

SENTENCING COMMISSION ACT

CHAPTER 4:32

Act
80 of 2000

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UNOFFICIAL VERSION

L.R.O.

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Note on Subsidiary Legislation

This Chapter contains no subsidiary legislation.

CHAPTER 4:32

SENTENCING COMMISSION ACT

ARRANGEMENT OF SECTIONS

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CHAPTER 4:32

SENTENCING COMMISSION ACT

80 of 2000. **An Act to provide for the establishment of a Sentencing Commission and for other related matters.**

*[ASSENTED TO 27TH OCTOBER 2000]

Short title.

1. This Act may be cited as the Sentencing Commission Act.

Commencement.
[264/2000].

2. This Act came into operation on 6th November 2000.

Interpretation.

3. In this Act—

“Commission” means the Sentencing Commission established under section 4;

“Chairman” means the Chairman of the Commission;

“sentence” has the meaning assigned to it by section 42 of the Supreme Court of Judicature Act and “sentencing data” shall be construed accordingly.

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Establishment
of the
Commission.

4. There is established a body to be known as the Sentencing Commission which shall undertake such functions as are prescribed by this Act or any other written law.

Functions of the
Commission.

5. (1) The Commission may, for the purposes of this Act—

- (a) collect, analyse and disseminate sentencing data;
- (b) develop sentencing guidelines and principles and ranges of sentencing for specific offences and categories of offences;
- (c) periodically review sentencing guidelines and provide a framework for the setting of maximum penalties and ranges of sentencing developed pursuant to paragraph (b);
- (d) make recommendations regarding the revision of maximum penalties, the nature of particular offences and the categorisation of offences as to degree of seriousness;

* See section 2 for commencement date of this Act.

- (e) conduct research or inquiries into the administration of justice and report the results of its research, inquiries and investigations and make recommendations for change, reorganisation and general improvement of the administration of justice;
- (f) publish a bi-annual bulletin summarising leading sentencing decisions; and
- (g) conduct public education programmes to inform the public about sentencing and to promote public understanding of sentencing practices and procedures.

(2) The findings and recommendations of the Commission under this section shall be prepared in the form of a report which shall be laid in the Parliament by the Minister and submitted to the Chief Justice and Chief Magistrate.

(3) Nothing in this section limits any discretion that a Court may have in determining a sentence.

6. (1) In developing sentencing guidelines and in seeking to promote a consistent approach to the sentencing of offenders, the Commission shall give due consideration to all relevant factors in order to suggest that the sentence to be imposed on a person found guilty of an offence is proportionate to the seriousness of the offending behaviour.

Factors for sentencing guidelines.

(2) In seeking to achieve the purpose stated in subsection (1), the Commission shall give due consideration to the—

- (a) harm caused by the commission of the offence;
- (b) public concern generated by the offence;
- (c) current incidence of the offence;
- (d) the seriousness of the offending behaviour;
- (e) the need to prevent crime and promote respect for the law by—
 - (i) providing for sentences that are intended to deter the offender or other persons from

committing offences of the same or a similar character;

- (ii) providing for sentences that facilitate the rehabilitation of offenders;
- (iii) providing for sentences that allow a Court to denounce the type of conduct in which the offender engaged; and
- (iv) ensuring that an offender is only punished to the extent justified by—
 - (A) the nature and gravity of his offence;
 - (B) his culpability and degree of responsibility for the offence; and
 - (C) the presence of any aggravating or mitigating factor concerning the offender and of any relevant circumstances.

Membership of the Commission.

7. (1) The Commission shall consist of seven members appointed by the President from among persons or organisations interested in sentencing reform as the President thinks fit.

(2) The President shall appoint a Chairman from among those persons appointed under subsection (1).

Gazetting of membership.

8. The appointment of members of the Commission as first constituted and every subsequent appointment to the Commission or change in membership shall be published in the *Gazette*.

Tenure of office.

9. The appointment of a person as a member of the Commission shall, subject to this Act, be for a period not exceeding three years, but members are eligible for reappointment.

Disqualification for appointment to Commission.

10. No person is qualified to be appointed a member of the Commission who—

- (a) is a member of—
 - (i) the Senate;
 - (ii) the House of Representatives;
 - (iii) a Municipal Corporation or Statutory Board; or
 - (iv) the Judiciary or Magistracy;

- (b) is a legal officer employed by the State;
- (c) is an undischarged bankrupt; or
- (d) has been convicted of an offence involving dishonesty or fraud.

11. (1) Where the Chairman is absent at any meeting the members present shall appoint a Chairman from among themselves. Acting appointment.

(2) Where a member, other than the Chairman, is absent or unable to perform his duties the President may appoint another person to act in the place of such member.

12. The President may, after consultation with the Chairman, revoke the appointment of a person as a member of the Commission if satisfied that the person— Revocation of appointment.

- (a) has, without reasonable excuse, failed to carry out his duties for a continuous period of three months;
- (b) is incapacitated physically or mentally, to such an extent as to impair his ability to perform his duties, or is otherwise unable or unfit to perform his duties; or
- (c) has become a person who would be disqualified for appointment pursuant to section 10.

13. Any member of the Commission may at any time resign his office as a member by writing, addressed to the President. Resignation.

14. Members of the Commission shall be paid such remuneration as is fixed by the President. Remuneration.

15. (1) The Commission shall be located in such place as is provided for it by the Government, and its address shall be published in the *Gazette* and in two daily newspapers. Location and meetings.

(2) The Commission may hold meetings in public or *in camera* for the purpose of performing any of its functions under this Act.

(3) The Commission shall meet at least once per month and the quorum shall consist of five members, of whom one shall

be the Chairman or the acting Chairman appointed under section 11(1).

(4) The Commission may invite any person to attend a meeting and to give unsworn evidence.

(5) Subject to this Act, the procedure at a meeting shall be determined by the Commission.

Staff, etc., of the Commission.

16. (1) The Commission shall employ such members of staff as are required for the performance of its functions on such terms and conditions as are agreed upon between the employee and the Commission.

(2) The President shall appoint an Attorney-at-law of at least five years standing as the Secretary to the Commission.

(3) The Commission may, with the approval of the relevant Minister, arrange for the use of the services of any staff or facilities of a government department or public authority.

(4) The Commission may, on such terms and conditions as it thinks fit, engage any suitably qualified person to provide it with services, information or advice.

Counsel to assist Commission.

17. The Minister may appoint an Attorney-at-law of at least seven years standing to assist the Commission as counsel, either generally or in relation to a particular matter.

Funds.

18. The funds of the Commission shall consist of such sums as are appropriated to it by Parliament from time to time.

Independence of the Commission.

19. The Commission is not subject to the directions or control of any person in the exercise of its functions.

Liability for proceedings.

20. (1) Subject to subsection (2), no matter or thing done by the Commission or any member of or any person acting under the direction of the Commission shall, if the matter or thing was done in good faith for the purpose of giving effect to this Act or any other written law, subject the member or the person so acting personally to any action, liability, claim or demand.

(2) In proceedings for defamation in relation to any hearing or other matter connected with the exercise of the functions of the Commission under this Act, there is a defence of absolute privilege for a publication to or by the Commission or to any member or officer of the Commission, as such a member or officer.

21. A statement or disclosure made, or a document or other thing produced, by any person in the course of assisting the Commission, or any information, document or thing obtained as a direct or indirect consequence of the making of the statement or disclosure, or of the production of the first-mentioned document or thing, is not, except in proceedings for an offence against this Act, admissible in evidence against that person in any civil or criminal proceedings.

Admissibility of evidence in proceedings.

22. The Commission shall in every year prepare and submit to the Attorney General a report of its activities and operations during that year, and the Attorney General shall cause the report to be laid in Parliament as soon as practicable.

Annual report.
