General, the Clerk of the East African Legislative Assembly, and the Registrar of the East African Court of Justice, or their officially designated representatives;

“Chairperson” means the Chairperson of the Commission and includes any acting Chairperson;

“Executive staff” means all posts in the service of the Community designated as executive;

“Commission” means the East African Community Service Commission as established under section 4;

“member” means a member of the Commission;

“office of emolument” in relation to the definition of public office means any pensionable or non – pensionable post in the service of the Community;

“public office” means an office of emolument in the service of the Community or in the service in a Partner State: Provided that “service in the Community” shall not include—

(a) a member of the Summit;

(b) a member of the Council;

(c) a Justice of the East African Court of Justice;

(d) a member of the East African Legislative Assembly;

- (e) except where it is expressly prescribed by law, a member of a council, board, panel, committee or similar body; and
- (f) a person who is in receipt of a pension or other similar allowance in respect of service under the Government of a Partner State or the Community.

PART II—CONSTITUTION OF THE COMMISSION

4. There is established a Commission known as the East African Community Service Commission which shall be a body corporate with perpetual succession and a common seal.

Establishment of Commission

5. (1) The Commission shall consist of seven members nominated by the Council and approved by the Summit.

Membership of Commission

(2) Each Partner State shall have at least one national as a member of the Commission.

(3) Members of the Commission shall formally be appointed by instrument in writing by the Summit.

(4) The Commission shall elect from among themselves a Chairperson and a Deputy Chairperson.

(5) The Secretary General shall preside at the first meeting of the Commission for the election of the Chairperson.

6. A person shall be qualified for appointment as a member of the Commission if such a person—

Qualification for membership of Commission

- (a) is a citizen of a Partner State;
- (b) has proven experience and demonstrated competence in public affairs;
- (c) is of integrity;

(d) does not hold any other public office concurrently; and

(e) is not a declared bankrupt.

Tenure of
office of
members of
Commission

7. (1) A member of the Commission shall hold office for five years from the date of appointment; and shall vacate office—

(a) upon the delivery of his or her resignation in writing to the Secretary General;

(b) upon his or her ceasing to be qualified for appointment;

(c) upon his or her conviction by a Court of competent jurisdiction of an offence and sentenced to imprisonment for a term exceeding six months and if no appeal has been preferred against such a decision;

(d) for inability to discharge the functions of the office whether arising from infirmity of body or mind; or

(e) for misbehaviour or dishonourable conduct.

(2) A member of the Commission shall only be removed from office under paragraph (e) if the question of his or her removal from office has been referred to an ad hoc independent tribunal appointed for this purpose by the Summit and the tribunal has recommended that the Commissioner be removed from office.

(3) Members of the Commission shall be eligible for re-appointment for one more term.

8. (1) If the office of the Chairperson of the Commission is vacant or the Chairperson is for any reason unable to perform the functions of the office, the Deputy Chairperson shall act as Chairperson.

Casual
vacancies
and
temporary
appoint-
ments

(2) if the offices of the Chairperson and Deputy Chairperson are vacant or if the Chairperson and the Deputy Chairperson are unable to perform their functions, members present shall appoint from among themselves a member to act temporarily as Chairperson and such a member shall continue to act until the Chairperson or the Deputy Chairperson are able to perform their functions.

9. (1) The Chairperson and members of the Commission shall be paid such salaries as the Summit may, on the recommendation of the Council determine.

Remuner-
ation of
members of
Commission

(2) A salary or remuneration payable to a holder of an office under this section, or his or her terms of office shall not be altered to the disadvantage of such holder after appointment.

10. (1) Except where it is otherwise provided for in the Treaty or an Act of the Community, the Commission shall make recommendations to the Council on—

Functions of
Commission

- (a) appointments of persons to hold or act in offices in the service of the Community, its organs and institutions;
- (b) promotions, transfers and confirmation of appointments;
- (c) disciplinary control and punishment over persons holding or acting in such offices;

- (d) equitable representation by gender and by nationals from all Partner States;
- (e) staffing levels or any changes on staffing levels for all organizational structures in the organs and institutions of the Community;
- (f) job descriptions for all posts based on proposals by authorized officers;
- (g) salary scales and other terms and conditions of service in the community and periodically recommend changes;
- (h) schemes of admission to any Community office, the award of bursaries or scholarships for special training for service in the community, courses of instruction which may affect promotion prospects, and other methods of recruitment.

(2) The Commission shall perform such other functions as may be delegated to it by the Council.

Secretary of
Commission

11. (1) The Commission shall have a Secretary who shall be a public officer appointed by the Summit upon the recommendation of the Council.

(2) A person shall be qualified for appointment as a Secretary of the Commission if such a person—

- (a) is a citizen of a Partner State;
- (b) has proven experience and demonstrated competence in management and administration of public affairs at a senior level;

(3) The Secretary shall be the chief accounting officer of the Commission.

(4) The secretary shall be responsible for—

- (a) implementing the decisions of the Commission;
- (b) day to day administration and management of the affairs of the Commission;
- (c) the management of the staff of the Commission;
- (d) maintenance of records of meetings and proceedings of the Commission; and
- (e) performing such other functions as may be assigned to him or her by the Commission.

12. (1) The Commission shall have such other officers and employees as the Commission may deem necessary for the discharge of its functions. Other staff
of
Commission

(2) The officers and employees of the Commission shall be appointed by the Council upon recommendation by the Commission and shall be public officers.

PART IV—IMMUNITIES AND PRIVILEGES OF THE COMMISSION

13. Every Member of the Commission shall—

- (a) have protection and privilege in case of any action or suit brought against him or her for any act done or omitted to be done in the bonafide execution of his or her duties; and
- (b) be accorded immunities from immigration restrictions and alien registration.

Protection
from legal
proceedings

PART V—FINANCIAL PROVISIONS

Funds of
Commission

- 14.** The funds for the Commission shall comprise—
- (a) contributions by the Partner States through the East Africa Community budget;
 - (b) resources mobilised by the Community;
 - (c) grants and loans from regional and international bodies;
 - (d) revenue from the activities of the Commission; and
 - (e) any other source as may be approved by the Council.

Accounts,
records and
audits

15. (1) The Commission shall keep proper accounts and records of its transactions and affairs and ensure that the monies received are properly accounted for and that all payments out of its funds are correctly made and properly authorised and that adequate control is maintained over its property.

(2) The accounts of the Commission shall, in respect of each financial year be audited by the Audit Commission.

(3) The Commission shall within three months after the end of each financial year submit the accounts to the Audit Commission for auditing.

(4) The Audit Commission shall within three months of submission of the accounts by the Commission—

- (a) audit the accounts of the Commission; and
- (b) deliver to the Commission and the Council the audited accounts and a report of the audit.

16. (1) The Commission shall, not later than six months after the end of each financial year, prepare an annual report in respect of that financial year containing—

Annual
report

- (a) the audited financial statement;
- (b) the report on the operations of the Commission; and
- (c) any other information the Council may deem appropriate.

(2) The annual report shall be presented to the Council, which shall cause it to be laid before the East African Legislative Assembly within six months after receiving the report.

PART VI—OFFENCES AND PENALTIES

17. (1) Any person who, in connection with the exercise by the Commission of its functions or duties wilfully discloses to the Commission any information which he or she knows to be false or does not believe to be true, or which he or she knows to be false by reason of the omission of any material, commits an offence and shall be liable on conviction to a fine not exceeding five thousand US dollars or to imprisonment not exceeding two years or to both.

Disclosure
of false
information

(2) For purposes of subsection (1) the term “Commission” includes any member of the Commission or any person or body of persons exercising any of the functions or duties of the Commission.

18. (1) A member or official of the Commission shall not, without the written permission of the Council, publish or disclose to any person otherwise than in the exercise of his or her official functions the contents of any document, communication or information whatsoever which has come to his or her notice in the course of his or her duties.

Unauthorised
publication

(2) A person who contravenes this section, or who knows of any information which to his or her knowledge has been disclosed in contravention of this section and who publishes or communicates to any other person for otherwise than for the purpose of any prosecution under this Act or in the course of his or her official duty commits an offence and shall be liable on conviction to a fine not exceeding five thousand US dollars or to imprisonment not exceeding two years or to both.

PART VII—MISCELLANEOUS

Forms **19.** The Chairperson of the Commission may, by notice in the Gazette, specify the form of any application or other document required for the discharge of the functions of the Commission under this Act.

Oaths **20.** (1) Members of the Commission shall, on first appointment take oath or affirmation in the form set out in the First Schedule.

(2) The Secretary and officers of the Commission shall, on first appointment, take oath or affirmation in the form set out in the Second Schedule.

(3) Every oath or affirmation taken by a member of the Commission shall be administered by a Judge of the East African Court of Justice, and every oath or affirmation taken by the Secretary or an officer of the Commission shall be administered by the Chairperson.

Regulations **21.** The Council may, upon the recommendation of the Commission make such regulations as the Council considers necessary or expedient to give effect to the provisions of this Act.

SCHEDULES

FIRST SCHEDULE

OATH OF MEMBER

I, having been appointed as Chairperson/member of the East African Community Service Commission do swear that I will without fear or favour, affection or ill-will, discharge the functions of the office of Chairperson/member 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

Signature.....

Sworn/Declared before me this day of 20....

.....
Judge of the EACJ.....

AFFIRMATION

I, having been appointed as Chairperson/member of the East African Community Service Commission do affirm that I will without fear or favour, affection or ill-will, discharge the functions of the office of Chairperson/member 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.

Signature.....

Sworn/Declared before me this day of 20....

.....
Judge of the EACJ.....

SECOND SCHEDULE

OATH OF OFFICER OF THE COMMISSION

I,being called upon to exercise the function of Secretary to/an officer of/the East African Community Service Commission, do swear 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 documents, communication or information whatsoever which may come to my knowledge in the course of my duties as an officer of the Commission.

SO HELP ME GOD

Signature.....

Sworn/Declared before me this day of 20....

.....
Judge of the EACJ.....

AFFIRMATION OF THE OFFICER OF THE COMMISSION

I,being called upon to exercise the function of Secretary to/an officer of/the East African Community Service Commission, do affirm 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 documents, communication or information whatsoever which may come to my knowledge in the course of my duties as an officer of the Commission.

Signature.....

Sworn/Declared before me this day of 20....

.....
Judge of the EACJ.....