

Zimbabwe

Law Development Commission Act

Chapter 1:02

Legislation as at 31 December 2016

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Law Development Commission Act (Chapter 1:02)

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Zimbabwe

Law Development Commission Act Chapter 1:02

Commenced on 1 November 1988

[This is the version of this document at 31 December 2016 and includes any amendments published up to 31 December 2017.]

[Note: This version of the Act was revised and consolidated by the Law Development Commission of Zimbabwe. This version is up-to-date as at 31st December 2016.]

AN ACT to provide for the establishment of the Law Development Commission in order to promote the development and reform of the law of Zimbabwe; and to provide for matters connected with or incidental to the foregoing.

1. Short title

This Act may be cited as the Law Development Commission Act *[Chapter 1:02]*.

2. Interpretation

In this Act—

“**Chairman**” means the Chairman of the Commission appointed in terms of paragraph (a) of section four;

“**codification**” means the reduction into writing of any part of the common law by Act of Parliament;

“**Commission**” means the Law Development Commission established by section three;

“**Deputy Chairman**” means the Deputy Chairman of the Commission appointed in terms of paragraph (b) of section four;

“**law**” means the whole or any part of the law of Zimbabwe, including customary law;

“**member**” means a member of the Commission, including the Chairman and the Deputy Chairman;

“**Minister**” means the Minister of Justice, Legal and Parliamentary Affairs or any other Minister to whom the President may from time to time assign the administration of this Act;

“**programme**” means a programme of work for any period not exceeding a calendar year setting out in an order of priority matters for the consideration of the Commission in terms of this Act;

“**report**” means a report made in terms of paragraph (d) of section six, but does not include the annual report of the Commission referred to in subsection (6) of section fourteen;

“**specified officer**” means any member of the Public Service who—

- (a) is a magistrate; or
- (b) presides over a community court; or
- (c) appears for the State in any court or performs any legal work for the State.

3. Establishment of Law Development Commission

There is hereby established a Law Development Commission which shall be a body corporate capable of suing and being sued in its corporate name and, subject to this Act, of performing all acts that bodies corporate may by law perform.

4. Constitution of Commission

The Commission shall consist of—

- (a) a Chairman, who shall be appointed by the Minister after consultation with the Judicial Service Commission and who shall be a judge of the Supreme Court; and
- (b) a Deputy Chairman, who shall be appointed by the Minister after consultation with the Judicial Service Commission and who shall be a person who is or is qualified to be a judge of the Supreme Court or the High Court; and
- (c) the Attorney-General; and
- (d) the Ombudsman appointed in terms of section 107 of the Constitution; and
- (e) the Law Reviser appointed in terms of the Statute Law Compilation and Revision Act [*Chapter 1:03*]; and
- (f) not fewer than three and not more than seven other members appointed by the Minister of whom the majority shall be persons who—
 - (i) are or have been or are qualified to be judges of the Supreme Court or the High Court; or
 - (ii) are specified officers; or
 - (iii) are registered legal practitioners; or
 - (iv) have experience as lecturers or professors in law at any university.

5. Objects of Commission

Subject to this Act, the objects of the Commission shall be—

- (a) to promote the development and reform of the law;
- (b) to review the law and its administration;
- (c) to make proposals for the elimination from the law of any defects of a policy or substantive nature;
- (d) to make proposals for the simplification or codification of any branch of law;
- (e) to make proposals for bringing the law into accord with current national and international trends;
- (f) to make proposals for the fusion or harmonization of the customary law with the general law of Zimbabwe;
- (g) to promote awareness of the law by the public and by government departments and other authorities or bodies;
- (h) to propose new or more effective procedures for the administration of the law and the dispensing of justice.

6. Powers and duties of Commission

In pursuance of its objects the Commission—

- (a) shall consider any matter referred to it by the Minister;
- (b) shall from time to time prepare and submit for the Minister's approval programmes for the consideration of any matters it considers necessary;
- (c) may request that the Minister refer to it any matter for its consideration not previously included in any programme prepared and approved in terms of paragraph (b);

- (d) shall, after considering a matter in terms of this section, prepare for submission to the Minister a full written report incorporating its recommendations in respect of that matter;
- (e) may, subject to the approval of the Minister, conduct a public inquiry into any matter under its consideration in terms of this section, for which purpose the Commission shall have the same powers as commissioners under the Commissions of Inquiry Act [Chapter 10:07], other than the power to order a person to be detained in custody, and sections 9 to 13 and 15 to 18 of that Act shall apply, *mutatis mutandis*, in relation to an inquiry in terms of this section and to a person summoned to give evidence at the inquiry;
- (f) may investigate and refer to the laws of other countries which appear to the Commission to be useful;
- (g) may invite or receive from any person or body proposals for the consideration of any matters in terms of this section;
- (h) may, while considering any matter in terms of this section, consult any person or body, whether by the circulation of working papers setting forth its preliminary views on matter or otherwise;
- (i) may prepare and submit with a report any draft legislation which it considers to be necessary implement its recommendations;
- (j) may prepare and publish law reports or assist in such preparation and publication;
- (k) may exercise any of the powers specified in the Schedule;
- (l) may do anything necessary or convenient to be done for the implementation of any programme or recommendation approved by the Minister.

7. Period and conditions of tenure of members

- (1) Subject to subsection (3), the members appointed in terms of paragraphs (a), (b) and (f) of section four shall be appointed on such conditions and for such periods, not exceeding five years, as the Minister shall fix at the time of their appointment.
- (2) The Deputy Chairman shall exercise all the powers of the Chairman specified in this Act during a vacancy in the office of Chairman, or during any period when the Chairman is absent or otherwise unable to perform his duties as Chairman.
- (3) A member shall be eligible for reappointment on the expiry of his term of office.
- (4) There shall be paid such remuneration, allowances, pensions and other benefits to a member who is not a judge of the Supreme Court or the High Court as the Minister may fix in consultation with the Minister responsible for finance, and in so doing the Minister may, subject to such modifications as he may think fit, apply all or any of the provisions of any of the laws or regulations which relate to the Public Service, including any such laws or regulations which relate to pensions or disability benefits.
- (5) The salaries, allowances and pensions referred to in subsection (4) shall be paid out of the Consolidated Revenue Fund which is hereby appropriated to the purpose.

8. Termination of membership

- (1) The Minister may require a member appointed in terms of paragraph (a), (b) or (f) of section four to vacate his office if such member—
 - (a) is guilty of improper conduct which renders him unfit to be a member; or
 - (b) is mentally or physically incapable of efficiently performing his duties as a member; or
 - (c) not being a judge of the Supreme Court or the High Court, misses three consecutive meetings of the Commission without good cause; or

- (d) is adjudged or otherwise declared to be insolvent or bankrupt, or makes an assignment to, or arrangement with, his creditors; or
 - (e) ceases to be qualified for appointment as a member.
- (2) A member who qualified as such in terms of paragraph (c), (d) or (e) of section four shall vacate his office upon ceasing to be so qualified.

9. Resignation of members

A member appointed in terms of paragraph (a), (b) or (f) of section four may resign his office by giving thirty days' written notification to the Minister of his intention to do so.

10. Validity of decisions and acts of Commission

No decision or act of the Commission or act done under the authority of the Commission shall be invalid by reason only of the fact that—

- (a) the Commission consisted of fewer than the number of members for which provision is made in section four; or
- (b) a disqualified person acted as member at the time the decision was taken or the act was done or authorized.

11. Reference of matters to Commission

- (1) In referring a matter to the Commission in terms of paragraph (a) or (c) of section six, the Minister shall define in writing the terms of reference of the Commission, and may modify or withdraw such terms at any time thereafter by written notification to the Commission.
- (2) The Commission shall ensure that, when considering any matter referred to it in terms of paragraph (a) or (c) of section six, it remains within any terms of reference defined in terms of subsection (1).

12. Meetings of Commission

- (1) The Chairman shall, as often as he considers necessary for the fulfillment of the objects and the exercise of the functions of the Commission, fix the date, time and place of meetings of the Commission.
- (2) The quorum for a meeting of the Commission shall be a majority of the members.
- (3) If, at a meeting of the Commission, the Chairman and the Deputy Chairman are both absent, the members present may elect one of their number to preside at that meeting.
- (4) Any question arising at a meeting of the Commission shall be decided by a majority of the members present and voting and, in the event of an equality of votes, the Chairman or member presiding shall have a casting vote.
- (5) The Chairman may, with the approval of the Commission, invite any person with special knowledge or experience of any matter under consideration in terms of this Act to attend a meeting of the Commission, but such person shall not vote on any question before the Commission.
- (6) The Commission may regulate the proceedings at its meetings as it thinks fit, and shall keep minutes of those proceedings.

13. Committees of Commission

- (1) For the consideration of any matter in terms of this Act, the Commission may appoint one or more committees on which it may confer such of the functions of the Commission as it thinks fit:

Provided that the vesting of any functions in a committee in terms of this section shall not thereby divest the Commission of such functions, and the Commission may amend or rescind any decision of any committee in the exercise of its functions.

- (2) In appointing a committee in terms of subsection (1) the Commission shall appoint not fewer than three and not more than five persons, who may be chosen from members and from persons having special knowledge or experience of the matter to be considered by the committee:

Provided that at least one person appointed to the committee shall be a member.

- (3) A committee appointed in terms of subsection (1) shall elect one of their number to be chairman of the committee.
- (4) A member of a committee appointed in terms of subsection (1) who is not a member of the Commission and is not in the full-time employment of the State, a statutory body or a local authority shall be paid from the funds of the Commission referred to in section sixteen such allowances as the Commission may fix with the approval of the Minister responsible for finance.
- (5) Subsections (1), (2), (4), (5) and (6) of section twelve and subsection (1) of section fourteen shall apply, *mutatis mutandis*, to meetings and reports of a committee appointed in terms of subsection (1).
- (6) Any report of a committee appointed in terms of subsection (1) shall, if such report is approved by the Commission, be deemed to be a report of the Commission.

14. Reports of Commission

- (1) In the case of dissent from the majority recommendations of a report, the Commission shall, at the request of the dissenting member, record the dissent and the reasons therefor.
- (2) At any time before making a report the Commission may, or, if so directed by the Minister, shall make an interim report on any matter under consideration.
- (3) The Commission may, after submitting a report to the Minister, publish such report in such manner as it thinks fit.
- (4) When the Minister receives a report containing a recommendation relating to a law of which the administration is assigned to another Minister, the Minister shall make available for the consideration of that other Minister a copy or relevant extract of the report, together with such comments thereon as the Minister thinks fit.
- (5) After receiving a report the Minister shall lay it before Parliament, together with any comments thereon as he thinks fit, during the next fifteen sitting days of Parliament.
- (6) The Commission shall, as soon as practicable after the 31st December in each year, prepare and submit to the Minister an annual report on all its activities during the year ended on that date, and the Minister shall, after receiving the annual report, lay it before Parliament, together with any comments thereon as he thinks fit, during the next sitting of Parliament.

15. Appointment of staff

The Public Service Commission may, at the request of the Commission, appoint such members of the Public Service as staff of the Commission, including a secretary to the Commission, as may be necessary for the exercise of the powers and duties of the Commission.

16. Financial provisions

- (1) The funds of the Commission shall consist of—
 - (a) moneys appropriated by Act of Parliament for the purposes of the Commission; and

- (b) donations, grants and bequests to the Commission which have been accepted by the Commission; and
 - (c) any other moneys that may vest in or accrue to the Commission, whether in terms of this Act or otherwise.
- (2) The Commission shall prepare estimates, in such form as the Minister directs, of the receipts and expenditure of the Commission for each financial year, and the Commission shall submit such estimates to the Minister by a date to be fixed by the Minister.
- (3) The Commission shall apply the funds referred to in subsection (1) to the fulfillment of its objects and to the payment of any allowances in terms of subsection (4) of section thirteen in accordance with the estimates of expenditure submitted by it in terms of subsection (2) and approved by the Minister and the Minister responsible for finance.
- (4) The Commission shall maintain proper books of account, which shall be audited annually by a person who is registered as a public auditor in terms of the Public Accountants and Auditors Act [Chapter 27:12] and appointed for the purpose by the Chairman with the approval of the Minister.
- (5) The Commission shall, in its annual report referred to in subsection (6) of section fourteen, include a statement as to the assets, liabilities, receipts and expenditure of the Commission for the year of the annual report.
- (6) The accountant referred to in subsection (4) shall make available to the Minister a copy of his audit report, and the Minister may, in addition to such report, require the Commission from time to time to submit reports to him on the financial status of the Commission.

17. Publication of programmes and references

- (1) The Minister shall, as soon as practicable, publish in the *Gazette* and in any other medium he considers appropriate, in whole or in summary, every programme of the Commission approved by him in terms of paragraph (b) of section six, and the terms of every reference defined by him in terms of subsection (1) of section eleven.
- (2) The Commission shall not be delayed from considering and reporting on any matter in terms of this Act by reason of any delay in the publication of a programme or terms of reference under subsection (1).

Schedule (Section 6 (k))

Powers of Commission

- 1. To open and maintain an account with a bank or building society approved by the Minister for the deposit of the funds referred to in subsection (1) of section sixteen.
- 2. Subject to the approval of the Minister, to lease or acquire premises from which it may conduct its work.
- 3. To produce and distribute any publication arising from or connected with the work of the Commission and to retain the proceeds or royalties from any sale thereof.
- 4. Subject to the approval of the Minister, to buy, take in exchange, hire or otherwise acquire movable property necessary or convenient for the fulfillment of the objects and the exercise of the functions of the Commission.
- 5. To sponsor, support or organize conferences, seminars and meetings on any matter under consideration by the Commission in terms of this Act or generally for the promotion of its objects.
- 6. To fix, recover and retain any registration fees charged in connection with any conference, seminar or meeting organized by the Commission in terms of paragraph 5.

7. Subject to the approval of the Minister, to accept donations, grants and bequests for the furtherance of the objects of the Commission.
8. Subject to the approval of the Minister, to provide guarantees and grants to any person or body engaging in any project or study whose objects coincide with those of the Commission.
9. Subject to the approval of the Minister given after consultation with the Public Service Commission, to engage persons having suitable qualifications and experience as consultants to the Commission.