

THE CONSTITUTION OF JAMAICA

REGULATIONS

(Made under section 81 of the Jamaica (Constitution) Order in Council, 1959, preserved by section 2 of the Jamaica (Constitution) Order in Council, 1962)

THE PUBLIC SERVICE REGULATIONS, 1961

(Made by the Governor, after consultation with the Public Service Commission on the 1st day of June, 1961)

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[1st June, 1961.]

PART I—*Preliminary*

1. These Regulations may be cited as the Public Service Regulations, 1961. Short title.

2.—(1) In these Regulations unless the context otherwise requires—

Interpreta-
tion.

"authorized officer" means a member of the Commission or an authority or a public officer to whom the functions of the Governor-General have been delegated pursuant to section 80 of the Order;

"chairman" means the chairman of the Commission and includes any member presiding at a meeting of the Commission;

"Commission" means the Public Service Commission established by section 75 of the Order;

"emoluments" means the whole of an officer's receipts from public funds but does not include fees, transport allowances, subsistence allowances or allowances for out-of-pocket expenses;

"functions" includes powers and duties;

"member" means member of the Commission;

"officer" means public officer other than—

(a) a member of the Commission, the Judicial Service Commission or the Police Service Commission;

(b) the Attorney-General;

(c) the Auditor-General;

(d) an officer whose appointment is regulated by the Judicial Service Commission or the Police Service Commission;

"Order" means the Jamaica (Constitution) Order in Council, 1959;

"perform" in relation to functions includes exercise;

"prescribed salary rate" means the maximum rate of basic annual salary payable under the scale for the time being applicable to the salary grade OPS/CR V;

"regulation" means one of these Regulations.

(2) In these Regulations a reference to the salary of an officer charged shall be construed as a reference to the salary of that officer at the date of the letter preferring charges against him.

PART II—*Public Service Commission*

Oath of
office of
Commission.
First Schedule
Form 1

3. The chairman and members shall on appointment take before a Justice of the Peace an oath in Form 1 of the First Schedule.

Oath of
office of
staff
Form 2
Functions
of Com-
mission

4. Every person appointed to the staff of the Commission shall on appointment take before a Justice of the Peace an oath in Form 2 of the First Schedule.

5. Where the order requires the Governor-General in the performance of any function to act on the recommendation of the Commission the Governor-General—

(a) may where that function has been delegated pursuant to section 80 of the Order; and

(b) shall in every other case,

request the Commission to make its recommendation and it shall be the duty of the Commission to make the recommendations so requested.

Duties of
Chief Per-
sonnel
Officer

6. It shall be the duty of the Chief Personnel Officer to—

(a) submit, whether in writing or orally, matters for the decision of the Commission;

(b) attend meetings of the Commission;

(c) carry out the decisions of the Commission;

(d) ensure that all documents and papers relating to any matter being or to be considered by the Commission are made available to the Commission; and

(e) generally, be responsible for matters relating to the functions of the Commission.

Procedure
and meet-
ings

7.—(1) The Commission shall meet as often as may be necessary or expedient for the purpose of performing its functions and such meetings shall be held at such places and at such times as the Commission shall decide.

(2) In the absence of the chairman from any meeting the members present may elect one of their number to preside at that meeting.

(3) All decisions at a meeting of the Commission shall be by a majority of the votes of the members present and voting:

Provided that where the voting is equal the chairman shall have a casting vote (as well as an original vote).

8.—(1) Minutes of all meetings of the Commission shall be duly recorded and copies of such minutes duly confirmed at a subsequent meeting or by the individual members on circulation thereof shall as soon as practicable thereafter be forwarded to the Governor-General.

Record of meetings and decisions.

(2) Any member of the Commission present when any decision is made who dissents therefrom may require that his dissent and his reasons for dissenting be recorded in the minutes.

9. Matters may also be decided by the Commission without a meeting upon circulation of the relevant papers among the members; but if on circulation of the papers relating to any matter a difference of opinion arises among the members, or if any member so requires, the matter shall be reserved for discussion at a meeting.

Decisions otherwise than at a meeting.

10. The Commission in considering any matter or question may consult with any such public officer or other person as the Commission may consider proper and desirable and may require any public officer to attend and give evidence before it and to produce any official documents relating to such matter or question.

Consultation with other persons.

11.—(1) Any officer who without reasonable cause fails to appear before the Commission when required to do so, or who fails to comply with any request properly made by the Commission, shall be guilty of a breach of discipline and the Commission may, where appropriate, recommend that disciplinary proceedings be instituted against him.

Failure to comply with request of Commission.

(2) In this regulation "officer" includes an officer whose appointment is regulated by the Judicial Service Commission or the Police Service Commission.

12. Except with the consent of the Governor-General signified in writing under the hand of the Chief Personnel Officer, a person shall not in any legal proceedings produce or be permitted to give evidence of the contents or nature of any document, communication or information addressed, made or given—

Privileged information.

- (a) to the Commission by or on behalf of the Governor-General, the Chief Personnel Officer, a Permanent Secretary or the head of any Government Department for the purpose of enabling the Commission to perform any of its functions; or
- (b) by the Commission to the Governor-General, the Chief Personnel Officer, a Permanent Secretary or the Head of any Government Department in relation to any matter concerning or arising out of the functions of the Commission.

Penalty
for giving
false in-
formation
to Com-
mission.

13. Any person who in connection with any application for employment or promotion in the public service or with any matter upon which it is the duty of the Commission to make any recommendation to the Governor-General or upon which it is the duty of the Commission or of an authorized officer to make any decision, wilfully gives to the Commission or to any member thereof, or to an authorized officer, any information which he knows to be false or does not believe to be true, or which he knows to be false by reason of the omission of any material particular, shall be guilty of an offence, and upon summary conviction thereof before a Resident Magistrate shall be liable to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding two years or to both such fine and such imprisonment.

PART III—*Appointments, Promotions and Transfers*

Recom-
mendations
to Govern-
General.

14.—(1) The Commission shall make recommendations to the Governor-General with respect to—

- (a) appointments, promotions and transfers of suitable officers;
- (b) appointments or promotions of officers where the Commission is of the opinion that a candidate should be given direct entry into a salary scale (whether on first appointment to the public service or on promotion where such promotion is not promotion in the ordinary course) at an incremental point higher than the minimum of the salary scale attaching to the office to which he is being appointed or promoted;
- (c) confirmation of individual officers in their appointments and the passing of promotional or efficiency bars.

(2) The Commission shall not (unless so requested by the Governor-General) make any such recommendation in relation to a function which has been delegated to an authorized officer.

15. In order to perform its functions under regulation 14, the Commission shall supervise the selection of persons for admission to the public service, for the grant of study leave and for the award of scholarships for special training for the public service.

Supervision
of train-
ing.

16. Where the Commission considers either that there is no suitable candidate already in the public service available for the filling of any vacancy or that having regard to qualifications, experience and merit it would be advantageous and in the best interest of the public service that the services of a person not already in the service be secured, the Commission shall take such steps (including local advertisement of the existence of such vacancy) as it may think necessary for the filling of such vacancy.

Advertise-
ment of
vacancies.

17.—(1) From time to time as vacancies occur the Commission shall consider the eligibility of all officers for promotion, and in respect of every such officer shall take into account not only his seniority, experience and educational qualifications but also his merit and ability.

Principles
of selec-
tion for
promotion.

(2) For promotion to a post involving work of a routine nature more weight may be given to seniority than where the work involves greater responsibility and initiative. Merit and ability shall be given more weight progressively as the work involves a higher degree of responsibility and initiative.

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

- (a) his general fitness;
- (b) the position of his name on the seniority list;
- (c) his basic educational qualifications and any special qualifications;
- (d) any special course of training that he may have undergone (whether at the expense of the Government or otherwise);
- (e) markings and comments made in confidential reports by any Permanent Secretary or other senior officer under whom the officer worked during his service;
- (f) any letters of commendation in respect of any special work done by the officer;
- (g) the duties of which he has had knowledge;
- (h) the duties of the post for which he is a candidate;

- (i) any specific recommendation of the Permanent Secretary or Head of Department for filling the particular post;
- (j) any previous employment of his in the public service or otherwise;
- (k) any special reports for which the Commission may call.

Principles of selection for acting appointments.

18.—(1) The procedure for making a recommendation in relation to an acting appointment as a prelude to a substantive appointment shall be the same as that prescribed in regulation 17 in relation to a promotion.

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

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

Procedure for appointments.

19.—(1) The Commission shall be responsible for the form and manner in which applications are to be made for appointment to public offices within its purview and for the conduct of any examinations for recruitment to such offices, and shall determine whether any candidate has the necessary qualifications for appointment to such offices.

(2) The Commission may interview candidates for appointment and shall consider in respect of each candidate—

- (a) his educational qualifications;
- (b) his general fitness;
- (c) any previous employment of his in the public service or otherwise; and
- (d) any reports for which the Commission may call from persons such as the principal, headmaster or headmistress of a candidate's university, college or school or any referees named by the candidate.

Selection Boards.

20.—(1) The Commission may from time to time appoint one or more than one Selection Board to assist in the selection of candidates for appointment to the public service and the composition of any such Board and the form in which its reports are to be submitted shall be decided by the Commission.

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

21. In order to assist the Commission in performing its functions Permanent Secretaries and Heads of Departments shall in each year furnish to the Chief Personnel Officer confidential reports in respect of the twelve months immediately preceding—

Confidential reports to assist Commission.

- (a) the 1st day of November, upon all officers whose minimum annual salary is or exceeds \$2,500;
- (b) the 1st day of January, upon all officers whose minimum annual salary is or exceeds \$1,500 but is less than \$2,500;
- (c) the 1st day of March, upon all officers whose minimum annual salary is less than \$1,500.

22.—(1) Subject to the provisions of paragraph (2), a transfer not involving a change in the emoluments of an officer or the nomenclature of his post may, where the transfer—

Transfers.

- (a) is within a Ministry or between a Ministry and any Department of that Ministry, be made by the Permanent Secretary;
- (b) is within a Department, be made by the Head of that Department or the Permanent Secretary of the Ministry responsible for that Department;
- (c) is between Ministries or between Departments of different Ministries or a Ministry and a Department of another Ministry, be made by the Chief Personnel Officer after consultation with the Permanent Secretaries or Heads of Departments concerned.

(2) Where any officer is, or is to be, transferred under any of the foregoing provisions of this regulation, a Permanent Secretary or Head of Department or the officer concerned (through the Permanent Secretary or Head of Department) may lodge a written objection with the Chief Personnel Officer; and an officer lodging such an objection may transmit a copy thereof direct to the Chief Personnel Officer; and it shall be the duty of the Chief Personnel Officer forthwith to lay the matter before the Commission which may intervene and make a recommendation to the Governor-General.

PART IV—*Probationary Service and Termination of Appointments*

Probationary service.

23.—(1) On first appointment to the public service or on promotion in the service from a non-pensionable to a pensionable post or from any post listed in the First Schedule to the Provident Fund Act to a pensionable post, an officer will be required to serve a probationary period of one year unless a shorter term is specified in his letter of appointment.

(2) At intervals of six months and nine months during the probationary period Permanent Secretaries and Heads of Departments shall submit to the Chief Personnel Officer a report on every officer so promoted or appointed on probation in their Ministries or Departments. One month before the end of the probationary period Permanent Secretaries and Heads of Departments shall submit a further report and a recommendation—

- (a) that the officer be confirmed in the appointment; or
- (b) that the probationary period be extended; or
- (c) that the officer's services be terminated; or
- (d) that the officer revert to his former post.

(3) Subject to the provisions of these Regulations, the appointment on probation of an officer may, at any time during the period of probation and without any reason being given, be terminated by the Governor-General acting on the recommendation of the Commission upon one month's notice in writing or payment of one month's salary in lieu thereof.

Premature retirement.

24.—(1) Where it appears to a Permanent Secretary or Head of Department that pursuant to paragraph (2) of section 8 of the Pensions Act an officer in his Ministry or Department who has attained the age of fifty years ought to be called upon to retire from the public service, the Permanent Secretary or Head of Department shall advise the officer accordingly and report the matter together with his reasons therefor for consideration by the Commission, and the Commission shall recommend to the Governor-General whether or not that officer ought to be called upon to retire.

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

(3) An officer may at any time after he attains the age of fifty years apply to the Governor-General for permission to retire pursuant to paragraph (i) of subsection (1) of section 6 of the Pensions Act and shall in his application state the grounds on which it is based.

(4) The Commission shall recommend to the Governor-General whether or not an application under paragraph (3) ought to be granted.

25.—(1) Where a post (being one of a number of like posts) has been abolished but one or more than one of such posts remains, the Permanent Secretary or Head of Department shall—

Termination of appointment in certain circumstances.

- (a) if the post is one in respect of which the power to appoint has been delegated to such Permanent Secretary or Head of Department, determine which substantive holder of such post shall have his appointment terminated; and
- (b) in any other case submit to the Chief Personnel Officer for consideration by the Commission, a report thereon containing his recommendations, with reasons therefor, as to which substantive holder of such post ought to have his appointment terminated; and the Commission shall make such recommendation thereon to the Governor-General as it may think proper (including if it thinks fit a recommendation that the officer concerned be transferred to another post not lower in status than that which has been abolished).

(2) Paragraph (1) shall apply in relation to the termination of appointments for the purpose of facilitating improvement in the organization of a Ministry or Department in order to effect greater efficiency or economy.

26.—(1) Notwithstanding the provisions of regulations 42 and 43, where it is represented to the Commission or the Commission considers it desirable in the public interest that an officer ought to be required to retire from the public service on grounds which cannot suitably be dealt with under any of these Regulations it shall call for a full report from the Head of every Ministry or Department in which the officer has served during the last preceding ten years.

Retirement in the public interest.

(2) If, after considering such reports and giving the officer an opportunity of submitting a reply to the grounds on which his retirement is contemplated, and having regard to the conditions of the public service, the usefulness of the officer thereto, and all the other circumstances of the case, the Commission is satisfied that it is desirable

in the public interest so to do, it shall recommend to the Governor-General that the officer be required to retire.

Pension.

27. Where the appointment of an officer is terminated under regulation 24, 25 or 26 his service shall terminate on such date as the Commission may recommend and the question of his pension shall be dealt with in accordance with the provisions of the Pensions Act.

PART V—Discipline

A—GENERAL

Functions respecting discipline.

28.—(1) The Commission shall deal with disciplinary proceedings against officers in the light of reports from Permanent Secretaries and Heads of Departments, or otherwise.

(2) Subject to paragraph (3), where the Commission is of opinion that disciplinary proceedings ought to be instituted against an officer, the Commission may recommend to the Governor-General that such proceedings be instituted.

(3) Where an offence against any enactment appears to have been committed by an officer the Commission before making a recommendation under paragraph (2) shall obtain the advice of the Attorney-General as to whether criminal proceedings ought to be instituted against the officer concerned; and if the Attorney-General advises that criminal proceedings ought to be so instituted the Commission shall not recommend the initiation of disciplinary proceedings before the determination of the criminal proceedings so instituted.

Regulations to govern disciplinary procedure.

29.—(1) Any report of misconduct shall be made to the Chief Personnel Officer and dealt with under this Part of these Regulations as soon as possible after the time of its occurrence.

(2) Any case not covered by these Regulations shall be reported to the Chief Personnel Officer and the Commission may issue instructions as to how the case is to be dealt with; and the case shall be dealt with accordingly.

Grounds for criminal prosecution.

30. Where upon a preliminary investigation or a disciplinary enquiry an offence against any enactment appears to have been committed by an officer, the Permanent Secretary of the Ministry (or Head of Department) to which he is attached shall, unless action by the Police has been or is about to be taken, obtain the advice of the Attorney-General as to whether criminal proceedings ought to be instituted.

31.—(1) Where criminal proceedings have been instituted in any court against an officer, proceedings for his dismissal upon any grounds arising out of the criminal charge shall not be taken until after the court has given judgment and the time allowed for an appeal from the judgment has expired; and where an officer after conviction has appealed, proceedings for his dismissal shall not be taken until after the withdrawal or determination of the appeal.

No disciplinary proceedings while criminal proceedings pending.

(2) Nothing in this regulation shall prevent the officer being interdicted from duty pursuant to regulation 32.

32.—(1) Where—

Interdiction.

(a) disciplinary proceedings; or

(b) criminal proceedings,

have been or are about to be instituted against an officer, and where the Commission is of the opinion that the public interest requires that that officer should cease to perform the functions of his office, the Commission may recommend his interdiction from the performance of these functions.

(2) An officer so interdicted shall, subject to the provisions of regulation 36 and paragraph (3) hereof, be permitted to receive such proportion of the salary of his office as the Commission shall recommend to the Governor-General.

(3) The proportion of salary referred to in paragraph (2) shall be related to the nature and circumstances of the charge against the officer, so, however, that—

(a) subject to sub-paragraphs (b) and (c), the proportion shall not be less than one-half;

(b) subject to sub-paragraph (c), where the charge involves an allegation of defalcation, fraud or misappropriation of public funds or public property, the proportion shall not be less than one-quarter; and

(c) where special circumstances exist which in the opinion of the Public Service Commission justify such action, the Commission may recommend to the Governor-General that salary be paid at a proportion less than one-quarter or entirely withheld.

(4) Where disciplinary proceedings against an officer under interdiction from duty result in his exculpation, he shall be entitled to the full amount of the salary which he would have received had he not been interdicted, but where the proceedings result in any punishment other than dismissal the officer shall be allowed such salary as the Commission may in the circumstances recommend.

(5) An officer who is under interdiction from duty—

- (a) shall give to his Permanent Secretary or Head of Department an address at which he can be found; and
- (b) shall not leave the Island without the prior permission of the Governor-General, acting on the recommendation of the Commission.

(6) Without prejudice to any other form of service, a document required to be served pursuant to these Regulations on an officer under interdiction from duty shall be deemed to be properly served if sent in a prepaid registered letter properly addressed and posted to the address given by the officer in accordance with paragraph (5).

Copies of evidence of enquiries.

33. An officer in respect of whom a disciplinary enquiry is to be held shall be entitled without charge to him to receive copies of or to be allowed access to any documentary evidence relied on for the purpose of the enquiry. He shall also be given upon request a copy of the evidence (including copies of documents tendered in evidence) after the enquiry is closed.

Disciplinary action after acquittal of a criminal charge.

34. An officer acquitted in any court of a criminal charge shall not be dismissed or otherwise punished in respect of any charge of which he has been acquitted, but nothing in this regulation shall prevent his being dismissed or otherwise punished in respect of any other charge arising out of his conduct in the matter, unless such other charge is substantially the same as that in respect of which he has been acquitted.

Officer convicted of a criminal charge.

35. If an officer is convicted in any court of a criminal charge, the Commission may consider the relevant proceedings of that court, and if the Commission is of the opinion that the officer ought to be dismissed or subjected to some lesser punishment in respect of the offence of which he has been convicted the Commission may thereupon recommend the dismissal or other punishment of the officer without the institution of any disciplinary proceedings under these Regulations.

Non-payment of emolument on conviction of a criminal charge.

36. An officer convicted of a criminal charge involving dishonesty, fraud or moral turpitude or convicted of a criminal charge and sentenced to imprisonment shall not receive any of his emoluments after the date of such conviction pending consideration of his case by the Commission.

Disciplinary penalties.

37.—(1) The penalties which may be imposed on an officer against whom a disciplinary charge has been established are—

- (a) dismissal;
- (b) reduction in rank;
- (c) suspension without pay for a period not exceeding three months;

- (d) deferment or withholding of increment;
- (e) a fine;
- (f) reprimand.

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

(3) The absence of an officer from the Island without permission renders him liable to summary dismissal with effect from the date of his departure.

(4) The absence of an officer from duty for a period of five days or more without permission renders him liable to summary dismissal with effect from the first day of such absence.

38.—(1) Subject to the provisions of this regulation an increment shall not be suspended, deferred or withheld except by the Governor-General acting upon the recommendation of the Commission.

Suspension,
deferment
and with-
holding of
increments.

(2) The grant of an increment may be prejudiced by—

- (a) lack of efficiency;
- (b) unsatisfactory service or conduct; or
- (c) failure to pass a requisite examination conditional to the grant of the officer's increment.

(3) Where a Permanent Secretary or Head of Department considers that for any of the reasons specified in sub-paragraph (a) or (b) of paragraph (2) an officer's increment ought not to be granted he shall—

- (a) notify the officer in writing at least one month before the date on which the increment is due of the reasons for which he considers that the increment ought not to be granted; or
- (b) if he is unable to notify the officer in accordance with sub-paragraph (a), report the matter to the Chief Personnel Officer for the Commission's recommendation to the Governor-General as to whether the payment of the increment ought to be made on the date on which it becomes due.

(4) Where a Permanent Secretary or Head of Department has notified an officer in accordance with sub-paragraph (a) of paragraph (3) he may suspend for a period not exceeding three months the payment to that officer of the increment to which the notification relates, and shall at the end of the period of suspension—

- (a) grant the increment from the date on which it became due; or
- (b) recommend through the Chief Personnel Officer for the consideration of the Commission that the increment be either deferred or withheld.

(5) In making a recommendation for the suspension, deferment or withholding of an increment the Permanent Secretary or Head of Department shall take into account the gravity of the original miscon-

duct or dereliction of duty if any, and the nature of the officer's subsequent behaviour, or his present degree of efficiency; he shall bear in mind that—

- (a) "suspension" is to be applied when for any reason it is thought desirable to "reserve judgment" and allow for reformation or otherwise;
- (b) "deferment" is a substantial fine; and
- (c) "withholding" is a very serious penalty which deprives the officer of the amount of that increment during each subsequent year of his service until the officer reaches the maximum of his scale.

(6) An increment may be deferred for a period not exceeding six months including any period for which it has been suspended, and shall be payable from the date on which it is restored.

(7) Where an increment has been withheld the Governor-General, acting on the recommendation of the Commission may at any subsequent incremental date grant to the officer concerned a special increment in addition to his ordinary increment.

39.—(1) Where—

- (a) the Commission has recommended that an officer ought to be dismissed or subjected to any other disciplinary penalty; and
- (b) the officer desires to apply by virtue of subsection (3) of section 77 of the Order for a reference to the Privy Council of that recommendation,

the application shall be made in writing to the Governor-General within fourteen days of the date on which the officer is informed of the recommendation; and the recommendation shall be referred accordingly.

(2) Only one reference to the Privy Council shall be allowed, unless new and material facts come to light which might have affected the former decision and adequate reasons are given for the non-disclosure of such facts at an earlier date.

(3) Notwithstanding the provisions of paragraphs (1) and (2), where the dismissal of an officer has been recommended, the Governor-General acting on the recommendation of the Commission may suspend the officer from the performance of his functions pending the decision of the Privy Council and the officer shall not be paid any of his emoluments during such period of suspension.

(4) An application by the Governor-General's Secretary for a reference of his case to the Privy Council made by virtue of subsection (3) of section 77 as applied by subsection (3) of section 79 of the Order shall be made in writing to the Governor-General within fourteen

Reference
to Privy
Council.

days of the date on which he is informed of the Governor-General's decision to dismiss him or to impose some other disciplinary penalty, and the case shall be referred accordingly.

40. Where an officer has been suspended from duty and a reference of his case to the Privy Council results in his exculpation he shall be entitled to receive the full amount of any salary which he would have received but for his suspension; but if the reference results in any punishment other than dismissal the officer shall be allowed such salary as the Commission or the appropriate authorized officer may, in the circumstances, recommend.

Payment of salary to suspended officer.

B—PROCEEDINGS

41. [Deleted by L.N. 133B/1995.]

42.—(1) Where—

- (a) it is represented that an officer has been guilty of misconduct; and
- (b) the appropriate authorized officer is of the opinion that the misconduct alleged is not so serious as to warrant proceedings under regulation 43 with a view to dismissal,

Proceedings for misconduct not warranting dismissal.

the appropriate authorized officer (or the Commission at the request of the Governor-General) may cause an investigation to be made into the matter in such manner as he may think proper; and the officer shall be entitled to know the whole case made against him, and shall be given an adequate opportunity of making his defence.

(2) If the appropriate authorized officer is of opinion that the allegation is proved, he may inflict such punishment upon the officer other than dismissal or reduction in rank as may seem just.

(3) If the Commission is of opinion that the allegation is proved, it may recommend such punishment other than dismissal as may seem just.

(4) Unless the appropriate authorized officer is of the opinion that there are circumstances which render the following offences more serious, these offences shall be regarded as not so serious as to warrant proceedings with a view to dismissal—

- (a) absence from duty during working hours without permission of the relevant senior officer;

- (b) absence from duty without permission except in cases where by reason of illness or other unavoidable circumstance permission cannot be obtained prior to such absence;
- (c) habitual or frequent unpunctuality;
- (d) failure to sign the attendance register;
- (e) being a party to the signing of the register by another person on his behalf;
- (f) signing the attendance register for or on behalf of another officer;
- (g) being idle, disorderly, indisciplined or behaving in an improper manner while on duty;
- (h) careless handling of any article or equipment the property of a Ministry or Department;
- (i) inefficient performance of duties;
- (j) committing any act prejudicial to good order and discipline.

Proceed-
ings for
dismissal.

43.—(1) Subject to the provisions of these Regulations an officer may be dismissed only in accordance with the procedure prescribed by this regulation.

(2) The following procedure shall apply to an investigation with a view to the dismissal of an officer whose basic annual salary (whether fixed or on a scale) exceeds the prescribed salary rate—

- (a) the Commission (after consultation with the Attorney-General if necessary) shall cause the officer to be notified in writing of the charge and to be called upon to state in writing before a specified day (which day shall allow a reasonable interval for the purpose) any grounds upon which he relies to exculpate himself;
- (b) if the officer does not furnish such a statement within the time so specified or if he fails to exculpate himself the Governor-General shall on the recommendation of the Commission appoint to enquire into the matter a Committee consisting of not less than three persons of whom the chairman shall be a Judge, Resident Magistrate, or legal officer, or some other person possessing legal qualification; the members of the Committee shall be selected with due regard to the standing of the officer concerned, and to the nature of the charges made against him;

- (c) the Committee shall inform the officer charged that on a day specified the Committee will enquire into the charges and that he will be permitted to appear before the Committee and defend himself;
- (d) if witnesses are examined by the Committee the officer shall be given an opportunity of being present and of putting questions to the witnesses on his own behalf, and no documentary evidence shall be used against him unless he has previously been supplied with a copy thereof or given access thereto;
- (e) an officer against whom charges are preferred shall be entitled to be represented before the Committee by—
 - (i) a public officer;
 - (ii) an attorney-at-law;
 - (iii) an accredited representative of a trade union or staff association recognized as representing the category of staff of which the officer is one,and the person or authority preferring the charges shall be entitled to be represented by a public officer or an attorney-at-law;
- (f) if during the course of the enquiry further grounds of dismissal are disclosed, and the Commission thinks fit to proceed against the officer upon such grounds, the Commission shall cause the officer to be furnished with the written charge and the same steps shall be taken as those prescribed by this regulation in respect of the original charge;
- (g) if having heard the evidence in support of the charges the Committee is of the opinion that that evidence is insufficient it may report accordingly to the Commission without calling upon the officer for his defence;
- (h) the Committee shall furnish to the Commission a report of its findings together with a copy of the evidence and all material documents relating to the case; if the Commission is of opinion that the report should be amplified in any respect or that further enquiry is desirable, it may refer any matter back to the Committee for further enquiry or report accordingly;
- (i) if the Commission is of opinion that the officer should be dismissed the Commission shall recommend to the Governor-General that an order be made accordingly;

- (j) if the Commission is of opinion that the officer deserves some punishment other than dismissal, it shall recommend to the Governor-General what other penalty should be imposed;
- (k) if the Commission is of opinion that the officer does not deserve to be dismissed by reason of the charges alleged, but that the proceedings disclose other grounds for removing him from the service in the public interest it may recommend to the Governor-General that an order be made accordingly, without recourse to the procedure prescribed by regulation 26.

(3) The procedure prescribed by paragraph (2) shall apply to an investigation with a view to dismissal of an officer whose basic annual salary (whether fixed or on a scale) does not exceed the prescribed salary rate except that the charges may if the Commission so recommends be investigated by the Permanent Secretary, Head of Department or such other officer or officers as may be appointed by the Governor-General.

(4) Where an officer charged under this regulation admits in writing the facts giving rise to the charges, it shall not be necessary to hold an enquiry or investigation under this regulation unless in the opinion of the Commission such enquiry or investigation is likely to find such circumstances as may modify the view taken of and the punishment to be imposed for the offence.

44.—(1) Regulation 42 shall apply to an officer who is employed in a public hospital in respect of which a Hospital Board is established.

(2) [*Deleted by L.N. 133B/1995.*]

(3) Paragraph (2) of regulation 43 shall, in its application in relation to an investigation respecting any officer employed as described in paragraph (1) of this regulation, have effect as if—

- (a) all the words appearing after the word "matter" in sub-paragraph (b) of the said paragraph (2) had been deleted from that sub-paragraph and the words "the Hospital Board established in respect of the public hospital in which the officer is employed" had been inserted instead;
- (b) the word "Committee" had been deleted from sub-paragraphs (c), (d), (e), (g) and (h) of the said paragraph (2), wherever that word appears, and the words "Hospital Board" had been substituted therefor in each case.

Proceed-
ings
against
officers
employed
in public
hospitals.

and paragraph (3) of regulation 43 shall, in its application in relation to such an investigation, have effect as if all the words appearing after the words "prescribed salary rate" in the said paragraph (3) had been deleted therefrom.

(4) For the purposes of the foregoing provisions of this regulation, any reference to a public hospital shall be deemed to be a reference to a public hospital as defined in section 2 of the Hospitals (Public) Act.

45. The procedure in regard to the disciplinary control of officers holding non-pensionable posts and of weekly and daily-paid staff and casual employees shall be as specified in the Second Schedule.

Proceedings for disciplinary control of certain non-pensionable staff Second Schedule.

46.—(1) Regulations 22, 31, 33, 34, 35, 38 and 40 shall apply to an officer to whom the Second Schedule applies.

Application

(2) Save as is otherwise provided in paragraph (1) and the Second Schedule, Parts III, IV and V of these Regulations shall not apply to an officer to whom that Schedule applies.

47. The provisions of regulations 11, 13 to 20, 28, 32, 35, 36, 38 and 43 shall apply, with such modifications as may be necessary, in relation to the exercise of any powers delegated by the Governor-General pursuant to section 127 (1) of the Constitution.

Exercise of delegated powers.

THE PUBLIC SERVICE REGULATIONS, 1961

FIRST SCHEDULE

(Regulation 3)

FORM 1

Oath of Office

I, _____ having been
 appointed (to act) as chairman of the Public Service Commission, do
 _____ as member
 swear

_____ that I will freely and with-
 solemnly, sincerely and truly declare and affirm
 out fear or favour, affection or ill-will give my counsel and advice to the Governor-General
 of Jamaica in connection with all such matters as may be referred to the Public Service
 Commission under the Jamaica (Constitution) Order in Council, 1959, and that I will not
 directly or indirectly reveal any such matters to any unauthorized person or otherwise than
 in the course of duty.

Sworn
 _____ before me this _____ day of _____, 19
 Declared

.....
Justice of the Peace

FORM 2

(Regulation 4)

Oath of Officer of the Commission

I, _____ having been appointed
 (to act) as* _____ to the Public Service Commission,
 do _____ swear
 _____ that I will faithfully perform my duties in that
 solemnly, sincerely and truly declare and affirm

office in accordance with the provisions of the Public Service Regulations, 1961, and without
 partiality, fear, favour, affection or ill-will, and that I will not directly or indirectly without
 permission of the Commission reveal to any person otherwise than in the performance of my
 functions under the said Regulations any information which comes to my notice in the course of
 my duties in respect of any matter referred to the Commission or to any authority or public officer
 to whom the functions of the Governor-General have been delegated.

Sworn
 _____ before me this _____ day of _____ 19
 Declared

.....
Justice of the Peace

* Title or rank of officer to be inserted as may be appropriate.

SECOND SCHEDULE

(Regulations 44 and 45)

Preliminary

This Schedule applies to the holders of non-pensionable posts, the holders of weekly
 paid posts and daily-paid and casual employees. Save as is otherwise herein provided, all
 such employees shall be subject to the provisions of the Staff Orders and financial regulations
 in so far as they are applicable.

SECOND SCHEDULE, *contd.**Appointments*

1.—(1) The appropriate authorized officer is hereby authorized to make appointments of persons temporarily or permanently—

(a) to non-pensionable posts in a Ministry or Department;

(b) to weekly-paid posts governed by the Provident Fund Act or otherwise;

and to employ daily-paid and casual employees in accordance with the provisions of this Schedule.

(2) In making any permanent appointment the Permanent Secretary, Head of Department or Chief Personnel Officer (following the procedure provided by regulation 19) shall select the person in accordance with any conditions for the time being in force in relation to candidates for the particular post.

Authorized officer may make certain appointments.

2. Every employee, other than a daily-paid or casual employee, shall on appointment receive an appropriate letter of appointment in Form I, II or III of the Annex.

Letter of appointment. Annex.

3. Every employee shall comply with all lawful departmental instructions and orders and shall perform any lawful functions in respect of which the Permanent Secretary, Head of Department or Chief Personnel Officer may think it desirable to employ him in the public interest.

Employees to comply with departmental instructions.

4.—(1) The appropriate authorized officer shall in each year cause to be furnished to him by such senior officer as he may designate evaluation reports for the twelve months preceding the 1st day of April upon—

(a) all non-pensionable officers; and

(b) all weekly-paid officers employed on a permanent basis.

Evaluation reports.

(2) Where an evaluation report is furnished pursuant to sub-paragraph (1) in relation to any officer whose next promotion is to a pensionable post that report shall be forwarded to the Chief Personnel Officer by the authorized officer.

Probationary Service and Termination of Appointments

5. Every employee shall on first permanent appointment to the established staff be required to serve a probationary period not exceeding one year, but his probationary period may be reduced and he may be confirmed in the appointment at any time after six months' service if the appropriate authorized officer is satisfied that the performance of the employee has been of so high a standard that no useful purpose would be served by further delaying confirmation. During the probationary period of any employee, his appointment may without enquiry or reason given to him be terminated by the appropriate authorized officer, in the case of a weekly-paid employee on two weeks' notice in writing or payment of two weeks' salary in lieu thereof, and in the case of an employee paid on annual basis, on one month's notice in writing or payment of one month's salary in lieu thereof.

Probationary service.

6. The appointment of any employee (other than an unestablished employee, a daily-paid or casual employee) may on one month's notice in writing be terminated at any time by the appropriate authorized officer on the ground of abolition of office, or for the purpose of facilitating improvements in the organization of the Ministry or Department to which such employee is attached.

Termination of employment of employee other than daily-paid or casual employee.

7. The appointment of an unestablished employee (that is, an employee who holds a post for which separate provision has not been made in the Estimates) may without enquiry or reason given to him be terminated by the appropriate authorized officer—

Termination of employment of unestablished employee.

(a) at any time within one year of the date of appointment of such employee on two weeks' notice in writing or payment of two weeks' salary in lieu thereof; and

SECOND SCHEDULE, *contd.*

Termination of employment of daily-paid or casual employee.
Interdiction.

- (b) at any time after one year from the date of appointment on three months' notice in writing or payment of three months' salary in lieu thereof.
8. The appointment of a daily-paid or casual employee may be terminated at the end of any day.

Discipline—General

9. (1) Where—
- (a) disciplinary proceedings; or
- (b) criminal proceedings,
- have been or are about to be instituted against an employee, and where an authorized officer is of the opinion that the public interest requires that the employee should cease to perform the functions of his office, the authorized officer may interdict such employee from the performance of these functions.
- (2) An employee so interdicted shall, subject to the provisions of sub-paragraph (3), be permitted to receive such proportion of the salary of his office as the authorized officer shall decide.
- (3) The proportion of salary referred to in sub-paragraph (2) shall be related to the nature and circumstances of the charge against the employee, so, however, that—
- (a) subject to sub-paragraphs (b) and (c), the proportion shall not be less than one-half;
- (b) subject to sub-paragraph (c), where the charge involves an allegation of defalcation, fraud or misappropriation of public funds or public property, the proportion shall not be less than one-quarter; and
- (c) where special circumstances exist which in the opinion of the authorized officer justify such action, the authorized officer may determine that salary be paid at a proportion less than one-quarter or entirely withheld.
- (4) Where disciplinary proceedings against an employee result in his exculpation, he shall be entitled to the full amount of the salary which he would have received had he not been interdicted, but where the proceedings result in any punishment other than dismissal the employee shall be allowed such salary as the authorized officer may in the circumstances think appropriate.
- (5) An employee who is under interdiction from duty—
- (a) shall give to the authorized officer an address at which he can be found; and
- (b) shall not leave the Island without the prior permission of the authorized officer.
- (6) Without prejudice to any other form of service, a document required to be served pursuant to these Regulations on an employee under interdiction from duty shall be deemed to be properly served if sent in a prepaid registered letter properly addressed and posted to the address given by the employee in accordance with sub-paragraph (5).

Penalties

- 10.—(1) The penalties which may be imposed where a disciplinary charge has been established are—
- (a) dismissal;
- (b) reduction in rank;
- (c) suspension without pay for a period not exceeding three months;
- (d) withholding or deferment of increment;
- (e) fines not exceeding one-half of one month's salary, or, in the case of an employee paid on a weekly basis, not exceeding two weeks' salary, regard being had in every case in determining the amount of a fine to the economic circumstances of the employee;
- (f) reprimand.
- (2) Where a fine is imposed it shall be deducted from the salary of the employee by such instalments as may be specified at the time the penalty is imposed.

power of summary dismissal.

11. The appropriate authorized officer may summarily dismiss an employee in the circumstances and with effect from the date hereinafter respectively specified—

SECOND SCHEDULE, *contd.*

- (a) where he is absent from Jamaica without permission, with effect from the date of his departure from Jamaica;
- (b) where he is absent from duty without permission for five days, with effect from the first day of such absence;
- (c) where he does not reply to charges on or before the date on which his reply should be received, with effect from such date;
- (d) where he fails to attend an enquiry into charges against him, with effect from the date of such failure;
- (e) subject to regulation 31 where he is convicted of a criminal charge involving dishonesty, fraud or moral turpitude or is sentenced to imprisonment on conviction of a criminal charge, with effect from the date of such conviction:

Provided that the power of dismissal shall not be exercised in any case falling under sub-paragraph (c) or (d) if the authorized officer is satisfied that owing to illness or other reasonable cause the employee was prevented from replying to such charges, or from attending such enquiry.

12.—(1) Where—

- (a) an authorized officer has decided that an employee should be subjected to any disciplinary penalty; and
- (b) the employee desires to apply by virtue of subsection (4) of section 80 of the Order for a reference to the Privy Council of that decision,

Reference to Privy Council.

the application shall be made within fourteen days of the date on which the employee is informed of the decision; and the decision shall be referred accordingly.

(2) Only one reference to the Privy Council shall be allowed, unless new and material facts come to light which might have affected the former decision and adequate reasons are given for the non-disclosure of such facts at an earlier date.

(3) Notwithstanding the provisions of sub-paragraphs (1) and (2) the authorized officer may suspend the employee from the performance of his functions pending the decision of the Privy Council and the employee shall not be paid any of his emoluments during such period of suspension.

Employees with Ten Years' Service or over

13.—(1) If it is represented to the appropriate authorized officer that an employee has been guilty of misconduct and that officer is of opinion that the misconduct alleged is not so serious as to warrant proceedings with a view to dismissal, he may cause an investigation to be made into the matter in such manner as he may think proper, and the employee shall be entitled to know the whole case made against him and shall be given adequate opportunity of making his defence.

Proceedings in respect of misconduct not warranting dismissal.

(2) If the authorized officer is of opinion that the allegation is proved, he may impose upon the employee such punishment (other than dismissal) as may seem just.

14.—(1) An employee (other than a temporary, daily-paid or casual employee) may be dismissed only in accordance with the procedure prescribed by paragraphs 15, 16 and 17.

Proceedings for dismissal.

(2) The appropriate authorized officer may in lieu of dismissal impose some lesser penalty such as reduction in rank, withholding or deferment of increment, or fine or reprimand, or if the proceedings disclose ground for so doing he may recommend that the employee be removed from office in the public interest, and regulation 27 shall apply accordingly.

SECOND SCHEDULE, *contd.*

Procedure
in respect
of miscon-
duct
warranting
dismissal.

15. The following procedure shall apply to an investigation with a view to dismissal of an employee (other than a daily-paid or casual employee)—

The authorized officer shall as soon as practicable cause to be delivered to the employee written charges specifying the nature of the offences and informing the employee in writing—

- (a) that a written reply to the charges and any observations the employee may desire to make thereon must be received by the authorized officer within seven days (or such longer period as the authorized officer may permit) of the delivery of the written charges; and
- (b) that the employee may attach to the written reply, statements from his witnesses; and
- (c) that the employee may elect in his written reply either to have the charges dealt with by the authorized officer on the basis of the written reply and the statements (if any) of the employee's witnesses, or to have an oral enquiry before such person as the authorized officer may appoint for the purpose; and that if no election is made the employee will be presumed to have elected to have the charges dealt with on the basis of the written reply.

Finding of
authorized
officer.

16.—(1) Where an oral enquiry is not held, the authorized officer shall consider the charges, the written reply and the statements (if any) and shall find as a fact whether or not any of the charges has been established.

(2) If he finds that the charges have not been established, he shall so inform the employee in writing.

(3) If he finds that any of the charges has been established, he shall so inform the employee in writing and shall also inform the employee of the penalty to be imposed upon him.

Holding
of oral
enquiry.

17.—(1) An oral enquiry shall be held by the appropriate authorized officer (not being an officer personally involved in the circumstances leading to the charges) or by another senior officer in his Ministry or Department appointed by the appropriate authorized officer for the purpose.

(2) The time and place of the oral enquiry shall be communicated to the employee in writing by the officer holding the enquiry and it shall be the responsibility of the employee to see that his witnesses (if any) attend the enquiry; but if any such witness is in the public service, on application by the employee to the officer holding the enquiry such witness shall be allowed time to attend the enquiry.

(3) Where it is decided to hold an oral enquiry, the employee shall be entitled to receive free copies of the statements of witnesses to be called in support of the charges and shall also be furnished with copies of, or given permission to inspect, any documents to be used in support of the charges.

(4) At an oral enquiry the employee against whom charges are preferred shall be entitled to be represented before the authorized officer by—

- (a) a public officer;
- (b) an attorney-at-law; or
- (c) an accredited representative of a trade union or staff association recognized as representing the category of staff of which the employee is one,

and the person or authority preferring the charges shall be entitled to be represented by a public officer or an attorney-at-law.

SECOND SCHEDULE, *contd.*

(5) At an oral enquiry the officer holding the enquiry shall first hear the evidence in support of the charges, and permit the employee charged or his representative to put questions to the witnesses, and shall then hear the evidence of the employee and his witnesses, who may also be questioned. Notes of the proceedings shall be taken down in shorthand.

(6) Where an oral enquiry is held by an officer other than the appropriate authorized officer the officer holding the enquiry shall consider the charges and the written reply and the statements (if any) and the evidence given at the oral enquiry; he shall find as a fact whether or not any of the charges has been established, and shall report his findings to the appropriate authorized officer.

(7) The authorized officer shall consider the findings and shall take action in accordance with the provisions of sub-paragraphs (2) and (3) of paragraph 16.

Employees with less than ten years' service

18. The procedure to be followed in the case of disciplinary proceedings against an employee with less than ten years' service (other than a temporary, daily-paid or casual employee) shall be the same as that prescribed by paragraphs 13 to 17 inclusive, save that the appropriate authorized officer shall have the sole right of deciding whether or not an oral enquiry is to be conducted into the charges against the employee.

Procedure relating to employees with less than ten years' service.

Temporary Employees, Daily-paid Employees and Casual Employees

19. The following procedure shall apply only to temporary employees, daily-paid and casual employees—

- (a) the appropriate authorized officer may, after such informal enquiry as he may think fit, forthwith dismiss a temporary employee if he is satisfied that such employee has been guilty of any misconduct;
- (b) the appropriate authorized officer may, without an enquiry being held or without giving any reason, dismiss a temporary employee by giving him two weeks' notice (or such other notice as may be specified in the letter of appointment) or two weeks' salary in lieu of notice;
- (c) every daily-paid or casual employee may be dismissed by the appropriate authorized officer without an enquiry being held and without reason or notice being given.

Procedure in relation to temporary daily-paid and casual employees.

ANNEX

FORM I

(Paragraph 2)

Letter of Appointment of an Employee on the Established Staff

Sir,

I am directed by the (Permanent Secretary/Head of Department) to inform you that, in accordance with powers delegated to him by His Excellency the Governor-General, he has appointed you to the post of _____ in the _____ on the following conditions—

- (a) your appointment takes effect from the _____ day of _____ and will be on [one] years' probation and during the probationary period your appointment may be terminated at any time without any reason being assigned;
- (b) you will be required to pass a medical examination as to your physical fitness conducted by a doctor in the public service;
- (c) the salary payable to you will be at the rate of _____ a week/year in the scale of _____ a week/year and your salary will be payable weekly/monthly;
- (d) you will be required to become a contributor to the Provident Fund in accordance with the provisions of the Provident Fund Act;

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SECOND SCHEDULE, *contd.*

- (e) you will be subject to the provisions of the Public Service Regulations, 1961, governing the discipline and conditions of service of employees, and, so far as they are applicable, the Staff Orders, financial regulations and other instructions from time to time in force;
- (f) you will be required to comply with all departmental instructions and lawful orders issued to you and to discharge any duties upon which the Permanent Secretary/Head of Department may think it desirable to employ you in the interests of the Service.

Yours truly,

for (Permanent Secretary/Head of
Department)

FORM II

(Paragraph 2)

Letter of Appointment of an Employee on the Unestablished Staff

Sir,

I am directed by the (Permanent Secretary/Head of Department) to inform you that, in accordance with powers delegated to him by His Excellency the Governor-General, he has appointed you to the post of _____ on the unestablished staff in the _____ on the following conditions—

- (a) your appointment takes effect from the _____ day of _____ and will be terminable at any time within one year thereof on two weeks' notice in writing and at any time after one year on three months' notice in writing on either side;
- (b) you will be required to pass a medical examination as to your physical fitness conducted by a doctor in the public service;
- (c) your appointment will confer no right to appointment on the established staff of the public service of Jamaica;
- (d) the salary payable to you will be at the rate of _____ a week/year in the scale of _____ a week/year and will be payable weekly/monthly;
- (e) you will be required to become a contributor to the Provident Fund in accordance with the provisions of the Provident Fund Act;
- (f) you will be subject to the provisions of the Public Service Regulations, 1961, governing the discipline and conditions of service of employees and, so far as they are applicable, the Staff Orders from time to time in force;
- (g) you will be required to comply with all departmental instructions and lawful orders issued to you and to discharge any duties upon which the Permanent Secretary/Head of Department may think it desirable to employ you in the interests of the Service.

Yours truly,

for (Permanent Secretary/Head of
Department)

FORM III

(Paragraph 2)

Letter of Appointment of a Temporary Employee

Sir,

I am directed by the (Permanent Secretary/Head of Department) to inform you that, in accordance with powers delegated to him by His Excellency the Governor-General, he has appointed you temporarily to the post of _____ in the _____ on the following conditions—

SECOND SCHEDULE, *contd.*

- (a) your temporary appointment takes effect from the day of _____ and will be terminable on notice in writing on either side;
- (b) the salary payable to you will be at the rate of _____ a week/year and will be paid weekly/fortnightly/monthly;
- (c) you will be subject to the provisions of the Public Service Regulations, 1961, governing the discipline and conditions of service of employees and, so far as they are applicable, the Staff Orders from time to time in force;
- (d) you will be required to comply with all departmental instructions and lawful orders issued to you and to discharge any duties upon which the Permanent Secretary/Head of Department may think it desirable to employ you in the interests of the Service.

Yours truly,

for (Permanent Secretary/Head of
Department)