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Act

No. 16 of 2022

I assent

DR. LAZARUS MCCARTHY CHAKWERA

PRESIDENT

12th May, 2022

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**An Act to provide for a mechanism for fostering peace and unity in Malawi; the establishment, management and operation of the Malawi Peace and Unity Commission; the establishment of a national structure for conflict prevention, management and resolution; and to provide for matters incidental thereto**

ENACTED by the Parliament of Malawi as follows—

## PART I—PRELIMINARY

1. This Act may be cited as the Peace and Unity Act, 2022 and shall come into operation on a date appointed by the Minister by notice published in the *Gazette*. Short title and commencement

2. In this Act, unless the context otherwise requires— Interpretation

“Chairperson” means the Chairperson of the Commission appointed in accordance with section 8;

“Commission” means the Malawi Peace and Unity Commission established under section 3;

“expert” means any person whose name appears on the roster of experts maintained by the Commission under section 28;

“Director General” means the Director General of the Commission appointed under section 11;

“District Commissioner” includes a Chief Executive Officer of a city or town council;

“District Peace and Unity Committee” means a District Peace and Unity Committee established under section 15;

“Fund” means the Peace and Unity Fund established under section 34;

“member” means a member of the Commission appointed under section 5;

“local government authority” means a District Council, Town Council, Municipal Council or City Council constituted under the Local Government Act; Cap. 22:01

“Public Appointments Committee” means the Public Appointments Committee of the National Assembly; and

“Vice Chairperson” means the Vice Chairperson of the Commission appointed in accordance with section 8.

## PART II — ESTABLISHMENT OF MALAWI PEACE AND UNITY COMMISSION

3.—(1) There is hereby established the Malawi Peace and Unity Commission. Malawi Peace and Unity Commission

(2) The Commission shall be a body corporate with perpetual succession and a common seal and shall be capable, by that name, of—

(a) doing or performing all such acts as may be necessary or expedient for the furtherance of the provisions of this Act; and

(b) subject to this Act, doing or performing all such acts as a body corporate may, by law, do or perform or such as are incidental or appertain to a body corporate.

(3) The Commission shall be independent, non-partisan and impartial and shall not be subject to the direction or control of any person or authority in the performance of its functions.

Functions  
of the  
Commission

4.—(1) The Commission shall be the highest umbrella body and focal point for promoting unity, peace building and use of amicable conflict prevention, management and resolution mechanisms in Malawi.

(2) Without prejudice to the generality of subsection (1), the functions of the Commission shall be to—

(a) coordinate formulation and review of national policies on unity and peace building;

(b) harmonize and coordinate efforts in conflict prevention, management and resolution for purposes of building sustainable peace;

(c) provide guidance on conflict prevention, management and resolution to the Government and other entities;

(d) provide a platform for peaceful dialogue on social, economic, political, ethnic, religious and other differences;

(e) strengthen capacity for conflict prevention, management and resolution;

(f) promote understanding of values of diversity, trust, tolerance, confidence building, negotiation, mediation, dialogue and conciliation;

(g) undertake studies and research on underlying root causes, patterns, dynamics and effects of conflicts in the country;

(h) facilitate formulation and monitor implementation of dispute settlement agreements entered into by parties to disputes;

(i) monitor implementation of national policies on unity and peace building; and

(j) do all such other things as are necessary or incidental to the performance of its functions under this Act.

Appointment  
and  
composition  
of the  
Commission

5.—(1) The members of the Commission shall be appointed by the President, subject to confirmation by the Public Appointments Committee, in accordance with the procedure set out in section 6.

(2) The Commission shall comprise eleven members as follows—

- (a) two members representing faith based organizations;
- (b) two members representing traditional leaders;
- (c) one member representing the business community;
- (d) one member representing persons with disabilities;
- (e) one member representing young persons;
- (f) one member representing civil society organizations; and
- (g) the following *ex-officio* members—
  - (i) the Secretary responsible for national unity or his or her representative;
  - (ii) the Solicitor General or his or her representative; and
  - (iii) the Secretary responsible for homeland security or his or her representative.

(3) The President shall, in appointing members of the Commission under subsection (2) (a), (b), (c), (d), (e) and (f), ensure that half of the members are of one gender.

(4) A person shall be appointed a member of the Commission under subsection (2) (a), (b), (c), (d), (e) or (f) if that person is apolitical and is of high integrity, stature and gravitas with demonstrable passion to contribute to peaceful co-existence.

(5) A person shall not be appointed a member of the Commission under subsection (2) (a), (b), (c), (d), (e) or (f) if that person—

- (a) does not possess—
  - (i) a minimum academic qualification of a bachelor's degree or its equivalent obtained from a recognized or accredited academic institution under the National Council for Higher Education Act; and Cap. 30:12
  - (ii) expertise and experience in a field relevant to the functions and responsibilities of the Commission;
- (b) has a criminal record;
- (c) holds a political office or is an active member of a political party or political movement;
- (d) has been declared insolvent under the Insolvency Act; Cap. 11:01
- (e) is not a citizen of Malawi;

(f) would, for any other reason, be disqualified by law from serving as a trustee or director of a company; or

(g) holds a public office.

(5) A member of the Commission, other than an *ex-officio* member, shall not, by reason only of the appointment as a member of the Commission, be deemed to be an employee in the public service.

Procedure for  
appointing  
members  
of the  
Commission

6.—(1) The Minister shall issue a public advertisement in at least two newspapers of wide circulation in Malawi inviting appropriate organizations or associations qualifying under section 5 (2) to nominate up to two persons who possess the requisite qualifications from within or outside the organization or association for appointment as a member or members of the Commission.

(2) A nomination under subsection (1) shall include the nominee's *curriculum vitae* and copies of relevant education and professional qualifications.

(3) Upon receipt of the nominations, the Minister shall empanel a selection team of seven persons comprising the following—

(a) the Secretary responsible for national unity, who shall be the chairperson of the panel;

(b) the Secretary responsible for human resource management and development;

(c) a representative of Christian faith organizations;

(d) a representative of Muslim faith organizations;

(e) a representative of civil society organizations with interest in the area of conflict prevention, management and resolution;

(f) the Chairperson of the Malawi Law Society; and

(g) the Ombudsman.

(4) The selection panel shall assess the nominations received pursuant to subsection (1) based on the qualifying criteria set out in section 5 (2), (3) and (4) and may seek further information pertaining to the nominee from the nominee or any other person or source.

(5) The selection panel shall recommend to the Minister eight nominees for appointment as members of the Commission and at least five nominees to be placed on a reserve list.

(6) The Minister shall recommend to the President for appointment, the eight nominees recommended by the selection

committee and keep the list of nominees recommended to be on the reserve list.

(7) The President shall appoint the persons recommended by the Minister as members of the Commission.

(8) Where the President finds any one of the recommended nominees unsuitable, the President shall send the list back to the Minister with reasons for the rejection and the Minister shall replace the rejected nominee with another nominee from the reserve list.

(9) Each person appointed by the President under subsection (7) shall be confirmed by the Public Appointments Committee.

(10) The names of all persons appointed as members of the Commission under this section, as first constituted and every change in the membership thereof, shall be published in the *Gazette* and at least two newspapers of wide circulation in Malawi.

7.—(1) A member, other than an *ex-officio* member, shall hold office for a term of four years and shall be eligible for reappointment for one further term.

Tenure of  
office and  
vacancies

(2) The Minister and the selection panel constituted under section 6 (3) shall, in recommending appointment of a new Commission, have regard to the need to maintain a reasonable degree of continuity in the membership of the Commission so that at least half of the members of the immediate past Commission appointed under section 5 (2) (a), (b), (c), (d), (e) and (f) shall be retained.

(3) The office of a member, other than an *ex-officio* member, shall become vacant—

(a) on the expiry of the term of office of the member;

(b) if the member resigns from office by giving one-month notice, in writing, to the Minister;

(c) if the member is absent, without valid reason, from three consecutive meetings of the Commission of which the member has had notice;

(d) upon the member leaving the country for a period in excess of six months;

(e) if the member is removed from office in accordance with subsection (4);

(f) upon the member becoming mentally or physically ill, where upon a suitably qualified medical practitioner certifies that the member is no longer, by reason of the illness, capable of performing duties of the office of member of the Commission;

(g) upon the member being removed from a position of trust by a court of law;

(h) if the member knowingly fails to declare a conflict of interest relating to any matter under consideration by the Commission;

(i) if the member, without lawful authority, publishes or discloses to any other person or entity, other than in the course of duty, any confidential information of the Commission or any other information obtained in the course of duty;

(j) if the member conducts himself or herself in a manner that is inconsistent with membership of the Commission or that brings the Commission into disrepute;

(k) if a situation arises that if the person was not appointed, would have disqualified the person from being appointed as a member of the Commission; or

(l) upon the death of the member.

(4) A member, other than an *ex-officio* member, may be removed from office by the President on the recommendation of the Public Appointments Committee on the grounds of incapacity or incompetence in the performance of the duties of the office of member.

(5) A member shall not be removed from office in accordance with subsection (4), except after due inquiry.

(6) A vacancy in the membership of the Commission shall be filled by the appointment of a person from the reserve list maintained in accordance with section 6 (6).

(7) A person appointed to fill a vacancy shall serve for the remainder of the term of office but no person shall be so appointed where the remainder of the term of office is a period of less than six months.

(8) The period served by a person appointed under subsection (6) shall not be regarded as a term for the purposes of subsection (1).

(9) Subject to section 8 (7), a vacancy in the membership of the Commission shall not affect its decisions, the performance of its functions or the exercise of its powers under this Act or any other written law.

Meetings  
of the  
Commission

8.—(1) The members of the Commission shall, at its first meeting, elect a Chairperson and Vice Chairperson from among the members appointed under section 5 (2) (a), (b), (c), (d), (e) and (f).

(2) The Commission shall meet for the transaction of its business at least once in every three months, at such places and times as the Chairperson may determine.



(3) The Chairperson shall convene ordinary meetings of the Commission by giving the members a written notice of not less than fourteen days.

(4) The Chairperson may, at any time, convene an extraordinary meeting of the Commission.

(5) The Chairperson shall, at the request, in writing, of not less than four members, convene an extra-ordinary meeting of the Commission at a place and time determined by the Chairperson.

(6) A member, other than an ex-officio member, shall not attend a meeting of the Commission by representation, and where the member is unable to attend any meeting, the member may request that an apology for failure to attend be recorded.

(7) A quorum, at every meeting of the Commission, shall be constituted by a simple majority of the members.

(8) The Chairperson or, in the absence of the Chairperson, the Vice Chairperson shall preside over meetings of the Commission and, in the absence of both the Chairperson and the Vice Chairperson, the members present and forming a quorum shall elect one of their number to preside over the meeting.

(9) A decision of the Commission on any question shall be by consensus but where this is not possible, the decision shall be determined by a majority vote of members present and voting, and where there is an equality of votes, the Chairperson or, in the absence of the Chairperson, the Vice Chairperson or other member presiding, shall have a casting vote in addition to that person's deliberative vote.

(10) The Commission may, where necessary and taking into account the nature of the matter to be deliberated, invite any person to attend its meeting and participate in the deliberations or to make a presentation or to be asked questions on any matter, but the person so invited shall have no right to vote.

(11) The Director General shall record and keep minutes of meetings of the Commission and the minutes shall be confirmed at the subsequent meeting.

(12) Where, in any meeting, the deliberations of the Commission concern the Director General or any officer designated to attend the meeting, the Commission may exclude the Director General or the officer from the meeting.

(13) Subject to this Act, the Commission may make rules to regulate its proceedings and business or the proceedings and business of any of its committees.

Committees  
of the  
Commission

9.—(1) For the better carrying into effect of its functions, the Commission may establish such number of committees as may be considered necessary to perform such functions and responsibilities as may be determined by the Commission.

(2) A committee may consist of either members of the Commission only or members of the Commission and such other suitably qualified persons as the Commission may deem fit.

(3) The Commission shall appoint a chairperson for each committee from amongst the members of the Commission.

(4) The Director General shall act as secretary to committees of the Commission or may, with the approval of the Chairperson, delegate senior members of staff to act as secretaries to the committees.

(5) Every committee shall act in accordance with any directions given to it, in writing, by the Commission.

(6) The provisions of this Act relating to meetings of the Commission shall apply, with the necessary modifications, to meetings of its committees.

#### PART III—SECRETARIAT OF THE COMMISSION

Secretariat  
of the  
Commission

10.—(1) There shall be a Secretariat of the Commission consisting of the Director General and other members of staff appointed in accordance with this Act.

(2) The Secretariat shall, in carrying out its functions, be subject to the general and special directions of the Commission.

Director  
General

11.—(1) The Director General shall be appointed by the Commission through an open, strenuous and competitive process on terms and conditions as the Commission may, in consultation with the Minister and the Minister responsible for finance, determine.

(2) The office of the Director General shall be a public office.

(3) The Director General shall be the chief executive officer of the Commission.

(4) A person shall not be appointed as Director General, unless the person—

(a) possesses a minimum qualification of a Master's degree in a field relevant to the mandate of the Commission from a

reputable education institution recognized or accredited under the National Council for Higher Education Act;

Cap. 30:12

(b) has proven and demonstrable expertise in peace building, including conflict prevention, management and resolution or any field relevant to the functions and responsibilities of the Commission;

(c) has not less than ten years' experience in executive management;

(d) is apolitical; and

(e) is of high integrity, stature and gravitas.

(5) The Director General shall hold office for a term of five years and shall, subject to satisfactory performance, be eligible for re-appointment for one further term.

12.—(1) Subject to the general and special directions of the Commission, and without prejudice to the generality of section 11 (3), the Director General shall be responsible for—

Duties of the  
Director  
General

(a) the day to day operations and management of the Commission;

(b) management of the funds, property and business of the Commission;

(c) administration, organization and control of the other staff of the Commission; and

(d) administration and implementation of the relevant Government policy and the provisions of this Act.

(2) The Director General shall be secretary to the Commission.

13.—(1) The Director General may be removed from office on any of the following grounds—

Removal of  
Director  
General

(a) misbehaviour or misconduct that brings the office of the Director General into disrepute;

(b) incompetence in the execution of the functions of the office;

(c) incapacity to perform the duties of the office by reason of mental or physical illness;

(d) failure to declare a conflict of interest relating to any matter under consideration by the office or the Commission;

(e) involvement in active politics;

(f) if he or she is declared or adjudged bankrupt by a competent court of law;

(g) if he or she is removed from an office of trust by a competent court of law; or

(h) if he or she is convicted of an offence against any written law and sentenced to a term of imprisonment without the option of a fine.

(2) The Director General shall not be removed from office on grounds set out in subsection (1) except after due inquiry.

Other  
members of  
staff of the  
Commission

**14.—(1)** The Commission shall employ such other members of staff of the Commission, subordinate to the Director General, as it considers necessary for the efficient discharge of the functions of the Commission.

(2) The Commission may delegate to the Director General the appointment, discipline and dismissal of members of staff of the Commission in specified junior ranks and the Director General shall report to the Commission, at its next meeting, every appointment, disciplinary decision or dismissal made pursuant to this subsection.

(3) The members of staff appointed under subsection (1) shall be appointed on such terms and conditions as the Commission shall determine.

(4) Section 13 shall apply, with the necessary modifications, to dismissal of members of staff recruited under this section.

#### PART IV—DISTRICT PEACE AND UNITY COMMITTEE

Establishment  
of District  
Peace and  
Unity  
Committees

**15.—(1)** There is hereby established a District Peace and Unity Committee in each local government area of the country.

(2) A District Peace and Unity Committee shall be independent, non-partisan and impartial in the performance of its functions.

(3) The Commission shall supervise and coordinate the work of District Peace and Unity Committees.

Cap. 22:01

(4) For purposes of this Part, “local government area” has the meaning assigned thereto under the Local Government Act.

Functions of  
District Peace  
and Unity  
Committees,  
etc.

**16.—(1)** The primary function of a District Peace and Unity Committee shall be to promote unity and peace building within its area of jurisdiction.

(2) Without prejudice to the generality of subsection (1), the specific functions of a District Peace and Unity Committee shall include—

(a) act as a platform for peace building, including conflict prevention, management and resolution in the local government area;

(b) provide a forum for exchange of ideas on issues that may threaten peace and stability in the local government area and how to manage them;

(c) engage in peace building initiatives including dialogue, mediation, negotiation, confidence and trust building between groups and communities in the local government area;

(d) provide strategic advice on peace building, including conflict prevention, management and resolution to stakeholders in the local government area;

(e) provide early warning on potential threats to peace and unity in the local government area;

(f) organise training and other capacity building programmes on peace building, including conflict prevention, management and resolution;

(g) conduct public education and awareness programmes on peace, unity and use of non-violent conflict resolution mechanisms;

(h) organise or facilitate activities that promote trust, tolerance, goodwill and reconciliation between communities, defuse tension and prevent the occurrence of conflicts;

(i) conduct regular meetings with peace building agencies within the district for experience sharing and knowledge management;

(j) assist the Commission and law enforcement agencies in unity and peace building initiatives; and

(k) perform any other function determined by the Commission.

17.—(1) Members of a District Peace and Unity Committee shall be appointed by the Commission, upon being nominated by a resolution of the local government authority in the area.

Appointment  
and  
composition  
of District  
Peace and  
Unity  
Committees

(2) A District Peace and Unity Committee shall comprise eleven members as follows—

(a) two members representing faith based organizations;

(b) two members representing traditional leaders;

(c) two members representing civil society organizations;

- (d) one member representing the business community;
- (e) one member representing persons with disabilities;
- (f) one member representing young persons; and
- (g) the following *ex-officio* members—
  - (i) the District Commissioner of the local government area; and
  - (ii) the Police Officer-in Charge responsible for the local government area.

(3) The Commission shall, in appointing members of the District Peace and Unity Committee under subsection (2) (a), (b), (c), (d), (e) and (f), ensure that at least four members are of one gender.

(4) A person shall be nominated for appointment under subsection (2) (a), (b), (c), (d), (e) and (f), if that person is apolitical and of high integrity, stature and gravitas with demonstrable passion to contribute to peaceful co-existence.

(5) A person shall not be nominated for appointment as a member of a District Peace and Unity Committee under subsection (2) (a), (b), (c), (d), (e) and (f) if that person—

- (a) does not possess a minimum qualification of a Malawi School Certificate of Education;
- (b) has a criminal record;
- (c) is an active member of a political party or political movement;
- (d) is not a resident of the local government area within which the District Peace and Unity Committee operates;
- (e) would for any other reason be disqualified by law from serving as a trustee or director of a company; or
- (f) holds a public office.

(6) A member of a District Peace and Unity Committee, other than an *ex-officio* member, shall serve on voluntary basis and shall not, by reason only of the appointment, be deemed to be an employee in the public service.

Tenure of office and vacancies of members of District Peace and Unity Committees

**18.—**(1) A member of a District Peace and Unity Committee, other than an *ex-officio* member, shall hold office for a term of four years and shall be eligible for reappointment.

(2) The local government authority shall, in recommending persons for appointment as members of a District Peace and Unity

Committee, have regard to the need to maintain a reasonable degree of continuity in the membership of the Committee, so that at least four members of the immediate past Committee appointed under section 17 (2) (a), (b), (c), (d), (e) and (f) shall be retained.

(3) The office of a member of a District Peace and Unity Committee, other than an *ex-officio* member, shall become vacant if the member—

(a) resigns from office by giving one-month notice, in writing, to the Commission;

(b) is absent, without valid reason, from three consecutive meetings of the District Peace and Unity Committee, of which the member has had notice;

(c) is removed from a position of trust by a court of law;

(d) is convicted for an offence against any written law and sentenced to a term of imprisonment;

(e) is certified by a medical practitioner to be incapacitated by reason of physical or mental illness;

(f) is declared insolvent under the Insolvency Act;

Cap. 11:01

(g) fails to declare a conflict of interest relating to any matter under consideration by the District Peace and Unity Committee;

(h) without lawful authority, publishes or discloses to any other person or entity, other than in the course of duty, any information obtained in the course of duty;

(i) conducts himself in a manner that is inconsistent with membership of the District Peace and Unity Committee or that brings the District Peace and Unity Committee into disrepute;

(j) finds himself in a situation where if he had not been appointed, would have been disqualified from being appointed as a member of the Committee;

(k) relocates to another local government area;

(l) is removed from office in accordance with subsection (4);  
or

(m) dies.

(4) A member of a District Peace and Unity Committee, other than an *ex-officio* member, may be removed from office by the Commission on the recommendation of the local government authority, by resolution, on the grounds of incapacity or incompetence in the performance of the duties of the office.

(5) A member of a District Peace and Unity Committee shall not be removed from office in accordance with subsection (4), except after due inquiry.

(6) A vacancy in the membership of the District Peace and Unity Committee shall be filled by the appointment of a new member in accordance with section 17.

(7) A person appointed to fill a vacancy on a District Peace and Unity Committee shall serve for the remainder of the term of office but no person shall be so appointed where the remainder of the term of office is a period of less than six months.

Meetings of  
District Peace  
and Unity  
Committees

**19.**—(1) The provisions of this Act relating to meetings of the Commission shall apply, with the necessary modifications, to meetings of the District Peace and Unity Committee.

(2) The members of the District Peace and Unity Committee shall, at its first meeting, elect a Chairperson and Vice Chairperson from among the members appointed under section 17 (2) (a), (b), (c), (d), (e) and (f).

(3) The District Peace and Unity Officer shall act as secretary to the District Peace and Unity Committee.

Area peace  
and unity  
committees

**20.**—(1) A District Peace and Unity Committee may establish area peace and unity committees within its area of jurisdiction as it may deem appropriate to facilitate delivery of its mandate.

(2) The local government authority in the area shall, on recommendation of the District Peace and Unity Committee, appoint members of area peace and unity committees by resolution.

(3) An area peace and unity committee shall perform such functions in the promotion of unity and peace building in its area of jurisdiction as the District Peace and Unity Committee may designate, in writing.

(4) The District Peace and Unity Officer shall represent the District Commissioner on every area peace and unity committee in the local government area, as *ex-officio* member, and shall serve as secretary of the committees.

(5) The Commission may, by notice published in the Gazette, issue guidelines on the establishment, operation and mandate of area peace and unity committees.

(6) The provisions of sections 17, 18 and 19 shall apply to area peace and unity committees, with the necessary modifications.



**21.—(1)** There shall be appointed by the Commission, in each local government area, a District Peace and Unity Officer.

District Peace  
and Unity  
Officer

(2) Section 14 shall apply, with the necessary modifications, to the appointment and removal from office of a District Peace and Unity Officer.

(3) A District Peace and Unity Officer shall be a representative of the Commission in the local government area.

(4) A District Peace and Unity Officer shall—

(a) be responsible for the day to day management and operation of the District Peace and Unity Committee;

(b) act as technical advisor to the local authority, District Peace and Unity Committee and area peace and unity committees in the local government area; and

(c) perform any other functions determined by the Commission or the District Peace and Unity Committee.

#### PART V—PEACE BUILDING AND CONFLICT RESOLUTION

**22.—(1)** The Commission shall, on receipt of a complaint or on its own volition, implement a unity fostering or peace building programme in a specific geographic area or in the whole country.

Unity and  
peace  
building  
programmes

(2) A programme implemented under subsection (1) shall promote peaceful co-existence and use of non-violent mechanisms to prevent, manage and resolve conflicts such as good offices, negotiation, mediation and conciliation.

(3) The Commission shall, in performing its functions under this Part, constitute a panel for each such programme as the Commission shall determine appropriate.

(4) A panel constituted under subsection (3) shall comprise such number of members of the Commission and experts drawn from the roster of experts maintained under section 29, as the Commission shall determine.

(5) The Commission shall appoint a chairperson of each panel who shall be a member of the Commission or an expert.

**23.—(1)** Where the Commission registers a potential conflict or a conflict, the Commission shall—

Conflict  
prevention,  
management  
and resolution

(a) in the case of a potential conflict, undertake such initiatives as to defuse the potential conflict expeditiously; or

(b) in the case of a conflict, manage and resolve the conflict within a reasonable period.

(2) A conflict prevention, management or resolution initiative under subsection (1) shall be conducted in an amicable, informal and expedient manner as the Commission considers appropriate.

(3) The Commission shall, in managing or resolving conflicts, use strategies and mechanisms that foster unity and sustainable peace as the Commission considers appropriate.

(4) A person with interest in any matter registered by the Commission under subsection (1), may engage the services of a legal practitioner, at the person's own expense, but the legal practitioner shall not have a right of audience.

Access to,  
and  
disclosure  
of,  
information

**24.—**(1) The Commission may, in the exercise of its powers under this Part, obtain any information relevant for the exercise of the power from any person involved in a conflict or a third party.

(2) Subject to subsection (3), where the Commission obtains information from any person, the Commission may disclose the substance of the information to any other person.

(3) Where a person provides any information to the Commission subject to a specific condition that the information be kept confidential, the Commission shall comply with the terms and conditions under which the information was provided.

Evidence not  
admissible in  
court

**25.** Any record of evidence adduced during any proceeding before the Commission under this Part shall not be admissible in any civil or criminal proceedings before a court of law.

Settlement  
agreement

**26.—**(1) Where parties to any potential conflict or a conflict agree to settle the potential conflict or conflict on such terms and considerations as they see fit, the Commission shall facilitate the formulation and signing of a settlement agreement to the conflict.

(2) The Commission shall authenticate the settlement agreement and furnish a copy of the agreement to all parties to the agreement.

(3) The Commission shall monitor implementation of settlement agreements signed under subsection (1) and may provide relevant support to the parties in the implementation of the agreements.

Powers of the  
Commission

**27.—**(1) The Commission may, in the exercise of its powers under this Part, recommend to any person or institution implementation of such unity fostering and peace building interventions or initiatives as the Commission determines appropriate.

(2) A person or institution to whom a recommendation is made under subsection (1) shall, with the support of the Commission and within the person's or institution's means and mandate, implement the recommendation.

(3) The Commission shall have no power to impose punitive orders.

(4) The Commission may, by notice published in the *Gazette*, prescribe rules to regulate procedure and other matters relevant for carrying into effect its powers under this Part.

28.—(1) The Commission shall maintain a register of all matters handled under this Part. Commission to maintain register

(2) A register maintained under subsection (1) shall contain such particulars as the Commission shall determine appropriate.

29.—(1) The Commission shall maintain a roster of experts in unity fostering and peace building, including conflict prevention, management and resolution. Roster of experts

(2) A person interested in serving the Commission as an expert shall submit an application to the Commission to be registered on the roster of experts.

(3) An application under subsection (2) shall include the applicant's *curriculum vitae* and certified copies of relevant education and professional qualifications.

(4) The Commission shall assess applications received under subsection (2) and shall register an applicant on the roster of experts if the Commission is satisfied that the applicant—

(a) is apolitical;

(b) is a person of high integrity, stature and gravitas;

(c) has demonstrable passion to contribute to peaceful co-existence; and

(d) has knowledge and experience in conflict prevention, management and resolution.

(5) A registration of an expert on the roster of experts shall be valid for a period of two years, subject to renewal.

(6) An expert shall be removed from the roster of experts—

(a) if the expert resigns, by giving one-month notice, in writing, to the Chairperson;

(b) if the expert, without valid reason, is absent from three consecutive activities of a programme the expert is assigned to serve, of which the expert has had notice;

(c) if the expert is removed from an office of trust by a competent court of law;

(d) upon the expert becoming mentally or physically ill, where upon, by reason of the illness, the expert is not capable of performing the functions of an expert;

(e) if the expert fails to declare a conflict of interest relating to any matter under a programme on which the expert is a serving member;

(f) if the expert, without lawful authority, publishes or discloses to any other person or entity, other than in the course of duty, information acquired in the course of duty;

(g) if the expert conducts himself or herself in a manner that is inconsistent with responsibilities of the Commission or that brings the Commission into disrepute;

(h) if a situation arises that if the expert was not registered on the roster of experts, would have disqualified the expert from registration;

(i) if the expert is incompetent in the performance of duties assigned to the expert under this Act; or

(j) upon the death of the expert.

Deployment  
of experts

**30.—(1)** The Commission may appoint an expert to serve on any panel constituted under section 22.

(2) Where the Commission appoints an expert to serve on a panel, the appointment shall be for the duration of that particular programme.

(3) The expert shall be reimbursed any expenses incurred in the course of duty and may be paid such allowances as the Commission may determine, from time to time.

(4) The expert shall, while in the course of duty, have the same immunities and privileges as are accorded to members of the Commission under this Act.

Assistance  
by a public  
officer or  
public  
institution

**31.—(1)** The Commission may engage a public officer or a public institution to assist the Commission in the proper performance of its functions under this Act or any other written law.

(2) A public officer or public institution engaged to provide assistance under subsection (1) shall provide the required assistance within the limits of the officer's or institution's authority and resources.

(3) A public officer or public institution engaged under this section shall not publish or disclose to any unauthorised person or entity, other than in the course of duty, any information which come

to the officer's or public institution's knowledge in the course of performing any duty under this section.

(4) The public officer or public institution shall, while in the course of duty, have the same immunities and privileges as are accorded to members of the Commission under this Act.

32. For purposes of sections 22, 23, 24, 25, 26, 27 (1), (2) and (3) and 31, reference to the "Commission" includes a District Peace and Unity Committee and area peace and unity committee.

Reference to Commission to include District Peace and Unity Committee, etc.

#### PART VI—FINANCIAL PROVISIONS

33.—(1) The funds and property of the Commission shall consist of—

Funds and property of the Commission

(a) such sums as may, from time to time, be payable to the Commission from moneys appropriated by the National Assembly;

(b) such sums of money or other property, real or personal, as may be acquired, purchased or received by or transferred to the Commission, whether by way of gift, devise, bequest, purchase or otherwise;

(c) such sums of money or other property, real or personal, as may accrue to the Commission in the exercise of its powers or the performance of its functions under this Act;

(d) such sums of money or other property, real or personal, as may be donated to the Commission by any foreign Government, international agency, other external body of persons or individual; and

(e) such sums of money as may accrue to the Peace and Unity Fund established under section 34 or any other trust established by the Commission.

(2) The Commission may receive the sums or assets referred to in subsection (1) from a source other than the Government provided that no sums or assets so received shall jeopardise or compromise the independence of the Commission.

(3) The Commission shall, upon receipt of funds or an asset from a source other than the Government, report the transaction in writing, within a period not exceeding one month, to the Minister.

(4) The funds and assets of the Commission shall exclusively be under the control of the Commission and shall be utilized solely for the purposes of this Act in accordance with the written directions of the Commission and for no other purpose.

Cap. 37:01  
Cap. 37:02  
Cap. 37:03

Peace and  
Unity Fund

(5) The Commission shall at all times comply with the provisions of the Public Audit Act, the Public Finance Management Act and the Public Procurement and Disposal of Public Assets Act.

**34.**—(1) There is hereby established a fund to be known as the Peace and Unity Fund.

(2) The Fund shall consist of—

(a) such sums as may, from time to time, be payable to the Fund from moneys appropriated by the National Assembly;

(b) donations or contributions from individuals or institutions within the country;

(c) donations or contributions from foreign governments international agencies, development partners, external bodies of persons or individuals; and

(d) money raised from projects of the Commission.

(3) The Fund shall be utilized solely for the purposes of this Act.

(4) Without derogation from the generality of subsection (3), the Fund shall be applied to—

(a) activities which promote peace and unity and any other object of this Act;

(b) the acquisition of land, equipment, materials and other assets and the construction of buildings in order to promote the functions of the Commission;

(c) the cost of any activity, service or amenity which the Commission considers to be in the interest of peace and unity;

(d) meeting any expense arising from the establishment and operation of the Fund; and

(e) any purpose which is considered to be in the interest of the objects of the Fund.

(5) The Minister responsible for finance shall prescribe operational guidelines for the utilisation and accountability of the Fund.

Vesting of  
the Fund  
Cap. 37:02

**35.** The Fund shall vest in the Commission and shall, subject to this Act and the Public Finance Management Act, be administered in accordance with the written directions of the Commission.

Advances  
to the Fund

**36.** Where, in any financial year, the income of the Fund together with any surplus income brought forward from a previous year is insufficient to meet the actual or estimated liabilities of the Fund,

the Minister responsible for finance may make advances to the Fund in order to meet the deficiency or any part thereof and the advances shall be made on terms and conditions, whether as to repayment or otherwise, determined by the Minister responsible for finance.

**37.—**(1) All sums received for the purposes of the Fund shall be paid into a bank account and no amount shall be withdrawn there from, except in accordance with the Public Finance Management Act.

Holdings of  
the Fund  
Cap. 37:02

(2) Subject to the Public Finance Management Act, any part of the Fund not immediately required for the purposes of the Fund may, on the recommendation of the Commission, be invested in a manner the Commission determines appropriate.

Cap. 37:02

**38.—**(1) The Commission shall cause to be kept all proper books and records of accounts of the income, expenditure and assets of the Commission in accordance with the Public Finance Management Act.

Accounting  
and audit

Cap. 37:02

(2) The accounts of the Commission shall, within three months of the end of each financial year, be prepared and submitted for examination by the Auditor General in accordance with the Public Audit Act.

Cap. 37:01

(3) The Commission shall, within a period of four months after the end of each financial year submit to the Minister audited accounts for the year.

(4) The financial year of the Commission shall be the period of twelve months in line with the Government financial year.

**39.** Allowances payable to members of the Commission, experts, members of committees of the Commission and staff of the Commission shall be determined by the Minister, in consultation with the Minister responsible for finance.

Allowances

#### PART VII—MISCELLANEOUS PROVISIONS

**40.** The Commission and District Peace and Unity Committees shall put in place monitoring and evaluation mechanisms with a goal to achieve transparency and accountability and, in particular, aimed at—

Monitoring  
and  
evaluation

(a) providing regular feedback for interventions made by the Commission;

(b) providing timely review of peace building and conflict prevention, management and resolution interventions;

(c) institutionalising an early warning system for timely and proactive diffusion of conflicts; and

(d) assessing relevance, effectiveness and impact of unity fostering and peace building programmes.

Disclosure of interest

**41.—**(1) A member, member of a committee of the Commission, member of a District Peace and Unity Committee, member of an area peace and unity committee, member of staff of the Commission or a person invited to attend a meeting of the Commission or any of its committees, who is present at any meeting at which any matter in which that person or a close relative, professional or business partner of that person has an interest or may have an interest is being considered, shall disclose the interest as soon as is practicable before or soon after the commencement of the meeting and shall not take part in any consideration or discussion of, or vote on, any question touching on such matter at that meeting or any subsequent meeting.

(2) A disclosure of interest made under subsection (1) shall be recorded in the minutes of the meeting at which it is made.

(3) Where a person fails to disclose interest in accordance with subsection (1) and the Commission, committee of the Commission, District Peace and Unity Committee or area peace and unity committee makes a decision which benefits that person, a close relative, professional or business partner of that person, the decision shall, to the extent that it benefits that person, the close relative, professional or business partner, be null and void.

Prohibition of publication or disclosure of information to unauthorized persons

**42.—**(1) A member of the Commission, member of a committee of the Commission, member of a District Peace and Unity Committee, member of an area peace and unity committee, expert, person invited to attend a meeting of the Commission or a member of staff of the Commission shall not publish or disclose to any unauthorised person or entity, other than in the course of duty, the contents of any document, communication or information which has come to that person's knowledge in the course of duty.

(2) A person who obtains directly or indirectly from any source, contents of any document, communication or information of the Commission or District Peace and Unity Committee shall not publish or disclose the contents of the document, communication or information to any person or entity, without the consent, in writing, given by, or on behalf of, the Commission or District Peace and Unity Committee, as the case may be, otherwise than in the course of performing that person's duties.

(3) A person who, obtains any information which to the knowledge of that person has been published or disclosed in contravention of subsection (1) or (2), shall not publish or communicate the information to another person.



(4) A person who contravenes subsection (1), (2) or (3) commits an offence and shall be liable, upon conviction, to a fine of K5,000,000.00 and to imprisonment for two years.

**43.—** (1) Every—

- (a) member of the Commission or any of its committees;
- (b) member of a District Peace and Unity Committee
- (c) member of an area peace and unity committee;
- (d) member of staff of the Commission; or
- (e) person invited to attend a meeting of the Commission or any of its committees;

Oath or  
affirmation of  
secrecy

shall, upon assumption of his office or before attending the meeting, as the case may be, take an oath or affirmation of secrecy in the form set out in the Schedule.

(2) An expert appointed to serve on a panel constituted by the Commission under Part V shall, as soon as practically possible but before attending to any Commission business, take an oath or affirmation of secrecy in the form set out in the Schedule.

**44.** An action or other proceeding shall not lie or be instituted against a member of the Commission, a member of a committee of the Commission, a member of a District Peace and Unity Committee, a member of an area peace and unity committee, an expert, or a member of staff of the Commission for, or in respect of, an act or thing done or omitted to be done in good faith in the exercise or performance of any of the functions conferred under this Act.

Immunity

**45.—**(1) A District Peace and Unity Committee shall submit quarterly reports of its activities to the Commission.

Reports

(2) The Commission shall prepare and submit to the Minister, within three months after the end of each financial year, a comprehensive annual report on the general conduct of the affairs of the Commission and the activities carried out during that financial year.

(3) The Minister shall, as soon as practicable after the end of each financial year, but not later than six months after the end of the financial year, lay before Parliament a copy of the annual report received under subsection (2).

**46.—**(1) The Minister may, on the advice of the Commission and by notice published in the *Gazette*, make regulations for carrying out the purpose and provisions of this Act into effect and prescribing all matters which are necessary or convenient to be prescribed for the better carrying out of the provisions of this Act.

Regulations,  
rules etc.

(2) The Commission may make rules, issue guidelines and code of conduct prescribing matters required or permitted by this Act to be prescribed, or necessary or convenient to be prescribed for better carrying out of the functions of the Commission.

SCHEDULE

(s. 43)

OATH/AFFIRMATION OF SECRECY

I, ....., being a member/expert/member of a District Peace and Unity Committee/area peace and unity committee or having been employed in the service of the Commission do hereby swear/affirm that I will freely without fear or favour, affection or ill will, discharge the functions of a member/expert/member of a District Peace and Unity Committee/area peace and unity committee/member of staff of the Commission and that I will not, directly or indirectly, reveal any matter related to such functions to any unauthorized person or otherwise than in the course of duty.

SWORN/AFFIRMED at ..... this ..... day of ....., 20 ...

Signature: .....

Before:.....

*Commissioner for Oaths*

Passed in Parliament this twenty second day of March, two thousand and twenty-two.

FIONA KALEMBA  
*Clerk of Parliament*