STATUTORY INSTRUMENTS

1962 No. 1548

SWAZILAND

The Swaziland (Public Service Commission) Order in Council 1962

Made - - - -	*23rd July* 1962
Laid before Parliament	*27th July* 1962
Coming into Operation	*on a day to be appointed under Section* 1 (2)

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At the Court at Buckingham Palace, the 23rd day of July 1962

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue and in exercise of the powers in that behalf by the Foreign Jurisdiction Act 1890(a) or otherwise in Her Majesty vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows :—

Citation, publication and commencement.

1.—(1) This Order may be cited as the Swaziland (Public Service Commission) Order in Council 1962.

(2) This Order shall be published in the Gazette, and shall come into operation on a day to be appointed by the High Commissioner by Proclamation in the Gazette, which day shall not be earlier than 28th July 1962.

Interpretation.

2.—(1) In this Order, unless the context otherwise requires—

"the Commission" means the Public Service Commission established by this Order;

"the Gazette" means the Official Gazette of the High Commissioner for Basutoland, the Bechuanaland Protectorate and Swaziland;

"the High Commissioner" means the High Commissioner for Basutoland, the Bechuanaland Protectorate and Swaziland and includes any person appointed to act as High Commissioner and to the extent to which a Deputy is authorised to act that Deputy;

"public Office" means any office of emolument in the public service;

"public officer" means the holder of any public office and includes any person appointed to act in any such office;

"the public service" means the service of the Crown in a civil capacity in respect of the Government of the Territory;

"the Territory" means the Territory of Swaziland.

(a) 53 & 54 Vict. c. 37.

(2) For the purposes of this Order a person shall not be considered to be a public officer by reason only of the fact that he—

(i) is a member of the European Advisory Council established under the European Advisory Council Proclamation of the Territory;

(ii) is a member of the standing council of the Swazi National Council;

(iii) is a member of the Commission.

(3) Except as may be otherwise provided in this Order, or as may be required by the context, the Interpretation Act 1889(a) shall apply with the necessary adaptations for the purpose of interpreting this Order and otherwise in relation thereto as it applies for the purposes of interpreting, and in relation to, Acts of Parliament.

Public Officers.

3.—(1) Except as otherwise provided in this Order, the appointment, promotion, transfer, termination of appointment, dismissal and disciplinary control of public officers is hereby vested in the High Commissioner.

(2) The High Commissioner may, by regulations published in the Gazette, provide for the delegation to any public officer or class of public officer, subject to such conditions as may be prescribed in any such regulations, of any of the powers vested in the High Commissioner by subsection (1) of this section.

(3) The provisions of subsections (1) and (2) of this section shall be subject to the provisions of any Instructions which may be issued by Her Majesty under Her Sign Manual and Signet or through a Secretary of State, and any power conferred by this section shall be exercised in accordance with the provisions of such Instructions.

(4) Nothing in this section shall affect the provisions of an enactment concerning the powers referred to in subsection (1) of this section in relation to members of the Police Force of the Territory other than senior officers within the meaning of the Police Proclamation or to subordinate officers of the Prison Service of the Territory within the meaning of the Prisons Proclamation.

Public Service Commission.

4.—(1) There shall be, in and for the Territory, a Public Service Commission, and subject to the provisions of subsection (3) of this section, the Commission shall consist of such persons appointed by the High Commissioner in such manner as may be prescribed by regulations made under section 6 of this Order.

(2) The High Commissioner may terminate the appointment of any member of the Commission at any time and, subject as aforesaid, the members of the Commission shall hold office upon such terms and conditions as may be prescribed by regulations made under section 6 of this Order.

(3) No person shall be appointed a member of the Commission if he is, nor shall any person remain a member if he becomes—

(*a*) a member of the European Advisory Council established under the European Advisory Council Proclamation of the Territory;

(*b*) a member of the standing council of the Swazi National Council;

(*c*) a member of the public service;

(*d*) a member of any staff association or of any trade union as to which the High Commissioner is satisfied that its object, or

(a) 52 & 53 Vict. c. 63.

one of its objects, is to control or influence salaries, wages, pensions or conditions of service of any class of employed person; or

(*e*) an officer of any society or association which the High Commissioner is satisfied is of a political nature.

(4) The salaries and allowances of the members of the Commission shall be such as may from time to time be fixed by the High Commissioner and shall be paid out of the general revenues of the Territory.

Functions of the Commission.

5.—(1) The High Commissioner may refer to the Commission for its advice any question relating to the appointment (including promotion or transfer) or termination of appointment or to the dismissal or other disciplinary control of public officers or of any public officer or to any other matter which, in his opinion, affects the public service or any public officer:

Provided that the provisions of this subsection shall not apply in relation to any of the following:—

(i) Judges of the High Court;

(ii) members of the High Commissioner's personal staff:

(iii) the Director of Audit;

(iv) any public officer or any specified class of public officer excluded from the purview of the Commission by virtue of regulations made under section 6 of this Order.

(2) The High Commissioner may, by regulations published in the Gazette, authorise any public officer or class of public officer to seek on his behalf, subject to such exceptions, qualifications and conditions as may be prescribed in any such regulations, the advice of the Commission on any matters on which the High Commissioner may seek advice under the provisions of subsection (1) of this section.

(3) It shall be the duty of the Commission to advise the High Commissioner or any public officer authorised as aforesaid to receive on the High Commissioner's behalf any advice of the Commission on any question which he shall refer to them or cause to be referred to them, as the case may be, by virtue of the provisions of subsections (1) and (2) of this section, but the High Commissioner shall not be required to act in accordance with the advice given to him by the Commission.

(4) The Chairman of the Commission shall at all times have direct access to the High Commissioner.

Regulations.

6. Subject to the provisions of this Order, the High Commissioner may make regulations and give instructions for giving effect to sections 4 and 5 of this Order, and in particular and without prejudice to the generality of the foregoing power may by such regulations and instructions make provision for all or any of the following matters, that is to say—

(*a*) the membership, including the appointment of the Chairman, of the Commission;

(*b*) the appointment, tenure of office and terms of service of members of the Commission;

(*c*) the protection and privileges of members of the Commission in respect of the performance of their duties and the privilege of communications to and from the Commission or its members in case of legal proceedings;

(*d*) the organisation of the work of the Commission and the manner in which the Commission shall perform its functions;

(*e*) the manner and circumstances in which any recommendation, in respect of any question that has been referred to the Commission made by any officer having authority over a department of government of the Territory, shall be submitted to the Commission by such officer and by the Commission to the High Commissioner;

(*f*) consultation by the Commission with persons other than members of the Commission;

(*g*) the appointment, tenure of office and terms of service of staff to assist the Commission in the performance of its functions;

(*h*) the delegation to any member of the Commission of all or any of the powers or duties of the Commission;

(*i*) the definition and trial of offences connected with the functions of the Commission and the imposition of penalties for such offences:

Provided that no such penalty shall exceed a fine of four hundred rand and imprisonment for a term of one year;

(*j*) requiring persons to attend before the Commission to answer questions relating to any inquiry held by the Commission or to any business or duties of the Commission;

(*k*) the exclusion from the purview of the Commission of any or all of the matters mentioned in section 5 (1) of this Order in respect of any public officer or of any specified class of public officer.

Interpretation of regulations.

7. The General Interpretation Proclamation of the Territory, as amended from time to time, shall apply to any regulations or instructions made or given under the provisions of this Order as it applies to regulations and instructions made or given under the provisions of a Proclamation of the Territory.

W. G. Agnew.

EXPLANATORY NOTE

(This Note is not part of the Order, but is intended to indicate its general purport.)

This Order makes provision for the establishment of a Public Service Commission for Swaziland.