

PUBLIC SERVICE COMMISSION REGULATIONS

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FIRST SCHEDULE.

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PUBLIC SERVICE COMMISSION REGULATIONS132/1966.²*²deemed to be made under section 129 of the Constitution***CHAPTER 1****PRELIMINARY**

1. These Regulations may be cited as the Public Service Commission Regulations. Citation.

2. In these Regulations —

Interpretation
[28/1991]

“acting appointment” means the temporary appointment of an officer to a higher office or otherwise whether that office is vacant or not;

“appointment” means the placing of a person in an office in the public service;

“the Chairman” means the Chairman of the Commission;

“Civil Service” means the Civil Service Established by the Civil Service Act; Ch. 23:01.

“the Commission” means the Public Service Commission constituted under section 120 of the Constitution;

“the Constitution” means the Constitution of The Republic of Trinidad and Tobago;

“Director” means the Director of Personnel Administration;

“Fire Service” means the Fire Service established by the Fire Service Act; Ch. 35:50.

“*Gazette*” means the *Gazette* published by the order of the Government and includes supplements thereto and any *Extraordinary Gazette* so published;

“Head of Department” means the officer charged with the administration of a Department not under the control of a Minister;

¹ These Regulations were made under section 102 of the former Constitution, and continue in force by virtue of section 29(3) of the Interpretation Act (Ch. 3:01).

² These Regulations are amended by 47 of 1980; 28/1991; 108/1991; 238/1998; 282/1998; 107/2000; 173/2000; 143/2006; 174/2007 and 267/2007.

- Ch. 39:01. "officer" means a person employed in that part of the public service established respectively as the Civil Service, the Fire Service, the Prison Service, or any other service in the public service who is subject to the jurisdiction of the Commission and, for the purposes of section 53 of the Education Act, shall be deemed to include all persons employed in the Teaching Service;
- "prescribed form" means the appropriate form as may from time to time be prescribed by the Commission;
- Ch. 13:02. "Prison Service" means the Prison Service established by the Prison Service Act;
- "promotion" means the appointment of an officer to an office in a grade carrying a higher remuneration whether such office be in the same Ministry or Department or not;
- Ch. 39:01. "public office" includes a public office in the Civil Service, the Fire Service, the Prison Service and for the purposes of section 53 of the Education Act, shall be deemed to include an office in the Teaching Service;
- Ch. 39:01. "public service" includes the Civil Service, the Fire Service, the Prison Service and for the purposes of section 53 of the Education Act, shall be deemed to include the Teaching Service;
- "secondment" means the transfer of an officer in a particular service to serve for a period in an office in another service or in an office in the public service or in an office under another Government or under a Statutory Board or organisation approved by the President;
- Ch. 39:01. "Teaching Service" means the unified Teaching Service established under section 53 of the Education Act.

Application and
saving of
regulations to
officers in the
Fire Service.
[282:1998
267:1998]

***2A. (1)** Regulations contained in Chapter III to Chapter VI (inclusive) of the Public Service Commission Regulations (other than regulations 16, 50, 52, 53, 54, 55, 56, 58 and 59) shall cease to apply in respect of an officer in the Fire Service on the commencement of the Fire Service (Terms and Conditions of Employment) Regulations, 1998.

* See LN 267:1998 published as Legal Supplement Part D in the Gazette Vol. 32 No. 194 dated 15th October 1998.

(2) Where, at the date of the commencement of the Fire Service (Terms and Conditions of Employment) Regulations, 1998, an action has been taken in respect of an officer in the Fire Service or a benefit, including a permission or approval, has been given to an officer in the Fire Service under a regulation referred to in subregulation (1) that ceases to apply to fire officers, that action, privilege or benefit shall remain in force and in effect notwithstanding the cessation of the application of that regulation.

CHAPTER II

THE PUBLIC SERVICE COMMISSION

3. (1) The Chairman and other members of the Commission shall, as soon as possible after appointment, take the oath or make the affirmation set out in Form I of the First Schedule.

Oath of Office.

Form I.
First Schedule.

(2) Every person appointed a member of the staff of the Commission shall, as soon as possible after appointment, take the oath or make the affirmation set out in Form II of the First Schedule.

Form II.
First Schedule.

4. (1) The Commission shall meet as often as may be necessary for the purpose of performing its functions and such meetings shall be held on such days and at such time and place as the Chairman shall determine.

Meetings.

(2) Where a member fails to attend at least four meetings in any one month over a period of three months without reasonable excuse, the Commission shall make a report to the President.

5. (1) The Chairman, or in his absence the Deputy Chairman, shall preside at meetings of the Commission, and in the absence of the Chairman and the Deputy Chairman from any meeting, the members present shall elect one of their number to preside at that meeting.

Procedure,
quorum and
voting.

(2) At any meeting of the Commission three members shall constitute a quorum.

(3) All questions for discussion at a meeting of the Commission shall be decided by a majority of the votes of the members present and voting.

(4) The Chairman or other member presiding at a meeting shall have an original vote, and in the event of an equality of votes, he shall have as well a second or casting vote.

Decisions other
than at
meetings.

6. (1) Notwithstanding regulation 5 but subject to subregulation (2), questions may also be decided by the Commission without a meeting by circulation of the relevant papers among the members and the expression of their views in writing, and in such case the decision shall be the view of the majority of members expressing a view.

(2) If any member requires that a matter or question being dealt with by circulation of the relevant papers shall be reserved for consideration at the next following meeting of the Commission, no decision shall be made on that matter or question except at a meeting of the Commission.

Record of
meetings and
decisions.

7. (1) The Director shall ensure that Minutes of all meetings of the Commission and of all decisions arrived at under regulation 6, shall be duly recorded and kept and that the same be presented for confirmation by the Commission as soon as practicable at a subsequent meeting or by individual members on circulation thereof.

Dissents.

(2) Any member of the Commission who dissents from a decision may require that his dissent and reasons for dissenting be recorded in the Minutes.

Consultation
with other
persons.

8. The Commission in considering any matter or question may consult with any such public officer or other person as the Commission may consider proper and desirable and may require any public officer to attend for the purpose of assisting the Commission in its deliberations and producing any official documents relating to such matter or question.

9. Any public officer who without reasonable cause or excuse fails to appear before the Commission when required to do so, or who fails to comply with any request made by the Commission or with any requirement of these Regulations shall be guilty of misconduct.

Non-compliance.

10. (1) Whenever the Commission delegates any of its powers to any of its members or to any public officer in accordance with section 127(1) of the Constitution, the Director shall cause notice of such delegation to be published in the *Gazette*.

Instrument of delegation to be published.

(2) A notice published under subregulation (1) shall contain the following information:

- (a) the powers delegated;
- (b) the person or persons to whom such delegation is made;
- (c) the extent of such delegation;
- (d) the terms and conditions of such delegation and the manner in which matters dealt with under such delegated authority may reach the Commission.

(3) Any power so delegated shall be exercised in such manner as the Commission may direct.

(4) Every delegation under this regulation shall be revocable.

CHAPTER III

APPOINTMENTS, PROMOTIONS AND TRANSFERS

11. Every application for first appointment to the public service shall be addressed to the Director on the prescribed form.

Application for appointment.

12. (1) Candidates for permanent appointment to public offices in the clerical or secretarial classes as prescribed by the Civil Service Regulations and to such other classes in the public service as the Commission may from time to time specify, shall be selected on the basis of written competitive examinations and interviews.

Selection for appointment on basis of competitive examination.
Ch. 23:01,
Sub. Leg.

(2) A candidate who fails the examination for entry into the public service in the class or classes specified in subregulation (1) in any year, shall, if he wishes to be considered for a permanent appointment, reapply and resubmit himself for the examination in any following year, notwithstanding that he may have held an acting appointment in the meantime.

(3) A candidate who passes the examination for entry into the class or classes specified in subregulation (1) in any year but fails to obtain an appointment shall, if he wishes to be considered for a permanent appointment, be required to reapply and resubmit himself for examination in any following year, but the Commission may, in such case as it shall think fit, waive the requirements of this subregulation.

Filling of
vacancies
[267:7007]

13. (1) As soon as it is known that a vacancy will occur the Permanent Secretary or Head of Department shall communicate to the Director in writing and shall make his recommendations regarding the filling of the vacancy.

(2) Where a vacancy exists for more than three months and no request has been made by the Permanent Secretary or Head of Department for the filling of the vacant post, the Director shall send to each Permanent Secretary or Head of Department a statement of existing vacancies in his Ministry or Department requesting early recommendations for filling vacancies.

(3) If recommendations, or satisfactory explanations for a lack thereof, are not received within a month, the Director shall report the fact to the Commission and the Commission shall require the Permanent Secretary or Head of Department to inform it of the reasons for failure to request the filling of the vacancy.

(4) The Director shall, from time to time by circular memorandum or by publication in the *Gazette*, give notice of vacancies which exist in the particular service and any officer may make application for appointment to any such vacancy. Such application shall be forwarded through the appropriate Permanent Secretary or Head of Department to the Director, but the failure to

apply shall not prejudice the consideration of the claims of all eligible public officers.

(5) Notwithstanding subregulation (4), a Permanent Secretary or Head of Department may with the consent of the Public Service Commission and in consultation with the Director of Personnel Administration by—

- (a) circular memorandum; and
- (b) publication in the *Gazette*,

give notice of vacancies which exist in offices specific to the particular Ministry or Department to which any eligible officer may apply.

(6) An application to fill a vacancy as advertised pursuant to subregulation (5) shall be made directly to the Permanent Secretary or Head of Department.

(7) The failure of an eligible officer to apply for a vacancy as advertised pursuant to subregulation (5) shall not prejudice the Commission's consideration of the claims by that officer.

14. Whenever in the opinion of the Commission it is possible to do so and it is in the best interest of the particular service within the public service, appointments shall be made from within the particular service by competition, subject to any Regulations limiting the number of appointments that may be made to any specified office in the particular service.

Appointments
to be by
competition
within the
particular
service

15. Where the Commission considers either that there is no suitable candidate already in the particular service available for the filling of any vacancy or that having regard to qualifications, experience and merit, it would be advantageous and in the best interest of the particular service that the services of a person not already in that service be secured, the Commission may authorise the advertisement of such vacancy.

Advertisement
of vacancies.

16. (1) The Commission may from time to time appoint one or more Selection Boards to assist in the selection of candidates

Selection
Boards.
[267-267]

for appointment to the public service and the composition of any such Board and the form in which its reports are to be submitted shall be in the discretion of the Commission.

(2) On consideration of any report of a Selection Board, the Commission may, in its discretion, summon for interview any of the candidates recommended by such Board.

(3) Where a Permanent Secretary or Head of Department has issued a notice of vacancy pursuant to regulation 13(5), that Permanent Secretary or Head of Department shall appoint a Selection Board to assist in the selection of a candidate for appointment to the vacancy.

(4) The Selection Board appointed under subregulation (3) shall include the Director or his representative and shall be constituted in accordance with guidelines issued by the Public Service Commission.

(5) A Selection Board appointed under subregulation (3) shall follow the procedures outlined by the Public Service Commission in "Guidelines for the selection of candidates" issued from time to time.

(6) The report of a Selection Board appointed under subregulation (3) shall be submitted to the Public Service Commission for consideration and the Commission may in its discretion summon for interview any of the candidates recommended by that Selection Board.

Examination
Boards.

17. (1) All examinations to be held under these Regulations shall be set and the papers marked by such Examination Board as may be appointed for the purpose.

(2) The Director shall be responsible for the conduct of examinations set under subregulation (1).

Principle of
selection for
promotion.

18. (1) In considering the eligibility of officers for promotion, the Commission shall take into account the seniority, experience, educational qualifications, merit and ability, together with relative efficiency of such officers, and in the event of an equality of

efficiency of two or more officers, shall give consideration to the relative seniority of the officers available for promotion to the vacancy.

(2) The Commission, in considering the eligibility of officers under subregulation (1) for an appointment on promotion, shall attach greater weight to—

- (a) seniority, where promotion is to an office that involves work of a routine nature, or
- (b) merit and ability, where promotion is to an office that involves work of progressively greater and higher responsibility and initiative than is required for an office specified in paragraph (a).

(3) In the performance of its functions under subregulations (1) and (2), the Commission shall take into account as respects each officer—

- (a) his general fitness;
- (b) the position of his name on the seniority list;
- (c) any special qualifications;
- (d) any special courses of training that he may have undergone (whether at the expense of Government or otherwise);
- (e) the evaluation of his overall performance as reflected in annual staff reports by any Permanent Secretary, Head of Department or other senior officer under whom the officer worked during his service;
- (f) any letters of commendation or special reports in respect of any special work done by the officer;
- (g) the duties of which he has had knowledge;
- (h) the duties of the office for which he is a candidate;
- (i) any specific recommendation of the Permanent Secretary for filling the particular office;
- (j) any previous employment of his in the public service, or otherwise;

(k) any special reports for which the Commission may call;

(l) his devotion to duty.

(4) In addition to the requirements prescribed in subregulations (1), (2) and (3), the Commission shall consider any specifications that may be required from time to time for appointment to the particular office.

Promotion to
Administrative
Class.
Ch. 22:01.
Sub. Leg.

19. Promotion to the Administrative Class as prescribed by the Civil Service Regulations shall be determined by the order of merit in an examination fixed for the purpose, and such examination shall be open to all officers in the Civil Service holding an office not lower than that of Principal Officer or other comparable office.

Seniority lists
to be kept
up-to-date

20. (1) The Director shall keep up-to-date seniority lists of all officers holding offices in the several grades in the public service.

(2) The Permanent Secretary or Head of Department shall keep in the prescribed form, up-to-date seniority lists of all officers holding offices in the several grades in his Ministry or Department, for the purpose of making recommendations for promotion and acting appointments.

(3) The seniority of an officer shall be determined by the date of his appointment to the particular grade within the range in which he is serving. The seniority of officers promoted to the same grade from the same date shall be determined by their seniority in their former grade.

(4) Where officers have entered the particular service within the public service by competitive examination and are appointed to the same grade in a range with effect from the same date, the relative seniority of such officers shall be determined according to their performance in such examination.

Seniority of
offices to be
reckoned from
date of
appointment or
reappointment.

21. The seniority of an officer who voluntarily resigns from the public service and is subsequently reappointed to it shall be reckoned from the date of his reappointment.

22. In any case not covered by regulation 20 or 21, the Commission shall determine the seniority of the officer.

Commission to determine seniority.

23. The Commission may authorise payment to an officer of a commencing pay at an incremental point higher than the minimum in the scale attaching to the office to which he is appointed or promoted.

Commencing pay.

24. (1) The Permanent Secretary or Head of Department shall ensure that any recommendation made in relation to an acting appointment as a prelude to a substantive appointment shall be based on the principles prescribed in regulation 18.

Principles of selection for acting appointment as prelude to appointment.

(2) Where, in the exigencies of the particular service, it has not been practicable to apply the principles prescribed in regulation 18, an officer selected for an acting appointment in consequence of a recommendation made under subregulation (1) shall not thereby have any special claim to the substantive appointment.

(3) In considering the claims of eligible candidates for a substantive appointment, the Commission shall take into account the claims of all eligible officers.

25. (1) Where an acting appointment falls to be made whether as a prelude to a substantive appointment or not, the Permanent Secretary or Head of Department shall notify those officers within the Ministry or Department who are eligible for consideration.

Permanent Secretary to notify eligible officers of vacancy.

(2) The Permanent Secretary or Head of Department shall, after notification as required by subregulation (1), allow a period of seven days to elapse before forwarding any recommendations in relation to such acting appointment, for the purpose of allowing the officers of the Ministry or Department to make representations on the filling of such vacancy.

(3) Where representations have been made by or on behalf of any officer in the Ministry or Department, the

Permanent Secretary or Head of Department shall forward such representations in their original form to the Director.

(4) Where a vacancy occurs in an office and an acting appointment falls to be made for a period not likely to exceed twenty-eight days as a result of sudden illness or other very special circumstances, the Permanent Secretary or Head of Department may appoint an officer to act for such period and the provisions of subregulations (1), (2) and (3) shall not apply to such acting appointment.

Principles of
selection for
acting
appointment
not as prelude
to appointment

26. (1) Where an acting appointment falls to be made otherwise than as a prelude to a substantive appointment, the officer appointed shall—

- (a) as a general rule be the senior officer in the Ministry or Department eligible for such acting appointment;
- (b) assume and discharge the duties and responsibilities of the office to which he is appointed to act.

(2) In submitting any recommendations for an acting appointment, the Commission shall examine whether the exigencies of the particular service would best be served by transferring an officer from another district next in line of seniority to act when there is an officer in the same district who is capable of performing the duties of the higher grade, and in such examination the question of additional Government expenditure for travelling and subsistence allowances and other expenditure shall be borne in mind.

Permanent
Secretary to
submit
recommendations
in advance.

27. The Permanent Secretary or Head of Department shall submit, well in advance, recommendations for acting appointments to permit of their consideration by the Commission before the date on which the acting appointment is intended to become effective, but the Commission may waive the provisions of this regulation where the necessity to submit recommendations has been occasioned by sudden illness, or very special circumstances or in any other circumstances which the Commission may consider appropriate.

28. In submitting recommendations for acting appointments, Permanent Secretaries and Heads of Departments shall state the reasons why officers, if any, are being passed over.

Permanent
Secretary to
state reasons
for passing over
officers.

29. (1) Where the Commission proposes to transfer an officer, the Commission shall, except where the exigencies of the particular service do not permit, make an order of transfer in writing and shall give not less than one month's notice to an officer who is to be transferred.

Transfer.

(2) An officer who is aggrieved by an order under subregulation (1) may make representation to the Commission for a review of the order in accordance with subregulation (3).

(3) Where an officer desires to make representation to the Commission for a review of an order made under subregulation (1), he shall give notice in writing to the Permanent Secretary or Head of Department within seven days of the receipt of such order and shall submit, with the notice, his representations in writing.

(4) The Permanent Secretary or Head of Department shall, within seven days, forward any representations made to him in writing under subregulation (3), together with his comments thereon to the Commission.

(5) The Commission shall consider the representations of the officer and the Permanent Secretary or Head of Department submitted to it under subregulations (3) and (4) and shall communicate its decision in writing.

30. (1) Notwithstanding that an officer in respect of whom an order has been made under regulation 29(1) has made representation under subregulations (2) and (3) of the said regulation, the officer shall assume his duties on transfer pending the review of the order by the Commission.

Officer to
assume duties
pending review
of transfer
order.

(2) Where the order of transfer involves the exchange of an officer in an office in a grade to another office in the same grade, the officer shall not assume his duties on transfer pending the review of the order by the Commission.

Exception.

78	Chap. 1:01	<i>Constitution of the Republic of Trinidad and Tobago</i>
[Subsidiary]		<i>Public Service Commission Regulations</i>
Date of appointment	<p>31. (1) The date of appointment to an office in a particular service within the public service shall normally be the date on which the officer assumes substantively the duties of the office to which he has been appointed.</p> <p>(2) The date of appointment on promotion shall be such date as the Commission shall specify.</p> <p>(3) If an officer is selected for appointment from outside Trinidad and Tobago, the date of appointment shall be the date specified in the letter of appointment.</p>	
Medical examination on appointment.	<p>32. (1) A candidate selected for appointment shall undergo a medical examination by a Government Medical Officer and shall not be confirmed in his appointment unless and until he has been passed as medically fit.</p> <p>(2) The Permanent Secretary or Head of Department to which the candidate has been assigned, shall make appropriate arrangements for the new appointee to be medically examined as soon as practicable after his assumption of duty.</p> <p>(3) The Government Medical Officer who examines the new appointee shall submit his medical report on the prescribed form to the Director under confidential cover as soon as practicable after the examination.</p> <p>(4) The Director shall inform the new appointee whether the medical report is favourable or unfavourable.</p> <p>(5) All communications relating to the medical report on a new appointee shall be strictly confidential and any officer who communicates the details of any such medical report to any other person except for the purpose of, and as provided for in this regulation, shall be guilty of misconduct and be liable to dismissal from the public service.</p>	
Exemption from medical examination.	<p>33. An officer selected for appointment to an office in a service within the public service, other than the particular service in which he holds an office and who has undergone a medical examination by a medical officer in the public service</p>	

for appointment to that particular service may be exempted from further medical examination as a candidate on appointment to any other service in the public service.

CHAPTER IV

STAFF REPORTS

34. (1) A Permanent Secretary or Head of Department shall forward to the Director in each year— Staff Reports.

- (a) in respect of all officers who are within the scale of pay, a staff report not later than sixty days before an increment is due to an officer; and
- (b) in respect of all officers who are at the maximum in the scale of pay or who receive a fixed pay, a staff report not later than the anniversary of the date of appointment of an officer to the office.

(2) A staff report shall relate to the period of service during the immediately preceding twelve months.

(3) In the preparation of a staff report, the Permanent Secretary or Head of Department shall be guided by his own deliberate judgment and shall in such report—

- (a) make an unbiased assessment of the officer's performance and conduct over the past twelve months; and
- (b) give an indication of the future prospects of the officer.

(4) A staff report shall be in such form as may from time to time be prescribed by the Commission and shall be made in respect of every officer whether he holds an acting appointment, a temporary appointment or is employed for a specified period.

35. In order that an officer may be given every opportunity to correct any shortcomings which he might evince during the course of the twelve months' period of service to be reported on, a Permanent Secretary or Head of Department shall— Officer to be informed of adverse report.

- (a) as and when such shortcomings are noticed, cause the officer to be informed in writing thereof;

- (b) when adverse markings are included in the staff report, cause the officer to be informed in writing thereof before he submits the report to the Director.

36. (Revoked by LN 282/1998).

CHAPTER V

PROBATIONARY APPOINTMENTS

Period of
probation on
first
appointment.

37. Except as otherwise provided in this Chapter, an officer on first appointment to the public service shall be required to serve on probation for a period of two years.

Period of
probation on
appointment.

38. (1) Where an officer is to be appointed to an office in which he has satisfactorily performed the duties, whether in an acting or temporary capacity or on secondment for periods of equal or longer duration than the period of probation prescribed by regulation 39, the officer shall not be required to serve on probation.

(2) Where an officer is appointed on promotion to an office in which he has acted satisfactorily for periods of less duration than the period of probation prescribed by regulation 39, not more than one year and not less than six months acting service shall be offset against the period of probation.

(3) Where an officer is appointed on probation to an office in which he has not acted satisfactorily, the Commission shall determine the period of probation to be served.

Period of
probation on
promotion.

39. (1) Subject to regulation 38, an officer who is appointed on promotion to an office shall be required to serve on probation for one year in the office to which he is promoted.

(2) Subject to subregulation (3), where within two years immediately preceding his promotion an officer has served in an acting appointment in the office to which he is promoted, the period of probation shall be abated by the extent of the aggregate of service in such acting appointment unless the Commission otherwise directs.

(3) In calculating the aggregate of service in an acting appointment for the purpose of subregulation (2), only continuous service of three months or more shall count.

(4) Where an officer is transferred from one Ministry or Department to another, the Permanent Secretary or Head of Department shall take immediate steps to ensure the release of such officer to assume duties in his new office on the date fixed by the Commission.

(5) Where an officer is promoted and transferred from one Ministry or Department to another and the exigencies of the service preclude his assumption of duties in his new office on the date fixed by the Commission, the period of probation shall be deemed to commence from such date.

40. Where an officer is promoted before he has completed the full period of probation in the lower office, the unserved portion of that period of probation shall be deemed to be waived and the officer deemed to be confirmed in that appointment.

*Waiver of
portion of
period of
probation.*

41. The following principles shall be observed for the treatment of an officer during his period of probation:

*Principles to be
observed while
officer on
probation.*

- (a) the officer on probation shall be given an opportunity to learn his work and be tested as to his suitability for it;
- (b) he shall be accorded all possible facilities for acquiring experience in his duties;
- (c) he shall be subject to continual and sympathetic supervision;
- (d) so far as the exigencies of the service permit, he shall be assigned to duty only where such observation is possible; and
- (e) if at any time during his period of probation he shall exhibit tendencies which render it in any way doubtful that he is likely to become fit for confirmation in his appointment, these shall at

once be drawn to his attention in writing by the Permanent Secretary or Head of Department and he shall be given such assistance as may be possible to enable him to correct his faults.

Confidential
reports on
officer on
probation.

42. (1) In the case of an officer serving a two-year period of probation, the Permanent Secretary or Head of Department shall submit to the Director three confidential reports as follows:

- (a) a first report after the officer has completed one year's service;
- (b) an interim report six months before the period of probation expires; and
- (c) a final report one month before the period of probation expires.

(2) In the case of an officer serving a period of probation of one year, two confidential reports shall be submitted as follows:

- (a) a first report six months before the period of probation expires;
- (b) a final report one month before the period of probation expires.

(3) The Director shall report to the Commission whenever a Permanent Secretary or Head of Department fails to submit a confidential report on an officer on probation within the terms specified in this regulation.

(4) In submitting the final report, the Permanent Secretary or Head of Department shall make a firm recommendation—

- (a) that the officer be confirmed in the appointment; or
- (b) that the period of probation be extended; or
- (c) that the services of the officer be terminated; or
- (d) that the officer revert to his former office.

(5) A report of the Permanent Secretary or Head of Department under this regulation shall not be seen by the officer on probation, but any adverse comments on his work shall be in

specific terms; the officer shall be notified in writing in duplicate as early as possible, so that he should have sufficient time in which to make an effort to correct his shortcomings before his period of probation expires. The officer shall retain the original notification and shall sign the duplicate and return it to the Permanent Secretary or Head of Department for the record.

43. (1) Before any recommendation is made to the Commission for the extension of the period of probation of an officer or for the termination of his appointment, the Permanent Secretary or Head of Department shall inform the officer of this recommendation and of the specific reasons therefor and he shall invite the officer to submit any representations he may wish to make.

*Officer may
make
representation
on
recommendation
of Permanent
Secretary.*

(2) Subject to the provisions of these Regulations, the first appointment on probation of an officer may, at any time during the period of probation, be terminated by the Commission.

44. (1) If, after consideration of the final report of the Permanent Secretary or Head of Department, the Commission is satisfied that the service of an officer on probation has been satisfactory, the Commission shall confirm his appointment with effect from the date of appointment.

*Commission to
confirm
appointment.*

(2) If the Commission is not satisfied that the service of an officer on probation has been satisfactory, the Commission may extend the period of probation for a further period.

45. Where the period of probation of an officer has been extended and he is subsequently confirmed in his appointment, the Commission may direct that the officer's increment be paid —

*Incremental
date where
period of
probation
extended.*

- (a) with effect from the date following that on which the extended period of probation expired without change in the incremental date; or
- (b) with effect from the date following that on which the extended period of probation expired which would then become his incremental date.

Permanent Secretary to keep record.	46. A Permanent Secretary or Head of Department shall keep a record of every officer who has been appointed on probation to an office in his Ministry or Department.
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Permanent Secretary not to allow payment out of public funds in certain circumstances.	47. The Permanent Secretary or Head of Department shall ensure that no payment shall be made out of public funds in respect of any matter requiring the approval of the Commission until such approval has been obtained.
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CHAPTER VI

RESIGNATIONS, RETIREMENTS AND TERMINATION OF APPOINTMENTS

Resignation.	48. (1) An officer who wishes to resign shall give to the Commission notice in writing of his intention at least one month before the date on which he wishes to relinquish his appointment, but the Commission may waive the requirement of notice in whole or in part if it thinks fit.
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(2) Notwithstanding any regulation respecting the non-forfeiture of leave, an officer who fails without reasonable cause to comply with subregulation (1) may forfeit all leave and the benefits and privileges accruing to him in respect of leave.

(3) An officer is not entitled to withdraw his notice of resignation before such resignation becomes effective but the Commission may accept such withdrawal if tendered in writing at any time before the effective date of the resignation.

Absence	49. An officer who is absent from duty without leave for a period of one month may be declared by the Commission to have resigned his office and thereupon the office becomes vacant and the officer ceases to be an officer.
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Reasons for termination of appointment.	50. The services of an officer may be terminated only for the reasons stated hereafter
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- (a) where the officer holds a permanent appointment—
 - (i) on dismissal or removal in consequence of disciplinary proceedings;

- (ii) on compulsory retirement;
- (iii) on voluntary retirement;
- (iv) on retirement for medical reasons;
- (v) on being retired in the public interest;
- (vi) on resignation without benefits payable under any written law providing for the grant of pensions, gratuities or compensation;
- (vii) on the abolition of office;
- (b) where the officer holds a temporary appointment—
 - (i) on the expiry or other termination of an appointment for a specified period;
 - (ii) where the office itself is of a temporary nature and is no longer necessary;
 - (iii) on the termination of appointment in the case of an officer on probation;
 - (iv) on the termination of appointment in the case of an officer holding a non-pensionable office with no service in a pensionable office;
 - (v) on dismissal or removal in consequence of disciplinary proceedings;
 - (vi) ill health;
- (c) where the officer is on contract his services shall be terminated in accordance with the terms of the contract.

51. (1) Subject to subregulation (2), an officer—

- (a) shall be required to retire on attaining the age of sixty years; or
- (b) may retire voluntarily at the age of fifty-five years; or
- (c) may at any time after he attains the age of fifty years and before attaining the age of fifty-five

Compulsory
and voluntary
retirement.

Ch. 23:52.

years, apply to the Commission for permission to retire pursuant to section 15(1) of the Pensions Act and shall in his application state the grounds on which it is based.

(2) An officer who is a member of the Fire Service and holds a rank therein below that of Second Officer shall retire in accordance with any provision enacted in respect of such officer.

Permanent
Secretary to
notify Directors
of officers aged
60 years,
compulsory.

52. A Permanent Secretary or Head of Department shall inform the Director of all officers in his Ministry or Department who are within one year of the compulsory retirement age.

Provisional
retirement,
Ch. 23:52.

53. (1) If it appears to the Commission that pursuant to section 14 of the Pensions Act an officer who has attained the age of fifty years ought to be called upon to retire from the public service, the Commission shall advise the officer accordingly.

(2) Any such officer shall be afforded an opportunity of submitting to the Commission any representations he may wish to make regarding his proposed retirement.

(3) If the Commission, after considering the representations, if any, made by the officer, is of the opinion that, having regard to all the circumstances of the case, the officer should be retired in the public interest, the Commission shall require the officer to retire on such date as the Commission shall determine, and the officer shall be retired accordingly.

Retirement in
the public
interest.

54. (1) Where it is represented to the Commission or the Commission considers it desirable in the public interest that any officer should be required to retire on grounds which cannot suitably be dealt with under any of these Regulations, it shall call for a full report on the officer from the Permanent Secretary or Head of Department in which he is serving and shall take into account the officer's previous record during the last preceding ten years.

(2) If, after considering such report and such record and giving the officer an opportunity of submitting a reply to the

grounds on which his retirement is contemplated, and having regard to the conditions of the particular service of which the officer is a member, the usefulness of the officer thereto, and all the other circumstances of the case, the Commission is satisfied that it is desirable in the public interest to do so, it shall require the officer to retire on such date as the Commission shall determine, and he shall be retired accordingly.

55. (1) Where an office, being one of a number of like offices, has been abolished but one or more than one such office remains, the Permanent Secretary or Head of Department shall make a report thereon to the Director for consideration by the Commission, and shall recommend with his reasons therefor, which officer shall be retired or removed from the public service in consequence of such abolition.

*Termination of
appointment on
abolition of
office or for
facilitating
improvement in
the organisation
of a Ministry or
Department.*

(2) Where it is necessary to retire or remove an officer from the public service for the purpose of facilitating improvement in the organisation of a Ministry or Department in order to effect greater efficiency or economy, the Permanent Secretary or Head of Department shall make a report thereon to the Director for consideration by the Commission, and shall recommend with his reasons therefor, which officer shall be retired or removed from the public service in consequence of such reorganisation.

(3) Where the Permanent Secretary or Head of Department makes any recommendation under subregulation (1) or (2), the Permanent Secretary or Head of Department shall at the same time notify the officer concerned in writing of his recommendations, and such officer may, within seven days of the receipt of the notification, make representations thereon.

(4) Where an officer makes representation in respect of recommendations made under subregulation (1) or (2), the representations shall be forwarded in their original form to the Commission by the Permanent Secretary or Head of Department together with such comments as the Permanent Secretary or Head of Department thinks fit.

(5) Notwithstanding subregulation (1) or (2), and after consideration of the representations of the officer, the Commission may, instead of retiring or removing the officer from the public service, transfer the officer concerned to another office not lower in status than that which he held.

Termination of
appointment on
grounds of
inefficiency.

56. (1) The Commission may terminate the appointment of an officer on grounds of inefficiency.

(2) Where a Permanent Secretary or Head of Department makes a recommendation in writing that the appointment of an officer should be terminated on grounds of inefficiency, the officer shall be informed in writing of such recommendation and shall be given an opportunity to make representations thereon.

(3) Where an officer makes representations under subregulation (2), the representations shall be forwarded in their original form to the Commission by the Permanent Secretary or Head of Department together with such comments as the Permanent Secretary or Head of Department thinks fit.

(4) The Commission may, upon application of the officer or on its own motion, cause an investigation to be made before making a final decision.

57. *(Revoked by LN 282/1998).*

Medical
Boards.

58. (1) A Medical Board shall be held whenever it is necessary for an officer to be examined with a view to ascertaining whether or not the officer should be retired on grounds of ill-health, or in any case or class of case in which the Commission directs.

(2) An officer may be required by the Commission to undergo a medical examination at any time.

(3) An officer who is required to undergo a medical examination shall submit himself to be examined by a Medical Board at such time and place as the Permanent Secretary may direct on behalf of the Board.

(4) Where an officer, through refusal or neglect to obtain specialist advice or to obtain treatment when so recommended by the Medical Board, falls sick and in consequence is unable to perform his duties, the Commission may direct that the period during which he is unable to perform his duties shall be counted as leave without pay.

(5) Whenever it is considered necessary for an officer to be examined with a view to ascertaining whether or not he should be retired on grounds of ill health, the Permanent Secretary or Head of Department shall make a recommendation to this effect to the Commission and where there is a medical record of the officer, the record shall be made available to the Medical Board.

(6) Where a deterioration in the work of the officer is the reason or one of the reasons for requesting that the officer undergo a medical examination, the Permanent Secretary or Head of Department shall submit, with his recommendation under subregulation (5), a detailed report on any change in the quality of the officer's work in order to assist the Medical Board in carrying out the medical examination of the officer concerned.

59. An officer who is medically boarded and found unfit for further service shall not be allowed to remain on duty after receipt of the Medical Board's report, and shall be granted such annual leave and accumulated annual leave for which he is eligible or two months leave, which ever is the greater, as from the date on which he is notified of his unfitness for further duty. Unfit officers.

CHAPTER VII

CONDUCT

60. }
to } *(Revoked by LN 28/1991).*
83. }

CHAPTER VIII

DISCIPLINE

GENERAL

Officer liable to disciplinary proceedings.

84. An officer who is alleged to be guilty of misconduct or who is alleged to be guilty of indiscipline by failing to comply with any regulation, order or directive for the time being in force in the Ministry or Department to which he is assigned, is liable to disciplinary proceedings in accordance with the procedure prescribed in these Regulations.

Definition.
[28:1991].

84A. For the purposes of this Chapter, "Head of Department" includes the person occupying or performing the duties of the office of Chief Fire Officer being a public office established by the Fire Service Act, or Commissioner of Prisons being a public office established by the Prison Service Act.

Ch. 35:59.

Ch. 13:02.

Commission to oversee disciplinary control on Permanent Secretary or Head of Department.
[28 of 1991].

84B. (1) Where the Commission becomes aware of an allegation of indiscipline or misconduct of an officer being a Permanent Secretary or Head of Department, the Commission shall appoint an officer to investigate such allegation.

(2) Regulation 90(3) to 90(6) inclusive, shall apply in respect of such investigation.

Permanent Secretary to report misconduct or indiscipline.
[28 of 1991].

85. (1) Where an officer is alleged to have committed an act of misconduct or indiscipline which is a breach of a regulation that is the subject of a delegation to the Permanent Secretary or Head of Department, such act of misconduct or indiscipline shall be referred to an officer senior in office to the officer against whom the report or allegation has been made.

(2) The senior officer referred to in subregulation (1) may charge the officer against whom the report or allegation has been made and refer the charge to the Permanent Secretary or Head of Department.

(3) Where a charge is referred to the Permanent Secretary or Head of Department under subregulation (2), the Permanent Secretary or Head of Department shall act as a disciplinary

tribunal, or appoint, in writing as a disciplinary tribunal, an officer in his Ministry or Department, as the Commission directs, holding or performing the duties of a senior officer who is senior in office to the person charged.

(4) The disciplinary tribunal referred to in subregulation (3) comprising—

- (a) the Permanent Secretary or Head of Department may impose in respect of a charge any of the penalties prescribed in regulation 110(1)(c) to (g); or
- (b) an officer appointed as such under subregulation (3) may impose in respect of a charge any of the penalties prescribed in regulation 110(1)(f) or (g).

(5) A fine imposed by a disciplinary tribunal, other than the Permanent Secretary or Head of Department, under subregulation (4) shall not exceed an amount calculated on four days pay to be deducted from the salary of the officer in no more than two instalments.

(6) Where a disciplinary tribunal, other than a Permanent Secretary or Head of Department, finds the officer guilty and is of the opinion that, owing to the special circumstances of the case (including the previous record of the offender), the penalty that could be imposed by it is inadequate it may so certify and refer the matter to the Permanent Secretary or Head of Department.

(7) The Permanent Secretary or Head of Department on receipt of a certificate made under subregulation (6) may impose a penalty prescribed in regulation 110(1)(c) to (g) inclusive.

(8) A fine imposed by the Permanent Secretary or Head of Department under subregulation (4) shall not exceed an amount calculated on four days pay per month to a maximum of three months.

(9) Where the Permanent Secretary or Head of Department is the person making the allegation or report he shall not exercise any power as a disciplinary tribunal but refer it to the Commission to determine as if it were a matter to which regulation 90 applies.

(10) Where a disciplinary tribunal during the course of hearing a matter to which this regulation refers is of the opinion that the matter is such that the officer has been inadequately charged with an offence to which subregulation (1) applies, it may so certify and refer the matter to the Permanent Secretary or Head of Department.

(11) The Permanent Secretary or Head of Department shall, no later than three days after receipt of a certificate referred to him in accordance with subregulation (10), refer the matter to an investigating officer to deal with under regulation 90 as if it were a report or allegation of indiscipline or misconduct to which regulation 90 applies.

(12) Regulations 94, 96, 97, 98, 99, 100(1) and 106(2) and (3) apply *mutatis mutandis* in respect of the hearing of a charge to which this regulation applies.

Permanent
Secretary may
inform Police
of offence.

86. Nothing in these Regulations shall be deemed to restrict a Permanent Secretary or Head of Department from reporting to the Police directly where an offence against any law appears to have been committed by an officer.

Commission to
issue
instructions on
how certain
cases to be
dealt with

87. The Permanent Secretary or Head of Department shall report any case not covered by these Regulations to the Director and the Commission may issue instructions as to how the case shall be dealt with and the case shall be dealt with accordingly.

Suspension by
Commission.

88. (1) When the Commission becomes aware of any act of indiscipline or misconduct and the Commission is of the opinion that the public interest or the repute of the public service requires it, the Commission may direct the officer in writing to cease to report for duty until further notice from the Commission, and an officer so directed shall cease to perform the functions of his office forthwith.

(2) An officer directed to cease to perform the duties of his office in accordance with subregulation (1) shall continue to draw full salary until notice is given to him by the Commission under regulation 89.

89. (1) Where there have been or are about to be instituted against an officer Interdiction,
[28 of 1991].

- (a) disciplinary proceedings for his dismissal; or
- (b) criminal proceedings,

and where the Commission is of opinion that the public interest requires that that officer should forthwith cease to perform the functions of his office, the Commission shall interdict him from such performance.

(2) The effective date of interdiction shall be—

- (a) where an officer has continued to perform the duties of his office, the date of receipt by him of the notification of his interdiction;
- (b) where, in accordance with regulation 88, an officer has ceased to perform the duties of his office, such date as the Commission may direct.

(3) An officer so interdicted shall, subject to the provisions of regulation 114, be permitted to receive such proportion of the pay of his office, not being less than one-half, as the Commission may determine, after taking into consideration the amounts being deducted per month from the pay of the officer.

(4) If disciplinary proceedings against any such officer result in his exoneration, he shall be entitled to the full amount of the remuneration which he would have received if he had not been interdicted, but if the proceedings result in any punishment other than dismissal, the officer shall be allowed such pay as the Commission may in the circumstances determine.

(5) *(Revoked by LN 28/1991).*

90. (1) Where a report or allegation of indiscipline or misconduct is received other than a report or allegation of indiscipline or misconduct to which regulation 85 applies, the Permanent Secretary or Head of Department shall report the matter to the Director for the information of the Commission and concurrently warn the officer in writing of the allegation of Investigation of
charges,
[28 of 1991
238/1998].

indiscipline or misconduct and shall forthwith refer the matter to an investigating officer appointed by him.

(2) The investigating officer shall be appointed from the Ministry to which the officer is assigned and shall hold an office in a grade higher than that of the officer against whom the allegation has been made.

(3) The investigating officer shall, within three days of his appointment, give the officer a written notice specifying the time, not exceeding seven days from the date of the receipt of such notice, within which he may, in writing, give an explanation concerning the report or allegation to the investigating officer.

(4) The investigating officer shall require those persons who have direct knowledge of the alleged indiscipline or misconduct to make written statements within seven days for the information of the Commission.

(5) The investigating officer shall, with all possible despatch but not later than thirty days from the date of his appointment, forward to the Commission, for the information of the Commission, the original statements and all relevant documents, together with his own report on the particular act.

(5A) Where the Commission considers that the circumstances before it warrants an extension of time, the period referred to in subregulation (5) may be extended by a period not extending thirty days.

(6) The Commission, after considering the report of the investigating officer and any explanation given under subregulation (3), shall decide whether the officer should be charged with an offence, and if the Commission decides that the officer should be so charged, the Commission shall, as soon as possible, cause the officer to be informed in writing of the charge together with such particulars as will leave the officer under no misapprehension as to the precise nature of the allegations on which the charge is based.

(7) Where, in the explanations given under subregulation (3), the officer makes an admission of guilt, the

Commission may determine the penalty to be awarded without further inquiry.

(8) Where the Commission, under section 127 of the Constitution, has delegated to an officer its duty of deciding under subregulation (6) whether an officer shall be charged and of charging such officer with an offence, the reference in subregulations (4), (5), (6) and (7) to the Commission shall be construed as a reference to that officer.

91. Where an officer is charged with an alleged act of indiscipline or misconduct he shall, as soon as possible, be given a copy of any written explanation he may have made under regulation 90(3). Documents to be supplied to accused.

92. (1) Where an officer is charged with indiscipline or misconduct the officer shall be requested to state in writing within a specified period whether he admits or denies the charge and shall be allowed to give to the disciplinary tribunal or the Commission any explanation he may wish. Officer to admit or deny charge in writing and may include explanation.

(2) Where an officer admits the charge under subregulation (1), he shall be allowed to include in his explanation any extenuating circumstances in mitigation.

93. Where an officer—

- (a) fails to give an explanation under regulation 90(3); or
- (b) fails to admit or deny the charge under regulation 92(1); or
- (c) gives an explanation under regulation 90(3), or under regulation 92(1), that
 - (i) places the facts in dispute; or
 - (ii) does not exculpate him,

Hearing on failure to admit or deny charge.

the hearing shall proceed as though the officer denied the charge.

94. (1) The officer shall be allowed to state the names and addresses of any witnesses to relevant facts whom he may desire to give evidence at the hearing of the case. Witnesses

(2) Any such witness who is an officer shall be ordered to attend at the hearing of the case and any other witness shall be given due notice that his attendance is desired and of the time and place of the hearing.

Appointment of
disciplinary
tribunal.
[174:2000]

95. (1) Where the Commission under regulation 90(6) charges an officer with an alleged act of indiscipline or misconduct and the provisions of regulation 93 apply, the Commission may appoint a disciplinary tribunal to hear and find the facts.

(2) A disciplinary tribunal which the Commission appoints under subregulation (1) may be constituted of—

- (a) one officer; or
- (b) an uneven number of officers not being less than three.

(3) For the purposes of subregulation (2), a reference to officer includes a reference to a retired officer.

(4) (i) An officer selected under subregulation (2) shall be, or in the case of a retired officer, shall have been, of a grade higher than that of the officer charged.

(ii) An officer selected under subregulation (2) shall in no case be of a grade lower than Clerk IV, or in the case of a retired officer shall not have retired at a grade lower than Clerk IV.

(5) Notwithstanding subregulation (2), the Commission may appoint a tribunal consisting of such other persons as it may consider suitable.

Duty of officers
appointed to
disciplinary
tribunal.
[174:2007]

96. (1) It shall be the duty of every officer appointed under regulation 95 to hear the evidence, find the facts and make a report to the Commission in accordance with regulations 98 and 102 as soon as possible, and such officer may not be permitted any leave, other than sick leave or maternity leave, until the report is made to the Commission.

(2) Notwithstanding these Regulations, where an officer referred to in subsection (1) is unable to perform his

functions for whatever reason, the disciplinary tribunal of which he is a member may continue to hear and conclude the case and make a report, but such a tribunal shall not be constituted of less than two members.

97. An officer who is charged with an alleged act of indiscipline or misconduct shall not be permitted to take leave other than sick leave or maternity leave until the determination of the case.

Officer on
charge not to be
permitted leave.

98. (1) The following procedure shall apply to the hearing by a disciplinary tribunal of a charge of alleged misconduct or indiscipline:

Procedure at
hearing.

- (a) The officer shall be summoned to appear at the hearing and shall be given full opportunity to defend himself.
- (b) The case against the officer may be presented by an officer of the Ministry or Department to which the officer is assigned, but such officer shall be the holder of an office in a grade higher than that of the officer charged.
- (c) Before the case against the officer is presented, the officer may submit that the facts alleged in the charge are not such as to constitute the offence with which he is charged, and the disciplinary tribunal shall make a report of the submission to the Commission for its decision.
- (d) At the hearing before a disciplinary tribunal, the officer may conduct his defence either in person or may be represented by an officer of his choice who is a member of the service, or by his staff association or by an Attorney-at-law; and if the officer is represented by such member, or by his staff association, or by an Attorney-at-law, the officer or his representative may cross-examine the witnesses called in support of the case against him, but where the hearing is before a

disciplinary tribunal constituted of one officer, the officer charged shall not be represented by an Attorney-at-law.

(e) A true record of the proceedings at the hearing of the case shall be taken and a copy of the record shall be made if the officer desires to make application for a review.

(2) Nothing in this regulation shall be construed so as to deprive the officer from at any time making a submission that the facts disclosed in the evidence do not support the charge.

Adjournment of
hearing

99. The hearing of any case may be adjourned from time to time as may appear necessary for due hearing of the case.

Hearing in
absence of
accused officer.

100. (1) If the officer does not attend the hearing of the charge, without good reason, the hearing may be proceeded with and concluded in his absence, but if good reason is given to the disciplinary tribunal by or on behalf of the officer why the officer is unable to attend the hearing, the hearing shall be postponed or adjourned, as the case may be.

(2) Where, owing to the absence of the officer, it is impossible to comply with the procedure described in regulation 90(3), regulations 91, 92, 94, and regulation 98(1) shall be dispensed with.

Standard of
proof.
[28:1991
143:2006]

101. (1) The standard of proof in any proceedings under this Chapter shall be that required in a Court of law in civil cases.

C/S: 7:02.

(2) In the hearing of any matter before it the Tribunal may act without regard to technicalities and legal form and shall not be bound to follow the rules of evidence stipulated in the Evidence Act, but the Tribunal may inform itself on any matter in such manner as it thinks just and may take into account opinion evidence and such facts as it considers relevant but in any such case, the parties to the proceedings shall be given the opportunity if they so desire, of adducing evidence in regard thereto.

(3) No documentary evidence shall be used against the officer unless he has previously been supplied with a copy thereof or given access thereto.

(4) Any explanation given by an officer under regulation 90(3) shall be admissible at any hearing.

102. (1) The disciplinary tribunal shall make a report to the Commission, and the report shall contain its findings of fact and an expression of its opinion as to the meaning and value of the facts found, together with the record of the proceedings required by regulation 98(1)(e).

Tribunal to
report.
[28/99].

(2) The disciplinary tribunal shall not disclose the contents of the report made under subregulation (1) to the officer charged, or to any officer not authorised to receive such report.

Report
confidential.

(3) *(Deleted by LN 28/1991).*

103. (1) Where, during the course of the hearing of a case and before the hearing is concluded by the disciplinary tribunal constituted of one officer, it appears to the disciplinary tribunal that there are grounds disclosed which could form the basis of a charge for which the penalty that could be imposed could be any one of the penalties specified in regulation 110(1)(a) to (e), the disciplinary tribunal shall adjourn the hearing for a period not exceeding 14 days and shall forthwith report its findings of fact with a report of the proceedings up to date to the Commission.

Disciplinary
tribunal may
adjourn and
report to
Commission.

In this subregulation, a reference to the Commission shall be construed as a reference to the officer to whom the Commission has delegated its powers under section 127 of the Constitution.

(2) Where such officer receives a report of the proceedings, he shall submit that report to the Commission, and if in the opinion of the Commission—

- (a) the officer should be charged with an alleged act of indiscipline or misconduct, the Commission shall cause the officer to be so charged and the proceedings before the disciplinary tribunal shall cease; or

(b) the officer, on the findings of fact submitted, may be liable to any one of the penalties specified in regulation 110(1)(b) to (e), the Commission may direct the disciplinary tribunal to continue the hearing of the evidence, find the facts and make a report to the Commission.

(3) On consideration of the report of the disciplinary tribunal the Commission may impose any one of the penalties specified in regulation 110(1)(b) to (e).

Disciplinary
tribunal to
report where
evidence
insufficient

104. (1) Where the disciplinary tribunal constituted of three officers hearing the evidence finds that the evidence is insufficient to support the charge or charges, the disciplinary tribunal shall report to the Commission its findings of fact together with the record of the proceedings as required by regulation 98(1)(e) without calling on the officer for his defence.

(2) If on receipt of the report and record of the proceedings under subregulation (1) the Commission is of the opinion that the report should be amplified in any respect or that further enquiry is desirable it may refer the case back to the disciplinary tribunal for further enquiry or report accordingly.

Disciplinary
tribunal to
report evidence
of other
misconduct or
indiscipline
disclosed at
hearing of
charges.

105. Where the disciplinary tribunal constituted of three officers in hearing the evidence is of the opinion that such evidence discloses other misconduct or indiscipline, the disciplinary tribunal shall report the matter to the Commission and if the Commission thinks fit to proceed against the officer on such misconduct or indiscipline, it shall cause the officer to be informed in writing of any further charges and the procedure prescribed in these Regulations in respect of the original charge shall apply in respect of such charge.

Penalties that
may be
awarded under
delegated
authority.
[28/1991]

106. (1) The Commission on consideration of the report under regulation 102 may either exonerate the officer or impose the penalty specified in regulation 110(1)(f) or (g).

(2) The Commission shall, as soon as possible after the hearing of the charge, inform the officer in writing of its findings

and of the penalty imposed on him, of his right to apply for an appeal to the Public Service Appeal Board and of the time specified in the Public Service Appeal Board Regulations for making such an application. Sub. Leg.

(3) Where the officer—

- (i) makes application for an appeal to the Public Service Appeal Board within the time specified in the Public Service Appeal Board Regulations, the penalty shall not take effect pending the determination of the appeal by the Public Service Appeal Board; or
- (ii) does not make an application for an appeal to the Public Service Appeal Board, the penalty shall take effect at the expiry of the time specified in the Public Service Appeal Board Regulations for making such an application.

(4) In this regulation a reference to the Commission shall be construed as a reference to the officer to whom the Commission has delegated its powers under section 127 of the Constitution.

107. (1) Where on consideration of the report of the findings of fact by a disciplinary tribunal the Commission is of the opinion that—

- (a) the officer should be exonerated, the Commission shall exonerate the officer;
- (b) the officer should be dismissed, the Commission shall dismiss the officer; or
- (c) some penalty other than dismissal should be imposed on the officer, the Commission may impose any of the penalties specified in regulation 110(1)(b) to (g).

(2) The Commission shall, as soon as possible after the hearing of the charge, inform the officer in writing of its

Commission to inform officer of penalty imposed and of his right to apply for review. [28:1991].

LAWS OF TRINIDAD AND TOBAGO

102	Chap. 1:01	<i>Constitution of the Republic of Trinidad and Tobago</i>
[Subsidiary]		<i>Public Service Commission Regulations</i>

Sub. Leg. findings and the penalty imposed on him, of his right to apply for an appeal to the Public Service Appeal Board and of the time specified in the Public Service Appeal Board Regulations for making such application.

(3) Where the officer—

- (i) makes an application for an appeal to the Public Service Appeal Board within the time specified in the Public Service Appeal Board Regulations, the penalty shall not take effect pending the determination of the appeal by the Public Service Appeal Board; or
- (ii) does not appeal, the penalty shall take effect at the expiration of the said time.

(4) Where the Commission under subregulation (1) informs the officer that it proposes to impose the penalty of dismissal, the officer, notwithstanding that he gives notice of appeal within the time specified in the Public Service Appeal Board Regulations, shall not receive any pay or allowance from the date of the expiration of such time.

Commission
may remove
officer in public
interest.

108. Where on a consideration of the report of the findings of fact of a disciplinary tribunal as defined in regulation 95(2)(b), the Commission is of the opinion that the officer does not deserve to be dismissed by reason of the charges alleged but that the proceedings disclose other grounds for removing him from the public service in the public interest, the Commission may make an order for the removal of such officer without recourse to the procedure prescribed by regulation 53.

Proceedings in
private.

109. The proceedings before a disciplinary tribunal shall be held in private.

Penalties.

110. (1) The following are the penalties that may be imposed by the Commission by disciplinary proceedings brought

against an officer in respect of misconduct, indiscipline, or unsatisfactory service:

- (a) dismissal, that is termination of appointment;
- (b) reduction in rank, that is, removal to another grade with an immediate reduction in salary;
- (c) reduction of remuneration, that is, an immediate adjustment of remuneration to a lower point on the scale of remuneration attached to the particular office;
- (d) deferment of increment, that is, a postponement of the date on which the next increment is due, with corresponding postponement in subsequent years;
- (e) stoppage of increment, that is, no payment for a specified period of an increment otherwise due;
- (f) reprimand;
- (g) fine.

(2) Where a fine is imposed the amount of such fine shall be deducted from the pay of the officer in such manner as may be specified at the time the penalty is imposed.

111.

to

113.

(Revoked by LN 28/1991).

114. (1) An officer convicted of a criminal charge and sentenced to imprisonment without the option of a fine or convicted of a criminal charge involving—

Non-payment
of remuneration
on conviction
of a criminal
charge

- (a) dishonesty,
- (b) fraud, or
- (c) moral turpitude,

shall not receive any pay or allowance after the date of conviction pending consideration of his case by the Commission.

(2) The Commission may direct that an officer convicted of a charge described in subregulation (1) shall cease to perform the duties of his office forthwith.

(3) Notwithstanding that an officer convicted of a charge described in subregulation (1) has appealed against the conviction, such officer shall not receive any pay or allowance after the date of conviction.

CHAPTER IX

REVIEWS

115.

to

122.

(Revoked by LN 28/1991).

CHAPTER X

MISCELLANEOUS

Application of
Regulations to
all officers

123. Chapter VIII of these Regulations shall not apply to persons appointed to act in or appointed temporarily to public offices or engaged on contract for a specified term and on specified conditions, but where the termination of such an appointment is contemplated on grounds of misconduct or unsatisfactory work or conduct, the person holding the appointment shall be given an opportunity to show cause why his appointment shall not be terminated.

Commission
facsimile
signatures

124. Where in the performance of his duties, the Chairman, the Deputy Chairman or a member of the Commission is required to sign any document, the Chairman, the Deputy Chairman or a member of the Commission, as the case may be, may sign such document by imprinting thereon a facsimile of his signature.

CHAPTER XI

THE TEACHING SERVICE

PART I

PRELIMINARY

Definitions.

L.N. 29/01.

125. In this Chapter—

"Act" means the Education Act;

“assisted school” means a public school, the Board of Management of which has received or is in receipt of public funds for building or extension or rebuilding or for the equipment and facilities provided for the school;

“Board” means the governing body of an assisted school established under section 15 of the Act;

“Government school” means a public school wholly owned by the Government;

“primary school” means a school for the provision of primary education within the meaning of section 6 of the Act;

“public school” means a Government school or an assisted school;

“teacher” means a person registered as such under the former Education Ordinance, or under the Act and the Regulations, 27 of 1951, who is a member of the Teaching Service;

“Teaching Service” means the unified Teaching Service established under section 53 of the Act.

PART II

APPOINTMENTS

126. (1) Every application for first appointment to an office of teacher in the Teaching Service shall be addressed to the Permanent Secretary on the prescribed form.

Application
for first
appointment

(2) The Permanent Secretary shall check every application under subregulation (1) to ensure that the applicant is eligible for appointment to the office of teacher in accordance with the Act and the Regulations made thereunder.

(3) The Permanent Secretary shall forward the applications of all eligible applicants to the Director for submission to the Commission.

127. (1) The Permanent Secretary in the performance of the duty imposed on him by regulation 20 of keeping up-to-date seniority lists of the Teaching Service shall keep, in respect of teachers holding offices in primary schools—

Duty of
Permanent
Secretary to
keep separate
seniority lists
for primary
school teachers.

(a) a seniority list, hereinafter referred to as List “A”, of Grade I trained teachers; and

(b) a seniority list, hereinafter referred to as List "B", of Grade I untrained teachers.

(2) For the purpose of determining the seniority of teachers on List "A" the effective date of seniority of the teachers who have taken the Teachers' Diploma shall be the date of passing the Teachers' Provisional Certificate or its equivalent, which, for the purpose, shall be held to be the second year examination of the Teachers' Training College.

(3) Where two or more teachers pass the Teachers' Provisional Certificate Examination or its equivalent on the same date, the teacher who takes the Teachers' Diploma first, shall be the senior.

(4) For the purpose of determining the seniority of teachers on List "B" the effective date of seniority shall be the date of eligibility of the teacher for acceptance into Training College.

(5) List "A" shall be the list employed by the Permanent Secretary for purposes of making recommendations for promotion in the Teaching Service.

(6) The seniority of an officer who voluntarily resigns from the Public Service and is subsequently reappointed to it shall be reckoned from the date of reappointment.

(7) In the case of recruits for training from outside the service, the date of seniority shall be the date of appointment to the Teaching Service.

(8) In addition to the equivalent of the Teachers' Provisional Certificate referred to in subregulations (2) and (3), the School Certificate Grade II or General Certificate of Education equivalent, or any other approved academic or professional qualification, shall be accepted for admission to the former Grade VB or the present Grade I.

Vacancies in
Government
schools.

128. (1) As soon as it is known that a vacancy will occur in the office of teacher in a Government school, the Permanent Secretary shall communicate the particulars of the vacancy to the

Director in writing and shall, by circular memorandum, advertise such vacant office in all public schools.

(2) A notice published under subregulation (1) shall contain the particulars prescribed by regulation 131(2).

(3) Any teacher may make application for an appointment to any vacant office, notice of which is published under subregulation (1), but the failure to apply shall not prejudice the consideration of the claims of any eligible teacher.

(4) Any application under subregulation (3) shall be addressed to the Permanent Secretary.

(5) The Permanent Secretary shall forward all applications made in response to an advertisement under subregulation (1) to the Director with recommendations regarding the filling of the vacancy.

(6) If, within a month after the date fixed for the receipt of applications to any vacant office advertised under subregulation (1), the Permanent Secretary does not make a recommendation or give a satisfactory explanation for a lack thereof, the Director shall make a report to the Commission and the Commission shall request the Permanent Secretary to inform it of the reasons for failure to request the filling of the vacancy.

129. (1) As soon as it is known that a vacancy will occur in the office of teacher in an assisted school, the Board shall communicate the particulars of the vacancy to the Permanent Secretary in writing with a request that the vacancy be filled.

Vacancies in
assisted
schools

(2) On receipt of the particulars of a vacant office of teacher under subregulation (1), the Permanent Secretary shall communicate particulars of the vacancy to the Director in writing and shall, by circular memorandum, advertise such vacant office in all public schools.

(3) A notice under subregulation (2) shall contain the particulars prescribed by regulation 131(2).

(4) Any teacher may make application for an appointment to any vacant office, notice of which is published under subregulation (2), but the failure to apply shall not prejudice the consideration of the claims of any eligible teacher.

(5) The Permanent Secretary shall forward all applications made in response to an advertisement under subregulation (2) to the Board for the Board to make its recommendation regarding the filling of the vacancy.

(6) The Permanent Secretary shall forward to the Director any recommendation made by the Board for the filling of the vacancy with his comments thereon.

(7) If, within a month of the date fixed for the receipt of applications to any vacant office advertised under subregulation (2), the Board does not make any recommendation under subregulation (5) for filling the vacant office, the Director shall require the Permanent Secretary to obtain from the Board, for the information of the Commission, its reasons for the failure to make a recommendation.

*Advertising of
vacancy by
Commission in
certain
circumstances.*

130. Where the Commission, on receipt of the particulars of the vacant office submitted to it under regulation 128 or 129 and on consideration of any recommendation made by the Permanent Secretary under regulation 128 or by the Board under regulation 129 and of the teachers available in the Teaching Service, considers that there is no suitable teacher already in the Teaching Service available for the filling of the vacancy or that having regard to qualifications, experience and merit it would be advantageous and in the best interest of the Teaching Service that the services of a teacher not already in that service or the services of a person eligible to be registered as a teacher be secured, the Commission may authorise the advertisement of the vacancy.

*Director to
advertise
vacancies.*

131. (1) Where the Commission authorises the Director to advertise a vacancy in the Teaching Service, the advertisement shall be in such form as the Commission may determine from time to time.

(2) Every advertisement shall contain the following particulars:

- (a) the offices that are vacant;
- (b) the public schools at which the offices are vacant and whether the schools are assisted schools or Government schools;
- (c) the grade of teacher required to fill the vacancies;
- (d) the rate of pay and any allowances;
- (e) the religious denomination of each assisted school at which there is a vacancy,

and such other particulars as the Commission may determine from time to time.

132. Every application made in response to an advertisement under regulation 131 shall be addressed to the Permanent Secretary who shall forward to the Director

*Duty of
Permanent
Secretary re
applications in
response to
advertisements.*

- (a) the applications of all eligible applicants for appointment to a Government school;
- (b) the applications of all eligible applicants for appointment to an assisted school after submitting such applications to the Board for recommendations to be made by it.

133. (1) The Board, in making any recommendation for the filling of a vacant office in accordance with regulation 129(5) or of regulation 132, shall apply the principles for selection prescribed by regulation 18 and the Commission shall, subject to subregulation (2), approve the recommendation and make the appointment.

*Commission
to make
appointments to
assisted
schools*

(2) Where the Commission is of the view that the Board had not made a selection in accordance with such principles, the Commission may require the Permanent Secretary to call upon the Board to reconsider its recommendation and make a different recommendation and, in making such request, the Commission shall take into consideration the religious denomination of the school and the religious persuasion of the teacher.

(3) Where the Board under subregulation (2) fails to make a different recommendation within twenty-one days of being requested to do so and gives no explanation of its failure to do so, the Commission may appoint to the vacancy—

- (a) a teacher of the religious persuasion of the assisted school, with the approval of the teacher and the Board; or
- (b) a teacher of a religious persuasion different from that of the assisted school, with the prior approval of the teacher and of the Board.

TRANSFERS

(GENERAL)

Application
for transfer.

134. Every application for an appointment on transfer in the Teaching Service shall be addressed to the Director through the Permanent Secretary on the prescribed form and, in the case of an application from a teacher in an assisted school, through the Board to the Permanent Secretary.

Orders of
transfer.
Review of
orders.

135. (1) Where the Commission proposes to transfer a teacher other than as a result of a request by a Board under regulation 137 the Commission shall, except where the exigencies of the Teaching Service do not permit, make an order of transfer in writing and shall give not less than three months' notice to the teacher who is to be transferred.

(2) Where a teacher has applied for a transfer to a particular public school and the Commission proposes to transfer the teacher, but not to the particular school, the Commission shall, except where the exigencies of the Teaching Service do not permit, make an order of transfer in writing and shall give not less than three months' notice to the teacher.

(3) A teacher who is aggrieved by an order made under subregulations (1) and (2) may make representation to the Commission for a review of the order in accordance with subregulation (4).

(4) Where a teacher desires to make representation to the Commission for a review of an order made under subregulation (1) or (2), such teacher, within fourteen days of the receipt of the order, shall give notice in writing to the Permanent Secretary or, in the case of an assisted school, to the Board, to be forwarded to the Permanent Secretary, and shall submit with the notice his representations in writing.

(5) The Permanent Secretary shall, within seven days of the receipt of any representation made to him in writing under subregulation (4), forward such representation together with his comments or the comments of the Board thereon to the Commission.

(6) The Commission shall consider the representations of the teacher and the Permanent Secretary or the Board, as the case may be, submitted to it under subregulations (4) and (5) and shall record its decision in writing.

136. Notwithstanding that a teacher in respect of whom an order has been made under regulation 29(1) or (2) has made representation under subregulations (3) and (4) of the said regulation the teacher shall assume his duties on transfer pending the review of the order by the Commission.

*Officer to
assume duties
pending review
of transfer
order.*

TRANSFERS

(SPECIAL)

137. A Board may apply to the Commission to have a teacher transferred from an office in an assisted school if the religious persuasion of the teacher is not satisfactory to the Board, or on moral grounds.

*Board of
Management
may request
transfer of
teacher.*

138. An application by a Board under regulation 137 shall be forwarded in writing to the Permanent Secretary together with any statements on which the Board relies to support the application. The Permanent Secretary shall forward such application and the statements to the Commission together with any comments he may make thereon.

*Application to
be in writing.*

Board to give
teacher notice
of application.

139. Where a Board makes an application under regulation 137, the Board shall within fourteen days give notice to the teacher of the application and shall give the teacher such particulars as will leave him under no misapprehension as to the precise nature of the grounds for the application.

Teacher may
make
representation.

140. (1) A teacher who has been given notice under regulation 139 may within fourteen days after the receipt of the notice make such representation to the Commission as he may think fit.

(2) Any representation made by a teacher shall be submitted in writing to the Permanent Secretary who, within seven days, shall forward the same, with his comments thereon, to the Commission.

Decision of
Commission.

141. The Commission on consideration of the application of the Board and of any representation made by the teacher shall—

- (a) if the application for transfer is on the grounds that the religious persuasion of the teacher is unsatisfactory to the Board, transfer the teacher on the occurrence of a suitable vacancy; or
- (b) if the application for transfer is on moral grounds, forthwith remove the teacher from the school.

Commission
may institute
disciplinary
proceedings.

142. (1) Where the application of the Board under regulation 137 for the transfer of a teacher is on moral grounds, the Commission is of the view that the alleged acts or omissions complained of constitute misconduct as prescribed by these Regulations, or under the Act, or the Regulations made thereunder or any other Regulations relating to the Teaching Service, the Commission may institute disciplinary proceedings against the teacher.

(2) Where the Commission decides to institute disciplinary proceedings against a teacher under this regulation, the written statements made by persons to the Board and any investigation made by the Board under regulations 138 and 139,

and any representations made by the teacher under regulation 140, shall be substituted for any written statement and explanation that would be otherwise required to be obtained by the Permanent Secretary and investigating officer under regulation 90.

143. Subject to regulation 142, a teacher who is transferred from an assisted school on any of the grounds set out in regulation 141, shall retain his status, suffer no reduction in his rate of pay, and allowances and shall retain his seniority in the Teaching Service.

Teacher not to
suffer loss of
service, etc.,
through
transfers.

144. (1) Where a teacher who holds an office in an assisted school of a particular religious denomination applies for a transfer to an office of teacher in another assisted school of the same religious denomination or of another religious denomination, the Commission shall not transfer the teacher to the other school without the consent of the Board of the other school.

No transfer
without consent
of Board.

(2) Where the Board under subregulation (1) fails to give its consent to the transfer, within twenty-one days of being requested to do so by the Permanent Secretary and gives no explanation of its failure to do so, the Commission may transfer the teacher to the other assisted school—

- (a) if the teacher is of the religious persuasion of that assisted school, with the approval of the Board of that other assisted school, or
- (b) if the teacher is of a religious persuasion different from that of the other assisted school, with the prior approval of the Board of that other assisted school.

(3) Where a teacher is transferred under subregulation (2) from an assisted school of a particular religious denomination, the teacher shall retain his status, suffer no reduction in pay and allowances and shall retain his seniority in the Teaching Service.

145. In the application of these Regulations to the appointment of a person to be a member of the Teaching Service and to the transfer of teachers within that Service, these Regulations shall have effect as if this Chapter were substituted for regulations 11 to 15, and regulations 19, 29 and 30 of Chapter III.

Application of
Regulations.

CHAPTER XII

THE FIRE SERVICE

PART I

PRELIMINARY

Definitions
[282/1998].
Ch. 35:50.

146. In this Chapter

“Act” means the Fire Service Act;

“appropriate form” means the form determined by the Commission under regulation 147;

“candidate” means a person who satisfies the qualifications in respect of an office;

First Schedule.

“Chief Fire Officer” means a person appointed to, or performing the duties of, the office of Chief Fire Officer as prescribed in the First Schedule to the Act;

“Deputy Chief Fire Officer” means a person appointed to, or performing the duties of, the office of Deputy Chief Fire Officer as prescribed in the First Schedule to the Act;

“eligible officer” means a fire officer who satisfies the qualifications of an office;

Sub. 1 eg.

“Examinations Board” means the Examinations Board established under the Fire Service (Terms and Conditions of Employment) Regulations;

“fire officers” or “officer” means a person appointed to an office in the Fire Service;

“fire officer in the First Division” means an officer who holds an office in the First Division as prescribed;

“fire officer in the Second Division” means an officer who holds an office in the Second Division as prescribed;

“performance appraisal report” has the same meaning as in the Fire Service (Terms and Conditions of Employment) Regulations;

Ch. 35:50.

“Service” or “Fire Service” means the Fire Service established by section 3 of the Act;

“transfer” means the movement of an officer from one Division in the Service to another Division in the Service.

PART II

APPOINTMENTS, PROMOTIONS AND TRANSFERS

147. The Commission may determine

- (a) forms to be used to expedite the procedures as prescribed in this Part;
- (b) the manner by which interviews for appointment to an office are to be conducted.

Commission to
determine
forms.
[282/1998]

148. The date of appointment of a person or an officer to an office is the date the Commission specifies in writing.

Date of
appointment.
[282/1998]

149. (1) The Chief Fire Officer shall advise the Director of a vacancy in the office of Firefighter within fourteen (14) days of that vacancy occurring.

Application for
appointment as
Firefighter.
[282/1998]

(2) The Commission may cause the vacancy to be advertised through the Press and electronic media inviting persons to apply.

(3) A person when applying in response to the advertisement shall do so on the appropriate form to the Director.

(4) The Director shall forward the applications to the Chief Fire Officer.

(5) The Chief Fire Officer shall examine the applications and verify that the applicants qualify as candidates in accordance with the qualifications prescribed in the Fire Service (Terms and Conditions of Employment) Regulations, and for the purpose of the examination may make enquiries from the Police concerning the character of any applicant.

Sub. Leg.

150. (1) The Director shall notify all candidates for the office of Firefighter of the place, date and time at which they may present themselves for selection by the Commission.

Appointment to
office of
Firefighter.
[282/1998]

(2) A candidate who qualifies for appointment to the office of Firefighter is selected on merit by the Commission for appointment on the basis of a practical test devised by the Commission after consultation with the Chief Fire Officer and an interview.

(3) The relative merits of the candidates are determined by the results of performance in the practical test and interview.

(4) The Commission may establish a Selection Board consisting of the Deputy Chief Fire Officer, the officer in charge of the Fire Service School and the Director, or his representative to be not lower than an Executive Director, Human Resource Management, to interview candidates for the office of Firefighter and to make recommendations to the Commission on the candidates.

Application for
appointment to
an office in the
Service (other
than
Firefighter).
[282/1998].

151. (1) The Chief Fire Officer shall advise the Director of a vacancy in an office other than that of Firefighter within fourteen (14) days of that vacancy occurring.

(2) The Director shall, by circular memorandum and by publication in the *Gazette*, give notice of that vacancy and invite applications on the appropriate form from eligible officers in the Service.

Appointment
generally to be
by competition
within the
Service.
[282/1998].

152. (1) Whenever in the opinion of the Commission it is in the best interest of the Service, and it is possible to do so, an appointment to an office shall be made from within the Service.

(2) A candidate for appointment to an office in the First Division may be chosen from the First or Second Division of the Service.

(3) Whenever the Commission considers either that there is no suitable candidate in the Service available for the filling of any vacancy in the Service or having regard to experience and merit it is advantageous and in the best interest of the Service that the services of a person not already in the

Service be secured, the Commission may fill a vacancy by open competition and may determine the manner in which the vacancy is to be advertised.

153. The failure of an eligible officer to apply for an office shall not debar the Commission from considering him for the appointment to the office.

Commission may consider eligible officers who fail to apply.
[282/1998].

154. (1) Subject to regulation 157, the Chief Fire Officer shall ensure that recommendations made in relation to an acting appointment are based on the criteria prescribed in regulation 158.

Criteria for acting appointment.
[282/1998].

(2) Where, in the exigencies of the Service it is not practicable to apply the principles prescribed in regulation 158, the fire officer selected for an acting appointment shall not be given any preference over other eligible officers for a substantive appointment.

155. (1) Subject to regulation 157, where an acting appointment falls to be made by the Commission, the Chief Fire Officer shall notify all eligible fire officers.

Officers to be informed of acting appointment.
[282/1998].

(2) For the purpose of subregulation (1), the notice may be in respect of an acting appointment which falls to be made within a period specified in the notice.

(3) The Chief Fire Officer shall allow a period of seven (7) days to elapse after the issue of the notice before forwarding any recommendations to the Director for the purpose of allowing the fire officers to make representations in respect of that acting appointment.

(4) Where representations are made to the Chief Fire Officer by or on behalf of a fire officer, the Chief Fire Officer shall forward the representations in their original form to the Director.

(5) When submitting recommendations to the Commission for an acting appointment to an office, the Chief Fire Officer shall advise the Commission of the reasons why an eligible fire officer who is more experienced than the recommended officer is being passed over.

Chief Fire Officer to submit recommendations in advance. [282/1998].

156. Except in very special circumstances or in cases of sudden illness, the Chief Fire Officer shall submit his recommendation for an acting appointment to an office no later than twenty-eight (28) days preceding the date on which the acting appointment is intended to become effective.

Acting appointment in special circumstances. [282/1998].

157. (1) Where an acting appointment falls to be made as a result of sudden illness or other special circumstances for a period not exceeding twenty-eight (28) days, the Commission may appoint, as a general rule, the most experienced eligible officer from within the Division in which the acting appointment is to be made.

(2) In making an acting appointment under subregulation (1) the Commission shall

- (a) examine whether the exigencies of the Service are best served by appointing an eligible fire officer from another Division to act when there is an eligible officer in the Division; and
- (b) take into account additional Government expenditure for travelling and subsistence allowances and other related expenses.

Criteria for promotion. [282/1998].

158. (1) In considering eligible fire officers for promotion, the Commission shall take into account the experience, educational qualifications, merit and ability, together with the relative efficiency of those fire officers.

(2) Where the Commission has to select an officer for promotion from officers who appear to be of equal merit, the Commission shall determine its selection on the basis of the relevant and relative experience of the officers.

(3) In the performance of its functions under subregulation (1), the Commission shall take into account as regards each fire officer—

- (a) his general fitness;
- (b) any special qualifications;

- (c) any special courses of training that he may have undergone (whether at the expense of Government or otherwise);
- (d) the evaluation of the officer's performance as reflected in his performance appraisal report;
- (e) any letters of commendation or special report in respect of any special work done by the fire officer;
- (f) the duties to be performed in the office of which the fire officer has experience;
- (g) demonstrated skills and ability relevant to the office;
- (h) any specific recommendation of the Permanent Secretary or Chief Fire Officer for the filling of the particular office;
- (i) any previous, relevant employment of his in the Service, the public service, or elsewhere;
- (j) any special report for which the Commission may call;
- (k) his devotion to duty.

159. The Chief Fire Officer or Permanent Secretary shall submit to the Director, a performance appraisal report in respect of each officer not later than the anniversary of the date of appointment of that officer to his substantive office or at a date the Commission directs.

Performance
appraisal
report.
[282/1998].

160. (1) Where a vacancy in an office occurs, the Chief Fire Officer shall, after taking into account the criteria specified in regulation 158, submit to the Commission—

Process of
promotion in
the Fire
Service
[282/1998].

- (a) a list of the eligible officers he recommends for promotion to an office; and
- (b) a list of the eligible officers who are not being considered for promotion who have—
 - (i) served in the lower office for a longer period than that served by the recommended eligible officer;

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- (ii) more experience than that of the recommended eligible officer in performing the duties of the office; or
- (iii) performed the duties of the office for a period of six (6) months or more.

(2) The Chief Fire Officer shall advise in writing an officer referred to in paragraph (b) of subregulation (1) of his being omitted from the list for promotion together with reasons.

(3) An officer who is advised under subregulation (2) may make representations to the Commission within seven (7) days of the date of that advice.

(4) The Commission may invite that officer for an interview on the basis of his representations.

(5) The Commission shall advise an officer making representations under this regulation of the outcome of his representations.

Transfer
[282:1998]

161. (1) Where the Commission transfers an officer, the Commission shall, except where the exigencies of the Service do not permit, notify the officer in writing of the transfer not less than thirty (30) days of the date of proposed assumption of duties in the Division to which he is transferred.

(2) An officer who is aggrieved by the transfer under subregulation (1) may make representations to the Commission for a review of the transfer in accordance with subregulation (3).

(3) Where an officer desires to make representations to the Commission for a review of the transfer under subregulation (1), he shall submit his representations in writing to the Chief Fire Officer within seven (7) days of the receipt of the notice of the transfer.

(4) The Chief Fire Officer shall, within seven (7) days, forward to the Commission any representations made to him in writing under subregulation (3), together with his comments.

(5) The Commission shall consider the representations of the officer and the comments of the Chief Fire Officer submitted to it under subregulations (3) and (4) respectively, and shall communicate its decision to both parties in writing.

(6) Subject to subregulation (7), notwithstanding that an officer in respect of whom a notice has been made under subregulation (1) has made representations under subregulations (2) and (3), the officer shall assume his duties on transfer pending the review of the transfer by the Commission.

(7) Where the transfer involves the exchange of officers in the same grade the officers affected by the transfer shall not assume their duties on transfer pending the review of the notice by the Commission.

***162.** (N.B.—*LN 282/1998 which amended the Regulations did not contain regulation 162.*)

PART III

CONFIRMATION

163. (1) The Commission, when confirming or terminating the appointment of an officer on probation, shall take into account the probation reports and the performance appraisal reports submitted to it by the Chief Fire Officer in accordance with the Fire Service (Terms and Conditions of Employment) Regulations.

*Confirmation or otherwise,
[282/1998]*

Sub. 1 reg.

(2) If, after considering the final probation report referred to in subregulation (1), the Commission is satisfied that the officer is a fit person to perform the duties of the office, the Commission shall confirm his appointment.

(3) Where a report referred to in subregulation (1) contains adverse comments on the performance of the officer, the Commission before terminating the appointment of the officer on probation shall consult with the officer who is the subject of the report.

*See Note on Page 5.

(4) The Commission may terminate an officer's first appointment on probation at any time during the probationary period referred to in the Fire Service (Terms and Conditions of Employment) Regulations, 1998 where it is satisfied that—

- (a) the person's performance of duty is not satisfactory for the purposes of confirmation; or
- (b) the person has not passed the medical examination in accordance with regulation 19(1) of the Fire Service (Terms and Conditions of Employment) Regulations, 1998.

(5) Where the Commission confirms the promotion of an officer in a higher office before he has completed the full period of probation in a lower office to which he has been appointed, the Commission shall confirm the officer in that lower office.

*PART IV

RESIGNATION, RETIREMENT

Resignation.
[282/1998].

163A. (1) Subject to subregulation (2), where an officer gives notice of his intention to resign in writing, the Commission shall accept his resignation notwithstanding that it may not comply with a lawful requirement relating to the period of notice, without prejudice to any regulation regarding the forfeiting of leave and the benefits and privileges accruing to that officer in respect of leave.

(2) An officer is not entitled to withdraw his notice of resignation before that resignation becomes effective but the Commission may accept the withdrawal if tendered in writing before the effective date of the resignation.

Removal on
abandonment.
267/1998,
[292/1998].

163B. (1) Where the Permanent Secretary advises the Commission in accordance with regulation 45(3) of the Fire Service (Terms and Conditions of Employment) Regulations, 1998 that an officer has abandoned his office, the Commission before declaring the officer to have resigned from office shall afford the officer reasonable opportunity to make representations regarding the declaration.

*See Note on Page 5.

(2) When the Commission declares an officer to have resigned his office under subregulation (1), that office shall immediately become vacant and the officer ceases to be an officer.

163C. The Commission shall retire an officer from the Service where that retirement conforms with any written law which permits or requires the officer to retire from the Service.

Retirement,
[282:1998].

163D. In any matter not referred to in these Regulations in their application to a fire officer, the Commission may issue instructions as to how the matter shall be dealt with and the matter shall be dealt with accordingly.

Commission
to issue
instructions on
matters not
dealt with in
Regulations as
fire officer.
[282:1998].

CHAPTER XIII

THE PRISON SERVICE

PART I

PRELIMINARY

164. In this Chapter—

Definitions.

“Act” means the Prison Service Act;

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“Commissioner” means the Commissioner of Prisons;

“prison officer” means a member of the Prison Service;

“Prison Service” or “Service” means the Prison Service established under the Act.

PART II

APPOINTMENTS, PROMOTIONS AND TRANSFERS

165. The Commission shall prescribe from time to time the form and manner in which

Commission to
determine form
of application.

(a) applications are to be made for appointment to the Prison Service;

(b) interviews are to be conducted for entry into the Prison Service.

*Application for
appointment of
Prison Officer I.
[198/1991].*

166. (1) Every application for appointment to the office of Prison Officer I shall be made in writing to the Director or by personal appearance in response to any advertisement issued by the Director through the press and radio, stating the place, date and time at which a candidate may present himself for selection.

(2) A Superintendent of Prisons shall make a preliminary selection of candidates who have the prescribed qualifications and may, for the purpose of making such selection, require enquiries to be made respecting the character of any candidate.

(3) A candidate selected under subregulation (2) shall be required to take such education test as may be prescribed, and if the candidate is successful he shall be required to pass a medical test.

(4) A candidate who qualifies for appointment to the office of Prison Officer I shall be interviewed by a Selection Board consisting of the Deputy Commissioner of Prisons, a Superintendent of Prisons other than the one referred to in subregulation (2) and the officer in charge of the Prison Service Training School.

(5) The candidates shall be placed in order of merit on the basis of the educational test and the interview.

*Appointment of
officer in senior
grade.*

167. (1) Every application for appointment to an office of Prison Assistant Superintendent and offices in higher grades shall be made in writing to the Director on the prescribed form.

(2) A candidate who has the prescribed qualifications may be selected for appointment to the office of Prison Superintendent, either from an office in a lower grade or on an open competitive basis prescribed by the Commission.

*Establishment
of Promotions
Advisory
Board.
[197/2000].*

168. (1) (a) A prison officer may apply to the Commission to be allowed to take the Promotion Examination for Prison Officer II when he has been in the Service for at least two years.

(b) A prison officer in a grade lower than that of Prison Assistant Superintendent who has passed an Examination

for Promotion to Prison Officer II may apply to the Commission to be allowed to take any promotion examination.

(c) A prison officer who is successful in a promotion examination may be considered for promotion in accordance with this regulation.

(2) The Commissioner of Prisons shall, after taking into account the criteria (specified in regulation 172), submit to the Commission a list of the Officers in the Second Division—

- (a) whom he considers suitable for promotion to an office; and
- (b) who are not being considered for promotion yet but who have served in the Service for a longer period in an office, or who have more experience in performing the duties of that office than the officers being recommended.

(3) The Commissioner shall also advise those officers referred to in subregulation 2(b) of their omission from the list for promotion, together with the reasons for such omission.

(4) An officer who is advised under subregulation 2(b) may make representations on his own behalf to the Commission within fourteen days of being so advised and the Commission may invite him for interview on the basis of his representations.

(5) The Commission shall advise those officers making representations under this regulation of the outcome of their representations.

(6) The Commission may, after considering all the representations made, endorse or otherwise, the recommendations of the Commissioner when promoting an officer.

169. (Revoked by LN 107/2000).

170. Whenever in the opinion of the Commission it is possible to do so and it is in the best interests of the Service, appointments shall be made from within the Service in accordance with these Regulations.

*Appointments
to be by
competition
within the
Prison Service.*

Advertisements
of vacancies.

171. Where the Commission considers either that there is no suitable candidate already in the Prison Service available for the filling of any vacancy or that having regard to qualifications, experience and merit it would be advantageous and in the best interest of the Service that the services of a person not already in the Service be secured, the Commission may authorise the advertisement of such vacancy.

Principles of
selection for
promotion.

172. (1) In considering the eligibility of prison officers for promotion, the Commission shall take into account the seniority, experience, educational qualifications, merit and ability, together with the relative efficiency of such prison officers and, in the event of an equality of efficiency of two or more prison officers, shall give consideration to the relative seniority of the prison officers available for promotion to the vacancy.

(2) In the performance of its functions under subregulation (1), the Commission shall take into account as regards each prison officer—

- (a) his general fitness;
- (b) his position on the seniority list and on the list of results of the promotion examinations;
- (c) any special qualifications;
- (d) any special courses of training that he may have undergone (whether at the expense of Government or otherwise);
- (e) an evaluation of the officer's overall performance as reflected in the annual staff reports;
- (f) any letters of commendation or special reports in respect of any special work done by the prison officer;
- (g) the duties of which he has had knowledge;
- (h) any specific recommendation of the Permanent Secretary for filling the particular office;
- (i) any previous employment of his in the Service or in the Public Service, or otherwise;

- (j) any special reports for which the Commission may call;
- (k) his devotion to duty.

173. (1) The Director shall keep up to date seniority lists of all prison officers.

Director and
Commissioner
to keep
seniority lists.

(2) The Commissioner shall ensure for purposes of making recommendations for promotion and acting appointments that up to date seniority lists are kept of all prison officers showing in respect of each officer the date of appointment to his present office, date of appointment to his previous office, and date of first appointment in the Service.

(3) The seniority of a prison officer shall be determined by the date of his appointment to the particular office in which he is serving. The seniority of prison officers promoted to the same office from the same date shall be in accordance with their seniority in their previous office.

(4) Where prison officers have entered the Service by competitive examination and are appointed to the same office with effect from the same date, their relative seniority shall be determined according to the order of merit in which they were placed in the examination and interview.

(5) Where any doubts arise with respect to the seniority of a prison officer, the Commission shall determine the seniority of such prison officer.

174. }
to } *(Revoked by LN 28/1991).*
176. }

177. Except in very special circumstances or in cases of sudden illness, the Commissioner shall submit, well in advance, recommendations for acting appointments to permit of their consideration by the Commission before the date on which the acting appointment is intended to become effective.

Commissioner
to submit
recommendations
in advance.

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Commissioner
to state reasons
for passing over
officers.

178. In submitting recommendations for acting appointments in any office, the Commissioner shall state the reasons why prison officers, if any, are being passed over.

Rule where
power to
appoint
delegated.

179. Where the Commission delegates its power to the Commissioner to appoint a prison officer to act in an office and such acting appointment falls to be made as a result of sudden illness or other very special circumstances for a period not likely to exceed twenty-eight days, the provisions of regulation 176 shall not apply.

PART III

DISCIPLINE

180.

181.

(Revoked by LN 28/1991).

Regulative.
3(1)

FIRST SCHEDULE

FORM 1

OATH OR AFFIRMATION OF OFFICE

I,
do swear/solemnly declare and affirm, that I will without fear, favour,
affection or ill-will, well and truly perform my duties in the office of
Chairman/member of the Public Service Commission in the exercise of the
powers vested in the Public Service Commission under the Constitution, and
that I will not directly or indirectly reveal any information to any unauthorised
person or otherwise than in the course of duty.

So help me God.

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

.....
Judge of High Court

FORM II

Regulation 3(2)

**OATH OR AFFIRMATION OF OFFICER OF
THE COMMISSION**

I
do swear/solemnly declare and affirm that I will not directly or indirectly reveal
to any unauthorised person or persons or otherwise than in the course of duty
any information in connection with the business of the Commission which may
come to my knowledge in the course of my duties as
Secretary/..... to the said Commission.

So help me God.

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

.....
Judge of High Court

NOTE ON SECOND SCHEDULE

Regulation 73 which dealt with the incurring of debts by an officer has been
revoked by LN 28/1991.

Regulation 73(2).

SECOND SCHEDULE*FORM 1****RETURN OF INDEBTEDNESS**

As at 20.....

Name:

Married/Single

Office held:

Number of dependants:

Ministry/Department:

Salary:

Salary after deductions:

TO WHOM INDEBTED		Reason for which debt was incurred	How secured	Terms of repayment	Amount now outstanding
Name	Date incurred				

Date 20

Signature

*(N.B.—See Note on Second Schedule at page 129).