

15. The Commission shall determine the procedure to be followed in dealing with applications for appointment to any judicial office including the proceedings of any selection board appointed by the Chairman to interview candidates. The Commission shall determine the forms to be used in connection with the discharge of its functions.

Procedure and forms

16. When a vacancy occurs or it is known that a vacancy will occur in any judicial office the responsible officer will report the fact to the Commission and-

Vacancies

- (a) if the responsible officer recommends that the vacancy should be filled by the appointment or promotion of a serving judicial officer he will so inform the Commission;
- (b) if the responsible officer is unable to recommend the promotion of a serving officer to fill a vacancy he shall inform the Commission of the names of the judicial officers serving in the particular grade or cadre from which the promotion would normally be made, and state his reasons why he does not consider the officers named suitable for promotion to the vacant post;
- (c) if the responsible officer recommends that applications to fill the vacancy should be invited from serving officers or from both serving officers and the general public he will attach to his report a draft advertisement setting out details of the vacant post and the duties and qualifications attached to it;
- (d) if the responsible officer is unable to recommend that the vacancy should be filled immediately he will so inform the Commission and state his reasons therefor.

17. Where a vacancy is to be filled on the successful completion of a course of study or training designed to qualify a candidate for appointment to the judicial service the Commission may make such arrangements as it considers appropriate.

Vacancies to be filled after course of study

18. If the responsible officer is informed that the Commission has decided that a particular vacancy should be filled by recruitment from outside Zambia, he shall prepare an indent on the appropriate form and submit it to the Permanent Secretary (Establishment) who will be responsible for verifying the particulars contained therein.

Recruitment outside Zambia

(As amended by No. 186 of 1967)

19. No appointment to the judicial service may be made before the Commission has determined the suitability of the candidate concerned. The secretary will inform the Permanent Secretary of appointments authorised by the Commission and the Permanent Secretary (Establishment) will advise the secretary of the initial rate of salary to be paid to the officers appointed.

Appointments

(As amended by No. 186 of 1967)

20. (1) Where a judicial officer holds a probationary appointment, three months before the expiration of the period of such probationary appointment, the responsible officer shall consider-

Probationary appointments

- (a) whether such officer should on such expiration be confirmed in a pensionable post;

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- (b) whether a further period of probationary service is necessary to determine whether such officer should be so confirmed; or
- (c) whether such officer should not remain in the service.

(2) If after consideration of the matters referred to in sub-regulation (1), the responsible officer is of the opinion that a judicial officer in a probationary appointment should be confirmed in a pensionable appointment the responsible officer, as soon as may be before the expiration of the period of probationary appointment, shall forward a recommendation that the officer be confirmed to the Commission.

(3) If after consideration of the matters referred to in sub-regulation (1), the responsible officer is of the opinion that the work or conduct of a judicial officer in a probationary appointment has not been in all respects satisfactory, he shall so inform the officer in writing and indicate whether he proposes to recommend-

- (a) an extension of the officer's probationary service to show whether he can overcome the defects noted; or
- (b) that the officer's probationary appointment should be terminated.

(4) The responsible officer shall, when giving to a judicial officer the information mentioned in sub-regulation (3), ask the officer if he has any representations to make, within a period to be appointed by the responsible officer, on the recommendations proposed. On the expiration of the period allowed to the officer to make any representations, the responsible officer shall forward a report on the officer, together with a copy of the letter to the officer and of the latter's representations, if any, his comments thereon and a recommendation whether the period of probationary service should be extended or that the officer should not remain in the service, to the Commission.

(5) Where a judicial officer holds a probationary appointment and the responsible officer at any time during the period of such probationary appointment is of the opinion that such appointment should be terminated forthwith on the grounds of general unsuitability which renders the officer unlikely to justify confirmation in a pensionable office, the procedure prescribed in sub-regulations (3) and (4) shall be followed.

(6) An offence or offences against discipline committed by an officer to whom this regulation applies, or the conviction of such an officer on a criminal charge, shall be dealt with in accordance with Part IV.

(As amended by No. 186 of 1967)

21. (1) The responsible officer shall, not later than six months before a judicial officer serving in his Ministry attains pensionable age, notify such judicial officer and the Commission of his impending date of retirement.

Retirement on
attaining pensionable
age
Cap. 410

(As amended by S.I. No. 4 of 1988)

22. (1) Not later than two months before a judicial officer is due to pass a promotion bar, a promotion bar certificate, in the approved form, will be forwarded by the responsible officer to the Commission.

Promotion bars

(2) If the responsible officer does not recommend that the officer should pass the promotion bar he shall so inform the officer, indicating the reasons therefor, and ask the judicial officer if he has any representations to make within a period to be appointed by the responsible officer. At the expiration of such period, the responsible officer shall forward a copy of his letter to the officer and the latter's representations, if any, and his comments thereon, together with the promotion bar certificate to the Commission.

(As amended by No. 186 of 1967)

23. If upon consideration of a recommendation made by the responsible officer under the provisions of regulation 21 or 22 that a judicial officer should be confirmed in a pensionable post or permitted to pass a promotion bar, as the case may be, the Commission is of the opinion that it requires further information, it may refer the matter back to the responsible officer for a further report.

Further report

24. (1) Where a judicial officer is serving on agreement for a specified period of service and the responsible officer desires to retain his services for a further tour of service, then, not later than thirty-three months after the officer's first day of resident service or three months before the judicial officer's last day of duty, whichever is the earlier, the responsible officer will invite the Judicial officer in writing either, if the judicial officer be so eligible, to apply for admission to the permanent and pensionable establishment or, if the judicial officer is ineligible for admission to the permanent and pensionable establishment, to apply to be engaged for a further period of service. If the judicial officer states either that he does not wish to be admitted to the permanent and pensionable establishment or to be engaged for a further period of service, no further action will be necessary. If the officer duly applies either to be admitted to the permanent and pensionable establishment or to be engaged for a further period of service, the responsible officer will forward to the Commission the officer's application together with his recommendation.

Renewal of agreements and admission to the permanent and pensionable establishment

(2) Where a judicial officer is serving on agreement for a specified period of service and the responsible officer does not wish to retain his services for a further period of service, then the responsible officer will so inform the judicial officer in writing not later than five months before the officer's last day of duty and ask the judicial officer if he has any representations to make within a period to be appointed by the responsible officer. If the judicial officer does not wish to make any representations or states that he does not wish to be engaged for a further period of service, no further action will be necessary. If the judicial officer does make any representations, the responsible officer will forward a full statement of reasons for recommending that the judicial officer should not be engaged for further service together with a copy of his letter to the judicial officer and the latter's representations, and his comments thereon, to the Commission.

(As amended by No. 186 of 1967 and S.I. No. 72 of 1980)

PART IV

DISCIPLINE

25. (1) If proceedings for dismissal are being taken or are about to be taken or if criminal proceedings are being instituted against a judicial officer the responsible officer may, if he considers that the public interest requires that the judicial officer should cease to exercise the powers and functions of his office, suspend the judicial officer from the exercise of those powers and functions. Suspension

(2) A judicial officer who is suspended shall receive such salary, not being less than half his salary, as the responsible officer shall think fit.

(3) Where disciplinary or criminal proceedings have been taken or instituted against a judicial officer under suspension and such judicial officer is not dismissed or, as the case may be, convicted as a result of such proceedings, the whole of any salary withheld under the provisions of subregulation (2) shall be restored to him upon the termination of such proceedings. If the judicial officer is not dismissed or convicted but is subjected to some lesser punishment, he may be refunded such proportion of the emoluments withheld as the result of his suspension as the Commission shall think fit.

(4) A judicial officer who is under suspension may not leave Zambia without the permission of the responsible officer.

(5) In this regulation-

"criminal proceedings" include investigations into malpractices and embezzlement of public funds;

"salary" means basic salary and, in the case of a judicial officer in receipt of overseas addition to salary or inducement pay, such overseas addition to salary or inducement pay as the case may be.

26. (1) Where, as a result of criminal proceedings, a judicial officer is convicted of an offence likely to warrant disciplinary proceedings for his dismissal, the responsible officer shall direct that the salary of such judicial officer be withheld as from the date of his conviction pending the determination of such disciplinary proceedings. Procedure following criminal conviction or absence from duty without leave or detention

(2) Where disciplinary proceedings instituted against a judicial officer convicted of a criminal offence do not result in his dismissal he shall be paid such proportion of his salary withheld under sub-regulation (1) as the Commission may direct.

(3) Where a judicial officer absents himself from duty without leave for more than ten days or where he is detained under the Preservation of Public Security Act, he shall be suspended from duty forthwith by the responsible officer who shall direct that the salary of such judicial officer be withheld as from the date of his suspension from duty pending the determination of disciplinary proceedings.

Cap. 106

(4) Subject to the provisions of this regulation, the suspension of a judicial officer shall have effect during such period, and in accordance with such conditions, as the Commission shall specify by notice in writing to such judicial officer.

Provided that, where it appears expedient, the Commission may at any time during such period abridge or extend such period by further notice in writing to such judicial officer.

(As amended by S.I. No. 72 of 1980)

27. If criminal proceedings of a nature likely to warrant disciplinary proceedings are instituted against a judicial officer in any court, the responsible officer shall forthwith report the facts together with a statement as to whether the judicial officer has or has not been suspended from the exercise of his powers and functions to the Commission and the Permanent Secretary (Establishment). No proceedings for the dismissal of such a judicial officer upon any grounds involved in a criminal charge shall be taken until the conclusion of the criminal proceedings and the determination of any appeal therefrom.

Report of institution of criminal proceedings

(As amended by S.I. No. 72 of 1980)

28. A judicial officer acquitted of a criminal charge in any court shall not be dismissed or otherwise punished on any charge upon which he has been acquitted, but noting in this regulation shall prevent his being dismissed or otherwise punished on any other charges arising out of his conduct in the matter, unless the charges raise substantially the same issue as those on which he has been acquitted.

Proceedings after acquittal on criminal charges

29. If it comes to the notice of the responsible officer that a criminal offence likely to warrant disciplinary proceedings may have been committed by a judicial officer, the responsible officer shall consult the Director of Public Prosecutions as to whether criminal proceedings are being instituted against the judicial officer. If criminal proceedings are not being instituted, the responsible officer shall consider whether disciplinary action should be taken under the provisions of this Part. If the responsible officer considers that disciplinary action should be taken against the judicial officer the procedure prescribed in regulation 31, 32 or 35, as may be appropriate, shall be followed.

Procedure when criminal offence may have been committed

(As amended by No. 192 of 1965 and S.I. No. 72 of 1980)

30. Where proceedings have been completed against a judicial officer under the provisions of this Part, such judicial officer shall be informed-

Decision in disciplinary proceedings to be communicated to officer concerned

- (a) of the decision but not of the reasons therefor, on each charge which has been preferred against him; and
- (b) of the penalty (if any) or other punishment to be imposed.

(As amended by S.I. No. 72 of 1980)

31. (1) When the responsible officer considers it necessary to institute disciplinary proceedings against any judicial officer on the grounds of misconduct which, if proved, would, in the opinion of the responsible officer, justify dismissal from the judicial service, he shall after such preliminary investigation as he considers necessary and after consulting the Director of Public Prosecutions as to the terms of the charge or charges, forward to the judicial a statement of the charge or charges framed against him together with a brief statement of the allegations, in so far as they are not clear from the charges themselves, on which each charge is based, and call upon such judicial officer to state in writing before a day to be specified by the responsible officer any grounds on which he relies to exculpate himself.

Misconduct not
justifying dismissal

(2) The responsible officer shall forward his report, the statement of the charge or charges, the reply, if any, of the accused judicial officer and his own comments thereon to the Commission.

(3) If, upon consideration of the report of the responsible officer, the Commission is of the opinion that proceedings for the dismissal of the judicial officer should be continued, it shall inquire into the matter.

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

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

(6) The Commission may, in its discretion, permit the prosecuting party or the accused judicial officer to be represented by a public officer or a legal practitioner:

Provided that where the Commission permits the prosecuting party to be so represented it shall permit the accused judicial officer to be represented in a similar manner.

(7) If during the course of the inquiry grounds for the framing of additional charges are disclosed, the Commission shall so inform the responsible officer who shall follow the same procedure as was adopted in framing the original charge or charges.

(8) The Commission shall decide whether the charge or charges preferred have been proved against the accused judicial officer beyond a reasonable doubt. If so, the Commission shall convict him and may impose one or more of the prescribed punishments (including retirement from the service under regulation 33) upon the judicial officer.

(9) The Commission, having inquired into the matter, shall prepare a report thereon with the record of the charges preferred, the evidence led, the defence and other matters relevant to the inquiry. The report of the Commission shall contain the point or points for determination, the decision thereon, the reasons for such decision and, in the case of conviction, shall specify the charges proved and the punishment imposed.

*(As amended by No. 192 of 1965 and No. 186 of 1967
and S.I. No. 72 of 1980)*

32. (1) Whenever the responsible officer considers it necessary to institute proceedings against judicial officer but is of the opinion that the misconduct alleged, if proved, would not be serious enough to warrant dismissal under the provisions of regulation 31 but would be sufficiently serious to warrant a more severe punishment than the withholding of increment under the provisions of regulation 35 he shall, after such preliminary investigation and such consultation with the Director of Public Prosecutions as he may consider necessary, forward to the judicial officer a statement of the charge or charges against him and he shall call upon him to state in writing before a day to be specified by the responsible officer any grounds on which he relies to exculpate himself.

Misconduct not
justifying dismissal

(2) The responsible officer shall forward his report, the statement of the charge or charges, the reply, if any, of the accused judicial officer and his own comments thereon to the Commission.

(3) If, upon consideration of the report of the responsible officer, including the grounds, if any, upon which the accused judicial officer relies to exculpate himself, the Commission is of the opinion that no further investigation is necessary, it may forthwith determine the punishment, if any (other than dismissal), which should be imposed on such judicial officer.

(4) If, upon consideration of the report of the responsible officer, including the grounds, if any, upon which the accused judicial officer relies to exculpate himself, the Commission is of the opinion that the matter should be further investigated, the Commission shall inquire into the matter.

(5) The inquiry shall be conducted in accordance with the provisions of sub-regulations (4) to (9) inclusive of regulation 31.

(6) The Commission shall determine the punishment, if any (other than dismissal), to be imposed on the judicial officer:

Provided that, where the procedure prescribed in sub-regulation (5) has been followed the Commission shall determine whether the judicial officer be dismissed or subjected to some lesser disciplinary punishment or retired from the judicial service.

*(As amended by No. 192 of 1965, and No. 186 of 1967
and S.I. No. 72 of 1980)*

(1) Notwithstanding the provisions of these Regulations, if the responsible officer considers that a judicial officer should be retired at an earlier age than the age specified by pension laws relating to his particular service on the grounds of-

- (a) failure to perform his duties;
- (b) incompetent performance of his duties;
- (c) any other disciplinary offence;

he shall inform such judicial officer and allow him an opportunity, within a reasonable period to be determined by the responsible officer, of showing cause why he should not be retired from the judicial service.

(2) If, on the expiration of the period allowed to the judicial officer to show cause why he should not be retired from the judicial service, the responsible officer, after considering the statement of the judicial officer, if any, and having regard to all the circumstances of the case, is of the opinion, that such judicial officer should be retired in the public interest and receive his retirement benefits, he shall forward his findings and the statements of the judicial officer to the Commission for a determination.

(3) If, upon consideration of the report made by the responsible officer in pursuance of sub-regulation (2), the Commission is of the opinion that the facts disclosed warrant the dismissal of the judicial officer or the imposition of some lesser penalty than dismissal, the Commission shall determine whether the judicial officer be dismissed or subjected to some lesser disciplinary punishment or retired from the judicial service, without any of the proceedings prescribed in regulation 31 or 32 being instituted.

(As amended by S.I. No. 72 of 1980 and 4 of 1988)

33A. The Commission may on the recommendation of the responsible officer, retire an officer in the judicial service on the abolition of his office to effect greater efficiency or economy in the Ministry or Province to which he belongs.

Retirement on abolition of office to effect greater efficiency or economy

(As amended by S.I. No. 4 of 1988)

33B. On the recommendation of the responsible officer, the Commission may retire an officer in the judicial service on sufficient medical evidence that the officer is incapable by reason of some infirmity of body or mind of discharging the duties of his office and that such an infirmity is likely to be of long standing.

Retirement on medical grounds

(As amended by S.I. No. 4 of 1988)

33C. (1) The Commission may retire an officer in the judicial service in the national interest.

Retirement in national interest

(2) Retirement in the national interest shall be limited to cases where an officer has to relinquish his appointment at the instance of the Government either to take up another appointment outside the judicial service or for other reasons of Government policy.

(As amended by S.I. No. 4 of 1988)

34. If a judicial officer is adjudged guilty in any court of a criminal charge likely to warrant disciplinary proceedings, the responsible officer shall forward a copy of the charge and of the judgment (and of the record of the court if available) to the Commission. The Commission shall determine whether the officer be dismissed or subjected to some lesser disciplinary punishment on account of the conviction for the offence of which he has been adjudged guilty, without any of the proceedings prescribed on regulation 21, 32 or 33 being instituted.

Procedure on criminal conviction

(As amended by No. 186 of 1967)

35. (1) Whenever the responsible officer is unable to certify on the increment warrant of a judicial officer that the judicial officer has discharged his duties with efficiency, diligence and fidelity he shall, not less than one month before the increment is due, forward a report on the reasons that prevent his so certifying to the Commission.

The withholding and restoration of increments

(2) If, upon consideration of the report of the responsible officer, the Commission is of the opinion that no further investigation is necessary it may forthwith determine that the increment be withheld.

(3) If, upon consideration of the report of the responsible officer, the Commission is of the opinion that the matter should be further investigated or that it appears that a punishment more severe than the withholding of the increment may be more appropriate, it shall direct that the procedure prescribed in regulation 31 or 32 shall be followed.

(4) When the increment of a judicial officer has been withheld and the responsible officer is of the opinion that the judicial officer should be permitted to resume incremental progress with effect from the due date, he shall forward a report to the Commission for decision.

(5) If, upon consideration of the report of the responsible officer, the Commission is not satisfied that the increment should be so restored it shall so direct.

(As amended by No. 186 of 1967)

36. The Commission may impose one or more of the following punishments upon any judicial officer as a result of proceedings under the provisions of this Part, that is to say:

Punishments which the Commission may impose

- (a) dismissal or retirement in the public interest under regulation 33;
- (b) reduction in salary;
- (c) deferment of increment;
- (d) stoppage of increment;
- (e) withholding of increment;
- (f) fine, subject to the amount not exceeding five days' pay in one month or seven days' pay in two consecutive months;
- (g) severe reprimand;
- (h) reprimand;
- (j) the payment of the cost, or part of the cost, of any loss or damage caused by default or negligence.

(As amended by No. 186 of 1967 and S.I. No. 4 of 1988)

37. If the responsible officer considers that the conduct of a judicial officer who is serving on contract or agreement (including an agreement for temporary service) is unsatisfactory, he shall report the matter to the Commission which shall determine the action (if any) to be taken regarding the judicial officer in respect of whom the report has been made. But nothing in this regulation shall affect the right to terminate any contract or agreement in accordance with a term or condition contained therein.

Report of unsatisfactory conduct of officer serving on agreement

(As amended by No. 186 of 1967)

37A. If the responsible officer is of the opinion that a judicial officer has been repeatedly so reckless or negligent in the performance of his duties or is manifestly so incompetent that his further continuance as a judicial officer would be inimical to the public interest, the responsible officer shall request in writing the immediate supervising officer of the judicial officer and also such one of the judges as has had occasion to sit in appeal or revision over the judgments passed or orders made by the judicial officer, to make a report on the work and competence of the judicial officer, and the responsible officer shall submit such reports together with his comment thereon to the Commission, whereupon the Commission may, notwithstanding anything to the contrary contained in these Regulations, direct that the judicial officer shall without any further proceedings be removed from his post or make such other order as it thinks proper in the circumstances of the case.

Removal of judicial officer for incompetence or negligence

(As amended by S.I. No. 72 of 1980)

38. Where under the provisions of these Regulations-

Service of agreements

- (a) it is necessary either-
 - (i) to serve any notice, charge or other document upon a judicial officer; or

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- (ii) to communicate any information to any judicial officer by reason of such judicial officer having absented himself from duty; and
- (b) it is not possible to effect such service upon or communicate such information to such judicial officer personally;

it shall be sufficient if such notice, charge or other document or a letter containing such information, be served upon such judicial officer by his post to his last known address.

PART V

MISCELLANEOUS

39. Any person who submits any matter for the consideration of the Commission shall ensure that all relevant documents and papers are made available to the Commission; and the Commission may require the production of any further documents or information relevant to the matter under consideration. Production of relevant documents, etc.

40. All correspondence for the Commission from the responsible officer and other persons shall be addressed to the secretary unless otherwise provided by these Regulations. Correspondence

41. Any case not covered by these Regulations shall be reported to the Commission and the Commission shall determine the procedure to be adopted. Cases not otherwise provided for

THE PUBLIC SERVICE COMMISSION (DELEGATION) DIRECTIONS

DIRECTIONS BY THE PUBLIC SERVICE COMMISSION

*Statutory Instrument
4 of 1981
70 of 1984*

PART I

PRELIMINARY

1. These Directions may be cited as the Public Service Commission (Delegation) Directions. Title

2. In these Directions, unless the context otherwise requires- Interpretation

"Commission", "Head of Department", "salary" and "secretary" shall have the meaning assigned thereto by regulation 2 of the Regulations;

"the Regulations" means the Public Service Commission Regulations;

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"responsible officer" shall have the meaning assigned thereto by regulation 2 of the Regulations and shall include the District Executive Secretary as defined under section *two* of the Local Government Act; Cap. 281

"scheduled post" means any post carrying a salary in Division II or III in the Public Service;

"supervising officer" means the public officer under whose direct control a Division II or III officer is employed.

PART II

GENERAL

3. The exercise of the functions of the Commission under the Service Commission Act is hereby delegated in the manner specified in these Directions. Delegation Cap. 259

PART III

APPOINTMENTS, CONFIRMATION OF APPOINTMENTS, PROMOTIONS
AND TERMINATION OF APPOINTMENTS OTHERWISE THAN BY DISCIPLINARY
PROCEEDINGS

4. (1) A responsible officer or Head of Department may make a temporary appointment for a period not exceeding three months to a post which is vacant in Division II or III. Appointments

(2) If the responsible officer intends that a temporary appointment to a vacant post in Division II or III should continue for a period exceeding three months then, not later than two months after the effective date of the appointment, he shall forward details of the officer so appointed and the reasons for such temporary appointment to the Permanent Secretary (Establishment Division) with a recommendation regarding the length of time during which the temporary appointment will be required.

(3) If the responsible officer intends that an officer appointed temporarily to a vacant post in Division II or III be subsequently appointed on probation, he shall forward details of the officer to the Permanent Secretary (Establishment Division) who may-

(a) in the case of Division II officer submit the details with his comments to the Commission for consideration;

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- (b) in the case of Division III officer determine whether such officer be appointed on probation.

(4) Notwithstanding the provisions of sub-paragraphs (1) to (3)-

- (a) the Commission may make appointment to any vacant post in Division II or III reported in accordance with regulation 21 of the Regulations;
- (b) a Division II or III officer who is appointed under the provisions of sub-paragraphs (1) and (2) of Direction 4 and who has successfully completed a pre-appointment course of two years or more will be paid the basic salary of the post to which he is so appointed and may be required, if eligible, to pay pension contributions pending ratification of his appointment on probation by the Commission, or the Permanent Secretary (Establishment Division), as the case may be.

5. (1) The provisions of sub-regulations (1) to (6) of regulation 25 of the Regulations shall apply *mutatis mutandis* to a scheduled officer who holds a probationary appointment except that- Probationary appointments

- (a) the Permanent Secretary (Establishment Division) may confirm such an officer in his appointment;
- (b) a responsible officer may extend the period of such an officer's probationary service or terminate such an officer's probationary appointment.

(2) An offence against discipline committed by a Division II or III officer who is serving on probation, or the conviction of such an officer on a criminal charge, shall be dealt with in accordance with Part IV.

6. (1) A responsible officer may transfer or promote a scheduled officer to any vacant post in Division II or III and shall inform the Permanent Secretary (Establishment Division) of such transfer or promotion and of the effective date thereof: Transfers and promotions

Provided that in any such case the responsible officer shall take into account qualifications, experience and merit as well as seniority.

(2) The Commission may give such orders as it may deem fit if it is of the opinion that the transfer or promotion authorised in accordance with sub-paragraph (1) of this direction would be-

- (a) detrimental to the discipline of the service of which the officer is a member;

- (b) contrary to public interest.

PART IV

DISCIPLINE

DIVISION II OR III OFFICERS

7. The provisions of regulations 32, 33 and 34 of the Regulations shall apply to the suspension of a Division II or III officer or disciplinary proceedings pending determination of criminal proceedings including withholding of salary following criminal conviction.
- Suspension of officer or disciplinary proceedings pending determination of criminal proceedings
8. The provisions of regulation 36 of the Regulations shall apply to proceedings taken against a Division II or III officer who has been acquitted of a criminal charge.
- Proceedings after acquittal on criminal charges
9. If it comes to the notice of a responsible officer that a criminal offence likely to warrant disciplinary proceedings may have been committed by a Division II or III officer, the responsible officer shall consult the Director of Public Prosecutions as to whether criminal proceedings are being instituted against the officer. If criminal proceedings are not being instituted, the responsible officer shall consider whether disciplinary action should be taken under the provisions of this Part. If the responsible officer considers that disciplinary action should be taken against the officer, the procedure in direction 10 shall be followed.
- Procedure when criminal offence may have been committed
10. (1) When a responsible officer considers it necessary to institute disciplinary proceedings against a Division II or III officer and is of the opinion that the misconduct alleged, if proved, would be sufficiently serious to warrant a more serious punishment than a reprimand or the withholding of the officer's increment, he shall inform the officer in writing of the allegations against him and shall call upon him to state, in writing, within a period to be appointed by the responsible officer, any grounds on which he relies to exculpate himself.
- Disciplinary procedure
- (2) Upon consideration of the accused officer's exculpatory statement, and after such further investigation as he may consider necessary, the responsible officer may, subject to the provisions of paragraph (1) (b) of direction 15, forthwith determine the punishment, if any, which should be imposed on such accused officer.

(3) If, upon consideration of the accused officer's exculpatory statement, the responsible officer is of the opinion that a punishment more severe than is within his powers to impose is warranted, he shall forward to the Permanent Secretary (Establishment Division) his report, a copy of the letter to the accused officer informing him of the allegations against him, the reply, if any, of the accused officer, and his own comments thereon.

(4) If, upon consideration of the report of the responsible officer, including the grounds, if any, upon which the accused officer relies to exculpate himself, the Permanent Secretary (Establishment Division) is of the opinion that no further investigation is necessary, he may forthwith determine the punishment, if any, to be imposed on the accused officer.

(5) If, upon consideration of the report of the responsible officer, including the grounds, if any, upon which the accused officer relies to exculpate himself, the Permanent Secretary (Establishment Division) is of the opinion that the matter should be further investigated, he may determine the form of such further investigation and, on the conclusion to his satisfaction of such further investigation, he may determine the punishment, if any, to be imposed on the accused officer.

11. (1) If a Division II or III officer is adjudged guilty in any court of a criminal charge likely to warrant disciplinary proceedings against him, the responsible officer may impose any punishment (within his powers to impose) after consideration of the charge and of the judgment (and of the record of the court if available) without the procedure prescribed in direction 10 being followed.

Procedure on criminal conviction

(2) If, upon consideration of the charge and of the judgment, the responsible officer is of the opinion that a punishment more severe than is within his powers to impose is warranted, he shall forward a copy of the charge and of the judgment (and of the record of the court if available) to the Permanent Secretary (Establishment Division) who may determine the punishment, if any, to be imposed on the accused officer without the procedure prescribed in direction 10 being followed.

12. Where proceedings have been taken against a Division II or III officer under the provisions of this Part, such officer shall be informed-

Decision in disciplinary proceedings to be communicated to officer concerned

- (a) of the decision, but not of the reasons therefor, on each of the allegations made against him; and
- (b) of the penalty (if any) or other punishment to be imposed; and
- (c) if the officer is to be dismissed or discharged or reduced in rank or seniority, of his right to appeal to the Commission against the imposition of that punishment within twenty-one days of the notification to him of the punishment imposed.

13. (1) Every appeal under the provisions of paragraph (c) of direction 12 shall be submitted by the appellant to the responsible officer who shall forward it with his own comments thereon as soon as practicable to the Permanent Secretary (Establishment Division), who shall in turn refer the matter to the Secretary for a decision by the Commission.

Appeals

(2) A responsible officer or Head of Department or supervising officer who, without reasonable cause neglects or fails to submit an appeal in accordance with sub-paragraph (1) shall be guilty of misconduct warranting a severe punishment (including dismissal).

14. (*Revoked by S.I. No. 70 of 1984*)

15. (1) The power to impose punishment is vested in the public officers named and to the extent herein specified- Who may impose punishment

- (a) the Permanent Secretary (Establishment Division) may impose any such punishment on any scheduled officer:

Provided that the Permanent Secretary (Establishment Division) shall consult the Secretary to the Cabinet before exercising the powers to dismiss or discharge an officer who holds a pensionable appointment in Division II or III in the public service;

- (b) the responsible officer may impose any such punishment on any Division II or III officer other than dismissal or discharge of an officer who has been confirmed in his appointment;
- (c) the Head of Department may, subject to review and confirmation by the appropriate responsible officer, impose any punishment on any Division II or III officer other than dismissal or discharge or reduction in rank or seniority;
- (d) the supervising officer may impose a reprimand on any Division III officer.

(2) The responsible officer shall report to the Permanent Secretary (Establishment Division) the imposition of any punishment on a Division II or III officer under the provisions of sub-paragraphs (b), (c) and (d) of paragraph (1).

PART V

PUBLIC OFFICERS IN DIVISION II OR III

16. (1) The provisions of this Part shall apply only in respect of public officers holding a post in Division II or III of the public service. Application

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(2) Except as provided in this Part, the Regulations shall continue to apply to and in respect of a public officer holding a post in Division II or III of the public service.

(As amended by S.I. No. 70 of 1984)

17. In this Part, unless the context otherwise requires-

Interpretation

"Head of Department" shall have the meaning assigned thereto by regulation 2 of the Regulations;

"specified officer" means a public officer holding a specified post;

"specified post" means a post in Division II or III of the public service.

(As amended by S.I. No. 70 of 1984)

18. (1) A responsible officer or Head of Department may make a temporary appointment for a period not exceeding six months to a specified post which is vacant.

Temporary appointments

(2) If the responsible officer intends that an officer appointed under sub-paragraph (1) should be appointed on probation, he shall forward particulars of the officer to the Permanent Secretary (Establishment Division) who may-

(a) in the case of an officer in Division II, submit the particulars with his comments to the Commission for consideration.

(b) in the case of an officer in Division III, determine whether or not such officer should be appointed on probation.

(3) Notwithstanding the provisions of sub-paragraphs (1) and (2), the Commission may make appointment to any specified post reported vacant in accordance with regulation 21 of the Regulations.

(As amended by S.I. No. 70 of 1984)

19. Where recommendations under regulation 25 of the Regulations are received by the Permanent Secretary (Establishment Division), he may, in the case of a probationary appointment in Division III, without reference to the Commission-

Probationary appointment of Division III officers

(a) confirm the appointment of the officer on permanent and pensionable terms;

(b) extend the probationary period by not more than six months; or

(c) terminate the probationary appointment;

and shall inform the Commission of his decision in each such case.

(As amended by S.I. No. 70 of 1984)

20. (1) A responsible officer may, after taking into consideration relevant factors such as qualifications, experience, merit, seniority, etc., promote a specified officer to any specified post, and shall inform the Commission, through the Permanent Secretary (Establishment Division), of such promotion and of the effective date thereof.

Promotions and transfers

(2) A responsible officer may, after taking into consideration the circumstances of the case, transfer a specified officer, and shall inform the Commission, through the Permanent Secretary (Establishment Division), of such transfer and of the effective date thereof:

Provided that in considering any transfer the exigencies of the service shall prevail over any considerations relating to the individual interests of the officer.

(3) The Commission may, on its own or upon representation made to it, give such directions as it thinks fit if it is satisfied that a promotion under sub-paragraph (1) or a transfer under sub-paragraph (2) is or is likely to be-

(a) detrimental to the discipline in the service; or

(b) contrary to public interest.

(As amended by S.I. No. 70 of 1984)

THE POLICE AND PRISON SERVICE COMMISSION (DELEGATION) DIRECTIONS

Statutory Instrument
79 of 1988

Directions made with the consent of the President

PART I

PRELIMINARY

1. These Directions, may be cited as the Police and Prison Service Commission (Delegation) Directions.

Title

2. In these Directions, unless the context otherwise requires-

Interpretation

"Commission", "Force", "Inspector-General", "Officer", "Responsible Officer", "Secretary", shall have the meaning assigned thereto by regulation 2 of the Regulations;

S.I. No. 65 of 1976

"the Regulations" means the Police and Prison Service Commission Regulations.

PART II

GENERAL

3. The exercise of functions of the Commission under the Constitution is hereby delegated in the manner specified in these Directions

Delegation

PART III

APPOINTMENTS AND PROMOTIONS

4. (1) The Inspector-General of Police or the Commissioner of Prisons, as the case may be, shall appoint any person on probation to any post of, and below the rank of Chief Inspector in case of the Inspector-General, an Assistant Superintendent in case of the Commissioner of Prisons, and shall inform the responsible officer and secretary accordingly.

Appointments

(2) The Inspector-General of police or the Commissioner of Prisons, as the case may be, may make a temporary appointment for a period not exceeding six months to a post which is vacant at the levels of, and below, the rank of Chief Inspector in case of the Inspector-General, and Assistant Superintendent in case of the Commissioner of Prisons, and shall inform the responsible officer and the secretary accordingly.

5. (1) A responsible officer, the Inspector-General or the Commissioner of Prisons, as the case may be, may transfer or promote any serving officer to any post of and below, the rank of Chief Inspector in case of the Inspector-General, and Assistant Superintendent in case of the Commissioner of Prisons:

Provided that in any case of appointment and promotion the responsible officer, Inspector-General or Commissioner of Prisons, as the case may be, shall take into account relevant qualifications, competence, experience and merit as well as good conduct.

(2) A responsible officer, the Inspector-General or the Commissioner of Prisons, as the case may be, may transfer, in cases of emergency or extreme urgency, any officer of and below the rank of Deputy Commissioner in case of the Inspector General and Assistant Commissioner of Prisons in case of the Commissioner of Prisons, provided that he immediately informs the secretary of the urgent nature of each such transfer.

THE PUBLIC SERVICE COMMISSION REGULATIONS

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FIRST SCHEDULE-Responsible officers in certain cases

SECOND SCHEDULE-Oath of member of Commission

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THE PUBLIC SERVICE COMMISSION REGULATIONS

Regulations made by the Public Service Commission, with the consent of the President, and continued in force by virtue of Section 15 of the Interpretation and General Provisions Act.

Statutory Instruments

319 of 1965
256 of 1966
200 of 1968
307 of 1968
394 of 1969
227 of 1970
70 of 1971
250 of 1973
4 of 1981
70 of 1984
86 of 1984
91 of 1987
Cap. 2

PART I

PRELIMINARY

1. These Regulations may be cited as the Public Service Commission Regulations. Title
2. In these Regulations, unless the context otherwise requires- Interpretation

"basic salary" means the salary payable to an officer exclusive of any inducement allowance, personal allowance or other allowance or any direct payments made under assistance schemes;

"Chairman" means the Chairman of the Commission or any other person appointed to act as Chairman of the Commission under the provisions of the Service Commissions Act. Cap. 259

The Laws of Zambia

"Commission" means the Public Service Commission established by the Constitution and the Service Commissions Act;

"disciplinary authority" means, in relation to a public officer, the responsible officer or Head of Department or the supervising officer.

"District Executive Secretary" shall have the meaning ascribed thereto in section *two* of the Local Government Act; Cap. 281

"Head of Department" means the public officer in charge of a Department of a Ministry or other Department of Government;

"member" means any member of the Commission, and includes the Chairman and any person appointed to act as a member under the provisions of the Service Commissions Act; Cap. 259

"responsible officer", in relation to a public officer, means one of the following, as appropriate:

- (a) the Permanent Secretary of the Ministry in or under which he is serving;
- (b) in the case of an officer serving under a Permanent Secretary for the Province, that Permanent Secretary for the Province;
- (c) in the case of an officer serving in a District Council-
 - (i) if he is the District Executive Secretary, the Permanent Secretary of the Province in which he is serving;
 - (ii) in any other case, the District Executive Secretary under whom he is serving;
- (c) in the case of an officer serving in or under a Ministry or Department set out in the first column of the First Schedule, the person holding the office set out opposite thereto in the second column thereof; or
- (d) in the case of an officer to whom none of the preceding paragraphs applies, the Permanent Secretary (Establishment);

"salary" means basic salary;

"secretary" means the secretary to the Commission;

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"supervising officer" means a public officer who is nominated by the Commission to be a supervising officer for the purposes of these Regulations.

(As amended by No. 200 of 1968, No. 394 of 1969, No. 227 of 1970, and No. 250 of 1973 and S.I. no 86 of 1982).

3. These Regulations shall not apply in relation to any of the following offices: Application

- (a) the office of any Judge of the Supreme Court or High Court.
- (b) the office of the Attorney-General;
- (c) except for the purpose of making appointments thereto or to Act therein the office of the Director of Public Prosecutions or Auditor-General;
- (d) any judicial offices;
- (e) the office of-
 - (i) Permanent Secretary;
 - (ii) Inspector-General of Police;
- (f) any office in the Zambia Police Force below the rank of Assistant Superintendent;
- (g) any office in the Zambia Prison Service below the rank of Superintendent of Prisons;
- (h) any office in the public service in respect of which the powers of the Commission have been delegated by directions in writing to any public officer.

(As amended by No. 200 of 1968 and No. 394 of 1969)

PART II

GENERAL

4. The Commission shall appoint a secretary to the Commission, who shall not be a member of the Commission, and such other staff as it may from time to time consider necessary. Secretary and staff

5. Every meeting of the Commission shall be presided over by the Chairman. Presiding at meetings

6. A record shall be kept of the members present and of the business transacted at every meeting of the Commission. Record of meetings

The Laws of Zambia

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

Decisions by
circulation of papers

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

Dissent

9. The Chairman and two members will constitute a quorum for a meeting of the Commission and a like number of members will be required for a decision of the Commission arrived at by the circulation of written papers.

Quorum

10. Any report, statement or other communication or record of any meeting, inquiry or proceedings which the Commission may make in exercise of its functions or any member may make in performance of his duties, and any application form, report or other communication despatched to the Commission in connection with the exercise of its functions, and in the possession of the Commission, shall be privileged in that its production may not be compelled in any legal proceedings unless the Chairman certifies that such production is not against the public interest.

Privilege for reports,
etc.

11. Every member of the Commission shall have such protection and privilege, in case of any action or suit brought against him for any act done or attempted to be done in the *bona fide* execution of his duties, as is by law given to the acts done or words spoken by a Judge in the exercise of his judicial office.

Privilege of members

12. No member of the Commission, nor the secretary nor any member of the staff of the Commission nor any other person, shall publish or disclose to any person otherwise than in the exercise of his official functions the contents of any document, communication or information whatsoever which has come to his notice in the course of his duties.

Disclosures

13. In exercising its powers in connection with the appointment, promotion or transfer of officers in the public service, the Commission shall have regard to the maintenance of the high standard of efficiency necessary in the public service and shall-

Matters to be
considered by
Commission

- (a) give due consideration to qualified officers serving in the public service and to residents of Zambia;
- (b) in the case of officers in the public service, take into account the relevant qualifications, competence, merit, experience as well as good conduct; and
- (c) where a post cannot be filled either-
 - (i) by the appointment or promotion of a suitable person already in the public service; or

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- (ii) by the appointment of a suitable person who has successfully completed a course of study or training acceptable to the Commission;

call for applications for the post by advertisement:

Provided that-

- (i) for special reasons and within its discretion it may decide not to do so;
- (ii) within its discretion it may restrict the application of such advertisement to persons who are already in the public service; and
- (iii) where it is satisfied that no suitable candidates with the requisite qualifications are available in Zambia, it may decide that the post be filled by recruitment outside Zambia.

14. In exercising its powers in connection with the appointment, promotion or transfer of an officer in the public service, the Commission may-

Consultaton and selection boards

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

15. The Commission shall not exercise its powers in connection with the dismissal, the disciplinary punishment or the termination of appointment otherwise than by way of dismissal, of any officer in the public service except in accordance with the provisions of these Regulations.

Obligation to conform with Regulations

16. The Commission, at the request of a responsible officer, shall hear the responsible officer personally in connection with any recommendation made by him to the Commission.

Obligation to hear responsible officer

17. In carrying out its duties under the provisions of the Order and these Regulations, the Commission shall not take into account any representations made to it otherwise than in accordance with the Order or with these Regulations:

Irregular representation

Provided that nothing in this regulation shall be deemed to prohibit the Commission taking into account a *bona fide* reference or testimonial of service.

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

Oaths on appointment

The Laws of Zambia

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

(3) Where any person is required to take an oath under the provisions of this regulation and-

(a) he has no religious belief; or

(b) the taking of an oath is contrary to his religious belief;

he may make and subscribe a solemn affirmation in the form of the oath appointed, substituting the words "solemnly and sincerely declare and affirm" for the word "swear" and omitting the words "so help me God".

(4) Every oath or affirmation taken by a member shall be administered by a Judge and every oath or affirmation taken by the secretary or any other member of the staff of the Commission shall be administered by a Commissioner for Oaths.

PART III

APPOINTMENTS (INCLUDING PROMOTIONS AND TRANSFERS), CONFIRMATION OF APPOINTMENTS, PASSING OF PROMOTION BARS AND TERMINATION OF APPOINTMENTS OTHERWISE THAN BY DISCIPLINARY PROCEEDINGS

19. The Commission shall determine the form of advertisements issued in accordance with the provisions of paragraph (c) of regulation 13. The qualifications specified in such advertisements shall be those approved by the Permanent Secretary (Establishment Division), after consultation with the Commission, for the vacancy under consideration.

Advertisements

20. The Commission shall determine the procedure to be followed in dealing with applications for appointment to the public service, including the proceedings of any selection board appointed by the Chairman to interview candidates and shall determine the forms to be used in connection with the discharge of its functions.

Procedure and forms

21. (1) When a vacancy occurs, or it is known that a vacancy will occur in any public office in any Ministry, the responsible officer will report the fact to the Permanent Secretary (Establishment Division) and-

Vacancies

(a) if the responsible officer recommends that the vacancy should be filled by the appointment or promotion of an officer serving in that Ministry he will so inform the Permanent Secretary (Establishment Division);

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- (b) if the responsible officer is unable to recommend the promotion of a serving officer to fill a vacancy he will inform the Permanent Secretary (Establishment Division) of the names of the officers serving in the particular grade or cadre from which the promotion would normally be made, and state his reasons why he does not consider the officers named suitable for promotion to the vacant post;
- (c) if the responsible officer recommends that applications to fill the vacancy should be invited from serving officers or from both serving officers and the general public he will attach to his report a draft advertisement setting out details of the vacant post and the duties and qualifications attached to it;
- (d) if the responsible officer is unable to recommend that the vacancy should be filled immediately he will so inform the Permanent Secretary (Establishment Division) and state his reasons therefor.

(2) The Permanent Secretary (Establishment Division) will verify the details of the vacancy and will forward the responsible officer's recommendations, with his own comments thereon, to the Secretary.

22. Where a vacancy is to be filled-

- (a) according to the results of examinations which are conducted by or supervised by the Commission; or
- (b) on the successful completion of a course of study or training designed to qualify a candidate for appointment to the public service;

Vacancies to be filled after examination or course of study

the Commission may make such arrangements in respect of the filling of such vacancies as it considers appropriate.

23. If a responsible officer is informed that the Commission has decided that a particular vacancy should be filled by recruitment from outside Zambia, he shall prepare an indent on the appropriate form and submit it to the Permanent Secretary (Establishment Division) who will be responsible for verifying the particulars contained therein.

Recruitment outside Zambia

24. No appointment to the public service may be made before the Commission has determined the suitability of the candidate concerned. The Permanent Secretary (Establishment Division) will inform responsible officers of appointments authorised in their Ministries by the Commission and of the initial rate of salary approved by him.

Appointments

25. (1) Where a public officer holds a probationary appointment, three months before the expiration of the period of such probationary appointment the responsible officer shall consider-

Probationary appointments

- (a) whether such officer should, on such expiration, be confirmed in a pensionable post;

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- (b) whether a further period of probationary service is necessary to determine whether such officer should be so confirmed; or
- (c) whether such officer should not remain in the public service.

(2) If, after consideration of the matters referred to in sub-regulation (1), the responsible officer is of the opinion that a public officer in a probationary appointment should be confirmed in a pensionable appointment and if that public officer has passed such examinations as may be required as a condition for confirmation in his appointment, the responsible officer, as soon as may be before the expiration of the period of probationary appointment, shall forward a recommendation that the officer be confirmed to the Permanent Secretary (Establishment Division) who will refer it, with his comments, to the Secretary.

(3) If, after consideration of the matters referred to in sub-regulation (1), the responsible officer is of the opinion that the work and conduct of a public officer in a probationary appointment have been of a standard to justify confirmation in a pensionable office, but the officer has not completed the examinations required for his appointment, the responsible officer, as soon as may be before the expiration of that public officer's probationary appointment, shall forward a report together with his recommendations as to the period of further probationary service which the officer should be granted in order to pass the required examination to the Permanent Secretary (Establishment Division) who will refer it, with his comments, to the Secretary.

(4) If, after consideration of the matters referred to in sub-regulation (1), the responsible officer is of the opinion that the work or conduct of a public officer in a probationary appointment has not been in all respects satisfactory, he shall so inform the officer in writing and indicate whether he proposes to recommend-

- (a) an extension of the officer's probationary service to show whether he can overcome the defects noted; or
- (b) that the officer's probationary appointment should be terminated.

(5) The responsible officer shall, when giving to a public officer the information mentioned in sub-regulation (4), ask the officer whether he wishes to make, within a period to be appointed by the responsible officer any representations on the recommendations proposed. On the expiration of the period allowed to the officer to make any representations, the responsible officer shall forward a report on the officer, together with a copy of the letter to the officer and of the latter's representations, if any, his comments thereon and a recommendation either that the period of probationary service should be extended or that the officer should not remain in the public service, to the Permanent Secretary (Establishment Division), who will refer them, with his comments, to the Secretary.

(6) Where a public officer holds a probationary appointment and the responsible officer at any time during the period of such probationary appointment is of the opinion that such appointment should be terminated forthwith on the grounds of general unsuitability which renders the officer unlikely to justify confirmation in a pensionable office, the procedure prescribed in sub-regulations (4) and (5) shall be followed.

(7) An offence or offences against discipline committed by an officer to whom this regulation applies, or the conviction of such an officer on a criminal charge, shall be dealt with in accordance with Part IV.

26. (1) The responsible officer shall, not later than six months before a public officer serving in his Ministry attains pensionable age as defined in the Civil Service (Local Conditions) Pensions Act, notify such officer and the Permanent Secretary (Establishment Division) of his impending date of retirement.

Retirement on attaining pensionable age.
Cap. 259.

(2) The Permanent Secretary (Establishment Division) will forward the responsible officer's notice to the Secretary.

27. (1) If a responsible officer recommends that a public officer should act for a period of not less than thirty days in a post higher than that held substantively, or for a period of less than thirty days where it is required by law or regulation that the functions of the higher post may be exercised only by a person authorised by notification in the *Gazette* to exercise those functions, and that higher post is prescribed by the Government as a post carrying acting allowance, he will so inform the Permanent Secretary (Establishment Division).

Acting appointments

(2) If any such recommendation involves the supersession of any more senior officers serving in the Ministry, detailed reasons for the supersession of each such officer will be forwarded with the recommendation.

(3) The Permanent Secretary (Establishment Division) will forward the responsible officer's recommendation, with his comments, to the Secretary.

(4) In considering recommendations for acting appointments, the Commission shall apply the standards prescribed in regulation 13 except that consideration may also be given to the exigencies of the Service.

28. (1) Not later than two months before a public officer serving in Division III or IV of the public service is due to pass a promotion bar, a Promotion Bar Certificate, in the approved form, will be forwarded by the responsible officer to the Permanent Secretary (Establishment Division).

Promotion bars

(2) If the responsible officer recommends in favour of the officer passing the promotion bar the Permanent Secretary (Establishment Division) will forward the certificate, with his comments, to the Secretary.

(3) If the responsible officer is unable to recommend that the officer should be permitted to pass the promotion bar only because the officer has not passed the language, departmental or other examinations required for his appointment, the Permanent Secretary (Establishment Division) will forward the certificate, with his comments, to the Secretary.

(4) If the responsible officer considers that the officer is not qualified to pass the promotion bar for reasons other than the officer's failure to have passed the language, departmental or other examinations required for his appointment, he shall, prior to forwarding the certificate to the Permanent Secretary (Establishment Division), so inform the officer, indicating the reasons therefor, and ask the officer if he has any representations to make within a period to be appointed by the responsible officer. On the expiration of the period allowed to the officer to make any representations, the responsible officer shall forward a copy of his letter to the officer and the latter's representations, if any, and his comments thereon, together with the Promotion Bar Certificate to the Permanent Secretary (Establishment Division) who will forward them, with his comments, to the Secretary.

29. If, upon consideration of a recommendation made by a responsible officer under the provisions of regulation 25 or 28 that an officer other than an officer serving in Division I or II of the public service should be confirmed in a pensionable post or permitted to pass a promotion bar, as the case may be, the Commission is of the opinion that it requires further information, it may refer the matter back to the responsible officer for a further report.

Further reports

30. (1) Where a public officer is serving on agreement for a specified period of service and the responsible officer of the Ministry in which the officer is employed desires to retain his services for a further tour of service, then, not later than thirty-three months after the officer's first day of resident service or three months before the officer's last day of duty, whichever is the earlier, the responsible officer will invite the officer in writing either, if the officer be so eligible, to apply for admission to the permanent and pensionable establishment or, if the officer is ineligible for admission to the permanent and pensionable establishment, to apply to be engaged for a further period of service. If the officer states either that he does not wish to be admitted to the permanent and pensionable establishment or to be engaged for a further period of service, no further action will be necessary. If the officer duly applies either to be admitted to the permanent and pensionable establishment or to be engaged for a further period of service, the responsible officer will forward to the Permanent Secretary (Establishment Division) the officer's application together with his recommendation and stating also whether the officer has passed his obligatory examinations, if any, the details of which must be given. The Permanent Secretary (Establishment Division) will forward the officer's application and the responsible officer's recommendations with his comments, to the Secretary.

Renewal of agreements and admission to permanent and pensionable establishment

(2) Where a public officer is serving on agreement for a specified period of service and the responsible officer of the Ministry in which the officer is employed does not wish to retain his services for a further period of service, then the responsible officer will so inform the officer in writing not later than five months before the officer's last day of duty and ask the officer if he has any representations to make within a period to be appointed by the responsible officer. If the officer does not wish to make any representations or states that he does not wish to be engaged for a further period of service, no further action will be necessary. If the officer does make representations, the responsible officer will forward a full statement of reasons for recommending that the officer should not be engaged for further service, together with a copy of his letter to the officer and the latter's representations and his comments thereon, to the Permanent Secretary (Establishment Division) who will forward them, with his comments, to the Secretary.

PART IV

DISCIPLINE

(No. 200 of 1968)

31. (1) Whenever it comes to the notice of a disciplinary authority that a criminal offence likely to warrant disciplinary proceedings may have been committed by a public officer, it shall be the duty of the disciplinary authority to inform the responsible officer forthwith.

Procedure when
criminal offence may
have been committed

(2) Whenever it comes to the notice of a responsible officer that a criminal offence likely to warrant disciplinary proceedings may have been committed by a public officer, or whenever a responsible officer is so informed under sub-regulation (1), it shall be the duty of the responsible officer to consult the Director of Public Prosecutions as to whether criminal proceedings are being instituted against such public officer.

(3) Where, after consultation with the Director of Public Prosecutions, the responsible officer is informed that criminal proceedings are not being instituted as aforesaid, it shall be the duty of the responsible officer to decide whether disciplinary proceedings are to be instituted against the public officer and to give directions accordingly.

(4) Whenever criminal proceedings are instituted against a public officer, it shall be the duty of the responsible officer to submit a report forthwith to the Permanent Secretary (Establishment) setting out the facts of the case, together with a statement as to whether such public officer has been suspended under regulation 32.

(As amended by No. 250 of 1973)

32. (1) A responsible officer shall suspend a public officer from the exercise of the powers and functions of his office if he is satisfied that the public interest so requires and-

Suspension of public
officer

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- (a) if criminal proceedings are instituted against such public officer; or
- (b) if disciplinary proceedings for his dismissal are instituted or are about to be instituted against such public officer.

(2) Whenever the responsible officer suspends a public officer under this regulation, he shall notify such public officer in writing of the reasons therefor and shall deliver a copy of such notice to the secretary.

(3) A public officer who is suspended under sub-regulation (1) shall, during the period of his suspension, receive such proportion of his salary, not being less than half of his salary, as the responsible officer may direct.

(4) Where criminal proceedings or disciplinary proceedings have been instituted against a public officer under suspension and such public officer-

- (a) is not convicted as a result of such criminal proceedings, if any; and
- (b) is not subjected to any punishment under these Regulations as a result of such disciplinary proceedings;

the whole amount of his salary withheld under sub-regulation (3) shall, upon the expiry of the period of his suspension, be paid to him.

(5) Where criminal proceedings or disciplinary proceedings have been instituted against a public officer under suspension and such public officer-

- (a) is or is not convicted as a result of such criminal proceedings, if any; and
- (b) is subjected to any punishment under these Regulations, other than dismissal, as a result of such disciplinary proceedings;

he shall, upon the expiry of the period of his suspension, be paid such proportion of his salary withheld under sub-regulation (3) as the Commission may direct.

(6) Subject to the provisions of sub-regulation (3), the suspension of a public officer shall have effect during such period, and in accordance with such conditions, as the Commission shall specify by notice in writing to such public officer:

Provided that, where it appears expedient, the Commission may at any time during such period abridge or extend such period by further notice in writing to such public officer.

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(7) A public officer who is suspended under this regulation shall not leave Zambia without the permission of the responsible officer during the period of his suspension.

(8) In this regulation-

"criminal proceedings" include investigations into malpractices and embezzlement of public funds:

"salary" includes any personal allowance, inducement allowance and direct payments made under assistance schemes.

(As amended by No. 250 of 1973)

33. Where criminal proceedings are instituted against a public officer, no disciplinary proceedings shall be instituted against such public officer upon any ground which is the subject of such criminal proceedings, or, if such disciplinary proceedings have been instituted, they shall be suspended, until the conclusion of such criminal proceedings and the determination of any appeal therefrom.

Suspension of disciplinary proceedings pending final determination of criminal proceedings

34. (1) Where, as a result of criminal proceedings, a public officer is convicted of an offence likely to warrant disciplinary proceedings for his dismissal, the responsible officer shall direct that the salary of such public officer be withheld as from the date of his conviction pending the determination of such disciplinary proceedings.

Procedure following criminal conviction or absence from duty without leave or detention

(2) Where disciplinary proceedings instituted against a public officer convicted of a criminal offence do not result in his dismissal, he shall be paid such proportion of his salary withheld under sub-regulation (1) as the Commission may direct.

(3) Where a public officer absents himself from duty without leave for more than ten days or where he is detained under the Preservation of Public Security Regulations, he shall be suspended from duty forthwith by the responsible officer who shall direct that the salary of such public officer be withheld as from the date of his suspension from duty pending the determination of disciplinary proceedings.

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(4) Subject to the provisions of this regulation, the suspension of a public officer shall have effect during such period, and in accordance with such conditions, as the Commission shall specify by notice in writing to such public officer:

Provided that, where it appears expedient, the Commission may at any time during such period abridge or extend such period by further notice in writing to such public officer.

(As amended by S.I. No. 250 of 1973)

35. (1) This regulation applies to a public officer whose basic salary is not less than the basic salary payable in respect of a public officer graded as GS 7.

Procedure after conviction of officers whose basic salary is not less than GS 7

(2) Where a public officer to whom this regulation applies is, as a result of criminal proceedings, convicted of an offence likely to warrant disciplinary proceedings, such disciplinary proceedings shall, subject to the provisions of regulation 33, be instituted and determined in accordance with this regulation.

(3) Upon the conviction, as aforesaid, of a public officer to whom this regulation applies, it shall be the duty of the responsible officer to obtain-

- (a) a true copy of the charge; and
- (b) a true copy of the judgment of the court by whom such public officer was convicted; and
- (c) in the case of any appeal, a true copy of the judgment of any court by whom such appeal was determined; and
- (d) a true record of the proceedings of every such court, if available.

(4) The responsible officer shall institute disciplinary proceedings against a public officer under this regulation by delivering to such public officer a written statement setting out particulars of the charge or charges and of the grounds upon which such disciplinary proceedings are instituted, together with a notice requiring such public officer to submit to the responsible officer, within such period as the responsible officer shall specify, an exculpatory statement in writing of the grounds on which such public officer relies to exculpate himself.

(5) The responsible officer shall submit the documents obtained under sub-regulation (3) together with the statement of the charge or charges and the exculpatory statement, if any, referred to in sub-regulation (4), to the Permanent Secretary (Establishment) who shall peruse the same and submit them, together with his written comments, to the secretary.

(6) Notwithstanding the provisions of regulations 37, 38 and 39, the Commission may consider any disciplinary proceedings instituted against a public officer under this regulation upon perusal of the documents referred to in sub-regulation (5), and may, in like manner, determine whether such public officer is to be dismissed or subjected to some other punishment on account of the offence of which he is convicted.

(As amended by No. 250 of 1973)

36. A public officer acquitted of a criminal charge in any court shall not be dismissed or otherwise punished for any charges upon which he has been so acquitted, but nothing in this regulation shall prevent his being dismissed or otherwise punished on any other charges arising out of his conduct in the matter.

Proceedings after
acquittal on criminal
charge

37. (1) Subject to the provisions of regulation 35, disciplinary proceedings against a public officer under these Regulations shall be instituted by the disciplinary authority:

Institution and form of disciplinary proceedings

Provided that the responsible officer may, in any case where he considers it necessary or desirable, assume and exercise the functions of the disciplinary authority in relation to such disciplinary proceedings and, without prejudice to the provisions of sub-regulation (3) of regulation 40, the provisions of these Regulations shall apply *mutatis mutandis* to such disciplinary proceedings as they apply to disciplinary proceedings instituted by a disciplinary authority.

(2) Subject to the provisions of regulation 35, disciplinary proceedings instituted against-

(a) a public officer who-

- (i) is in receipt of a basic salary exceeding K5,199 per annum; or
- (ii) has misconducted himself in such manner as would, in the opinion of the disciplinary authority, warrant his dismissal or discharge or reduction in rank or reduction in salary;

shall be formal disciplinary proceedings;

(b) any other public officer who has misconducted himself in such manner as would, in the opinion of the disciplinary authority, warrant punishment other than a punishment referred to in sub-paragraph (ii) of paragraph (a), shall be summary disciplinary proceedings.

(3) In this regulation-

"formal disciplinary proceedings" means disciplinary proceedings under regulation 38;

"summary disciplinary proceedings" means disciplinary proceedings under regulation 39.

(As amended by No. 250 of 1973)

38. (1) Any disciplinary proceedings instituted against a public officer referred to in paragraph (a) of regulation 37 (2) shall be instituted and determined in accordance with this regulation.

Formal disciplinary proceedings

(2) Whenever a disciplinary authority institutes disciplinary proceedings against a public officer (hereinafter called "the accused officer") under this regulation, he shall do so, after such consultation with the Director of Public Prosecutions as he considers necessary, by delivering to the accused officer a written statement setting out particulars of the charge or charges and of the grounds upon which such disciplinary proceedings are instituted, together with a notice requiring the accused officer to submit to the disciplinary authority, within such period as the disciplinary authority shall specify, an exculpatory statement in writing of the grounds on which the accused officer relies to exculpate himself.

(3) Upon the expiry of the period specified in the notice delivered to the accused officer under sub-regulation (2), the disciplinary authority shall consider the exculpatory statement, if any, of the accused officer and may-

- (a) exculpate the accused officer and inform him accordingly in writing; or
- (b) subject to the provisions of regulation 40, impose such punishment on the accused officer as is proper, having regard to all the circumstances of the case; or
- (c) submit the case, together with a statement of the charge or charges, the exculpatory statement, if any, of the accused officer and the written comments of the disciplinary authority, to the responsible officer.

(4) The responsible officer shall consider any case submitted to him under paragraph (c) of sub-regulation (3), and the documents therein referred to, and may-

- (a) exculpate the accused officer and direct the disciplinary authority to inform the accused officer accordingly; or
- (b) subject to the provisions of regulation 40, impose such punishment on the accused officer as is proper, having regard to all the circumstances of the case; or
- (c) submit the case, together with the documents referred to in paragraph (c) of sub-regulation (3) and a written report thereon, to the Permanent Secretary (Establishment).

(5) The Permanent Secretary (Establishment) shall submit the documents submitted to him under sub-regulation (4), together with his written comments, to the secretary for consideration and determination by the Commission.

(6) Where it appears to the Commission, upon consideration of the report of the responsible officer and the exculpatory statement, if any, of the accused officer and all other documents submitted for its consideration under sub-regulation (5), that further investigation of the case is necessary, the Commission shall, subject to the provisions of sub-regulation (7), appoint a committee to carry out such further investigation as the Commission may direct.

(7) A committee appointed under sub-regulation (6) (hereinafter referred to as "the committee") shall consist of not less than three members who shall be public officers and-

- (a) one member shall be a public officer having legal qualifications;
- (b) the other members shall be appointed with due regard to the office of the accused officer.

(8) The committee shall, as soon as may be practicable and before it takes any further step in carrying out an investigation under this regulation, give notice in writing to the accused officer stating that, on a date, and at a place and time, specified in such notice, it intends to investigate such matters as shall be specified in such notice, and that the accused officer is required or, as the case may be, permitted to appear before the committee during such investigation.

(9) Whenever any person other than the accused officer is questioned by the committee in the course of an investigation under this regulation, the accused officer shall be given an opportunity of being present and of putting questions on his own behalf to such person, and any document used by the committee in the course of its investigation shall be made available for scrutiny by the accused officer at his request.

(10) If the accused officer so requests and it appears to the committee necessary or desirable, the committee may permit the accused officer to be represented by a legal practitioner or by a public officer nominated by the accused officer or nominated, with the consent of the accused officer, by the committee, and the provisions of sub-regulation (9) shall apply in relation to such legal practitioner or such public officer as they apply to the accused officer.

(11) Where it appears to the committee, as a result of its investigation under this regulation, that there are grounds for instituting disciplinary proceedings other than those in respect of which the committee is appointed against the accused officer, the committee shall so inform the disciplinary authority in writing.

(12) On completion of its investigation under this regulation, the committee shall prepare and submit to the Commission a written report setting out the matters investigated by the committee, and such report shall include-

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- (a) a statement whether, in the opinion of a majority of the members of the committee, the accused officer committed the charge or charges alleged against him and investigated by the committee, and a brief statement of the reason for that opinion; and
- (b) particulars of any matters which, in the opinion of a majority of the members of the committee, tend to aggravate or mitigate, as the case may be, the gravity of the case; and
- (c) a clear summary of the findings of the committee or, in the case of dissent among the members, of a majority of the members thereof, on the matters investigated by the committee:

Provided that the committee shall not make any recommendation as to, or otherwise comment on, the form of punishment which may be imposed on the accused officer.

(13) The Commission may, after consideration of a report submitted to it under sub-regulation (12), refer the report to the committee for clarification of any matter arising thereon or therein contained, or for further investigation and report under this regulation as the Commission may direct, and the committee shall comply with any such direction as soon as may be practicable.

(14) The Commission shall consider all matters submitted to it for its consideration and determination under this regulation, including any report submitted under sub-regulation (12) or (13), and shall determine, subject to the provisions of regulation 40, whether any punishment is to be imposed on the accused officer, and it shall give directions accordingly.

(15) It shall be the duty of the disciplinary authority to give notice in writing to the accused officer of any punishment imposed on him under this regulation, and such notice shall, except in the case of a severe reprimand or a reprimand or any punishment imposed by the Commission, inform the accused officer of his right to appeal under regulation 42.

39. (1) Any disciplinary proceedings instituted against a public officer referred to in paragraph (b) of regulation 37 (2) shall be instituted and determined in accordance with this regulation.

Summary disciplinary proceedings

(2) Whenever a disciplinary authority institutes disciplinary proceedings against a public officer (hereinafter called "the accused officer") under this regulation, he shall do so, after such investigation as he considers necessary, by delivering or causing to be delivered to the accused officer a written statement setting out particulars of the charge or charges and of the grounds upon which such disciplinary proceedings are instituted, together with a notice requiring the accused officer to submit to the disciplinary authority, within such period as the disciplinary authority shall specify, an exculpatory statement in writing of the grounds on which the accused person relies to exculpate himself.

(3) Upon the expiry of the period specified in the notice delivered to the accused officer under sub-regulation (2), the disciplinary authority shall consider the exculpatory statement, if any, of the accused officer and shall-

- (a) subject to the provisions of regulation 40, impose such punishment on the accused officer as is proper, having regard to all the circumstances of the case; or
- (b) exculpate the accused officer and inform him accordingly in writing.

(4) Notwithstanding the foregoing provisions of this regulation, where it appears to the disciplinary authority, after such investigation as he considers necessary, that disciplinary proceedings instituted under this regulation would warrant a punishment not more severe than a reprimand, the disciplinary authority may institute such disciplinary proceedings by conveying a reprimand to the accused officer without a written statement of the charge or of the grounds upon which such disciplinary proceedings are instituted, and it shall be a sufficient compliance with this regulation if the disciplinary authority, by notice in writing given to the accused officer, thereafter confirms such reprimand and specifies the reasons therefor.

(5) Except in the case of a reprimand imposed under subregulation (4), it shall be the duty of the disciplinary authority to give notice in writing to the accused officer of any punishment imposed on him under this regulation.

(6) Except in the case of a severe reprimand or a reprimand, every notice given under sub-regulation (5) shall inform the accused officer of his right to appeal under regulation 42.

39A. If an officer, other than an officer to whom regulation 35 applies, is adjudged guilty in any court of a criminal charge likely to warrant disciplinary proceedings against him, the responsible officer shall forward a copy of the charge and of the judgment (and of the record of the court if available) to the Permanent Secretary (Establishment Division) who will refer them, with his comments, to the Secretary. The Commission shall determine whether the officer be dismissed or subjected to some lesser disciplinary punishment on account of the conviction for the offence of which he has been adjudged guilty, without any of the proceedings prescribed in regulation 37, 38 or 39 being instituted.

Procedure after conviction of officers whose basic salary is less than GS 7

(As amended by S.I. No. 250 of 1973)

40. (1) The Commission may impose any one or more of the following punishments under these Regulations:

Punishments which may be imposed by Commission, responsible officer or disciplinary authority

- (a) dismissal or retirement in the public interest under regulation 43;
- (b) discharge, by due notice or by payment of salary in lieu thereof;

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- (c) reduction in rank;
- (d) reduction in salary;
- (e) deferment of increment;
- (f) stoppage of increment;
- (g) withholding of increment;
- (h) severe reprimand;
- (i) reprimand.

(2) The Permanent Secretary (Establishment) may impose on any officer in Division II or III any one or more of the following punishments under these Regulations:

- (a) reduction in rank;
- (b) reduction in salary;
- (c) deferment of increment;
- (d) stoppage of increment;
- (e) withholding of increment;
- (f) severe reprimand;
- (g) reprimand;

and may reprimand an officer in Division I, except the officers referred to in regulation 3 of the Public Service Commission Regulations excluding the officers referred to in paragraph (h) thereof, and shall make a report to the Commission of all disciplinary proceedings determined by him under this subregulation.

(3) A responsible officer may impose on an officer in Division II or III any one or more of the following punishments under these regulations:

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- (a) deferment of increment;
- (b) stoppage of increment;
- (c) withholding of increment;
- (d) severe reprimand;
- (e) reprimand;

and may reprimand an officer in Division I.

(4) A Head of Department may impose on an officer in Division II or III any of the following punishments under these regulations:

- (a) severe reprimand;
- (b) reprimand;

(5) A supervising officer may impose on an officer in Division III any of the following punishments under these regulations:

- (a) severe reprimand;
- (b) reprimand.

(As amended by S.I. No. 86 of 1984)

41. (1) A disciplinary authority shall make a report of all disciplinary proceedings instituted and determined by him, including disciplinary proceedings where no punishment is imposed, to the responsible officer.

Reports and records of disciplinary proceedings determined by disciplinary authority or responsible officer

(2) The responsible officer shall review all disciplinary proceedings reported to him under sub-regulation (1) and he may, if he considers that the punishment imposed was too severe or too lenient or that no punishment should have been imposed or that a punishment should have been imposed where no punishment was imposed, refer the matter to the disciplinary authority for further report, as the responsible officer may direct.

(3) The responsible officer shall make a report to the Permanent Secretary (Establishment Division) of every case where disciplinary proceedings are determined by him or by the disciplinary authority, and shall submit therewith any report made to him under the foregoing provisions of this regulation, together with a copy of the relevant charge or charges, a copy of the relevant exculpatory statement, if any, and a copy of any notice required to be given under regulation 38 or 39 of the result of such disciplinary proceedings.

(4) The Permanent Secretary (Establishment Division) shall review all reports and other documents made or submitted to him under sub-regulation (3) and he may, if he considers that the punishment imposed was too severe or too lenient or that no punishment should have been imposed or that a punishment should have been imposed where no punishment was imposed, refer the matter to the responsible officer for further report, as the Permanent Secretary (Establishment Division) may direct.

(5) The Permanent Secretary (Establishment Division) shall keep records of all matters submitted or required to be submitted to him under this regulation and shall submit the same to the Commission from time to time, as the Commission may direct.

42. (1) Except in the case of punishment imposed by the Commission, a public officer may appeal to the Commission against any punishment, other than a severe reprimand or a reprimand, imposed on him under these Regulations.

Appeals against
punishment imposed
by disciplinary
authority or
responsible officer

(2) Every appeal made by a public officer under this regulation shall be in writing addressed to the disciplinary authority or, as the case may be, to the responsible officer by whom the punishment is imposed, and shall set out clearly the grounds of the appeal, and every such appeal shall be delivered to the disciplinary authority or to the responsible officer as aforesaid not later than twenty-one days from the date of the notice given to such public officer informing him of the punishment imposed.

(3) Every appeal under this regulation shall-

- (a) in the case of an appeal delivered to a disciplinary authority under sub-regulation (2), be submitted by the disciplinary authority to the responsible officer;
- (b) in the case of an appeal-
 - (i) delivered to the responsible officer under sub-regulation (2); or
 - (ii) submitted to the responsible officer under paragraph (a);

be submitted by the responsible officer to the Permanent Secretary (Establishment).

(4) The Permanent Secretary (Establishment) shall submit every appeal under this regulation to the secretary for consideration and final determination by the Commission.

(5) In considering any appeal under this regulation, the Commission may give such direction under sub-regulation (5) of regulation 41 as it may deem necessary for the purpose of determining the appeal.

(6) Every determination of the Commission under this regulation shall have effect in accordance with the directions of the Commission, and notice in writing thereof shall be given by the responsible officer to the appellant.

43. (1) Notwithstanding the provisions of these Regulations, if a responsible officer considers that a public officer should be retired at an earlier date than the date specified in the pension laws relevant to his service on the ground of-

Retirement in Public Interest

- (a) failure to perform his duties;
- (b) incompetent performance of his duties;
- (c) any other disciplinary offence;

he shall inform such public officer and allow him an opportunity, within a period to be determined by the responsible officer, of showing cause why he should not be retired from the public service.

(2) If, on the expiration of the period allowed to the officer to show cause why he should not be retired from the public service, the responsible officer, after considering the statement of the officer, if any, and having regard to all the circumstances of the case is of the opinion that such public officer should be retired in the public interest and receive his retirement benefits, he shall forward his findings and the statement of the public officer to the Commission for a determination.

(3) If, upon consideration of the report made by a responsible officer in pursuance of sub-regulation (2), the Commission is of the opinion that the facts disclosed warrant the dismissal of the officer or the imposition of some lesser penalty than dismissal, the Commission shall determine whether the officer be dismissed or subjected to some lesser disciplinary punishment or retired from the public service, without any of the proceedings prescribed in regulation 37, 38 or 39 being instituted.

(As amended by S.I. No. 250 of 1973)

43A. The Commission may, on the recommendation of a responsible officer and the Permanent Secretary (Establishment), retire an officer in the public service on the abolition of his office to effect greater efficiency or economy in the Ministry or Province to which he belongs.

Retirement on abolition of office to effect greater efficiency or economy

(As amended by S.I. No. 91 of 1987)

43B. On the recommendation of a responsible officer and the Permanent Secretary (Establishment Division), the Commission may retire an officer in the public service on sufficient medical evidence that the officer is incapable by reason of some infirmity of body or mind of discharging the duties of his office and that such an infirmity is likely to be of long standing.

Retirement on medical grounds

(As amended by S.I. No. 91 of 1987)

43C. (1) The Commission may retire an officer in the public service in the national interest.

Retirement in national interest

(2) Retirement in the national interest shall be limited to cases where an officer has to relinquish his appointment at the instance of the Government either to take up another appointment outside the public service or for other reasons of Government policy.

(As amended by S.I. No. 91 of 1987)

44. Subject to the provisions of regulation 3, the provisions of this Part shall apply to every public officer, including a public officer serving on contract or agreement, whether on a temporary basis or otherwise, and any term or condition in such contract or agreement providing for the termination of the services of such public officer shall be construed to be in addition to, and not in derogation of, the provisions of this Part.

Application of Part IV to officers serving on contract

45. Where under the provisions of these Regulations-

Service of documents

(a) it is necessary-

(i) to deliver or serve any notice, charge or other document to or upon any public officer; or

(ii) to communicate any information to any public officer by reason of such officer having absented himself from duty; and

(b) it is not possible to effect such delivery or service, or to communicate such information, to such public officer personally;

it shall be sufficient if such notice, charge or other document, or a letter containing such information, be served upon such public officer by post to his last known address.

PART V

MISCELLANEOUS

46. Any public officer who submits any matter for the consideration of the Commission shall ensure that all relevant documents and papers are made available to the Commission and the Commission may require the production of any further documents or information relevant to the matter under consideration.

Production of relevant documents, etc.

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47. All correspondence for the Commission from responsible officers and other persons shall be addressed to the Secretary unless otherwise provided by these Regulations. Correspondence

48. Any case not covered by these Regulations shall be reported to the secretary and the Commission shall determine the procedure to be adopted. Cases not otherwise provided for

FIRST SCHEDULE

(Regulation 2)

RESPONSIBLE OFFICERS IN CERTAIN CASES

<i>First Column</i>				<i>Second Column</i>
<i>Ministry or Department</i>				<i>Office</i>
State House	..	..	..	Principal Private Secretary
Cabinet Office	..	..	..	Permanent Secretary (Personnel)
Audit	..	..	..	Auditor-General
Judicial	..	..	..	Permanent Secretary and Solicitor-General
Public Service Commission	..	..	Secretary	

(As amended by S.I. No. 70 of 1971)

SECOND SCHEDULE

(Regulation 18)

OATH OF MEMBER OF COMMISSION

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

SO HELP ME GOD

Sworn/Declared before me this day of , 19

.....
Judge

THIRD SCHEDULE

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(Regulation 18)

OATH OF SECRETARY AND STAFF OF COMMISSION

I, having been appointed to exercise the functions of Secretary to/a member of the staff of/the Public Service Commission, do swear that I will not, directly or indirectly, reveal to any unauthorised person or otherwise than in the course of duty the contents or any part of the contents of any document, communication or information whatsoever which may come to my knowledge in the course of my duties as such.

SO HELP ME GOD

Sworn/Declared before me this day of
....., 19

.....
Commissioner for Oaths

SECTION 20-THE TEACHING SERVICE COMMISSION (DELEGATION) DIRECTIONS

*Statutory Instrument
3 of 1993*

PART I

PRELIMINARY

1. These Directions may be cited as the Teaching Service Commission Title
(Delegation) Directions.

2. In these Directions, unless the context otherwise requires- Interpretation

"basic school" means a school that consists of primary and secondary school classes;

"Commission" means the Teaching Service Commission established by section seven of the Act;

"headmaster (basic)" means a headmaster of a grade I, II, III or IV basic school and, "deputy headmaster" shall be construed accordingly;

"headmaster (primary)" means a headmaster of a grade I, II, III or IV primary school and, "deputy headmaster" shall be construed accordingly;

"headmaster (secondary)" means a headmaster of a grade I, II, III or IV secondary school and "deputy headmaster" shall be construed accordingly;

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"head of department (college)" means an officer who is in charge of a group of related subjects in an in-service or secondary teacher training college;

"head of department (secondary)" means an officer who is in charge of a group of related subjects in a secondary school;

"head of section" means an officer who is in charge of a subject in an in-service or secondary teacher training college or college for the teachers for the handicapped;

"officer" means teaching officers in the National In-Service Training College; all Technical colleges; all Trades Training Institutes; all secondary and primary school teacher training colleges; all secondary and primary schools and principals and heads of the schools;

"responsible officer" means the Permanent Secretary in the Ministry of Education or Ministry of Science, Technology and Vocational Training, as the case may be;

"Regulations" means the Teaching Service Regulations;

S.I. No. 172 of 1971

"Secretary" means the Secretary to the Teaching Service Commission appointed under section *eleven* of the Act;

"senior teacher" means an experienced teacher who advises fellow teachers on professional matters in a primary school; and

"teacher-in-charge" means a teacher responsible for an ungraded primary school.

PART II

DELEGATION OF FUNCTIONS

3. The exercise of functions of the Commission under section *twenty-one* of the Act is hereby delegated in the manner specified in paragraphs 4, 5, 6 and 7 of these Directions.

Delegation of functions

PART III

APPOINTMENTS AND PROMOTIONS

4. (1) The responsible officer may appoint any officer to hold the post of-

Appointments
promotions

(a) deputy headmaster (primary) grade I, II, III or IV;

(b) senior teacher;

(c) teacher-in-charge;

(d) deputy headmaster (basic) grade I, II, III or IV;

(e) deputy headmaster (secondary) grade III or IV;

(f) headmaster (primary) grade III or IV;

(g) headmaster (basic) grade III or IV;

(h) headmaster (secondary) grade III or IV;

(i) head of department (secondary);

(j) head of section;

(k) head of department (college);

and shall inform the Secretary accordingly;

(2) The responsible officer shall, in any case of appointment and promotion, take into account the relevant qualifications, experience and conduct.

5. The responsible officer may appoint any officer to act in the post of-

Appointments for
administrative
convenience

(a) headmaster (primary) grade I or II;

(b) headmaster (basic) grade I or II; or

(c) deputy headmaster (secondary) grade I or II

(d) headmaster (secondary) grade I or II

for administrative convenience only for a period (not exceeding six months) and shall inform the Secretary accordingly

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6. The responsible officer may-

- (a) approve secondment of any officer to ministries other than their own or to non-governmental organisations within Zambia for a period not exceeding three years; or
- (b) upgrade in appointment any officer in accordance with the provisions of circulars issued by the responsible officer in the Establishment Division;

Approval and upgrading

and shall inform the Secretary accordingly.

7. The Responsible Officer Establishment Division shall give instructions relating to the manner in which salaries, allowances and pension contributions may be effected.

Salaries, allowances and pension contributions

8. The Commission may, on its own or upon representation made to it by the responsible officer give such directions as it considers necessary if it is satisfied that a promotion under regulation 4 is or likely to be-

Power of Commission to give directions

- (a) detrimental to the discipline in the service; or
- (b) contrary to public interest or policy.

THE TEACHING SERVICE COMMISSION REGULATIONS

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SECOND SCHEDULE-Oath of secretary and staff of Commission

THE TEACHING SERVICE COMMISSION REGULATIONS

Regulations made by the Teaching Service Commission, with the consent of the President, and continued in force by virtue of Section 15 of the Interpretation and General Provisions Act

Statutory Instruments
172 of 1971
80 of 1974
76 of 1988
48 of 1991
3 of 1993
Cap. 2

PART I

PRELIMINARY

1. These Regulations may be cited as the Teaching Service Commission Regulations. Title

2. In these Regulations, unless the context otherwise requires- Interpretation
 - "basic salary" means the salary payable to an officer exclusive of any inducement allowance, personal allowance or other allowance or any direct payments made under assistance schemes;

 - "Chairman" means the Chairman of the Commission or any other person appointed to act as Chairman of the Commission under the provisions of the Constitution and the Service Commissions Act;

 - "Commission" means the Teaching Service Commission;

 - "disciplinary authority" means the supervising officer;

 - "member" means any member of the Commission and includes the Chairman and any person appointed to act as a member;

 - "responsible officer" means-

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- (a) the Permanent Secretary, Ministry of Education; or
- (b) in the case of an officer serving in a Province, the Permanent Secretary of the Province.

"salary" means basic salary;

"secretary" means the secretary to the Commission;

"supervising officer" means a public officer-in-charge of education in a region or district; or any other public officer who is nominated by the responsible officer to be a supervising officer for the purpose of these Regulations, and shall include Principal, Secondary Teacher Training College; Principal, National-in-Service Training College; Principal, Technical Colleges (Northern Technical College and Evelyn Hone College); Principal, Technical and Vocational Teachers' College; Controller, Educational Broadcasting and Television Services; Director, Curriculum Development Centre; Principal, Primary Teacher Training College and Principal, National Correspondence College.

(As amended by S.I. No. 48 of 1991)

3. These Regulations shall apply to all officers serving on the ES Salary Scales in the Ministries of Education, and Science and Technology, whose appointment depends on teacher training as a qualification and to those posts to which promotion requires competence and general ability as a teacher, and shall include the following: Application

- (i) all primary school teachers including heads and deputy heads;
- (ii) all secondary school teachers including heads and deputy heads;
- (iii) all lecturers in teacher training colleges including Principals and Vice Principals;
- (iv) all lecturers in technical colleges including Principals and Vice Principals, heads of departments and sections;
- (v) all technical teachers in trades training institutes including Principals and Vice Principals;
- (vi) the Director and Deputy Director, Curriculum Development Centre, and all curriculum development officers and specialists;
- (vii) Controller, Educational Broadcasting and Television Services and all lecturers and heads; radio, television and audio video aids;
- (viii) the Director and Assistant Director, Department of Continuing Education, including Principal and Vice Principal, National Correspondence College, heads of adult education centres, lecturers and the Secretary, Adult Education Advisory Board, all continuing education organisers;
- (ix) the Head, Psychological Service and all educational psychologists;
- (x) the Chief and Deputy Chief Inspector of Schools and all inspectors and senior inspectors of schools;
- (xi) the Secretary, Zambia Examinations Council and all professional officers under him;
- (xii) all chief education officers and senior education officers and all education officers including district education officers;
- (xiii) the Director, Deputy Director and Assistant Director of Technical Education and Vocational Training;
- (xiv) all Inspectors of technical education;
- (xv) the Superintendent, Technical Teacher Training;
- (xvi) all Controllers: Applied Arts and Technology Trades; Business; Commerce; and Paramedical; Adult Up-grading; Curriculum Development; Standards and Certification and Student Services;
- (xvii) all Curriculum Development Officers and Curriculum Development Specialists; and
- (xviii) any other staff who may by law be transferred to the Teaching Service.

PART II

APPOINTMENTS

4. Members of the Commission shall be appointed by the President in accordance with the Constitution. The Commission

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5. The Commission shall, acting in the name and on behalf of the President, appoint a secretary to the Commission, who shall not be a member of the Commission, and such other staff as it may from time to time consider necessary.

Secretary and staff

6. (1) Every member shall, on appointment, take an oath in the form set out in the First Schedule.

Oaths on appointment

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

(3) Where any person is required to take an oath under the provisions of this regulation and-

(a) has no religious belief; or

(b) the taking of an oath is contrary to his religious belief;

he may make and subscribe a solemn affirmation in the form of the oath on appointment, substituting the words "solemnly and sincerely declare and affirm" for the word "swear" and omitting the words "so help me God".

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

PART III

MEETINGS OF COMMISSION

7. Every meeting of the Commission shall be presided over by the Chairman.

Presiding at meetings

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

Record of meetings

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

Decisions by circulation of papers

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- 10.** Any member shall be entitled to dissent from a decision of the Commission and to have his dissent and his reasons therefor set out in the records of the Commission. Dissent
- 11.** The Chairman and two members will constitute a quorum for a meeting of the Commission and a like number of members will be required for a decision of the Commission arrived at by the circulation of written papers. Quorum
- 12.** Any report, statement, other communication, record of any meeting, inquiry or proceedings, which the Commission may make, in exercise of its functions, or any member may make, in performance of his duties, and any application form, report or other communication, despatched to the Commission in connection with the exercise of its functions and in the possession of the Commission, shall be privileged, in that its production may not be compelled in any legal proceedings unless the Chairman certifies that such production is not against the public interest. Privilege for reports, etc.
- 13.** Every member of the Commission shall have such protection and privilege, in case of any action or suit brought against him for any act done or attempted to be done in the *bona fide* execution of his duties, as is by law given to the acts done or words spoken by a Judge in the exercise of his judicial office. Privilege of members
- 14.** No member of the Commission, the secretary, any member of the staff of the Commission, nor any other person, shall publish or disclose to any person otherwise than in the exercise of his official functions, the contents of any document, communication or information whatsoever which has come to his notice in the course of his duties. Disclosures

PART IV

DUTIES AND FUNCTIONS OF COMMISSION

15. In exercising its powers in connection with the appointment, promotion or transfer of officers in the Service, the Commission shall have regard to the maintenance of a high standard of professional conduct and efficiency necessary in the Service; and shall-

Matters for consideration by Commission

- (a) give due consideration to qualified officers serving in the Service, and to residents of Zambia;
- (b) in the case of officers in the Service, take into account the relevant qualifications, experience, competence, and merit as well as good conduct and
- (c) where a post cannot be filled either-
 - (i) by the appointment or promotion of a suitable person already in the Service; or
 - (ii) by the appointment of a suitable person who has successfully completed a course of study or training acceptable to the Commission;

call for applications for the post by advertisement:

Provided that-

- (i) for special reasons and within its discretion, it may decide not to do so;
- (ii) within its discretion, it may restrict the application of such advertisement to persons who are already in the Service; and
- (iii) where it is satisfied that no suitable candidates with the requisite qualifications are available in Zambia, it may decide that the post be filled by recruitment outside Zambia.

(As amended by S.I. No. 76 of 1988)

16. The Commission shall not exercise its powers in connection with the dismissal, the disciplinary punishment or the termination of appointment, otherwise than by way of dismissal, of any officer in the Service except in accordance with the provisions of these Regulations.

Obligation of Commission to conform to Regulations

17. The Commission, at the request of the responsible officer, shall hear the responsible officer personally in connection with any recommendation made by him to the Commission.

Obligation of Commission to hear responsible officer

18. In carrying out its duties under the provisions of the Constitution or these Regulations, the Commission shall not take into account any representations made to it otherwise than in accordance with the Constitution or with these Regulations:

Irregular representation

Provided that nothing in this regulation shall be deemed to prohibit the Commission taking into account a *bona fide* reference or testimonial of service.

- 19.** In exercising its powers in connection with the appointment, promotion or transfer of an officer in the Service, the Commission may-
- Consultation and selection boards
- (a) consult with any other person or persons; and
 - (b) seek the advice of a selection board constituted by the Chairman who may appoint to it members of the Commission and other persons who are not members of the Commission.

PART V

APPOINTMENT OF MEMBERS OF THE SERVICE (INCLUDING PROMOTIONS AND TRANSFERS), CONFIRMATION OF APPOINTMENTS AND TERMINATION OF APPOINTMENTS OTHERWISE THAN BY DISCIPLINARY PROCEEDINGS

- 20.** The Commission shall determine the form of advertisements issued in accordance with the provisions of paragraph (c) of regulation 15; and the qualifications specified in such advertisements shall be those approved by the responsible officer, after consultation with the Commission, for the vacancy under consideration.
- Advertisements

- 21.** The Commission shall determine the procedure to be followed in dealing with applications for appointment to the Service, including the proceedings of any selection board appointed by the Chairman to interview candidates, and shall determine the forms to be used in connection with the discharge of its functions.
- Procedure and forms

- 22.** When a vacancy occurs, or it is known that a vacancy will occur in the Service, the responsible officer will report the fact to the secretary and-
- Vacancies
- (a) where the responsible officer recommends that the vacancy be filled by the appointment or promotion of an officer in the Service, he shall so inform the secretary;
 - (b) where the responsible officer is unable to recommend the promotion of an officer in the Service to fill a vacancy, he shall inform the secretary of the names of the officers serving in the particular grade or cadre from which the promotion would normally be made, and state his reasons why he does not consider the officers named suitable for promotion to the vacant post;
 - (c) where the responsible officer recommends that applications to fill the vacancy be invited from officers in the Service or from both officers in the Service and the general public, he shall attach to his report a draft advertisement setting out details of the vacant post and the duties and qualifications attached to it;
 - (d) where the responsible officer is unable to recommend that the vacancy be filled immediately, he shall so inform the secretary and state his reasons therefor.

(As amended by S.I. No 76 of 1988)

23. Where a vacancy is to be filled-

- (a) according to the results of examinations which are conducted by or supervised by the Commission; or
- (b) on the successful conclusion of a course of study or training designed to qualify the candidate for appointment to the Service;

Vacancies to be filled after examination or course of study

the Commission may make such arrangements in respect of the filling of such vacancies as it considers appropriate.

24. Where it is decided by the Commission that a particular vacancy be filled by recruitment from outside Zambia, the responsible officer shall prepare an indent on the appropriate form.

Recruitment outside Zambia

25. No appointment to the Service may be made before the Commission has determined the suitability of the candidate concerned; the responsible officer shall inform successful candidates of appointments authorised by the Commission and of the initial rate of salary approved by him.

Requisites before appointment

26. (1) Where an officer holds a probationary appointment, three months before the expiration of the period of such probationary appointment, the responsible officer shall consider-

Probationary appointments

- (a) whether such officer, on such expiration, be confirmed in a pensionable post;
- (b) whether a further period of probationary service is necessary to determine whether such officer be so confirmed; or
- (c) whether such officer quit the Service.

(2) Where, after consideration of the matters referred to in sub-regulation (1), the responsible officer is of the opinion that the work and conduct of an officer in a probationary appointment have been of a standard to justify confirmation in a pensionable office, but the officer has not completed the examinations required for his appointment, the responsible officer, as soon as may be, before the expiration of that officer's probationary period of appointment, shall forward a report together with his recommendations to the secretary, as to the period of further probationary service which the officer should be granted in order to pass the required examinations.

(4) Where, after consideration of the matters referred to in sub-regulation (1), the responsible officer is of the opinion that the work or conduct of an officer in a probationary appointment has not been, in all respects, satisfactory, he shall so inform the officer, in writing, and indicate whether he proposes to recommend-

- (a) an extension of the officer's probationary service to show whether he can overcome the defects noted; or

(b) that the officer's probationary appointment should be terminated.

(5) The responsible officer shall, when giving to an officer the information mentioned in sub-regulation (4), ask the officer whether he wishes to make, within a period to be appointed by the responsible officer, any representations on the recommendations proposed; on the expiration of the period allowed to the officer to make any representations, the responsible officer shall forward a report to the secretary, on the officer, together with a copy of the letter to the officer and the officer's representations, if any, the responsible officer's comments thereon and a recommendation either that the period of probationary service should be extended or that the officer quit the Service.

(6) Where an officer holds a probationary appointment and the responsible officer, at any time during the period of such probationary appointment, is of the opinion that such appointment be terminated forthwith on the grounds of general unsuitability which renders the officer unlikely to justify confirmation in pensionable office, the procedure prescribed in sub-regulations (4) and (5) shall be followed.

(7) Where, upon consideration of a recommendation, made by the responsible officer, under the provisions of this regulation, that an officer other than an officer serving in Division I or II of the Service be confirmed in a pensionable post, the Commission is of the opinion that it requires further information, it may refer the matter back to the responsible officer for a further report.

(As amended by S.I. No. 76 of 1988)

27. (1) Where the responsible officer recommends that an officer should act for a period of not less than thirty days in a post higher than that held substantively, or for a period of less than thirty days where it is required by law or regulation that the functions of the higher post may be exercised only by a person authorised by notification in the *Gazette* to exercise those functions, and that higher post is prescribed by the Government as a post carrying acting allowance, he will inform the secretary.

Acting appointments

(2) In considering recommendations of acting appointments, the Commission shall apply the standards prescribed in regulation 15, except that consideration may also be given to the exigencies of the Service.

(As amended by S.I. No. 76 of 1988)

28. (1) Where an officer is serving on agreement for a specified period of service and the responsible officer desires to retain his services for a further tour of service, then, not later than thirty-three months after the officer's first day of resident service or three months before the officer's last day of duty, whichever is the earlier, the responsible officer will invite the officer in writing, either, if the officer be so eligible, to apply for admission to the permanent and pensionable establishment, or, if the officer is ineligible for admission to the permanent and pensionable establishment, to apply to be engaged for a further period of service; if the officer states either that he does not wish to be admitted to the permanent and pensionable establishment or to be engaged for a further period of service, no further action shall be necessary; if the officer duly applies either to be admitted to the permanent and pensionable establishment or to be engaged for a further period of service, the responsible officer shall forward to the secretary the officer's application, together with the responsible officer's recommendation, stating also whether the officer has passed his obligatory examinations, if any, the details of which shall be given.

Renewal of agreements and admission to permanent and pensionable establishment

(2) Where an officer is serving on agreement for a specified period of service and the responsible officer does not wish to retain his services for a further period of service, then the responsible officer will so inform the officer in writing not later than five months before the officer's last day of duty and ask the officer whether he has any representations to make within a period to be determined by the responsible officer; if the officer does not wish to make any representations or states that he does not wish to be engaged for a further period of service, no further action shall be necessary; but if the officer does make representations, the responsible officer shall forward to the secretary a full statement of reasons for recommending that the officer be not engaged for further service, together with a copy of the responsible officer's letter to the officer, the officer's representations, and the responsible officer's comments thereon.

29. (1) Notwithstanding the provisions of these Regulations if the responsible officer considers that an officer should be retired from the Service at an earlier date than the date specified in the pension laws relevant to his service on the ground of-

Retirement in Public interest

- (a) failure to perform his duties;
- (b) incompetent performance of his duties;
- (c) any other disciplinary offence;

he shall, inform such officer and allow him an opportunity within a period to be determined by the responsible officer, of showing cause why he should not be retired from the service.

(2) If, on the expiration of the period allowed to the officer to show cause why he should not be retired from the service, the responsible officer after considering the statement of the officer, if any, and having regard to all the circumstances of the case, is of the opinion, that such officer should be retired in the public interest and receive his retirement benefits, he shall forward his findings and the statement of the officer to the Commission for a determination.

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(3) If, upon consideration of the report made by the responsible officer in pursuance of sub-regulation (2), the Commission is of the opinion that the facts disclosed warrant the institution of proceedings for dismissal of the officer or the imposition of lesser penalty than dismissal, the Commission may direct the responsible officer to institute proceedings against the officer under the provisions of regulation 38.

(As amended by S.I. No. 76 of 1988)

29A. The Commission may, on the recommendation of the responsible officer, retire an officer in the Service on abolition of his office to effect greater efficiency or economy.

Retirement on abolition of office to effect greater efficiency or economy

(As amended by S.I. No. 76 of 1988)

29B. On the recommendation of the responsible officer, the Commission shall retire an officer in the Service on sufficient evidence that such officer is incapable by reason of some infirmity of mind or body of discharging the duties of his office and that such infirmity is likely to be of long standing.

Retirement on medical grounds

(As amended by S.I. No. 76 of 1988)

29C. (1) The Commission may retire an officer in the service in the national interest;

Retirement in national interest

(2) Retirement in the national interest shall be limited to cases where an officer has to relinquish his appointment at the instance of the Government either to take up another appointment outside the Service or for other reasons of Government policy.

(As amended by S.I. No. 76 of 1988)

30. The responsible officer shall, not later than six months before an officer serving in his Ministry attains pensionable age as defined in the Civil Service (Local Condition) Pensions Act, notify such officer and the Commission of his impending date of retirement.

Retirement on attaining pensionable age.
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(As amended by S.I. No. 76 of 1988)

PART VI

DISCIPLINE

31. (1) Whenever it comes to the notice of a disciplinary authority that a criminal offence likely to warrant disciplinary proceedings may have been committed by an officer, the disciplinary authority shall inform the responsible officer forthwith.

Procedure when criminal offence may have been committed

(2) Whenever it comes to the notice of the responsible officer that a criminal offence likely to warrant disciplinary proceedings may have been committed by any officer, or whenever the responsible officer is so informed under sub-regulation (1), the responsible officer shall consult the Director of Public Prosecutions as to whether criminal proceedings are not being instituted as aforesaid; the responsible officer shall decide whether disciplinary proceedings be instituted against the officer and give directions accordingly.

(3) Whenever criminal proceedings are instituted against an officer, the responsible officer shall submit a report forthwith to the secretary setting out the facts of the case, together with a statement as to whether such officer has been interdicted under regulation 32.

32. (1) A responsible officer may interdict a supervising officer or a supervising officer may interdict an officer directly falling under his jurisdiction from the exercise of the powers and functions of his office, if he is satisfied that the public interest so requires, and-

Interdiction of an officer

- (a) if criminal proceedings are instituted against any such officer; or
- (b) if disciplinary proceedings for his dismissal are instituted, or are about to be instituted, against any such officer.

(2) Whenever a responsible officer or a supervising officer interdicts an officer under these Regulations, he shall notify such officer in writing of the reasons therefor and shall deliver a copy of such notice to the secretary.

(3) Any officer who is interdicted under sub-regulation (1) shall, during the period of his interdiction, receive such proportion of his salary, not being less than half of his salary, as the responsible officer may direct.

(4) Where criminal proceedings or disciplinary proceedings have been instituted against an officer under interdiction and such officer-

- (a) is not convicted as a result of such criminal proceedings, if any; and
- (b) is not subjected to any punishment under these Regulations as a result of such disciplinary proceedings;

the whole amount of his salary withheld under sub-regulation (3) shall, upon the expiry of the period of his interdiction, be paid to him.

(5) Where criminal proceedings or disciplinary proceedings have been instituted against an officer under interdiction and such officer-

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(a) is or is not convicted as a result of such criminal proceedings, if any; and

(b) is subjected to any punishment under these Regulations, other than dismissal, as a result of such disciplinary proceedings;

he shall, upon the expiry of the period of his interdiction, be paid such proportion of his salary withheld under sub-regulation (3) as the Commission may direct.

(6) Subject to the provisions of sub-regulation (3), the interdiction of any officer shall have effect during such period, and in accordance with such conditions, as the Commission shall specify in writing to such officer; but where it appears expedient the Commission may at any time during such period abridge or extend such period by further notice in writing to any such officer.

(7) Any officer who is interdicted under this regulation shall not leave Zambia without the permission of the responsible officer during the period of his interdiction.

(8) For the purposes of this regulation, salary includes any personal allowance, inducement allowance and direct payments made under assistance schemes.

33. Where criminal proceedings are instituted against any officer, no disciplinary proceedings shall be instituted against such an officer upon any ground which is the subject of such criminal proceedings; if such disciplinary proceedings have been instituted they shall be suspended until the conclusion of such criminal proceedings and the determination of any appeal therefrom.

Suspension of disciplinary proceedings pending final determination of criminal proceedings

34. (1) Where, as a result of criminal proceedings, an officer is convicted of an offence likely to warrant disciplinary proceedings for his dismissal, the responsible officer shall, by notice in writing to the officer, suspend him from the exercise of the powers and functions of his office and shall cause a copy of such notice to be delivered to the secretary.

Suspension following criminal conviction

(2) Where disciplinary proceedings are instituted against an officer suspended under sub-regulation (1), the responsible officer shall direct that the salary of such officer be withheld, as from the date of his suspension, pending the determination of such disciplinary proceedings.

(3) Where disciplinary proceedings instituted against any officer suspended under these Regulations do not result in his dismissal, he shall be paid such proportion of his salary withheld under sub-regulation (2) as the Commission may direct.

(4) Subject to the provisions of this regulation, the suspension of an officer shall have effect during such period, and in accordance with such conditions, as the Commission shall specify by notice in writing to any such officer; but where it appears expedient the Commission may, at any time during such period, abridge or extend such period by further notice in writing to any such officer.

35. (1) This regulation applies to an officer whose basic salary is not less than the basic salary payable in respect of an officer in the Teaching Service graded as Superscale.

Procedure after conviction of officer whose basic salary is not less than E5/10

(As amended by S.I. No. 48 of 1991)

(2) Where an officer to whom this regulation applies is, as a result of criminal proceedings, convicted of an offence likely to warrant disciplinary proceedings, such disciplinary proceedings shall, subject to the provisions of regulation 33, be instituted and determined in accordance with this regulation.

(3) Upon the conviction, as aforesaid, of an officer to whom this regulation applies, the responsible officer shall obtain-

- (a) a true copy of the charge;
- (b) a true copy of the judgment of the court by whom such officer was convicted;
- (c) in the case of any appeal, a true copy of the judgment of any court by whom such appeal was determined; and
- (d) a true record of the proceedings of any such court, if available.

(4) The responsible officer shall institute disciplinary proceedings against an officer, under this regulation, by delivering to such officer a written statement setting out particulars of the charge or charges and of the grounds upon which such disciplinary proceedings are instituted, together with a notice requiring such officer to submit to him, within such period as the responsible officer shall specify, an exculpatory statement in writing of the grounds on which such an officer relies to exculpate himself.

(5) The responsible officer shall submit to the secretary the documents obtained under sub-regulation (3), with the statement of the charge or charges and the exculpatory statement, if any, referred to in sub-regulation (4), together with his written comments.

(6) Notwithstanding the provisions of regulations 37, 38 and 39, the Commission may consider any disciplinary proceedings instituted against an officer under this regulation upon perusal of the documents referred to in sub-regulation (5) and may, in like manner, determine whether such officer is to be dismissed or subjected to some other punishment on account of the offence of which he is convicted.

36. An officer acquitted of a criminal charge in any court shall not be dismissed or otherwise punished for any charge upon which he has been so acquitted, but nothing in this regulation shall prevent him being dismissed or otherwise punished on any other charges arising out of his conduct in the matter.

Proceedings after
acquittal on criminal
charge

37. (1) Subject to the provisions of regulation 35, disciplinary proceedings against an officer under these Regulations shall be instituted by the disciplinary authority:

Institution and form of
disciplinary
proceedings

Provided that the responsible officer may, in any case where he considers it necessary or desirable, assume and exercise the functions of the disciplinary authority in relation to such disciplinary proceedings and, without prejudice to the provisions of sub-regulation (2) of regulation 40, the provisions of these Regulations shall apply *mutatis mutandis* to such disciplinary proceedings as they apply to disciplinary proceedings instituted by a disciplinary authority.

(2) Subject to the provisions of regulation 35, disciplinary proceedings instituted against-

(a) an officer-

- (i) whose basic salary is not less than the basic salary payable in respect of the officer graded as ES/10
- (ii) who has misconducted himself in such manner as would, in the opinion of the disciplinary authority, warrant his dismissal, discharge, reduction of rank or reduction in salary;

shall be formal disciplinary proceedings;

(b) any other officer who has misconducted himself in such manner as would, in the opinion of the disciplinary authority, warrant punishment other than punishment referred to in sub-paragraph (ii) of paragraph (a), shall be summary disciplinary proceedings.

(3) In this regulation-

"formal disciplinary proceedings" means disciplinary proceedings under regulation 38; and

"summary disciplinary proceedings" means disciplinary proceedings under regulation 39.

(As amended by S.I. No. 48 of 1991)

38. (1) Any disciplinary proceedings instituted against an officer referred to in paragraph (a) of regulation 37 (2) shall be instituted and determined in accordance with this regulation.

Formal disciplinary
proceedings

(2) Whenever a disciplinary authority institutes disciplinary proceedings against an officer (hereinafter in these Regulations referred to as "the concerned officer") under this regulation, he shall do so after such consultation with the Director of Public Prosecutions as he considers necessary, by delivering to the concerned officer a written statement setting out particulars of the charge or charges and of the grounds upon which such disciplinary proceedings are instituted, together with a notice requiring the concerned officer to submit to the disciplinary authority, within such period as the disciplinary authority shall specify, an exculpatory statement in writing of the grounds on which the concerned officer relies to exculpate himself.

(3) Upon the expiry of the period specified in the notice delivered to the concerned officer under sub-regulation (2), the disciplinary authority shall consider the exculpatory statement, if any, of the concerned officer and may-

- (a) exculpate the concerned officer and inform him accordingly in writing; or
- (b) subject to the provisions of regulation 40, impose such punishment on the concerned officer as is proper, having regard to all the circumstances of the case; or
- (c) submit to the responsible officer the case together with a statement of the charge, or charges, the exculpatory statement, if any, of the concerned officer and the written comments of the disciplinary authority.

(4) The responsible officer shall consider any case submitted to him under paragraph (c) of sub-regulation (3), and the documents therein referred to, and may-

- (a) exculpate the concerned officer and direct the disciplinary authority to inform the concerned officer accordingly; or
- (b) subject to the provisions of regulation 40, impose such punishment on the concerned officer as is proper, having regard to all the circumstances of the case; or
- (c) submit the case, with the documents referred to in paragraph (c) of sub-regulation (3), together with his written comments, to the secretary for consideration and determination by the Commission.

(5) Where it appears to the Commission, upon consideration of the report of the responsible officer and the exculpatory statement, if any, of the concerned officer, and all other documents submitted for its consideration under sub-regulation (4), that further investigation of the case is necessary, the Commission shall, subject to the provisions of sub-regulation (6), appoint a committee to carry out such further investigation as the Commission may direct.

(6) A committee appointed under sub-regulation (5) (hereinafter referred to as "the committee") shall consist of not less than three members who shall be public officers, and-

- (a) one member shall have legal qualifications;
- (b) the other members shall be appointed with due regard to the office of the concerned officer.

(7) The committee shall, as soon as may be practicable and before it takes any further step in carrying out an investigation under this regulation, give notice in writing to the concerned officer stating that, at a date, and at a place and time, specified in such notice, it intends to investigate such matters as shall be specified in such notice and that the concerned officer is required or, as the case may be, permitted to appear before the committee during such investigation.

(8) Whenever any person other than the concerned officer is questioned by the committee in the course of an investigation under this regulation, the concerned officer shall be given the opportunity of being present and of putting questions on his behalf to such person, and any document used by the committee in the course of its investigation shall be made available for scrutiny by the concerned officer at his request.

(9) If the concerned officer so requests, and it appears to the committee necessary or desirable, the committee may permit the concerned officer to be represented by a legal practitioner or by a public officer nominated by the concerned officer or nominated, with the consent of the concerned officer, by the committee, and the provisions of sub-regulation (8) shall apply in relation to such legal practitioner or such public officer as they apply to the concerned officer.

(10) Where it appears to the committee, as a result of its investigation under this regulation, that there are grounds for instituting disciplinary proceedings, other than those in respect of which the committee is appointed, against the concerned officer, the committee shall so inform the disciplinary authority in writing.

(11) On completion of its investigation under this regulation, the committee shall prepare and submit to the Commission a written report setting out the matters investigated by the committee, and such report shall include-

- (a) a statement whether, in the opinion of the majority of the members of the committee, the concerned officer is guilty of the charge or charges alleged against him and investigated by the committee, and a brief statement of the reason for that opinion; and
- (b) particulars of any matters which, in the opinion of the majority of the members of the committee, tend to aggravate or mitigate, as the case may be, the gravity of the case; and

- (c) a clear summary of the findings of the committee or, in the case of dissent among the members, of the majority of the members thereof, on the matters investigated by the committee;

but the committee shall not make any recommendation as to, or otherwise comment on, the form of punishment that may be imposed on the concerned officer.

(12) The Commission may, after consideration of a report submitted to it under sub-regulation (11), refer the report to the committee for clarification on any matter arising thereon or therein contained, or for further investigation and report, under this regulation, as the Commission may direct, and the committee shall comply with any such direction as soon as may be practicable.

(13) The Commission shall consider all matters submitted to it for its consideration and determination under this regulation, including any report submitted under sub-regulation (11) or (12), and shall determine, subject to the provisions of regulation 40, whether any punishment is to be imposed on the concerned officer, and give directions accordingly.

(14) The disciplinary authority shall give notice in writing to the concerned officer of any punishment imposed on him under this regulation, and such notice shall, except in the case of a severe reprimand, a reprimand or any punishment imposed by the Commission, inform the concerned officer of his right to appeal under regulation 42.

39. (1) Any disciplinary proceedings instituted against an officer referred to in paragraph (b) of regulation 37 (2) shall be instituted and determined in accordance with this regulation.

Summary disciplinary proceedings

(2) Whenever a disciplinary authority institutes disciplinary proceedings against an officer under this regulation, he shall do so after such investigation as he considers necessary, by delivering or causing to be delivered to the concerned officer a written statement setting out particulars of the charge or charges and of the grounds upon which such disciplinary proceedings are instituted, together with a notice requiring the concerned officer to submit to the disciplinary authority, within such period as the disciplinary authority shall specify, an exculpatory statement in writing of the grounds on which the concerned officer relies to exculpate himself.

(3) Upon the expiry of the period specified in the notice delivered to the concerned officer under sub-regulation (2), the disciplinary authority shall consider the exculpatory statement, if any, of the concerned officer and shall-

- (a) subject to the provisions of regulation 40, impose such punishment on the concerned officer as is proper having regard to all the circumstances of the case; or
- (b) exculpate the concerned officer and inform him accordingly in writing.

(4) Notwithstanding the foregoing provisions of this regulation, where it appears to the disciplinary authority, after such investigation as he considers necessary, that disciplinary proceedings instituted under this regulation would warrant a punishment not more severe than a reprimand, the disciplinary authority may institute such disciplinary proceedings by conveying a reprimand to the concerned officer without a written statement of the charge or of the grounds upon which such disciplinary proceedings are instituted and it shall be sufficient compliance with this regulation if the disciplinary authority, by notice in writing given to the concerned officer thereafter, confirms such reprimand and specifies the reasons therefor.

(5) Except in the case of a reprimand imposed under sub-regulation (4), the disciplinary authority shall give notice in writing to the concerned officer of any punishment imposed on him under this regulation.

(6) Except in the case of a severe reprimand or a reprimand other than notice given under sub-regulation (5), the disciplinary authority shall inform the accused officer of his right to appeal under regulation 42.

40. (1) The Commission may impose any one or more of the following punishments under these Regulations:

Punishments which may be imposed by disciplinary authority, responsible officer or Commission

- (a) dismissal or retirement in the public interest under regulation 29;
- (b) discharge, by due notice or by payment of salary in lieu thereof;
- (c) reduction in salary;
- (d) deferment of increment;
- (e) stoppage of increment;
- (f) withholding of increment;
- (g) severe reprimand;
- (h) reprimand.

(As amended by S.I. No. 76 of 1988)

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(2) A responsible officer may impose any one or more of the following punishments under these Regulations, in the case of an officer serving in Division I, II or III, that is to say:

- (a) deferment of increment;
- (b) stoppage of increment;
- (c) withholding of increment;
- (d) temporary reduction in salary, which may be to a lower salary scale but which, in no case, shall be to a point lower than the point at which the employee was appointed and which shall only be a specific point in a recognised salary scale;
- (e) severe reprimand;
- (f) reprimand.

(3) A supervising officer may impose any one or more of the following punishments under these Regulations, in the case of an officer serving in Division II or III, that is to say:

- (a) deferment of increment;
- (b) stoppage of increment;
- (c) withholding of increment;
- (d) severe reprimand;
- (e) reprimand.

41. (1) A disciplinary authority shall submit a report to the responsible officer of all disciplinary proceedings instituted and determined by the disciplinary authority including disciplinary proceedings where no punishment is imposed.

Reports and records of disciplinary proceedings determined by disciplinary authority

(2) The responsible officer shall review all disciplinary proceedings reported to him under sub-regulation (1) and he may, if he considers that the punishment imposed is too severe or too lenient, that no punishment should have been imposed, or that a punishment should have been imposed where no punishment was imposed, refer the matter to the disciplinary authority for further report as the responsible officer may direct.

(3) The responsible officer shall make a report to the secretary, from time to time as the Commission may direct, of every case where disciplinary proceedings are determined by him or by the disciplinary authority, and shall submit therewith any report made to him under the foregoing provisions of this regulation, together with the copy of the relevant charge or charges, a copy of the relevant exculpatory statement, if any, and a copy of any notice required to be given under regulation 38 or 39, of the result of such disciplinary proceedings.

42. (1) Except in the case of punishment imposed by the Commission, an officer may appeal to the Commission against any punishment other than a severe reprimand or a reprimand imposed on him under these Regulations.

Appeals against
punishment imposed
by disciplinary
authority or
responsible officer

(2) Every appeal made by an officer under this regulation shall be in writing, addressed to the disciplinary authority, or, as the case may be, to the responsible officer, by whom the punishment is imposed and shall set out clearly the grounds of the appeal, and every such appeal shall be delivered to the disciplinary authority or to the responsible officer as aforesaid not later than twenty-one days from the date of the notice given to such officer informing him of the punishment imposed.

(3) Every appeal under this regulation shall-

- (a) in the case of an appeal delivered to a disciplinary authority under sub-regulation (2), be submitted by the disciplinary authority to the responsible officer;
- (b) in the case of an appeal-
 - (i) delivered to the responsible officer under sub-regulation (2); or
 - (ii) submitted to the responsible officer under paragraph (a); be submitted by the responsible officer to the secretary for consideration and final determination by the Commission.

(4) In considering any appeal under this regulation, the Commission may give such direction under sub-regulation (3) of regulation 41 as it may deem necessary for the purpose of determining the appeal.

(5) Every determination of the Commission under this regulation shall have effect in accordance with the directions of the Commission, and notice in writing thereof shall be given to the appellant by the responsible officer.

43. The provisions of this Part shall apply to every officer including an officer serving on contract or agreement, whether on a temporary basis or otherwise, and any term or condition in such contract or agreement providing for the termination of the services of such officer shall be construed to be in addition to, and not in derogation of, the provisions of this Part.

Application of Part VI to officers serving on contract

PART VII

MISCELLANEOUS

44. Any officer who submits any matter for the consideration of the Commission shall ensure that all relevant documents and papers are made available to the Commission, and the Commission may require the production of any further documents or information relevant to the matter under consideration.

Production of relevant documents, etc.
Correspondence

45. All correspondence for the Commission from responsible officers and other persons shall be addressed to the secretary unless otherwise provided by these Regulations.

Service of documents

46. Where under the provisions of these Regulations-

(a) it is necessary-

(i) to deliver or serve any notice, charge or other document to or upon any officer; or

(ii) to communicate any information to any officer by reason of such officer having absented himself from duty; and

(b) it is not possible to effect such delivery or service, or to communicate such information, to such officer personally; it shall be sufficient if such notice, charge or other document, or a letter containing such information, be served upon such officer by post to his last known address.

47. Any case not covered by these Regulations shall be reported to the secretary, and the Commission shall determine the procedure to be adopted.

Cases not otherwise provided for

FIRST SCHEDULE

(Regulation 6)

OATH OF MEMBER OF COMMISSION

The Laws of Zambia

I,
having been appointed as Chairman/member of the Teaching Service Commission, do swear that I will, without fear or favour, affection or ill will, discharge the functions of the office of Chairman/member of the Teaching Service Commission, and that I will not, directly or indirectly, reveal any matters relating to such functions to any unauthorised persons or otherwise than in the course of duty.

SO HELP ME GOD

Sworn/Declared before me this day of ,19
.....
Judge

SECOND SCHEDULE

(Regulation 6)

OATH OF SECRETARY AND STAFF OF COMMISSION

I,
having been appointed to exercise the functions of Secretary to/a member of the staff of/the Teaching Service Commission, do swear that I will not, directly or indirectly, reveal to any unauthorised person or otherwise than in the course of duty the contents or any part of the contents of any document, communication or information whatsoever which may come to my knowledge in the course of my duties as such.

SO HELP ME GOD

Sworn/Declared before me this day of , 19.....
.....
Commissioner for Oaths

THE POLICE AND PRISON SERVICE COMMISSION REGULATIONS

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THE POLICE AND PRISON SERVICE COMMISSION REGULATIONS

Regulations made by the Police and Prison Service Commission, with the consent of the President, and continued in force by virtue of section 15 of the Interpretation and General Provisions Act.

Statutory instrument
65 of 1976
Cap. 2

The Laws of Zambia

PART I

PRELIMINARY

1. These Regulations may be cited as the Police and Prison Service Commission Regulations. Title
2. In these Regulations, unless the context otherwise requires- Interpretation
- "basic salary" means the salary payable to an officer exclusive of any inducement allowance, personal allowance or other allowance or any direct payments made under assistance schemes;
- "Chairman" means the Chairman of the Commission or any other person appointed to act as Chairman of the Commission;
- "Commission" means the Police and Prison Service Commission established by the Constitution and the Service Commissions Act;
- "Commissioner" means the Commissioner of Prisons;
- "disciplinary authority" means a supervising officer;
- "Force" means the Zambia Police Force or the Zambia Prison Service;
- "Inspector-General" means the Inspector-General of Police;
- "member" means any member of the Commission, and includes the Chairman and any person appointed to act as a member;
- "officer" means a person holding or performing the functions of the office of police officer or prison officer;
- "officer-in-charge" means an officer appointed by the Inspector-General to be in charge of a police station in any district, or, in the case of prisons, an officer appointed by the Commissioner under section *five* of the Prisons Act; Cap. 97
- "police officer" means any member of the Zambia Police Force;
- "prison officer" means any member of the Zambia Prison Service;

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"responsible officer" means the Permanent Secretary, Ministry of Home Affairs;

"secretary" means the secretary to the Commission;

"supervising officer" means the Inspector-General or the Commissioner.

3. These Regulations shall apply to all police officers or prison officers including, so far only as concerns the appointment of persons thereto or to act therein, the office of the Inspector-General or the Commissioner. Application

PART II

GENERAL

4. The Commission shall appoint a secretary to the Commission, who shall not be a member, and such other staff as it may from time to time consider necessary. Secretary and staff

5. Every meeting of the Commission shall be presided over by the Chairman. Presiding at meetings

6. A record shall be kept of the members present and the business transacted at every meeting of the Commission. Records of meetings

7. The Commission may make decisions without holding a meeting by circulating relevant papers among members who shall in writing make known to the Commission their views on such papers, but any member may require the implementation of any such decision to be deferred until the subject-matter of such decision has been considered at a full meeting of the Commission. Decisions by circulation of papers

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

9. The Chairman and any two members shall constitute a quorum for a meeting of the Commission or for making a decision of the Commission by the circulation of papers. Quorum

10. Any report, statement, record or other written communication concerning any meeting, inquiry or proceedings made by the Commission in exercise of its functions or made by any member in performance of his duties and any application form, report or other written communication, despatched to the Commission in connection with the exercise of its functions and in the possession of the Commission, shall be privileged to the extent that its production may not be compelled in any legal proceedings unless the Chairman certifies that such production is in the public interest.

Privilege for reports, etc.

11. Every member shall have such protection and privilege, in case of any action or suit brought against him for any act done or purported to be done in the *bona fide* execution of his duties, as is by law given to the acts done or words spoken by a Judge in the exercise of his judicial office.

Privilege of members

12. No member of the Commission, nor the secretary nor any member of the staff of the Commission nor any other person shall publish or disclose to any person, otherwise than in the exercise of his official functions, the contents of any document, communication or information whatsoever which has come to his notice in the course of his duties.

Disclosures

13. In exercising its powers in connection with the appointment, promotion or transfer of officers in the Force, the Commission shall have regard to the maintenance of the high standard of efficiency necessary in the Force and shall-

Matters to be considered by Commission

- (a) give due consideration to qualified officers serving in the Force and to residents of Zambia;
- (b) in the case of officers in the Force, take into account qualifications, experience and merit as well as seniority in the Force; and
- (c) where a post cannot be filled either-

- (i) by the appointment or promotion of a suitable person already in the Force; or

- (ii) by the appointment of a suitable person who has successfully completed a course of study or training acceptable to the Commission;

call for applications for the post by advertisement:

Provided that-

- A for special reasons the Commission may decide not to advertise;
- B. the Commission may restrict the application of such advertisement to persons who are already in the Force; and
- C. where it is satisfied that no suitable candidate with the requisite qualifications is available in Zambia, the Commission may decide that the post be filled by recruitment from outside Zambia.

The Laws of Zambia

14. (1) The Commission may constitute a selection board made up of such members of the Commission and/or other persons as the Chairman may appoint. Selection board

(2) The selection board shall advise the Commission on any matters referred to it by the Commission.

15. The Commission shall not discipline or terminate the appointment, whether by dismissal or otherwise, of any officer in the Force except in accordance with the provisions of these Regulations. Obligation to confirm with Regulations

16. The Commission shall, at the request of the responsible officer, hear the responsible officer personally in connection with any recommendation made by him to the Commission. Obligation to hear responsible officer

17. In carrying out its duties under the provisions of the Constitution and these Regulations, the Commission shall not take into account any representations made to it otherwise than in accordance with the Constitution or these Regulations: Irregular representation

Provided that nothing in this regulation shall be deemed to prohibit the Commission from taking into account a *bona fide* reference or testimonial of service.

18. (1) Every member shall, on appointment but before assuming the duties of his office, take an oath in the form set out in the First Schedule. Oaths on appointment

(2) The secretary and such other members of the staff of the Commission as the Chairman may require so to do, shall, on appointment but before assuming the duties of his office, take an oath in the form set out in the Second Schedule.

(3) Where any person is required to take an oath under this regulation and-

(a) he has no religious belief; or

(b) the taking of an oath is contrary to his religious belief;

he may make and subscribe a solemn affirmation in the form of the oath prescribed in sub-regulation (1) or (2), as the case may be, substituting the words "solemnly and sincerely declare and affirm" for the word "swear" and omitting the words "so help me God"

(4) Every oath or affirmation taken by a member shall be administered by a Judge and every oath or affirmation taken by the secretary or any other member of the staff of the Commission shall be administered by a commissioner for oaths.

PART III

APPOINTMENTS (INCLUDING PROMOTIONS AND TRANSFERS), CONFIRMATION OF APPOINTMENTS, FORCE EXAMINATIONS AND TERMINATION OF APPOINTMENTS OTHERWISE THAN BY DISCIPLINARY PROCEEDINGS

19. The Commission shall determine the form of advertisements issued in accordance with paragraph (c) of regulation 13. The qualifications specified in such advertisements shall be those approved by the responsible officer, after consultation with the Commission, for the vacancy under consideration. Advertisements

20. The Commission shall determine the procedure to be followed in dealing with applications for appointment to the Force, including the proceedings of any selection board appointed by the Chairman to interview candidates and shall determine the forms to be used in connection with the discharge of its functions. Procedure and forms

21. (1) When a vacancy occurs, or it is known that a vacancy will occur in the Force, the Inspector-General or the Commissioner will report the fact to the responsible officer and- Vacancies

- (a) if the Inspector-General or the Commissioner recommends that the vacancy should be filled by the appointment or promotion of an officer serving in the Force he will so inform the responsible officer and, if the promotion of that officer would involve the supersession of any more senior officers in the Force, he will also state the reasons for the supersession of each such officer;
- (b) if the Inspector-General or the Commissioner is unable to recommend the promotion of a serving officer to fill a vacancy he will inform the responsible officer of the names of the most senior officers serving in the particular grade or cadre from which the promotion would normally be made, and state the reasons why he does not consider the officers named to be suitable for promotion to the vacant post;
- (c) if the Inspector-General or the Commissioner recommends that applications to fill the vacancy should be invited from serving officers or from both serving officers and the general public he will attach to his report a draft advertisement setting out details of the vacant post and the duties and qualifications attached to it;
- (d) if the Inspector-General or the Commissioner is unable to recommend that the vacancy should be filled immediately, he will so inform the responsible officer and state his reasons therefor.

(2) The responsible officer will verify the details of the vacancy and will forward the Inspector-General's or the Commissioner's recommendations, with his own comments thereon, to the secretary.

22. Where a vacancy is to be filled-

- (a) according to the results of examinations which are conducted or supervised by the Commission; or
- (b) on the successful completion of a course of study or training designed to qualify a candidate for appointment to the Force;

Vacancies to be filled after examination or course of study

the Commission may make such arrangements in respect of the filling of such vacancy as it considers appropriate.

23. If the Inspector-General or the Commissioner is informed that the Commission has decided that a particular vacancy should be filled by recruitment from outside Zambia, he shall prepare an indent on the appropriate form and submit it to the responsible officer for verification.

Recruitment outside Zambia

24. (1) The responsible officer may make a temporary non-contract appointment for a period not exceeding three months to a vacant post in Division I, II, or III.

Appointments

(2) If the responsible officer intends that a temporary appointment to a vacant post should continue for more than three months then, not later than two months from the effective date of such appointment, he shall forward details of the officer so appointed and the reasons for such appointment to the secretary with a recommendation regarding the length of time during which temporary appointment will be required.

(3) If the responsible officer intends that an officer appointed temporarily to a vacant post should subsequently be appointed on probation, he shall forward details of the officer to the Commission which will determine whether or not such officer shall be appointed on probation.

(4) Every appointment on contract terms and every appointment involving promotion shall be made by the Commission.

25. (1) Where an officer holds a probationary appointment, three months before the expiration of the period of such probationary appointment, the Inspector-General or the Commissioner shall consider-

Probationary appointment and termination

- (a) whether such officer should, on such expiration, be confirmed in a pensionable post;
- (b) whether a further period of probationary service is necessary to determine whether such officer should be confirmed; or

- (c) whether such officer should not remain in the Force.

(2) If, after consideration of the matters referred to in sub-regulation (1), the Inspector-General or the Commissioner is of the opinion that an officer in a probationary appointment should be confirmed in a pensionable appointment and if that officer has passed such examinations as may be required as a condition for confirmation in his appointment, the Inspector-General or the Commissioner shall, as soon as may be before the expiration of the period of probationary appointment, forward a recommendation that the officer be confirmed to the responsible officer who will refer it, with his comments, to the secretary.

(3) If, after consideration of the matters referred to in sub-regulation (1), the Inspector-General or the Commissioner is of the opinion that the work and conduct of an officer in a probationary appointment have been of a standard to justify confirmation in a pensionable office, but the officer has not completed the examinations required for his appointment, the Inspector-General or the Commissioner shall, as soon as may be before the expiration of that officer's probationary appointment, forward a report together with his recommendations as to the period of further probationary service which the officer should be granted in order to pass the required examinations to the responsible officer who will refer it, with his comments, to the secretary.

(4) If, after consideration of the matters referred to in sub-regulation (1), the Inspector-General or the Commissioner is of the opinion that the work or conduct of an officer in a probationary appointment has not been satisfactory, he shall so inform the officer in writing and indicate whether he proposes to recommend-

- (a) an extension of the officer's probationary service to show whether he can overcome the defects noted: or
- (b) that the officer's probationary appointment should be terminated.

(5) The Inspector-General or the Commissioner shall, when giving to an officer the information mentioned in sub-regulation (4), ask the officer whether he wishes to make, within a period to be appointed by the Inspector-General or the Commissioner, any representations on the recommendations proposed. On the expiration of the period allowed to the officer to make any representations, the Inspector-General or the Commissioner shall forward a report on the officer, together with a copy of the letter to the officer and of the latter's representations, if any, his comments thereon and a recommendation either that the period of probationary service should be extended or that the officer should not remain in the Force, to the responsible officer for action.

(6) The responsible officer may dismiss any officer on probation who commits a serious disciplinary offence and may in any case terminate the appointment of such officer by giving him one month's notice in writing or one month's salary in lieu of notice. Any officer on probation may terminate his service by giving the responsible officer one month's notice or by paying one month's salary in lieu of notice.

26. If the responsible officer is of the opinion that an officer who is serving in the Force and who holds a pensionable office should be called upon to retire from the Force on the grounds that he has attained the age at which he can, under the provisions of the appropriate Pensions Act, lawfully be required to retire from the Force, the responsible officer shall-

Compulsory retirement

- (a) inform such officer that he intends to recommend that such officer be compulsorily retired from the Force;
- (b) ask such officer whether he wishes to make, within a period of time to be appointed by the responsible officer, any representations why he should not be so retired; and
- (c) after the expiration of such period, forward his recommendations together with a copy of his letter to such officer and the latter's representations, if any, and his comments thereon to the secretary.

27. (1) If the Inspector-General or the Commissioner recommends that an officer should act for a period of not less than thirty days in a post higher than that held substantively, or for a period of less than thirty days where it is required by law that the functions of the higher post may be exercised only by a person authorised by notification in the *Gazette* to exercise those functions, and that higher post is prescribed by the Government as a post carrying an acting allowance, he will so inform the responsible officer.

Acting appointments

(2) If any recommendation made under sub-regulation (1) involves the supersession of any more senior officers serving in the Force, detailed reasons for the supersession of each such officer shall be forwarded with the recommendation.

(3) The responsible officer shall forward the Inspector-General's or the Commissioner's recommendations, with his comments, to the secretary.

(4) In considering recommendations for acting appointments, the Commission shall apply the standards prescribed in regulation 13, except that consideration may also be given to the exigencies of the Force.

28. (1) No officer shall be considered for promotion unless he has passed the appropriate examinations organised by the Commission, the Inspector-General or the Commissioner.

Force examinations

(2) As soon as an officer passes any appropriate examination, the Inspector-General or the Commissioner will notify the secretary through the responsible officer accordingly.

(3) If the Inspector-General or the Commissioner considers that the officer is unable to pass any of the examinations referred to in sub-regulation (1) for reasons other than the officer's failure to pass the examinations required for his appointment, the Inspector-General or the Commissioner shall report to the responsible officer the reasons causing the officer's failure. The responsible officer will transmit the reasons, with his comments, to the secretary.

29. If, upon consideration of a recommendation made by the Inspector-General or the Commissioner that an officer serving in the Force should be confirmed in a pensionable post, the Commission is of the opinion that it requires further information, the Commission may through the responsible officer refer the matter back to the Inspector-General or the Commissioner for a further report.

Further reports

30 (1) Where an officer is serving on an agreement for a specified period of service and the Inspector-General or the Commissioner desires to retain his services for a further tour of service then, not later than thirty-three months after the officer's first day of resident service or three months before the officer's last day of duty, whichever is the earlier, the Inspector-General or the Commissioner shall invite the officer in writing either, if the officer be so eligible, to apply for admission to the permanent and pensionable establishment or, if the officer is ineligible for admission to the permanent and pensionable establishment, to apply to be engaged for a further period of service. If the officer states either that he does not wish to be admitted to the permanent and pensionable establishment or to be engaged for a further period of service, no further action will be necessary. If the officer duly applies either to be admitted to the permanent and pensionable establishment or to be engaged for a further period of service, the Inspector-General or the Commissioner shall forward to the responsible officer the officer's application together with his recommendation and state whether the officer has passed the relevant examinations, if any, the details of which must be given. The responsible officer shall forward the officer's application and the Inspector-General's or the Commissioner's recommendations, with his comments, to the secretary.

Renewal of agreements and admission to permanent and pensionable establishment

(2) Where an officer is serving on an agreement for a specified period of service and the Inspector-General or the Commissioner does not wish to retain the services of such officer for a further period of service, then the Inspector-General or the Commissioner shall so inform the officer in writing not later than five months before the officer's last day of duty and ask the officer if he has any representations to make within such period as may be appointed by the Inspector-General or the Commissioner. If the officer does not wish to be engaged for a further period of service no further action will be necessary. If the officer does make representations, the Inspector-General or the Commissioner shall forward a full statement of reasons for recommending that the officer should not be engaged for further service, together with a copy of his letter to the officer and the latter's representations and his comments thereon, to the responsible officer who will forward them, with his comments, to the secretary.

(3) If the Commissioner is satisfied that a post which an expatriate officer occupies cannot be easily or immediately Zambianised, the Commission may extend or renew the officer's contract at or near its end.

(4) The Commission may consider offering contract terms to any suitably qualified candidate for appointment who is over the age of forty-five.

(5) A married woman may be appointed to the Force on permanent and pensionable terms and conditions of service should she so desire. However, should her marriage cause a break in the service, she shall be granted unpaid leave until such time as she can resume service with the Force. If during this period of unpaid leave the officer is prepared to continue to contribute to the Civil Service Pension Scheme, then this period shall count towards pensionable service but not otherwise.

PART IV

DISCIPLINE

31. (1) Whenever it comes to the notice of a disciplinary authority that a criminal offence likely to warrant disciplinary proceedings may have been committed by an officer, it shall be the duty of the disciplinary authority to inform the responsible officer forthwith.

Procedure when
criminal offence may
have been committed

(2) Whenever it comes to the notice of the responsible officer that a criminal offence likely to warrant disciplinary proceedings may have been committed by an officer, or whenever the responsible officer is so informed under sub-regulation (1), it shall be the duty of the responsible officer to consult the Director of Public Prosecutions as to whether criminal proceedings are being instituted against such an officer.

(3) Where, after consultation with the Director of Public Prosecutions, the responsible officer is informed that criminal proceedings are not being instituted as aforesaid, it shall be the duty of the responsible officer to decide whether disciplinary proceedings are to be instituted against the officer and to give directions accordingly.

(4) Whenever criminal proceedings are instituted against an officer, it shall be the duty of the responsible officer to submit a report forthwith to the secretary setting out the facts of the case, together with a statement as to whether such an officer has been suspended under regulation 32.

32. (1) The responsible officer or supervising officer may suspend an officer from the exercise of the powers and functions of his office if he is satisfied that the public interest so requires when-

Suspension of officers

- (a) criminal proceedings are instituted against such officer; or
- (b) disciplinary proceedings for his dismissal are instituted or are about to be instituted against such officer.

(2) Whenever the responsible officer or supervising officer suspends an officer under this regulation, he shall notify such officer in writing of the reasons and shall deliver a copy of the notice to the secretary or responsible officer, as the case may be.

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(3) An officer who is suspended under sub-regulation (1) shall, during the period of his suspension, receive such proportion of his salary, not being less than half of his salary, as the responsible officer may direct.

(4) Where criminal or disciplinary proceedings have been instituted against an officer under suspension and such officer-

(a) is not convicted as a result of such criminal proceedings; and

(b) is not subjected to any punishment under these Regulations as a result of such disciplinary proceedings;

the whole amount of his salary withheld under sub-regulation (3) shall, upon the expiry of the period of his suspension, be paid to him.

(5) Where criminal or disciplinary proceedings have been instituted against an officer under suspension and such officer-

(a) is or is not convicted as a result of such criminal proceedings, if any; and

(b) is subjected to any punishment under these Regulations, other than dismissal, as a result of such disciplinary proceedings;

he shall, upon the expiry of the period of his suspension, be paid such proportion of his salary withheld under sub-regulation (3) as the Commission may direct.

(6) Subject to the provisions of sub-regulation (3), the suspension of an officer shall have effect during such period, and in accordance with such conditions, as the Commission shall specify by notice in writing to such officer:

Provided that, where it appears expedient, the Commission may at any time during such period abridge or extend such period by further notice in writing to such officer.

(7) An officer who is suspended under this regulation shall not leave Zambia without the permission of the responsible officer during the period of his suspension.

(8) In this regulation-

"salary" includes any personal allowance, inducement allowance and direct payments made under assistance schemes.

33. Where criminal proceedings are instituted against an officer, no disciplinary proceedings shall be instituted against such officer upon any ground which is the subject of such criminal proceedings, or, if such disciplinary proceedings have been instituted, they shall be suspended, until the conclusion of such criminal proceedings and the determination of any appeal therefrom.

Suspension of disciplinary proceedings pending final determination of criminal proceedings

34. (1) Where, as a result of criminal proceedings, an officer is convicted of an offence likely to warrant disciplinary proceedings for his dismissal, the responsible officer shall, by notice in writing to such officer, suspend him from the exercise of the powers and functions of his office and shall deliver a copy of such notice to the secretary.

Suspension following criminal conviction

(2) Where disciplinary proceedings are instituted against an officer suspended under sub-regulation (1), the responsible officer shall direct that a proportion of his salary not being less than half be withheld, as from the date of his suspension, pending the determination of such disciplinary proceedings.

(3) Where disciplinary proceedings instituted against an officer suspended under this regulation do not result in his dismissal, he shall be paid such proportion of his salary withheld under sub-regulation (2) as the Commission may direct.

(4) Subject to the provisions of this regulation, the suspension of an officer shall have effect during such period, and in accordance with such conditions, as the Commission shall specify by notice in writing to such officer:

Provided that, where it appears expedient, the Commission may at any time during such period abridge or extend such period by further notice in writing to such an officer.

35. (1) Where an officer is convicted of an offence likely to warrant disciplinary proceedings, such disciplinary proceedings shall, subject to the provisions of regulation 33, be instituted and determined in accordance with this regulation.

Procedure after conviction of officer

(2) Upon the conviction of an officer, it shall be the duty of the responsible officer to obtain-

- (a) a true copy of the charge;
- (b) a true copy of the judgment of the court by whom such an officer was convicted;
- (c) in the case of any appeal, a true copy of the judgment of any court by whom such appeal was determined; and
- (d) a true record of the proceedings of every such court, if available.

(3) The responsible officer shall institute disciplinary proceedings against an officer under this regulation by delivering to such officer a written statement setting out particulars of the charge or charges and of the grounds upon which such disciplinary proceedings are instituted, together with a notice requiring such an officer to submit to the responsible officer, within such period as the responsible officer shall specify, an exculpatory statement in writing of the grounds on which such an officer relies to exculpate himself.

(4) The responsible officer shall submit, with his comments, the documents obtained under sub-regulation (2) together with the statement of the charge or charges and the exculpatory statement, if any, referred to in sub-regulation (3), to the secretary.

(5) Notwithstanding the provisions of regulations 37, 38 and 39, the Commission may consider any disciplinary proceedings instituted against an officer under this regulation upon perusal of the documents referred to in sub-regulation (4), and may, in like manner, determine whether such an officer is to be dismissed or subjected to some other punishment on account of the offence of which he is convicted.

36. An officer acquitted of a criminal charge in any court shall not be dismissed or otherwise punished for any charges upon which he has been so acquitted, but nothing in this regulation shall prevent his being dismissed or otherwise punished on any other charges arising out of his conduct in the same matter.

Proceedings after
acquittal on criminal
charge

37. (1) Subject to the provisions of regulation 35, disciplinary proceedings against an officer under these Regulations shall be instituted by the disciplinary authority:

Institution and form of
disciplinary
proceedings

Provided that the responsible officer may, in any case where he considers it necessary or desirable, assume and exercise the functions of the disciplinary authority in relation to such disciplinary proceedings, and, without prejudice to the provisions of sub-regulation (2) of regulation 40, the provisions of these Regulations shall apply *mutatis mutandis* to such disciplinary proceedings as they apply to disciplinary proceedings instituted by a disciplinary authority.

(2) Subject to the provisions of regulation 35, disciplinary proceedings instituted against an officer who-

- (a) has misconducted himself in such a manner as would, in the opinion of the disciplinary authority, warrant his dismissal or discharge or demotion or reduction in salary or a fine, shall be formal disciplinary proceedings; and
- (b) has misconducted himself in such a manner as would, in the opinion of the disciplinary authority, warrant punishment other than a punishment referred to in sub-paragraph (a) above shall be summary disciplinary proceedings.

(3) In this regulation-

"formal disciplinary proceedings" means disciplinary proceedings under regulation 38;

"summary disciplinary proceedings" means disciplinary proceedings under regulation 39.

38. (1) Any disciplinary proceedings instituted against an officer referred to in paragraph (a) of regulation 37 (2) shall be instituted and determined in accordance with this regulation.

Formal disciplinary proceedings

(2) Whenever a disciplinary authority institutes disciplinary proceedings against an officer (in this regulation referred to as "the accused officer") under this regulation, he shall do so, after such consultation with the Director of Public Prosecutions as he considers necessary, by delivering to the accused officer a written statement setting out particulars of the charge or charges and of the grounds upon which such disciplinary proceedings are instituted, together with a notice in writing requiring the accused officer to submit to the disciplinary authority, within such period as the disciplinary authority shall specify, an exculpatory statement in writing of the grounds on which the accused officer relies to exculpate himself.

(3) Upon the expiry of the period specified in the notice delivered to the accused officer under sub-regulation (2), the disciplinary authority shall consider the exculpatory statement, if any, of the accused officer and may-

- (a) exculpate the accused officer and inform him accordingly in writing; or
- (b) subject to the provisions of regulation 40, impose such punishment on the accused officer as is proper, having regard to all the circumstances of the case; or
- (c) submit the case, together with a statement of the charge or charges, the exculpatory statement, if any, of the accused officer and the written comments of the disciplinary authority, to the responsible officer.

(4) The responsible officer shall consider any case submitted to him under paragraph (c) of sub-regulation (3) and the documents therein referred to and may-

- (a) exculpate the accused officer and direct the disciplinary authority to inform the accused officer accordingly; or
- (b) subject to the provisions of regulation 40, impose such punishment on the accused officer as is proper, having regard to all the circumstances of the case; or

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- (c) submit the case, together with the documents referred to in paragraph (c) of sub-regulation (3) and a written report thereon, to the secretary for consideration and determination by the Commission.

(5) Where it appears to the Commission, upon consideration of the report of the responsible officer and the exculpatory statement, if any, of the accused officer and all other documents submitted for its consideration under sub-regulation (4), that further investigation of the case is necessary, the Commission shall, subject to the provisions of sub-regulation (6), appoint a committee to carry out such further investigations as the Commission may direct.

(6) A committee appointed under sub-regulation (5) (hereinafter referred to as "the committee") shall consist of not less than three members who shall be public officers, and-

- (a) one member shall be a legal practitioner; and
- (b) the other members shall be appointed with due regard to the office of the accused officer.

(7) The committee shall, as soon as may be practicable and before it takes any further step in carrying out an investigation under this regulation, give notice in writing to the accused officer stating that, on a date, and at a place and time, specified in such notice, it intends to investigate such matters as shall be specified in such notice and that the accused officer is required or, as the case may be, permitted to appear before the committee during such investigation.

(8) Whenever any person other than the accused officer is questioned by the committee in the course of an investigation under this regulation, the accused officer shall be given an opportunity of being present and of putting questions on his own behalf to such person, and any document used by the committee in the course of its investigation shall be made available for scrutiny by the accused officer at his request.

(9) If the accused officer so requests and it appears to the committee necessary or desirable, the committee may permit the accused officer to be represented by a legal practitioner or by a public officer nominated by the accused officer or nominated, with the consent of the accused officer, by the committee, and the provisions of sub-regulation (8) shall apply in relation to such legal practitioner or such public officer as they apply to the accused officer.

(10) Where it appears to the committee, as a result of its investigation under this regulation, that there are grounds for instituting disciplinary proceedings, other than those in respect of which the committee is appointed, against the accused officer, the committee shall so inform the disciplinary authority in writing.

(11) On completion of its investigation under this regulation, the committee shall prepare and submit to the Commission a written report setting out the matters investigated by the committee, and such report shall include-

- (a) a statement whether, in the opinion of a majority of the members of the committee, the accused officer committed the charge or charges alleged against him and investigated by the committee, and a brief statement of the reasons for that opinion;
- (b) particulars of any matters which, in the opinion of a majority of the members of the committee, tend to aggravate or mitigate, as the case may be, the gravity of the case; and
- (c) a clear summary of the findings of the committee or, in the case of dissent among the members, of a majority of the members thereof, on the matters investigated by the committee:

Provided that the committee shall not make any recommendation as to, or otherwise comment on, the form of punishment which may be imposed on the accused officer.

(12) The Commission may, after consideration of a report submitted to it under sub-regulation (11), refer the report to the committee for clarification of any matter arising thereon or therein contained, or for further investigation and report under this regulation as the Commission may direct, and the committee shall comply with any such direction as soon as may be practicable.

(13) The Commission shall consider all matters submitted to it for its consideration and determination under this regulation, including any report submitted under sub-regulation (11) or (12), and shall determine, subject to the provisions of regulation 40, whether any punishment is to be imposed on the accused officer, and it shall give directions accordingly.

(14) It shall be the duty of the disciplinary authority to give notice in writing to the accused officer of any punishment imposed on him under this regulation and such notice shall, except in the case of a severe reprimand or a reprimand or any punishment imposed by the Commission, inform the accused officer of his right to appeal under regulation 42.

39. (1) Any disciplinary proceedings instituted against an officer referred to in paragraph (b) of regulation 37 (2) shall be instituted and determined in accordance with this regulation.

Summary disciplinary proceedings

(2) Whenever a disciplinary authority institutes disciplinary proceedings against an officer (in this regulation referred to as "the accused officer") under this regulation, he shall do so, after such investigation as he considers necessary, by delivering or causing to be delivered to the accused officer a written statement setting out particulars of the charge or charges and of the grounds upon which such disciplinary proceedings are instituted, together with a notice in writing requiring the accused officer to submit to the disciplinary authority, within such period as the disciplinary authority shall specify, an exculpatory statement in writing of the grounds on which the accused person relies to exculpate himself.

(3) Upon the expiry of the period specified in the notice delivered to the accused officer under sub-regulation (2), the disciplinary authority shall consider the exculpatory statement, if any, of the accused officer and shall-

- (a) subject to the provisions of regulation 40, impose such punishment on the accused officer as is proper, having regard to all the circumstances of the case; or
- (b) exculpate the accused officer and inform him accordingly in writing.

(4) Notwithstanding the foregoing provisions of this regulation, where it appears to the disciplinary authority, after such investigation as he considers necessary, that disciplinary proceedings instituted under this regulation would warrant a punishment not more severe than a reprimand, the disciplinary authority may institute such disciplinary proceedings by conveying a reprimand to the accused officer without a written statement of the charge or of the grounds upon which such disciplinary proceedings are instituted, and it shall be sufficient compliance with this regulation if the disciplinary authority, by notice in writing given to the accused officer, thereafter confirms such reprimand and specifies the reasons therefor.

(5) Except in the case of a reprimand imposed under sub-regulation (4), it shall be the duty of the disciplinary authority to give notice in writing to the accused officer of any punishment imposed on him under this regulation.

(6) Except in the case of a severe reprimand or a reprimand, every notice given under sub-regulation (5) shall inform the accused officer of his right to appeal under regulation 42.

40. (1) The Commission may impose any one or more of the following punishments under these Regulations:

Punishments which may be imposed by Commission, responsible officer or disciplinary authority

- (a) dismissal;
- (b) discharge, by due notice or by payment of salary in lieu thereof;

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- (c) reduction in rank;
- (d) reduction in salary;
- (e) reduction in seniority;
- (f) deferment of increment;
- (g) stoppage of increment;
- (h) withholding of increment;
- (i) severe reprimand;
- (j) reprimand.

(2) The responsible officer may impose any one or more of the following punishments under these Regulations in the case of an officer serving in Divisions I, II and III:

- (a) reduction in salary;
- (b) fine;
- (c) deferment of increment;
- (d) stoppage of increment;
- (e) withholding of increment;
- (f) severe reprimand;
- (g) reprimand.

(3) A supervising officer may impose any one or more of the following punishments under these Regulations on an officer serving in Divisions II and III:

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- (a) fine;
- (b) deferment of increment;
- (c) stoppage of increment;
- (d) withholding of increment;
- (e) severe reprimand;
- (f) reprimand.

41. (1) A disciplinary authority shall make a report of all disciplinary proceedings instituted and determined by him, including disciplinary proceedings where no punishment is imposed, to the responsible officer.

Reports and records of disciplinary proceedings determined by disciplinary authority or responsible officer

(2) The responsible officer shall review all disciplinary proceedings reported to him under sub-regulation (1) and may, if he considers that the punishment imposed was too severe or too lenient or that no punishment should have been imposed or that a punishment should have been imposed where no punishment was imposed, refer the matter to the disciplinary authority for further report, as the responsible officer may direct.

(3) The responsible officer shall make a report to the secretary of every case where disciplinary proceedings are determined by him or by the disciplinary authority and shall submit therewith any report made to him under the foregoing provisions of this regulation, together with a copy of the relevant charge or charges, a copy of any relevant exculpatory statement, if any, and a copy of any notice required to be given under regulation 38 or 39 of the result of such disciplinary proceedings.

(4) The responsible officer shall keep records of all matters submitted or required to be submitted to him under this regulation and shall submit the same to the Commission from time to time, as the Commission may direct.

42. (1) Except in the case of punishment imposed by the Commission, an officer may appeal to the Commission against any punishment, other than a reprimand or a severe reprimand, imposed on him under these Regulations.

Appeals against punishment imposed by disciplinary authority or responsible officer

(2) Every appeal made by an officer under this regulation shall be in writing addressed to the disciplinary authority or, as the case may be, to the responsible officer by whom the punishment is imposed, and shall set out clearly the grounds of appeal, and every such appeal shall be delivered to the disciplinary authority or to the responsible officer as aforesaid not later than twenty-one days from the date of the notice given to such an officer informing him of the punishment imposed.

(3) Every appeal under this regulation shall-

(a) in the case of an appeal delivered to a disciplinary authority under sub-regulation (2), be submitted by the disciplinary authority to the responsible officer:

(b) in the case of an appeal-

(i) delivered to the responsible officer under sub-regulation (2): or

(ii) submitted to the responsible officer under paragraph (a);

be submitted by the responsible officer to the secretary for consideration and final determination by the Commission.

(4) In considering any appeal under this regulation, the Commission may give such directions under sub-regulation (4) of regulation 41 as it may deem necessary for purposes of determining the appeal.

(5) Every determination of the Commission under this regulation shall have effect in accordance with the directions of the Commission, and notice in writing thereof shall be given by the responsible officer to the appellant.

43. (1) Notwithstanding the provisions of these Regulations, if the responsible officer considers that an officer should be retired from the Force on the grounds of public interest, he shall-

Retirement in public interest

(a) obtain and consider reports submitted on the officer as to his work and conduct;

(b) inform the officer of the tenor of such reports and allow him an opportunity within a period to be appointed by the responsible officer of showing cause why he should not be retired from the Force.

(2) If, on the expiration of the period allowed to the officer to show cause why he should not be retired from the Force, the responsible officer, after considering the statement of the officer, if any, and having had regard to all the circumstances of the case, is of the opinion that such officer should be retired from the Force, he shall forward the reports obtained in pursuance of paragraph (a) of sub-regulation (1) and the statement of the officer, together with his comments thereon, to the secretary.

(3) If, upon consideration of the report made by the responsible officer in pursuance of sub-regulation (2), the Commission is of the opinion that the facts disclosed warrant the institution of proceedings for the retirement in the public interest or the dismissal of the officer or the imposition of some lesser penalty than dismissal, the Commission may direct the responsible officer to institute proceedings against the officer under the provisions of regulation 38.

44. Subject to the provisions of regulation 3, the provisions of this Part shall apply to every officer including an officer serving on contract or agreement, whether on a temporary basis or otherwise, and any term or condition in such contract or agreement providing for the termination of the services of such an officer shall be construed to be in addition to, and not in derogation of, the provisions of this Part.

Application of Part IV to officers serving on contract

45. Where under the provisions of these Regulations-

Service of documents

(a) it is necessary-

(i) to deliver or serve any notice, charge or other document to or upon any officer; or

(ii) to communicate any information to any officer by reason of such officer having absented himself from duty; and

(b) it is not possible to effect such delivery or service, or to communicate such information, to an officer personally;

it shall be sufficient if such notice, charge or other document, or a letter containing such information, be served upon such an officer by registered post to his last known address.

PART V

MISCELLANEOUS

46. Any officer who submits any matter for the consideration of the Commission shall ensure that all relevant documents and papers are made available to the Commission and the Commission may require the production of any further documents or information relevant to the matter under consideration.

Production of relevant documents, etc.

47. All correspondence for the Commission from the responsible officer and other persons shall be addressed to the secretary unless otherwise provided by these Regulations.

Correspondence

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48. Any case not covered by these Regulations shall be reported to the secretary and the Commission shall determine the procedure to be adopted. Cases not otherwise provided for

FIRST SCHEDULE

(Regulation 18)

THE POLICE AND PRISON SERVICE COMMISSION

OATH OF MEMBER OF COMMISSION

I,,
having been appointed as Chairman/member of the Police and Prison Service Commission do swear that I will, without fear or favour, affection or ill will, discharge the functions of the office of Chairman/member of the Police and Prison Service Commission, and that I will not, directly or indirectly, reveal any matters relating to such functions to any unauthorised person or otherwise than in the course of duty.

SO HELP ME GOD

Sworn/Declared before me this day of
....., 19.....

.....
Judge

SECOND SCHEDULE

(Regulation 18)

THE POLICE AND PRISON SERVICE COMMISSION

OATH OF SECRETARY AND STAFF OF COMMISSION

I,,
having been appointed to exercise the functions of secretary/a member of the staff of the Police and Prison Service Commission, do swear that I will not, directly or indirectly, reveal to any unauthorised person or otherwise than in the course of duty the contents or any part of the contents of any documents, communication or information whatsoever which may come to my knowledge in the course of my duties as such.

SO HELP ME GOD

Sworn/Declared before me this day of
....., 19....

.....
Commissioner for Oaths