

## **PUBLIC SERVICE COMMISSION REGULATIONS**

GN 76 of 1967 – 12 August 1967

### **PART I – PRELIMINARY**

1. (1) These regulations may be cited as the Public Service Commission Regulations.

(2) These regulations shall apply to all public offices, other than public offices in respect of which the power to appoint persons to hold or act in such offices (including power to confirm appointments), to exercise disciplinary control over persons holding or acting in such offices and to remove such persons from office is, by virtue of section 89 (3) of the Constitution, not vested in the Commission.

2. (1) In these regulations—

“appointment” means—

- (a) the conferment of an office of emolument in the public service, whether or not subject to subsequent confirmation, upon a person not in the public service;
- (b) the grant of permanent and pensionable terms of service in a public office to a person recruited and serving on contract terms of service or in an unestablished capacity in a pensionable or non-pensionable public office;
- (c) the engagement in a public office of a person on contract terms of service for a further period of service on the conclusion of his previous period of engagement on contract terms in the same or other public office;
- (d) the permanent transfer to an office in the public service of a member of the civil service of another country who is serving on temporary transfer in an office in the public service;
- (e) the transfer of an officer serving in one public office to another office in the public service carrying the same salary or salary scale;
- (f) the appointment of a public officer to act in any public office other than the office to which he is substantively appointed;

“Chairperson” means the Chairperson of the Commission, or any Deputy Chairperson or Commissioner appointed to act temporarily as Chairperson of the Commission under section 88 (3) of the Constitution;

“Commission” means the Public Service Commission established by section 88 of the Constitution;

“Commissioner” means any Commissioner of the Commission and includes the Chairperson, any Deputy Chairperson and any person appointed to act as Commissioner under section 88 (4) of the Constitution;

“Deputy Chairperson” means any Deputy Chairperson of the Commission;

“disciplinary control” includes control in so far as it relates to dismissal;

“office of emolument”, in relation to the definition of public office in the Constitution, means any pensionable or non-pensionable office;

“official document” means any document prepared by any public officer in the course of his employment or any document which comes into the custody of any public officer in the course of such employment;

“promotion” means the conferment upon a person in the public service of a public office to which

is attached a higher salary or salary scale than that attached to the public office to which he was last substantively appointed or promoted;

“responsible officer” means—

- (a) in relation to a public officer serving in a department specified in the first column of Part I of the First Schedule, the person holding the office specified opposite that department in the second column;
- (b) in relation to a public officer serving in a class or rank specified in the first column of Part II of the First Schedule, the person holding the office specified opposite that class or rank in the second column;
- (c) in relation to a public officer appointed to serve in Rodrigues and to whom paragraph (a) or (b) does not apply, the Island Secretary Commissioner, Rodrigues;
- (d) in relation to a public officer serving in a Ministry and to whom paragraph (a), (b) or (c) does not apply, the official head of the Ministry in or under which he is serving;
- (e) in relation to any other public officer, the Secretary to Cabinet and Head of the Civil Service;

“salary” means basic salary attached to a public office;

“Secretary” means the Secretary to the Commission;

“seniority” means the relative seniority of officers and, except as may be otherwise provided by the Commission or in these regulations, shall be determined and shall be regarded as having always been determined as follows—

- (a) as between officers of the same grade or class—
  - (i) by reference to the dates on which they respectively entered the grade or class;
  - (ii) where any officers entered that grade or class on the same day, by reference to their seniority in the next lower grade or class on the day immediately preceding that day;
  - (iii) where any officers who entered the same grade or class on the same day did so by appointment and not by promotion (excluding promotion from a non-pensionable to a pensionable grade or class), their seniority relative to each other shall be determinable by reference to their respective ages;
- (b) as between officers of different grades or classes on the same salary scale or the same flat rate of salary, by reference to the dates on which they respectively entered their grades or classes;
- (c) as between officers of different grades or classes on different salary scales, by reference to the maximum point on their salary scales, a flat rate of salary being regarded for this purpose as a salary scale with a maximum point equivalent to the flat rate:

Provided that when assessing the seniority of a pensionable public officer, unbroken service by himself or any other person in a non-pensionable capacity shall only be taken into account in so far as during such service the officer or other person concerned was fully qualified to serve in the grade or class in question on pensionable terms;

“transfer” means the conferment upon a public officer, whether permanently or otherwise, of some public office other than that to which the officer was last substantively appointed, not being a promotion, but the posting of an officer between posts in the same grade shall not be regarded for this purpose as a transfer.

- (2) Nothing in these regulations empowering a responsible officer or any other person to perform any

function shall preclude the Commission from itself performing that function in any particular case.

[R. 2 amended by GN 3 of 1992; GN 117 of 1997.]

## **PART II – GENERAL**

3. The Commission shall appoint a Secretary to the Commission, who shall not be a Commissioner of the Commission, and such other staff as may be authorised.

[R. 3 amended by GN 117 of 1997.]

4. Every meeting of the Commission shall be presided over by the Chair- person.

5. A record shall be kept of the Commissioners present and of the business transacted at every meeting of the Commission.

[R. 5 amended by GN 117 of 1997.]

6. Decisions may be made by the Commission without a meeting by circulation of the relevant papers among the Commissioners and the expression of their views in writing, but any Commissioner shall be entitled to require that any such decision shall be deferred until the subject matter is considered at a meeting of the Commission.

[R. 6 amended by GN 117 of 1997.]

7. Any Commissioner shall be entitled to dissent from a decision of the Commission and to have his dissent and his reasons therefor set out in the records of the Commission.

[R. 7 amended by GN 117 of 1997.]

8. The Chairperson and 3 Commissioners will constitute a quorum for a meeting of the Commission and a like number of Commissioners will be required for a decision of the Commission arrived at by the circulation of written papers.

[R. 8 amended by GN 117 of 1997.]

9. (1) The Commission may require any public officer to attend and give information before it concerning any matter which it is required to consider in exercise of its functions.

(2) The Commission may require the production of any official document relevant to any exercise of its functions, and any public officer who submits any matter for the consideration of the Commission shall ensure that all relevant documents and papers are made available to the Commission.

(3) Any public officer who without reasonable excuse fails to appear before the Commission when notified to do so, or who fails to comply with any request lawfully and properly made by the Commission, shall be guilty of a breach of discipline and the Commission may direct the person responsible for initiating disciplinary proceedings against such public officer that disciplinary proceedings should be instituted against him.

10. The Commission shall, at the request of a responsible officer, hear him or his representative personally in connection with any matter referred by him to the Commission.

11. (1) In carrying out its duties under the Constitution and these regulations, the Commission shall not take into account any representations made to it otherwise than in accordance with the Constitution or with these regulations.

(2) Nothing in paragraph (1) shall be deemed to prohibit the Commission taking into account a *bona fide* reference or testimonial of service.

[R. 11 reprinted by Reprint 1 of 1983.]

12. (1) Every Commissioner shall, on appointment, take an oath in the form set out in the Second Schedule.

(2) The Secretary and such other member or members of the staff of the Commission as the Chairperson may require so to do, shall, on appointment, take an oath in the form set out in the Second Schedule.

(3) Every oath or affirmation taken by a Commissioner shall be administered by a Judge and every oath or affirmation taken by the Secretary or any other member of the staff of the Commission shall be administered by the Chairperson.

[R. 12 amended by GN 117 of 1997.]

**PART III – APPOINTMENTS, PROMOTIONS, CONFIRMATION OF APPOINTMENTS, AND TERMINATION OF APPOINTMENTS (OTHERWISE THAN BY DISCIPLINARY PROCEEDINGS)**

13. In order to discharge its duties under this Part, the Commission shall exercise supervision over and approve all schemes for admission to any public office by examination, for the award of scholarships or the grant of study leave for special training for the public service, and over all methods of recruitment including the appointment and procedure of boards for the selection of candidates.

14. (1) In exercising its powers in connection with the appointment or promotion of officers in the public service, the Commission shall have regard to the maintenance of the high standard of efficiency necessary in the public service and shall—

- (a) give due consideration to qualified officers serving in the public service and to other persons;
- (b) in the case of officers in the public service take into account qualifications, experience and merit before seniority in the public service; and
- (c) where a public office cannot be filled either—
  - (i) by the appointment or promotion of a suitable person already in the public service; or
  - (ii) by the appointment of a suitable person who has been specially trained for the public service, wholly or partly at public expense,

call for applications by public advertisement unless—

- (A) for special reasons it decides not to do so; and
- (B) where it is satisfied that no suitable candidates with the requisite qualifications are available in Mauritius, it decides that recruitment be undertaken by some agency outside Mauritius and arranges for such recruitment to be carried out.

(2) Recommendations made to the Commission for promotion shall state whether the person recommended is the senior public officer in the particular class or grade eligible for promotion and, where this is not the case, detailed reasons shall be given in respect of each person in that same class or grade over whom it is proposed that the person recommended should be promoted.

(3) To be eligible to be considered for appointment or promotion to a vacancy in the public service, a candidate, whether or not a public officer, shall have the official qualifications and shall be available to assume the functions of the office within a reasonable period of time to be determined by the Commission.

15. (1) The Commission shall determine the form of advertisement issued in accordance with regulation 14 (1) (c).

(2) The qualifications specified in the advertisement shall be the official qualifications specified by the Secretary to Cabinet and Head of the Civil Service, with the agreement of the Commission, for the vacancy under consideration.

[R. 15 amended by GNs 3 of 1992; 117 of 1997.]

16. In exercising its powers in connection with appointment or promotion to any office in the public service, the Commission may—

- (a) consult with any other person or persons; and
- (b) seek the advice of a selection board constituted by the Commission who may appoint to it Commissioners and other persons who are not Commissioners.

[R. 16 amended by GN 117 of 1997.]

17. (1) The Commission shall determine the procedure to be followed in dealing with applications for appointment to the public service, including the proceedings of any selection board appointed by the Commission to interview candidates.

(2) The Commission shall determine the forms to be used in connection with the discharge of its functions.

18. In order to discharge its duties under this Part, the Commission may issue such directions as it may see fit for the maintenance of a system of annual confidential reports on public officers and for their safe custody.

19. (1) (a) Where a vacancy occurs or it is known that a vacancy will occur in any public office in any Ministry or department or general service, the responsible officer shall, if he desires the vacancy to be filled, report the fact to the Secretary, certifying at the same time that the details of the vacancy have been verified and that there is no establishment or financial or other objection to the vacancy being filled.

(b) The report shall include a recommendation as to the manner in which the vacancy should be filled and whether or not the vacancy should be advertised, and a copy of the report of the vacancy shall be forwarded to the Secretary to Cabinet and Head of the Civil Service.

(c) The responsible officer shall, as may be required by the special or general directions of the Commission, constitute a promotion board to advise him on the matter.

(2) Where the responsible officer recommends that such vacancy should be filled by the appointment or promotion of a public officer serving in the Ministry or department or general service in which the vacancy has occurred or will occur, he shall, when reporting the vacancy to the Secretary, forward a list of all the officers eligible for consideration who are senior to the recommended officer, together with their particulars of service and those of the recommended officer, and give his reasons for recommending their supersession.

(3) Where the responsible officer does not recommend that the vacancy should be filled by the appointment or promotion of a public officer serving in the Ministry or department or general service in which the vacancy occurs or will occur, he shall when reporting the vacancy to the Secretary, report to the Secretary the names of the most senior officers then serving in the particular class or grade from which the promotion would normally be made and state why he does not consider that the officers named are suitable for promotion to fill the vacancy; and where he recommends that applications to fill the vacancy should be invited from public officers or from both public officers and the general public, he shall forward to the Secretary a draft advertisement setting out the details of the vacant office and the duties and qualifications attached to it.

(4) Where the responsible officer is unable to recommend that the vacancy should be filled immediately, he shall so inform the Secretary and state his reasons therefor and what temporary arrangements he is making for the performance of the duties of the vacant office.

(5) (a) No appointment or promotion to a vacancy in the public service may be made before the Commission has determined the suitability of the person concerned.

(b) Where the Commission has decided that a person should be appointed or promoted to a vacancy in the public service, the responsible officer shall be informed of the appointment authorised in his Ministry or department or general service and he shall issue the letter of appointment to the person concerned and shall make such further arrangements as may be necessary to complete the procedure for the appointment or promotion.

(6) The procedure for filling vacancies shall be followed where it is desired to select an officer for a scholarship or a special course of training which is designed to fit him for a higher office or which may enhance his qualification for promotion.

[R. 19 amended by GN 3 of 1992; GN 117 of 1997.]

20. Where a vacancy is to be filled—

- (a) according to the results of examinations which are conducted by or supervised by the Commission; or
- (b) on the successful completion of a course of study or training by a person who has been selected for such study or training with the intention that, when trained, he shall be appointed to or promoted within the public service,

the Commission may make such arrangements as it considers appropriate.

21. (1) All first appointments to pensionable offices on permanent terms shall be on 12 months' probation.

(2) Notwithstanding paragraph (1), where a public officer reckons satisfactory service in a temporary or supernumerary capacity or employment to give assistance—

- (a) in the same pensionable post as the one to which the officer is subsequently appointed on permanent terms; or
- (b) in a pensionable post the duties and responsibilities of which are in the opinion of the Commission similar to those of the one to which the officer is subsequently appointed on permanent terms,

that satisfactory previous non-pensionable service before the date of first appointment on permanent terms shall be counted towards the required period of 12 months' probation.

(3) Where a public officer has been appointed on probation the responsible officer shall, 6 months after the commencement of the probationary period, inform the Commission if he considers the work or conduct of the public officer to be unsatisfactory, and not less than one month before the expiration of the probationary period the responsible officer shall inform the Commission whether in his opinion—

- (a) the public officer should be confirmed in his office;
- (b) the probationary period should be extended so as to afford the public officer further opportunity to pass any examination, the passing of which is a condition for confirmation, his service otherwise being satisfactory;
- (c) the probationary period should be extended to afford the public officer the opportunity of improvement in any respect in which his work or conduct has been adversely reported on; or
- (d) the public officer's appointment should be terminated.

(4) (a) The responsible officer shall not recommend the extension or termination of an appointment under paragraph (3) (c) or (d) unless he has first, by letter, informed the public officer of his intention and of the right of the public officer to make representations thereon within a period to be specified in such letter.

- (b) The responsible officer shall attach copies of all such correspondence to his recommendation.

(5) Where a public officer who is on probation has been granted—

- (a) sick leave in excess of 28 days;
- (b) vacation leave taken overseas or locally;
- (c) vacation leave taken as casual leave;
- (d) leave without pay;
- (e) study leave without pay;
- (f) extension of study leave, while he is on study leave with pay, in case of failure at examination or awaiting results before resuming duty;
- (g) maternity leave; or
- (h) injury leave,

the probationary period shall be extended by an equivalent period.

[R. 21 amended by GN 100 of 1990.]

22. (1) Where the holder of a public office is for any reason unable to perform the functions of his office and the responsible officer is of the opinion that some other public officer should be appointed to act in such office, the responsible officer shall report the matter to the Secretary and shall submit, for the consideration of the Commission, the name of the public officer whom he recommends should be appointed to act in such office.

(2) Where a recommendation involves the supersession of any more senior officer serving in the Ministry or department, the responsible officer shall inform the Secretary of his reasons for recommending the supersession of each such officer.

(3) In considering recommendations for acting appointments, the Commission shall apply the standards prescribed in regulation 14, except that consideration may also be given to the interests of departmental efficiency.

(4) Notwithstanding paragraph (3), a responsible officer may recommend that a public officer be assigned the duties of another office and the Commission may so assign such duties where—

- (a) the public officer cannot be appointed to perform the functions of that other office in an acting capacity because the officer—
  - (i) does not hold the official qualifications applicable to that office; or
  - (ii) is not the most senior officer serving in the particular class or grade from which an appointment in an acting capacity would normally be made; and
- (b) such assignment of duties is considered to be in the interests of departmental efficiency and desirable on the ground of administrative convenience.

[R. 22 amended by GN 11 of 1998.]

23. (1) Where a responsible officer is of the opinion that a public officer who is serving in his Ministry or a department within his Ministry and who holds a pensionable office should be called upon to retire from the public service on the grounds that he has attained the age at which he can, under any enactment lawfully be required to retire from the public service, he shall—

- (a) inform the officer that he intends to recommend that he be compulsorily retired from the public service;
- (b) ask the officer concerned whether he wishes to make, within a period of time appointed by the responsible officer, any representations why he should not be so retired; and

(c) after the expiration of the period, forward his recommendations to the Secretary, together with a copy of any representations made by the officer concerned and his comments on them, and the Commission shall decide whether the public officer should be called upon to retire.

(2) On being advised of the decision of the Commission, the responsible officer shall notify the public officer and, where the public officer is to be retired, the responsible officer shall make such further arrangements as may be necessary to complete the procedure for the retirement of the public officer.

(3) A public officer whose compulsory retirement is under consideration under this regulation may, where possible, be given the option to retire voluntarily provided that the reasons for requiring his retirement do not involve disciplinary action.

24. (1) Where it appears to a responsible officer that a public officer is incapable by reason of any infirmity of mind or body of discharging the functions of his public office, he may call upon such public officer to present himself before a medical board (which shall be appointed by the Permanent Secretary of the Ministry of Health) with a view to its being ascertained whether or not such public officer is incapable.

(2) (a) After the public officer has been examined, the Permanent Secretary of the Ministry of Health shall forward the medical board's proceedings, together with his comments, to the responsible officer who in turn shall forward them together with his own observations on the case to the Secretary.

(b) Unless the Commission considers that further inquiry is necessary, in which case it will issue directions to the responsible officer accordingly, it shall decide forthwith whether the public officer should be called upon to retire on medical grounds.

(3) On being advised of the decision of the Commission, the responsible officer shall notify the public officer and, where the public officer is to be retired on medical grounds, he shall make such further arrangements as may be necessary to complete the procedure for the retirement of the public officer.

25. (1) No public officer apart from casual manual workers, may be transferred from his present Ministry or Department to another Ministry or Department unless approval for such transfer has been given by the Commission, but the posting of an officer between posts in the same grade within the same Ministry or Department or the transfer of an officer in a general service from one Ministry or Department to another Ministry or Department shall not be regarded as a transfer for the purpose of this regulation.

(2) Subject to a statutory body or an international organisation being an approved service as defined in the Pensions Act, the Commission may approve the transfer of a public officer to serve in the statutory body or in the international organisation on such terms and conditions as the Commission may approve.

(3) Notwithstanding the general power conferred by the preceding paragraph, a public officer who is transferred shall—

(a) during the period of his transfer be responsible to the institution to which he is transferred in all matters of discipline, including the right of the institution to take proceedings with a view to dismissal;

(b) forego any promotion for which he might have been considered had he not been so transferred;

(c) during the period of his transfer, not claim any increase in salary or any other additional advantage or benefit from the institution on the basis that he would have benefited from such increase, advantage or benefit had he not been transferred;

(d) not be integrated in the public service if—

(i) he is dismissed from the service of the institution for any reason involving fraud, dishonesty, wilful mismanagement or misbehaviour;

- (ii) he is convicted of an offence involving such reasons;
- (iii) such proceedings for dismissal are being taken against him;
- (iv) criminal proceedings are being taken which are likely to result in his dismissal.

(4) The Commission may also approve the temporary transfer of a public officer to serve in another Ministry or Department or in a statutory body or in an international organisation or institution having legal existence on the following terms and conditions—

- (a) that during the period of his temporary transfer the officer is responsible to the institution or to the designated responsible officer of the Ministry/Department concerned, in all matters of discipline, including the right to take proceedings with a view to dismissal;
- (b) that the resumption of duty of the officer in the parent Ministry/ Department concerned will not be considered if during the period of his temporary transfer he has committed an act of misconduct involving fraud or dishonesty to the detriment of Government or the institution concerned.

[R. 25 amended by GN 136 of 1985.]

26. Where a public officer is serving on a contract or agreement and is willing to engage for a further term of service, the responsible officer shall forward to the Secretary, 6 months before the officer is due to proceed on leave on the expiration of his contract or agreement, a notification of the date of the expiration of the contract or agreement and his recommendation whether it should be renewed or not.

27. Any public officer attempting to bring influence to bear on the Commission or any of its Commissioners for the purpose of obtaining an appointment or promotion may be disqualified for such appointment or promotion and render himself liable to disciplinary action.

[R. 27 amended by GN 117 of 1997.]

28. Where the Commission is satisfied that the public interest requires that any matter relating to the appointment, promotion, transfer or confirmation in his appointment of a public officer be dealt with otherwise than in accordance with the procedure laid down in this Part, it shall take such action or issue such direction with regard to that matter as appears to it to be most appropriate in the circumstances.

29. This Part shall not apply to public offices in respect of which the power to make or terminate appointments has been delegated to any public officer or class of public officer by directions under section 89 (2) of the Constitution, except in so far as may be required by such directions.

#### **PART IV – DISCIPLINE**

30. The Commission shall not exercise its powers in connection with the disciplinary punishment of any officer in the public service except in accordance with these regulations or such other regulations as may be made by the Commission.

[R. 30 amended by GN 76 of 2003.]

31. (1) Where a responsible officer considers that the interest of the public service requires that a public officer should instantly cease to exercise the powers and functions of his office, he may interdict the officer at once from the exercise of those powers and functions where proceedings for dismissal are being taken, or where criminal proceedings are being instituted, or where proceedings for retirement on grounds of interest of the public service are being taken against him, informing the Secretary that he has done so and applying for covering authority from the Commission.

(2) An officer who is under interdiction may not leave Mauritius without the permission of the responsible officer.

[R. 31 amended by GN 76 of 2003.]

32. (1) Where a preliminary investigation or a disciplinary inquiry discloses that an offence against any law may have been committed by a public officer, the responsible officer shall forthwith refer the case to the Commissioner of Police who shall, promptly, take necessary action.

(2) Where the Director of Public Prosecutions does not advise a prosecution but advises that disciplinary action should be taken against the public officer, the responsible officer shall institute disciplinary proceedings against the public officer in accordance with either regulation 37 or regulation 38.

[R. 32 amended by GN 76 of 2003.]

33. Where criminal proceedings of a nature likely to warrant disciplinary proceedings are instituted against a public officer in any Court, the responsible officer shall forthwith report the facts to the Secretary with a statement as to whether the officer has or has not been interdicted from the exercise of his powers and duties, and thereafter the matter shall be dealt with as provided for by regulation 35 or 36, as the case may be.

34. (1) No disciplinary proceedings against an officer upon any grounds involved in a criminal charge shall be instituted until the conclusion of the criminal proceedings and the determination of the appeal, if any.

(2) Nothing in this regulation shall be construed as prohibiting or restricting the power of the responsible officer to interdict such public officer.

[R. 34 amended by GN 76 of 2003.]

35. (1) A public officer acquitted of a criminal charge in any Court shall not be dismissed or otherwise punished on any charge upon which he has been acquitted, but nothing in this regulation shall prevent his being dismissed or otherwise punished on any other charges arising out of his conduct in the matter, provided that the Solicitor-General is of the opinion that they do not raise substantially the same issue as that on which he has been acquitted, and, if the Commission thinks fit, proceedings under these regulations may be taken for the purpose.

(2) In all cases in which a public officer is acquitted of a criminal charge in any Court, the responsible officer shall forward to the Secretary a copy of the judgment and of the proceedings of the Court if they are available, provided that the charge is not in respect of minor offences which would not in any event warrant disciplinary proceedings.

(3) Where a public officer who is under interdiction is acquitted of a criminal charge in any court, the responsible officer shall reinstate him and inform the Secretary accordingly.

(4) Where further proceedings are instituted against the public officer under paragraph (1), interdiction, if that course is decided upon, shall not have effect from any earlier date than that on which the new proceedings are instituted.

[R. 35 amended by GN 76 of 2003.]

36. (1) (a) Where a public officer is adjudged guilty in any Court of a criminal charge likely to warrant disciplinary proceedings, the responsible officer shall forthwith forward to the Secretary a copy of the charge and of the judgment and of the proceedings of the Court if they are available, and his own recommendation.

(b) The Commission shall determine whether the officer should be dismissed or retired in the interest of the public service or subjected to some lesser disciplinary punishment if the proceedings disclose grounds for doing so, without any of the proceedings prescribed in regulation 37, 38 or 39 being instituted.

(2) (a) Disciplinary proceedings subsequent to a conviction in a Court of law should normally be confined to cases in which the conviction was in respect of an offence under any law where a prison

sentence may be imposed other than in default of payment of a fine.

(b) Disciplinary proceedings subsequent to a conviction should not normally be instituted in respect of minor offences under the Road Traffic Act, and of minor offences not entailing fraud or dishonesty and not related to an officer's employment.

[R. 36 amended by GN 76 of 2003.]

37. (1) Where a responsible officer considers it necessary to institute disciplinary proceedings against a public officer on the grounds of misconduct which, if proved, would justify his dismissal from the public service, he shall, after such preliminary investigation as he considers necessary and after seeking the advice of the Solicitor-General on the terms of the charge or charges to be preferred against the officer, forward to the officer a statement of the charge or charges preferred against him together with a brief statement of the allegations, in so far as they are not clear from the charges themselves, on which each charge is based, and call upon such officer to state in writing before a day to be specified by the responsible officer any grounds on which he relies to exculpate himself.

(2) Where the officer does not furnish a reply to any charge forwarded under paragraph (1) within the period specified or where in the opinion of the responsible officer he fails to exculpate himself, the responsible officer shall forward to the Secretary copies of his report, the statement of the charge or charges, the reply, if any, of the accused officer and his own comments on it.

(3) (a) Where, upon consideration of the responsible officer's report, the Commission is of the opinion that proceedings for the dismissal of the officer should be continued, it shall appoint a committee, which shall consist of not less than 3 members, who shall be public officers or former public officers, to inquire into the matter.

(b) The Chairperson of the committee shall be a Judge, Magistrate or a public officer who is or has been a barrister, and all members shall be selected with due regard to the status of the accused officer.

(c) Neither the responsible officer nor any public officer who is serving, or has for any period during the 5 years preceding the alleged misconduct served, in the accused officer's Ministry or Department, shall be a member of the committee.

(4) The committee shall inform the accused officer that on a specified day the charges made against him will be investigated and that he will be allowed or, where the committee so determines, will be required to appear before it to defend himself.

(5) Where witnesses are examined by the committee, the accused officer shall be given an opportunity of being present and of putting questions on his own behalf to the witnesses and no documentary evidence shall be used against him unless he has previously been supplied with a copy of it or given access to it.

(6) (a) The committee may permit the prosecuting party or the accused officer to be represented by a public officer or a legal practitioner.

(b) Where the committee permits the prosecuting party to be represented, it shall permit the accused officer to be represented in a similar manner.

(7) Where during the course of the inquiry grounds for the preferment of additional charges are disclosed, the committee shall so inform the responsible officer who shall follow the same procedure as was adopted in preferring the original charges.

(8) (a) The committee, having inquired into the matter, shall forward its report to the Commission—

(i) together with the record of the charges preferred, the evidence led, the defence and other proceedings relevant to the inquiry;

(ii) as far as is reasonably practicable, within a period not exceeding 6 months as from the date of its appointment.

(b) The report of the committee shall include—

- (i) a statement whether in the committee's opinion the accused officer has or has not committed the offence or offences charged and a brief statement of the reasons for their opinion;
- (ii) details of any matters which in the committee's opinion aggravate or alleviate the gravity of the case; and
- (iii) a summing up and such comments as will indicate clearly the opinion of the committee on the matter under inquiry.

(9) The committee shall not make any recommendations regarding the form of punishment.

(10) The Commission, after consideration of the report of the committee, may, if it is of the opinion that the report should be amplified in any way or that further investigation is desirable, refer the matter back to the committee for further investigation and report within a period to be determined by the Commission.

(11) The Commission, after consideration of the report of the committee or of any further report called for under paragraph (10), shall determine the punishment, if any (including retirement from the public service under regulation 39), which should be inflicted on the accused officer.

[R. 37 amended by GN 76 of 2003.]

38. (1) Where a responsible officer considers it necessary to institute disciplinary proceedings against a public officer but is of the opinion that the misconduct alleged, if proved, would not be serious enough to warrant dismissal under regulation 37, he shall, after such preliminary investigation as he considers necessary, forward to the officer a statement of the charge or charges against him and shall call upon him to state in writing before a day to be specified any grounds on which he relies to exculpate himself.

(2) Where such officer does not furnish a reply to the charge or charges preferred against him within the period specified or does not, in the opinion of the responsible officer, exculpate himself, the responsible officer shall appoint a disciplinary committee to inquire into the matter.

(3) The disciplinary committee shall consist of 3 members chosen from a panel of public officers or former public officers drawn up on a yearly basis by the Secretary to Cabinet and Head of the Civil Service after consultation with the Commission.

(4) The Chairperson and members of the committee shall be selected with due regard to the status of the accused officer.

(5) Neither the responsible officer nor any public officer who is serving, or has for any period during the 5 years preceding the alleged misconduct served, in the accused officer's Ministry or Department, shall be a member of the committee.

(6) The accused officer shall be entitled to know the whole case against him and shall have an adequate opportunity of making his defence.

(7) The committee shall inform the accused officer that on a specified day the charges made against him will be investigated and that he will be allowed or, where the committee so determines, will be required to appear before it to defend himself.

(8) Where witnesses are examined by the committee, the accused officer shall be given an opportunity of being present and of putting questions on his own behalf to the witnesses and no documentary evidence shall be used against him unless he has previously been supplied with a copy of it or given access to it.

(9) The accused officer shall be allowed to defend himself personally or be represented by another public officer.

(10) The committee shall, within 14 days of the conclusion of the proceedings, submit its report to the responsible officer together with the record of the charges preferred, the evidence led, the defence and other proceedings relevant to the inquiry, and its report shall include—

- (a) a statement whether in its opinion the accused officer has or has not committed the offence or offences charged and a brief statement of the reasons for its opinion;
- (b) details of any matters which in its opinion aggravate, or alleviate the gravity of, the case; and
- (c) a summing up and such other comments as will indicate clearly its opinion on the matter under inquiry.

(11) The committee shall not make any recommendation regarding the form of punishment.

(12) The committee shall, as far as is reasonably practicable, submit its report to the responsible officer within a period not exceeding 3 months as from the date of its appointment.

(13) The responsible officer may, where he considers that the report of the committee should be amplified in any way or that further investigation is desirable, refer the matter back to the committee for further inquiry and report within a period to be determined by the responsible officer.

(14) The responsible officer, on consideration of the report submitted by the committee, shall determine what punishment, if any (other than dismissal and retirement in the interest of the public service), should be inflicted on the officer.

(15) The responsible officer, where he considers that the punishment to be inflicted on the officer should be a reduction in rank or seniority, or stoppage or deferment of increment beyond one year, shall seek the approval of the Commission before inflicting the punishment.

(16) Notwithstanding paragraphs (1) to (15), where at any stage during proceedings instituted under this regulation it appears to the responsible officer that the offence, if proved, would justify dismissal or retirement in the interest of the public service, the proceedings so instituted shall be discontinued and the procedure prescribed in regulation 37 or 39, as the case may be, shall be followed.

[R. 38 amended by GN 76 of 2003.]

39. (1) Where the Secretary to Cabinet and Head of the Civil Service or a responsible officer, after having considered every report in his possession made with regard to a public officer, is of the opinion that it is desirable in the interest of the public service that the service of the public officer should be terminated on grounds which cannot be suitably dealt with under any other provisions of these regulations, he shall notify the public officer, in writing, specifying the complaints by reason of which his retirement is contemplated, together with the substance of any report or part thereof that is detrimental to the public officer.

(2) Where the responsible officer, after giving the public officer an opportunity of showing cause why he should not be retired in the interest of the public service, is satisfied that the public officer should be required to retire in the interest of the public service, he shall forward to the Secretary the report on the case, the public officer's reply and his own recommendation, and the Commission shall decide whether the public officer should be required to retire in the interest of the public service.

[R. 39 amended by GN 3 of 1992; GN 117 of 1997; GN 76 of 2003.]

40. Notwithstanding regulations 37, 38 and 39, a responsible officer may represent to the Commission that a public officer has been guilty of misconduct or unsatisfactory service and, where the Commission is of the opinion that the misconduct or unsatisfactory service warrants proceedings with a view to dismissal or to retirement in the interest of the public service or to a lesser punishment, the Commission may cause proceedings to be instituted against the public officer in accordance with the procedure prescribed in this Part as appropriate.

[R. 40 revoked and replaced by GN 76 of 2003.]

41. (1) The following punishments may be inflicted on any public officer as a result of proceedings under this Part—

- (a) dismissal;
- (b) retirement in the interest of the public service;
- (c) reduction in rank or seniority;
- (d) stoppage of increment;
- (e) deferment of increment;
- (f) suspension from work without pay for a period not less than one day and not more than 14 days;
- (g) severe reprimand;
- (h) reprimand.

(2) No punishment shall be inflicted on any public officer which would be contrary to any enactment.

[R. 41 amended by GN 100 of 1990; GN 76 of 2003.]

42. (1) Subject to paragraph (2), but notwithstanding any other regulation, a responsible officer may, without reference to the Commission—

- (a) after investigation (which will be recorded) and after seeking the explanations of a public officer in writing, inflict upon him any of the following punishments, on grounds of unsatisfactory service or conduct—
  - (i) stoppage of increment for a period not exceeding one year;
  - (ii) deferment of increment for a period not exceeding one year;
  - (iii) suspension from work without pay for a period of not less than one day and not more than 14 days;
  - (iv) severe reprimand;
  - (v) reprimand;
- (b) deduct from the salary of a public officer who has been absent without leave or without reasonable excuse an amount which bears the same relation to his monthly salary as such period of absence bears to one month;
- (c) deduct from the salary of a public officer who is consistently late for work an amount representing the number of work hours lost over a period of one month.

(2) Where any stoppage or deferment under paragraph (1) (a) is recommended to be continued beyond one year, the matter shall be referred to the Commission for its decision.

(3) (a) Nothing in these regulations shall prevent a responsible officer or a head of department, without reference to the Commission, from administering a warning to any officer in his Ministry or Department on the ground of unsatisfactory work or conduct.

(b) The intention to administer a warning shall be communicated to the officer in writing, and he shall be given an opportunity to reply.

(c) A warning, where administered, shall be entered in the officer's personal file and the officer shall be so informed.

(4) A responsible officer exercising the powers conferred on him by this regulation shall act in accordance with these regulations and any other appropriate regulation as may be in force.

[R. 42 amended by GN 34 of 1981; GN 100 of 1990; revoked and replaced by GN 76 of 2003.]

42A. (a) Nothing in these regulations shall preclude the Secretary to Cabinet and Head of the Civil Service from instituting disciplinary proceedings against any public officer on grounds of misconduct or unsatisfactory service which, if proved, would justify his dismissal or retirement in the interest of the public service, or a lesser punishment.

- (b) Where the Secretary to Cabinet and Head of the Civil Service intends to initiate disciplinary action against a public officer, he shall follow the procedures laid down in regulation 37, 38, 39 or 42 as appropriate.

[R. 42A inserted by GN 76 of 2003; reprinted by Reprint 2 of 2003.]

42B. (1) (a) A public officer aggrieved by the decision of a responsible officer to inflict upon him a punishment under regulation 38 (14) or 42 (1) (a), or by the decision of the Secretary to Cabinet and Head of the Civil Service to inflict upon him a punishment other than dismissal or retirement in the interest of the public service pursuant to regulation 42A, may appeal to the Commission.

- (b) The Commission may approve, vary or remit the punishment provided that the appeal is so made in writing within 21 days of the notification of the punishment.

(2) A public officer aggrieved by the decision of the Commission to inflict upon him a punishment under regulation 37, 38 (15) or 39 may appeal to the Commission for a review of its decision provided this is done within 21 days of the notification of the punishment and new arguments are put forward to support his appeal.

[R. 42B inserted by GN 76 of 2003.]

43. A public officer who is absent from duty without leave or who fails to return to duty on expiry of leave granted is liable to be treated as having vacated his office or to be summarily dismissed, and such absence from duty shall be reported by the responsible officer to the Commission which may declare the office of the public officer to be vacant or summarily dismiss the officer.

44. (1) All acts of misconduct by public officers shall be dealt with under this Part as soon as possible after their occurrence.

(2) Where disciplinary proceedings are instituted against a public officer under this Part, the Secretary to Cabinet and Head of the Civil Service or the responsible officer shall ensure that at each stage of the proceedings the Secretary is kept informed of the action taken, and where the Commission thinks fit it shall be open to the Commission in any particular case to provide for or to discontinue disciplinary proceedings against a public officer.

[R. 44 amended by GN 76 of 2003.]

45. Where proceedings have been taken against a public officer under this Part, such officer shall be informed—

- (a) of the findings on each charge which has been preferred against him; and  
(b) of the punishment to be imposed.

46. This Part shall not apply to public officers in respect of whom the power of disciplinary control has been delegated to any public officer or class of public officer by directions under section 89 (2) of the Constitution, except in so far as may be required by such directions.

## **PART V – MISCELLANEOUS**

47. Where under these regulations—

- (a) it is necessary either—

- (i) to serve any notice, charge or other document upon a public officer; or
  - (ii) to communicate any information to any public officer who has absented himself from duty; and
- (b) it is not possible to effect the service upon or communicate the information to the public officer personally,

it shall be sufficient if the notice, charge or other document, or a letter containing the information, is sent by registered post addressed to his usual or last known address.

48. —

49. The Secretary shall advise the responsible officer concerned of the decision of the Commission on any particular matter and the responsible officer shall take the appropriate action.

50. All correspondence for the Commission from responsible officers and other persons shall be addressed to the Secretary.

51. Any case not covered by these regulations shall be dealt with in accordance with such instructions as the Commission may issue.

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### **First Schedule**

[Regulation 2]

#### **PART I**

Archives Department	Chief Archivist
Attorney-General's Office	Solicitor-General
Audit Department	Director of Audit
Central Statistical Office	Director of Statistics
Civil Aviation Department	Director of Civil Aviation
Customs and Excise Department	Comptroller of Customs
Electoral Commission	Electoral Commissioner
Income Tax Department	Commissioner of Income Tax
Judicial Department	Judge in Bankruptcy and Master and Registrar
Legislature	Clerk, National Assembly
Local Government Service Commission	Secretary to the Commission
Marine Services	Director of Marine
Mauritius Institute	Director
Meteorological Services	Director
National Transport Authority's Office	Chairperson of the National Transport Authority
Ombudsman's Office	Secretary, Ombudsman's Office
Pay Research Bureau	Director
Permanent Arbitration Tribunal	President, Permanent Arbitration Tribunal
Posts and Telegrams Department	Postmaster-General
Printing Department	Government Printer
Prisons and Industrial School Department	Commissioner of Prisons
Public Service Commission	Secretary

Registrar-General's Department

Registrar-General

**PART II**

Administrative Class	Secretary to Cabinet and Head of the Civil Service
Executive Class	Establishment Secretary
Clerical Class	“
Typing and Stenography Class	“
Office Attendant Class	“
Establishment Class	“
Clerical Assistant Class (posted in the Island of Mauritius)	“
Clerical Assistant Class (posted in Rodrigues)	Island Secretary, Rodrigues
Economist Class	Director, Ministry of Economic Planning and Development
Telephone Attendant	Director of Telecommunications
Telephone Operator	“
Valuation Assistant	Principal Assistant Secretary, Ministry of Housing, Land, and Town and Country Planning
Senior Valuation Assistant	“
Chief Valuation Assistant	“
Binder	Government Printer

[First Sch. amended by GN 37 of 1975; GN 3 of 1992; GN 117 of 1997.]

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**Second Schedule**

[Regulation 12]

**OATH OF COMMISSIONER**

I, ....., having been appointed as Chairperson/Deputy Chairperson/Commissioner of the Public Service Commission do swear/solemnly and sincerely declare and affirm that I will without fear or favour, affection or ill-will, discharge the functions of the office of Chairperson/Deputy Chairperson/Commissioner of the Public Service Commission, and that I will not, directly or indirectly, reveal any matters relating to such functions to any unauthorised persons otherwise than in the course of duty.

Sworn/affirmed before me this ..... day of ..... 20 .....

.....  
Judge of the Supreme Court

**OATH OF SECRETARY AND OTHER STAFF OF COMMISSION**

I, ....., being called upon to exercise the functions of Secretary to/a member of the staff of the Public Service Commission, do swear/solemnly and sincerely declare and affirm that I will not, directly or indirectly, reveal to any unauthorised person otherwise than in the course of duty the contents or any part of the contents of any

documents, communication or information whatsoever which may come to my knowledge in the course of my duties as such.

Sworn/affirmed before me this ..... day of ..... 20 .....

.....

Chairperson of Public Service Commission

[Second Sch. amended by GN 117 of 1997.]

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