

A glimpse at the Public Service Act 2007-41

Parliament passed the Public Service Act in 2007. It came into operation on December 31st, 2007 and speaks to the following pieces of legislation:-

- The Civil Establishment Act and the Training Act.

The main provision of the Act is the Management of the Public Service.

The public service is now managed by:-

A. The Services Commissions in accordance with their functions under:

- (i) The Constitution
- (ii) The Service Commissions (Public Service) Regulations, 1978
- (iii) Service Commissions (Police Service) Regulations, 1964
- (iv) The provisions of the Codes which is part of the Act and set out in the schedules.

B. Head of the Public Service

C. Committee of Permanent Secretaries

The Act has made provision for the Head of the Public Service to be the Chairman of the Committee of Permanent Secretaries. Prior to the commencement of the Act the head of the Civil Service had no legislative teeth. The powers of the Head of the Public Service are as follows:

- (i) to request information from Ministries in respect of their various activities and
- (ii) Undertake inspections/investigation of the respective ministries. The Prime Minister may also request investigations into Ministries when situations arise.

A committee of Permanent Secretaries has been established by the new Act, with wide ranging functions. The Committee advises the Prime Minister on all areas of management in the public service and is also required to advise on policies necessary to administer and develop the service.

In addition to:

- Considering and making recommendation on any specific matter referred to it by the Prime Minister

- Coordinating functions which relate to the public service ensuring that there exists the capacity of Government to provide for a modern, efficient and effective public service.
- Expedite the decision making process in ministries/department.
- Submit to the Prime Minister not later than 3 months after the end of each financial year, a report outlining the activities of the Committee
- Create a working environment conducive to increasing productivity and greater job satisfaction in the Public Service.

Establishment of Offices

The legislation gives the minister the authority to undertake the following in relation to the public service:-

- the establishment of offices;
- determine the number of persons that may be appointed to the offices;
- determine the emoluments to be attached to these offices.

In relation to Temporary Officers the legislation provides for offices that was created as temporary offices and in existence for three (3) years or more prior to the commencement of the Act should be established.

Temporary officers who at the commencement of the Act in either a temporary or established post for not less than three (3) years would be eligible for appointment once in possession of the requisite qualifications required by the Qualifications Order.

No established post should remain vacant for over a year. If it is to remain vacant it must be done by the Governor General on advice of the relevant Service Commission.

Know the Schedules

There are eight schedules to the Act. The first is the Recruitment and Employment Code. This code seeks to ensure that the recruitment/appointment process is based on merit, impartiality and the highest standard of integrity. Seniority/experience only becomes critical depending on the nature of the work. Similar principles would apply when filling the various established/contractual offices. It is worthy to note that the PRDS has been given legislative recognition in that once properly used would assist in facilitating appointment on merit.

The **Second Schedule** is the Code of Conduct and Ethics. This code sets out the role of the public service and also requires public officers to uphold the values of the public

service while at the same time conduct themselves in a professional manner while performing their duties. The Code makes provision for penalties in case public officers breach the code and is guilty of misconduct either of a serious/minor nature.

The **Third Schedule** establishes a Code of Discipline. Under this code it is expected that the disciplinary process would observe the following:

- (a) procedural fairness;
- (b) determining each case as its merit;
- (c) indicating the factors to be taken in to account; and
- (d) the powers and responsibilities of investigating officers.

The **Third Schedule** states that misconduct could either be of a serious or minor nature. Conduct of a serious nature could lead to dismissal from office, while conduct of a minor nature does not warrant dismissal. In addition to the offences under both categories, the code also provides for penalties when an officer has been found liable for misconduct.

The **Fourth Schedule** outlines the procedure for handling grievances. The code outlines how the grievance procedure should be undertaken. It is worthy to note that the Union and Government once agreed can vary the procedure.

Provision is made in the Act for an Appeal Board. An appeal against any disciplinary matter will be heard by the Board. Its establishment will not prevent a public officer from going to the Privy Council if he is not satisfied with the decision at first instance

The **Fifth Schedule** relates to the composition of the Training Committee. The Head of the Public Service shall perform the duties of Chairman and has the right to summon meetings of the Committee. Four members of the committee constitutes a quorum and it has the right to regulate its own procedure. The sixth schedule deals with the transitional provisions as they relate under the former legislation.

The **Seventh Schedule** highlights the various oaths and affirmations that are to be taken by various officers. The eight and final schedule relates to the officers in Related Grades namely for the purpose of the Act.

The Public Service Act should be seen as a creative and innovative piece of modern legislation, designed to have a positive impact on the employees of the public service. Bearing in that in mind the aim of the Act is to achieve greater efficiency and effectiveness. In addition the Act seeks to put in place a framework to encompass greater transparency and achieving a higher level of performance throughout the public service.