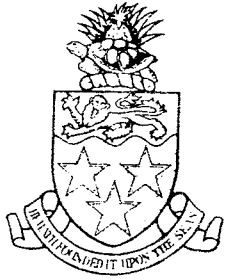


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**THE PUBLIC SERVICE COMMISSION LAW, 1975
THE PUBLIC SERVICE COMMISSION
REGULATIONS, 1985**

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THE PUBLIC SERVICE COMMISSION LAW, 1975

THE PUBLIC SERVICE COMMISSION
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In exercise of powers vested in the Governor in Council by Section 7 of the Public Service Commission Law 1975, the following Regulations are hereby made.

PART I

PRELIMINARY

- Citation. 1. These Regulations may be cited as the Public Service Commission Regulations, 1985 .
- Interpretation. 2. In these Regulations unless the context otherwise requires-
- "administrative officer" includes all Principal Secretaries (other than the Chief Justice and the Attorney General), Senior Assistant Secretaries and Assistant Secretaries;
 - "agreement" shall not be deemed to include employment -
 - (a) on pensionable terms;
 - (b) in an office which is not enumerated in the personal emoluments sub-head of the approved Government estimates or a post the remuneration of which is paid from any savings thereunder;
 - (c) under a written contract in an office for a period of six months or less;
 - (d) in an office the remuneration of which is payable with reference to daily or hourly rates of pay;
 - "appointment" means-
 - (a) the engagement in a public office of a public officer whether or not subject to subsequent confirmation of a person not in the public service;
 - (b) the grant of pensionable terms of service in a public office to a non-pensionable public officer;
 - (c) the engagement in a public office on agreement terms of service for a further period of service on the conclusion of his previous period of engagement on agreement terms in the same or other public office; or
 - (d) the appointment of a public officer to act in any public office other than the office to which he is substantively appointed.

"chairman" means the chairman of the Commission and any person acting in that capacity;

"common user post" means a post in one of the following classes -

executive class
clerical class
stenographic class
typist class;

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

"Education Council" means the Education Council appointed under Section 3 of the Education Law, 1983;

"Head of Department" means subject to regulation 39 in relation to any officer referred to in Column III of the First Schedule to these Regulations the officer respectively specified in Column II of that Schedule to be such Head:

Provided however that for the purpose of Parts I, II, III, and IV of these regulations the Principal Secretary (Personnel) shall be the Head of Department for all officers in common user posts;

"member" means a member of the Commission and includes any person temporarily appointed as such under the provisions of these regulations;

"office" and "public office" means any office of emolument in the public service;

"Principal Secretary" includes the Chief Secretary, the Chief Justice, the Attorney General, the Financial Secretary, the Deputy Financial Secretary, and the District Commissioner;

"promotion" means the conferment upon a person in the public service of a public office to which is attached a higher salary or higher scale than that attached to the public office to which he was last substantively appointed;

"salary" means basic salary;

"salary grade" with respect to a post means the salary grade applicable to that post in the annual estimates;

"secretary" means the Secretary of the Commission or any person discharging the duties thereof;

"transfer" means the conferment whether permanently or otherwise of some public office on a public officer other than that to which the officer was last substantively appointed which does not constitute a promotion and which does not refer to the posting of an officer between duty posts in the same grade.

PART II

THE COMMISSION

Composition of 3. The Commission shall consist of a chairman and not less than four nor more than six other members to be appointed by

- Commission. the Governor and shall hold office at the pleasure of the Governor. The chairman shall be paid such allowance as shall be laid down by the Governor from time to time and the chairman and members shall be paid such subsistence and travelling allowances as the Governor shall from time to time decide. The chairman of the Commission shall at all times have direct access to the Governor.
- Temporary membership. 4. The Governor may appoint as deputy chairman one of the members and may also appoint a temporary chairman or a temporary member if for any reason the chairman, deputy chairman or a member is unable to perform the functions of his office.
- Secretary. 5. The Commission shall have a secretary appointed by the Governor provided that the Chief Secretary may appoint a temporary secretary if the secretary is unable to perform the functions of his office. The secretary who shall be a public officer shall not be a member of the Commission.
- Procedure, quorum, voting. 6. (1) The chairman and two other members shall constitute a quorum:
Provided that if at any meeting three members are present but the chairman and deputy chairman, if any, are absent, the members so present may appoint one of their number to act as chairman at that meeting and he and the other two members present shall form a quorum.
(2) Save as provided in regulation 8 all decisions of the Commission shall be by majority vote of members present, provided that the chairman shall have a casting vote whenever the voting is equal.
- Record of meetings. 7. The secretary shall keep a record of the members present and of the business transacted at every meeting of the Commission. Any member who is present at a meeting when a decision is made shall be entitled to dissent therefrom and to have his dissent and his reasons therefor set out in the record of the meeting.
- Circulation of papers. 8. Notwithstanding regulation 6 decisions may be made by the Commission without a meeting by circulation of the relevant papers to the chairman and the members and the expression of their views in writing and in such case the decision shall be the view of the majority as so expressed:
Provided that -
(a) agreement to proposals circulated shall be assumed if a member does not respond to the circulation of papers within forty eight hours of delivery of the proposals;
(b) if the chairman or any member requires that a decision on a matter being dealt with by circulation of the relevant papers should be deferred until the subject matter may be considered at a meeting of the Commission no decision shall be made on that subject except at a meeting of the Commission;

- (c) where the chairman or a member dissents from a view recorded by a majority on papers circulated for a decision, the decision shall not be implemented until the dissenting chairman or member records the reasons for his view.
- Frequency of meetings. 9. The Commission shall meet not less than twice monthly and at such intervals as are necessary in the opinion of the chairman to ensure the speedy despatch of the Commission's business.
- Consultation. 10. (1) The Commission may require any public officer (excluding the President of the Court of Appeal, a Justice of Appeal or a Judge of the Grand Court) to attend and give evidence before it concerning any matter which it is empowered to consider in exercise of its functions under these regulations and may require the production of any official documents relating to any such matter.
(2) Any public officer who without reasonable excuse fails to appear before the Commission when required to do so or who fails to comply with any request made by the Commission or with any requirements of these regulations shall be liable to disciplinary action.
- Availability of documents. 11. 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.
- Improper influence. 12. Any public officer who otherwise than in the course of his duty directly or indirectly by himself or by any other person in any manner whatsoever influences or attempts to influence any decision of the Commission or of the chairman or of any member shall be liable to disciplinary proceedings.
- False information. 13. Any public officer who in connection with any application by any person for employment or promotion in the public service or with any matter upon which it is the duty of the Commission to advise the Governor or to make any decision wilfully gives to the Commission, the chairman or any member thereof or to any person or body of persons required to assist the Commission in the exercise of its functions any information which he does not believe to be true by reason of the omission of any material particular or otherwise shall be liable to disciplinary proceedings.
- Oath of office. 14. (1) The chairman and other members of the Commission shall, as soon as possible after appointment take the oath set out in Form I of the Second Schedule.
(2) Every person appointed to be a member of the staff of the Commission shall as soon as possible after appointment take the oath set out in Form II of the Second Schedule.
- Unauthorised disclosure. 15. (1) Neither the chairman nor any member nor any person shall without the written permission of the Governor publish

or disclose to any person otherwise than in the exercise of his functions under these regulations the contents of any document conversation or information whatsoever which has come to his notice in the course of his duties under these Regulations in respect of any matter referred to the Commission or dealt with by any officer holding delegated authority.

(2) If any public officer having possession of any information which to his knowledge has been disclosed in contravention of sub-regulation (1) publishes or discloses such information to any other person otherwise than for the purpose of any prosecution or proceedings under these Regulations he shall be liable to disciplinary proceedings.

Privilege of documents.

16. (1) 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 or in discharge of any duty to the Governor or to any public officer shall be privileged in that its production may not be used in any legal proceedings if the Governor certifies that such production is not in the public interest.

(2) The chairman and members shall have such and the like protection and privilege in case of any actions or suits brought against him or them for any act done or omitted to be done in the execution of his or their duties as is by law given to acts done or words spoken by a Judge of the Grand Court in the exercise of his judicial office.

PART III

APPOINTMENTS, PROMOTIONS AND TRANSFERS

Functions of the Commission.

17. The Commission shall advise the Governor on the following save that any matter relating to the offices in the Third Schedule shall not be considered by the Commission -

(a) appointments, promotions and transfers of public officers;

(b) petitions by public officers to the Governor against decisions made by him by Heads of Departments or by other public officers in respect of appointments, promotions or transfers;

(c) selection of public officers for training courses .

Supervision of recruitment.

18. (1) In order to perform its functions under regulation 17 the Commission shall advise on all schemes for admission to any public office;

(2) The Commission shall inform the Education Council of the needs of the Public Service;

(3) The Commission shall advise on all other methods of recruitment including the appointment and procedures of boards or committees for the selection of candidates;

(4) The Commission shall take into account the need to fill posts in the Public Service as quickly as possible with

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persons of Caymanian status and the need to maintain efficiency.

(5) Subject to sub-regulation (4), in considering the claims of persons for appointment to public offices the Commission shall take into account the claims of serving public officers before other persons.

(6) Subject to the Government's commitment to consider bonded students returning from overseas courses vacancies in the offices of assistant secretary and senior assistant secretary shall be advertised within the Service.

Selection for promotion.

19. In considering the claims of persons in the public service for promotion, ability, efficiency, experience, merit, qualifications and seniority shall be taken into account.

Selection for acting appointments.

20. The principles for making an acting appointment shall be identical with those prescribed in regulation 19 for promotion, provided that when such an appointment is being made for under three months, to cover the temporary absence of the substantive holder of an office, the Commission shall also take administrative convenience into account.

Selection for training.

21. (1) When it is desired to select any public officer for a special course of training which may enhance his qualifications for promotion or which is designed to fit him for a higher post, the selection principles shall be identical with those prescribed in regulation 19 for promotion. All courses lasting three months or longer shall for the purposes of this regulation be deemed special.

(2) The Principal Secretary (Personnel) shall consult the Commission on in-service training courses, both local and overseas.

Selection for transfer.

22. In considering whether any public officer shall be transferred, the Commission shall take into account the needs of the public service, administrative convenience and the officer's own wishes.

Annual confidential reports.

23. Heads of Departments shall in each year on or before the last day of January send the secretary confidential reports on all public officers serving in their Departments. The Commission may make provision for the safe custody of such reports.

Access to Commission.

24. A Principal Secretary may by arrangement with the secretary appear before the Commission to supplement any written comment regarding matters to be considered by the Commission under this Part but will not take part in the deliberations of the Commission nor be present when any decision is made by the Commission.

Procedure in case of

25. When it is necessary to make an appointment promotion or transfer of a public officer the procedure laid down in this

urgency.

Part shall be followed except that where any delay is likely to cause serious public inconvenience the secretary shall report the matter to the chairman who may as a matter of urgency advise an acting or temporary appointment without regard to the procedure and shall report his action to the Commission at its next meeting. The normal procedure will then be followed.

PART IV

DETERMINATION OF APPOINTMENTS AND EXTENSION OF PROBATIONARY SERVICE.

Functions of the Commission .

26. The Commission shall advise the Governor about matters under this part:

Provided that any such matters relating to the offices in the Third Schedule shall not be considered by the Commission.

Retirement after prescribed age.

27. (1) If it appears to a Head of Department that there is reason why a public officer in his department who has attained the minimum age of retirement prescribed by any law applicable and who holds a pensionable office, should be called upon to retire from the public service, the Head of Department shall report the matter with a full statement of his reasons to the Chief Secretary, who shall, if he considers that there is on first appearance a case for such retirement, arrange for the Head of Department to inform the public officer in writing of the intention to recommend his retirement.

(2) The public officer shall be given the opportunity to provide representations about the intention to retire him compulsorily and such representations shall be transmitted to the Commission by the Chief Secretary with his own observations and all other papers and documents. The Commission shall advise the Governor whether or not such public officer should be called upon to retire.

(3) except with the approval of the Governor a pensionable officer having reached the age of fifty nine years and six months shall be called upon to retire from the public service on his sixtieth birthday by his Head of Department who shall advise the secretary and the Principal Secretary (Personnel) of such action.

Abolition of office.

28. Where an office which is one of a number of such offices has been abolished but one or more offices remain, the Head of Department shall make a report through the Chief Secretary recommending with reasons, which substantive holder of such office should have his appointment terminated. The Chief Secretary shall forward such report to the secretary with his own recommendations and the Commission shall give its advice there on to the Governor.

Retirement
to improve
organisation.

29. (1) If it appears to the Head of a Department that there is reason why a public officer in his department, who holds a pensionable office, should be called upon to retire from the public service for the purpose of facilitating improvement in the organisation of the department by which greater efficiency or economy may be effected, the Head of Department shall report the matter with a full statement of his reasons to the Chief Secretary who shall, if he considers that there is on first appearance a case for such retirement, arrange for the Head of Department to inform the public officer in writing of the intention to recommend his retirement.

(2) The public officer shall be given the opportunity to forward representations about the intention to retire him compulsorily and such representations shall be transmitted to the Commission by the Chief Secretary with his own observations and all other relevant papers and documents. The Commission shall advise the Governor whether or not such public officer should be called upon to retire.

(3) The Governor may at any time inform a public officer who holds a pensionable office that he wishes him to retire from the public service for the purposes of facilitating improvement in the organisation of his department and if the officer agrees in writing so to retire, the provisions of sub-regulation (1) and (2) shall not apply.

Premature
termination
of agreement
etc.

30. (1) When a public officer is serving under an agreement which provides for the termination of that agreement by notice before the expiration of the period of service stipulated in the agreement and his Head of Department is of the opinion that the agreement should be terminated without due notice and/or without full gratuity earned the Head of the Department shall report the matter to the Chief Secretary with a full statement of his reasons. If the Chief Secretary considers that there is on first appearance a case for such termination, he shall arrange for the Head of Department to inform the public officer in writing of the intention to recommend the premature termination of this agreement. The public officer shall be given the opportunity to forward representations about the intention to terminate his agreement prematurely and such representations shall be transmitted to the Chief Secretary, with all other relevant papers and documents. The Chief Secretary shall then transmit such papers and documents to the secretary with his own observations thereon. The Commission shall advise the Governor whether or not such public officer's agreement shall be terminated:

Provided that when it appears to the secretary that there is any doubt whether under the terms of the agreement such termination can lawfully be effected he shall first refer the matter to the Attorney General for his advice.

(2) Where a public officer is serving under an agreement which provides for the payment of a gratuity on completion of satisfactory service and his Head of Department is of the

opinion that no gratuity or only part of such gratuity should be paid the Head of the Department shall report the matter to the Chief Secretary with a full statement of his reasons. If the Chief Secretary considers that there is on first appearance a case for non-payment or part payment of such gratuity he shall arrange for the Head of Department to inform the public officer in writing of the intention to recommend non-payment or part-payment. The public officer shall be given the opportunity to forward representations about such intention and such representations shall be transmitted to the Chief Secretary with all other relevant papers and documents. The Chief Secretary shall then transmit all such papers and documents to the secretary with his own observations thereon. The Commission shall give its advice thereon to the Governor.

Probationary appointments.

31. (1) The normal probationary period shall be one year and where a public officer holds a probationary appointment his Head of Department shall, three months before the expiration of such probationary appointment, consider whether a further period of probationary service is necessary to determine whether the officer shall be confirmed or whether the officer's appointment shall be terminated. If the Head of Department is of the opinion that the officer shall be confirmed in a pensionable office or that the period of probation shall be extended or terminated, he shall report the matter with his reasons to the secretary and the Commission shall give its advice thereon to the Governor.

(2) Where a public officer holds a probationary appointment and his Head of Department at any time during the period of such probationary appointment is of the opinion that it should be terminated the Head of Department shall follow the procedure required in sub-regulation (1).

(3) Before forwarding to the secretary any report recommending extension or termination of a probationary appointment the Head of Department shall call upon the public officer concerned to submit his representations on the matter and any such representations shall be forwarded to the secretary with the report.

PART V

DISCIPLINE

Functions of the Commission.

32. (1) The Commission shall advise the Governor on such questions regarding the disciplinary control of public officers as are required to be submitted to the Governor for directions save that any matter relating to the offices in the Third Schedule shall not be considered by the Commission.

(2) The Commission shall advise the Governor on petitions by public officers against decisions made by him and on appeals against the orders of Heads of Departments or other public officers who exercise powers of disciplinary control under these Regulations in disciplinary matters.

(3) If in any case which comes to the attention of the Commission it is of opinion that disciplinary proceedings should be instituted against a public officer other than an officer holding an office in the Third Schedule the Commission may advise the Governor that such proceedings should be initiated:

Provided that before giving such advice in a case in which it appears that an offence against any law may have been committed the secretary shall refer the case to the Attorney General who shall inform the secretary whether a prosecution should be instituted. If the Attorney General advises that a prosecution should be instituted, the Commission shall not before the conclusion of such prosecution advise the Governor to initiate disciplinary proceedings.

Procedure.

33. (1) All acts of misconduct by a public officer other than an officer holding an office in the Third Schedule shall be dealt with under this part as soon as possible after the time of their occurrence.

(2) Any case not covered by this part excluding any case relating to an office in the Third Schedule shall be reported to the secretary and the Commission may advise the Governor as to how the case should be dealt with.

Prosecution.

34. When a preliminary investigation or a disciplinary inquiry discloses that an offence against any law may have been committed by a public officer and action by the Police has not been or is not about to be taken his Head of Department shall consult the Attorney General as to whether a prosecution should be instituted and if he does not advise a prosecution whether disciplinary action should be taken or continued under this Part. In the latter case the charges framed against the officer shall be approved by the Attorney General before the officer is required to answer them or before the inquiry proceeds.

No disciplinary action pending proceedings.

35. If criminal proceedings are instituted against a public officer in any court, proceedings for his dismissal upon any grounds involved in the criminal charge shall not be taken until the conclusion of the criminal proceedings and the determination of any appeal therefrom.

Discipline after acquittal.

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

Copies of evidence etc.

37. A public officer in respect of whom a disciplinary inquiry is to be held shall be entitled to receive a free copy of any documentary evidence relied on for the purpose of

the inquiry or to be allowed access to it. He may also be given a copy of the evidence (including documents tendered in evidence) after the inquiry is closed:

Provided that no copies of office orders, minutes, reports or recorded reasons for decisions shall be issued to him.

Appeals.

38. (1) An appeal by a public officer shall lie to the Governor against an order made in relation to him in disciplinary proceedings by a Head of Department or other public officer exercising powers of disciplinary control under the provisions of this Part, except that no appeal shall be entertained in any case unless it is received within six weeks of the date upon which the decision is addressed to the officer:

Provided that the Governor may entertain an appeal out of time if in his opinion the circumstances warrant it.

(2) Only one such appeal shall immediately be allowed: Provided that a second appeal within one year of the date upon which the decision appealed against is addressed to the officer may be admitted if the Governor is satisfied that there appear in the second appeal new and material facts which might have affected the former decision and if adequate reasons for the non-disclosure of such facts at an earlier date are given.

(3) On communicating to an officer an award there shall also be communicated the fact that an appeal may be lodged within six weeks thereafter:

Provided that failure to communicate such fact shall not invalidate the award.

Administrative officers.

39. For the purposes of disciplinary control of Administrative Officers (other than the Financial Secretary) the Chief Secretary shall be deemed to be the Head of Department in respect of such officers and no other Head of Department shall exercise any function relating to the disciplinary control of such officers.

Delegation of powers.

40. A public officer in receipt of a salary of not less than twenty-four thousand four hundred and twenty dollars per annum may be appointed to exercise powers to hold disciplinary inquiries and investigations and to sit on disciplinary tribunals in accordance with the provisions of regulations 47 and 48:

Provided that such power shall not imply any power to reach any final decision or award punishment such decision and the award of punishment being made in accordance with this Part by the Head of Department except where as required by this Part it is to be made by an authority superior to the Head of Department.

Interdiction.

41. (1) If in any case the authority empowered by regulations 47 and 48 to institute proceedings to dismiss any public officer shall consider that the interests of the public service

require that such officer should cease forthwith to exercise the powers and functions of his office, the authority may interdict him from the exercise of those powers and functions if proceedings for his dismissal are being taken or are about to be taken or if criminal proceedings are being instituted against him.

(2) Where in the opinion of the most senior public officer immediately available the interests of the public service require that another public officer who is responsible to the same Head of Department should be interdicted from the exercise of his powers and functions and such senior public officer is also of opinion that a delay of forty-eight hours or more is liable to intervene before the sanction of the authority, who, under the provisions of sub-regulation (1) could so interdict such officer that public officer may order such junior officer to cease to exercise any of his powers and functions. The power to give such an order shall not be exercised by an officer who is in receipt of a salary of a grade below twenty thousand and eighty eight dollars. Where there is no senior departmental public officer available in the Lesser Islands the District Commissioner shall be deemed to be the senior public officer for the purposes of this regulation. On the giving of such an order such senior public officer shall forthwith report the giving of the order and the reasons therefor to the authority empowered under sub-regulation (1) to interdict the officer. If the authority to whom the report is made considers that the officer should be interdicted from the exercise of his powers and functions he shall inform the officer that he has been so interdicted and the interdiction shall date from the time of the order given under the provisions of this regulation and if the authority so empowered to interdict decides not to exercise such power he shall inform both the officer giving the order and the officer to whom the order is addressed that the order is cancelled.

(3) An officer who is interdicted shall subject to the provisions of regulation 43, receive such emoluments not being less than one half as the authority empowered to dismiss him shall think fit.

(4) If the disciplinary proceedings initiated against an officer who has been interdicted do not result in the officer's dismissal the whole of the emoluments withheld from him shall be restored to him when the final decision is made.

Suspension.

42. If upon considering the advice of the Commission the Governor is of the opinion that an officer holding an office appointment to which is subject to the approval of the Secretary of State for Foreign and Commonwealth Relations or who though not holding such an office was selected for appointment thereto by such Secretary of State should be dismissed, he shall forthwith suspend the officer from the exercise of his office and from the enjoyment of his salary and shall without loss of time report the matter to the Secretary of State transmitting the minutes of the Commission the report of the committee set up under sub-regulation (2) of regulation

47 and a copy of the evidence and of all material documents relating to the case together with a recommendation that the officer should be dismissed. An officer who has been suspended may, pending the decision of the Secretary of State thereon, be granted an alimentary allowance if the Governor shall consider him to be in need of such assistance.

No salary on conviction. 43. A public officer adjudged by a court to be guilty of a criminal charge serious enough to warrant a recommendation by his Head of Department under regulation 47 for the dismissal of the officer shall not receive any emoluments from the date of conviction pending the decision of the authority who is empowered to dismiss him.

Restriction of movement. 44. An officer who is under interdiction or suspension may not leave the Islands without the permission of the officer who interdicted or suspended him or of any superior officer having authority over the interdicted or suspended officer.

Penalties. 45. (1) The following are the punishments which may be ordered as a result of proceedings under this Part:

- (a) dismissal
- (b) reduction in rank
- (c) reduction in salary
- (d) deferment of increment
- (e) stoppage of increment
- (f) reprimand
- (g) retirement for inefficiency
- (h) surcharge with an amount to be fixed by the Commission for any loss sustained by the Government as a result of any wilful act or negligence of an officer: Provided that nothing in this regulation shall prevent a Head of Department from issuing a written reprimand or warning to an officer for a minor offence in the normal course of duty.

(2) In every case of retirement for inefficiency the question of pension will be dealt with under the appropriate law but the Commission may record its opinion upon such question.

Chief Secretary powers. 46. If the Chief Secretary so directs in writing the discretions powers and functions of a Head of Department under regulations 47 and 48 shall not be exercised by him in relation to any particular case of alleged misconduct specified in the direction but shall be exercised by the Chief Secretary. Any exercise or purported exercise by the Head of Department of any such discretion, power or function in regard to such specified case shall be void and without any effect.

Misconduct justifying dismissal. 47. (1) Whenever a Head of Department considers it necessary to institute proceedings against a pensionable public officer serving in his Department on the grounds of misconduct which if proved would justify his dismissal from the public

service, he shall cause such preliminary investigation as he considers necessary to be made and report the facts to the Chief Secretary together with his recommendations. The Chief Secretary shall, after considering the results of the preliminary investigation or of the report, as the case may be -

(a) if he considers that charges should be framed against the officer and after consulting the Attorney General as to the terms of the charge or charges, forward to the officer a statement of the charge or charges framed against him together with a brief statement of the allegations, insofar as they are not clear from the charges themselves, on which each charge is based, and shall call on the accused officer to state in writing before a day to be specified (which shall allow a reasonable interval for the purpose) any grounds on which he relies to exculpate himself; or

(b) if he considers that, if the offence is proved, some penalty other than dismissal is likely to be appropriate, arrange for the procedure described in regulation 48 to be followed.

(2) If the officer does not furnish a reply to the charge or charges forwarded under paragraph (a) of sub-regulation (1) within the period specified or if, in the opinion of the Chief Secretary, he fails to exculpate himself, the Chief Secretary shall refer the case to the secretary with his comments and recommendations, having consulted the Attorney General if he thinks fit. Thereupon the Commission shall advise the Governor on the appointment of a tribunal to consist of such persons as it shall specify being not less than two in number, to inquire into the matter; and the Governor may appoint a tribunal for such purpose. One member, who shall be chairman of the tribunal shall be a public officer with legal qualifications. Neither the Head nor any member of the officer's department shall be a member of the tribunal.

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

(4) If witnesses are examined by the tribunal 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.

(5) The tribunal shall in its discretion permit the Chief Secretary or the accused officer to be represented by a public officer or a legal practitioner:

Provided that where the tribunal permits the accused officer to be represented it shall permit the Chief Secretary to be so represented in the same manner.

(6) If during the course of the inquiry grounds for the

framing of additional charges against the accused officer are disclosed the tribunal shall inform the Chief Secretary of the same and if he thinks fit to recommend proceedings against the accused officer upon such grounds the same procedure shall be followed in respect of additional charges as was adopted in respect of the original charges.

(7) The tribunal, having enquired into the matter, shall forward its report thereon to the Secretary, accompanied by the record of the charges framed, the evidence led, the defence and other proceedings relevant to the inquiry.

(8) The Commission, after consideration of the report of the tribunal may, if it is of opinion that the report should be amplified in any way or that further investigation is desirable, refer the matter back to the tribunal for further investigation and report. Otherwise the Commission shall forward the written proceedings of the inquiry to the Governor together with its advice. The Commission may advise such of the punishments specified in regulation 45 as it may deem appropriate in the circumstances. The decision on each charge preferred against the accused officer shall be communicated to him but not the reasons for the decision.

Alternative
to proceedings
under reg.47.

48. (1) Where a Head of Department considers it necessary to institute disciplinary proceedings -

(a) for misconduct against a pensionable officer serving in his Department but is of the opinion that the misconduct alleged is not serious enough to warrant proceedings under regulation 47; or

(b) for inefficiency,
he shall cause such preliminary investigation as he considers necessary to be made and report the facts to the Chief Secretary who shall after considering the results of the preliminary investigation or of the report as the case may be -

(i) if he considers that the facts on first appearance establish a case against the officer and is of the opinion that the misconduct alleged is not serious enough to warrant proceedings under regulation 47, forward to the officer a statement of the charge or charges against him and shall call upon him to state in writing before a day to be specified (which shall allow a reasonable interval for the purpose) any grounds on which he relies to exculpate himself;

(ii) if the officer does not furnish a reply within the period specified or does not, in the opinion of the Chief Secretary exculpate himself, forward to the secretary copies of the reports on the case, the charges, the officer's reply, if any, together with his own comments.

(2) If, on consideration of the reports, including the grounds, if any, upon which the officer relies to exculpate himself, the Commission is of the opinion that no further

investigation is necessary, it shall advise the Governor as to the punishment, if any, other than dismissal, which should be inflicted on the officer.

(3) If the Commission on consideration of the report submitted to it by the Chief Secretary is of the opinion that the matter should be further investigated it shall advise the Governor as to the manner in which the allegations against the officer should be investigated.

(4) In any such investigation an officer to whom this regulation applies shall be entitled to know the whole case against him and shall have an adequate opportunity of making his defence.

(5) The results of such investigation shall be communicated to the Commission by the person conducting such investigation.

(6) The Commission may, if it considers the results of the investigation should be amplified in any way or that further investigation is desirable, refer the matter back to the person conducting the investigation for further inquiry and report.

(7) The Commission shall forward to the Governor the proceedings against the officer and shall advise the Governor as to what punishment, if any, other than dismissal but including retirement from the service, should be imposed on the officer.

(8) Notwithstanding the provisions of this regulation if at any stage during the proceedings taken under it, it appears to the Chief Secretary that the offence, if proved, would justify dismissal, such proceedings shall be discontinued and the procedure of regulation 47 shall be followed.

Conviction
of a
pensionable
officer.

49. If a pensionable public officer is convicted of a criminal offence, his Head of Department shall bring the matter together with his recommendation as to punishment to the notice of the Chief Secretary who shall report the matter to the secretary with his recommendation as to punishment. A copy of the charge or charges and of the judgment (and the proceedings of the court if available) shall be forwarded to the secretary. The Commission shall consider the judgment (and the proceedings of the court if available) and if it is of opinion that the officer should be dismissed or subjected to disciplinary action for the offence of which he has been convicted, the Commission shall advise the Governor that such punishment should be imposed without following the procedure prescribed in regulations 47 and 48.

Proceedings
against a
contract
officer.

50. Where it is considered necessary to institute disciplinary proceedings against a public officer serving under an agreement, whether after being convicted of a criminal offence or otherwise, the proceedings shall be in the form appropriate to a pensionable officer, save that the provisions of regulation 30 may be applied if deemed more appropriate by his Head of Department.

Proceedings
against a
non-pensionable
officer.

51. (1) Disciplinary action including action for dismissal for disciplinary reasons and proceedings for removal from the public service for inefficiency against a non-pensionable public officer not serving under an agreement in respect of whom disciplinary control has been delegated may be taken by his Head of Department who may cause an investigation to be made in such manner as the investigating officer shall think fit, provided that the officer charged shall be entitled to know the whole case made against him and shall have an adequate opportunity throughout of making his defence.

(2) If a non-pensionable public officer not serving under an agreement in respect of whom disciplinary control has been delegated is convicted of a criminal offence, his Head of Department shall consider the judgment (and the proceedings if available) of the court on such charge and shall decide whether the officer should 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 sub-regulation (1) being instituted.

Absence
without leave.

52. Where any public officer is absent from duty without leave or reasonable cause for a period exceeding ten days and the officer cannot be traced within a period of twenty days of the commencement of such absence or if traced no reply to a charge of absence without leave is received from him within ten days after the despatch of the charge to him

(a) in the case of a public officer in respect of whom disciplinary control has been delegated, the authority empowered to dismiss him may summarily dismiss him;

(b) in any other case, the officer's Head of Department shall report the matter to the Chief Secretary who shall inform the secretary and the Commission shall advise the Governor thereon.

Withholding
increments.

53. (1) If a Head of Department is of opinion that an annual increment in salary of a public officer serving in his department should be withheld because of unsatisfactory service during the previous year not amounting to misconduct for which other proceedings under Part V would be more appropriate or because of failure to pass a prescribed examination he shall inform the officer in writing of the reasons for his opinion and also inform the officer that any written representations that he may wish to make should be made within such period not being less than seven days thereafter as the Head of Department may specify.

(2) At the expiry of the period specified the Head of Department if he remains of the opinion that the annual increments should be withheld notwithstanding any representations he may have received from the officer shall report the matter with copies of the officer's

PUBLIC SERVICE COMMISSION REGULATIONS 1985.

representations, if any, together with his own recommendations to the secretary and the Commission shall advise the Governor on the matter.

Restoration of increments.

54. (1) If a Head of Department is of opinion that an annual increment in salary of a public officer which has been withheld should be restored he shall report the matter with his recommendations to the secretary and the Commission shall advise the Governor on the matter.

(2) On restoration, the increment withheld may be treated as stopped or deferred. If the increment is treated as stopped, the officer shall suffer the loss of the increment for the period between withholding and restoration and on restoration shall regain his previous incremental status and incremental date. If the increment is deferred the officer's incremental status shall be reduced in that he shall take as a new incremental date the date of restoration and the officer shall suffer the loss of seniority for the period of deferment.

Saving contractual position.

55. Nothing in these regulation shall restrict the right of Governor to terminate an officer's agreement in accordance with the terms thereof.

Request for renewal of contract.

56. When a contract is nearing its end by effluxion of time and the officer has requested a renewal this shall not be refused until the Commission has advised the Governor on the request.

Procedure.

57. In carrying out its functions in relation to these Regulations the Commission shall follow such procedure as is laid down from time to time by the Governor in General Orders:

Provided that any action under these Regulations or General Orders shall not be invalidated by reason only of the fact that there was a failure in the administrative process or that any procedure prescribed thereunder was not followed.

PART VI

REVOCATIONS

Revocation.

58. The Public Service Commission Regulations, 1975 are revoked.

SCHEDULES

PUBLIC SERVICE COMMISSION REGULATIONS - 1985
FIRST SCHEDULE

DEPARTMENT I	HEAD OF DEPARTMENT II	OFFICERS III
Administration	The Governor	Chief Justice; Chief Secretary; Financial Secretary; Attorney General; Auditor General; Commissioner of Police
Internal and External Affairs	Chief Secretary	All Administrative Officers (other than the Financial Secretary) Chief Immigration Officer; Clerk of the Legislative Assembly; Director of Broadcasting; Director of Prisons Secretary to the Public Service Commission; All other officers in the Portfolio of Internal and External Affairs other than those specified hereinafter in this column and officers in common user posts.
Broadcasting Department	Director of Broadcasting	All officers in Department of Broadcasting in the Portfolio of Internal and External Affairs other than officers in common user posts.
Immigration Department	Chief Immigration Officer	All officers in the Department of Immigration in the Portfolio of Internal and External Affairs other than administrative officers and officers in common user posts
Legislative Department	Clerk of the Legislative Assembly	All officers in the Legislative Department of the Portfolio of Internal and External Affairs other than administrative officers and officers in common user posts.
Personnel and Office Services	Principal Secretary (Personnel)	All officers of the Personnel and Office Services Division of the Portfolio of Internal and External Affairs other than administrative officers; All officers in common user posts throughout the public service.

PUBLIC SERVICE COMMISSION REGULATIONS - 1985
FIRST SCHEDULE

DEPARTMENT I	HEAD OF DEPARTMENT II	OFFICERS III
Public Service Commission	Secretary	All Officers in the Office of the Public Service Commission.
Police Department	Commissioner of Police	All officers in the Royal Cayman Islands Police Force other than administrative officers and officers in common user posts
Prison Service	Director of Prisons	All officers in the Cayman Islands Prisons Service other than officers in common user posts.
Finance and Development Portfolio	Financial Secretary	Chief Accountant; Collector of Customs; Inspector of Banks and Trust Companies Manager, Central Funding Scheme; Registrar of Companies; Superintendent of Insurance; All other officers in the Portfolio of Finance and Development other than, those specified hereinafter in this Column administrative officers and officers in common user posts.
Banking Department	Inspector of Banks and Trust Companies	All officers in the Banking Department of the Portfolio of Finance and Development other than administrative officers and officers in common user posts.
Finance and Development	Registrar of Companies	All officers in the Registrar of Companies Department of the Portfolio Finance and Development other than officers with legal qualifications, administrative officers and officers in common user posts
Treasury	Chief Accountant	All officers in the Treasury of the Portfolio of Finance and Development other than administrative officers and officers in common user posts.

PUBLIC SERVICE COMMISSION REGULATIONS - 1985
FIRST SCHEDULE

DEPARTMENT I	HEAD OF DEPARTMENT II	OFFICERS III
Insurance Department	Superintendent of Insurance	All officers in the Insurance Department of the Portfolio of Finance and Development other than administrative officers and officers in common user posts.
Customs Department	Collector of Customs	All Officers in the Customs Department of the Portfolio of Finance and Development other than officers in common user posts.
Central Funding Scheme	Manager	All officers in the Central Funding Scheme of the Portfolio of Communications Works and District Administration other than officers in common user posts.
Judicial Dept	Chief Justice	Judge of the Grand Court Magistrate Clerk of the Court
	Clerk of the Court	All officers in the Judicial Department other than the Chief Justice, any Judge of the Grand Court any Magistrate, administrative officers and officers in common user posts.
Legal Department	Attorney General	All officers in the Attorney General's Chambers other than administrative officers and officers in common user posts.
Health, Education & Social Services	Principal Secretary (H.E.S.S.)	Chief Education Officer; Chief Medical Officer; Director of Social Services; All other officers in the portfolio of Health Education and Social Services other than those specified hereinafter in this column and administrative officers and officers in common user posts.

PUBLIC SERVICE COMMISSION REGULATIONS - 1985
FIRST SCHEDULE

DEPARTMENT I	HEAD OF DEPARTMENT II	OFFICERS III
Education Department	Chief Education Officer	All officers in the Department of Education of the Portfolio of Health Education and Social Services other than administrative officers and officers in common user posts.
Personal Health Services	Chief Medical Officer	All officers in the Personal Health Services Department of the Portfolio of Health Education and Social Services other than officers in common user posts.
Social Services Department	Director of Social Services	All officers in the Social Services Department of the Portfolio of Health Education and Social Services other than officers in common user posts.
Development and Natural Resources	Principal Secretary (D. and N.R.)	Chief Agricultural & Veterinary Officer; Registrar of Lands; Director of Mosquito Research and Control Unit; Director of Planning; Director of the Water Authority All other officers in the Portfolio of Development and Natural Resources other than those specified hereinafter in this column, administrative officers and officers in common user posts.
Water Authority	Director of Water Authority	All officers in the Water Authority of the Portfolio of Development and Natural Resources other than officers in common user posts.
Agricultural and Natural Resources	Chief Agricultural & Veterinary Officer	All officers in the Agricultural and Veterinary Department of the Portfolio of Development and Natural Resources other than officers in common user posts.

PUBLIC SERVICE COMMISSION REGULATIONS - 1985
FIRST SCHEDULE

DEPARTMENT I	HEAD OF DEPARTMENT II	OFFICERS III
Lands and Survey Department	Registrar of Lands	All officer in the Lands and Survey Department of the Portfolio of Development and Natural Resources other than officers in common user posts.
Mosquito Research and Control Unit	Director of Mosquito Research Control Unit	All officers in the Mosquito Research and Control Unit of the Portfolio of Development and Natural Resources other than officers in common user posts.
Planning Department	Director of Planning	All officers in the Planning Department of the Portfolio of Development and Natural Resources other than officers in common user posts.
Tourism Aviation and Trade	Principal Secretary (T.A.T.)	Director of Civil Aviation; Director of Tourism; Chief Fire Officer; All other officers in the Portfolio of Tourism Aviation and Trade other than those specified hereinafter in this column, administrative officers and officers in common user posts.
Civil Aviation Department	Director of Civil Aviation	All other officers in the Civil Aviation Department except officers in common user posts.
Department of Tourism	Director of Tourism	All officers in the Tourism Department of the Portfolio of Tourism Aviation and Trade except officers in common user posts.
Fire Service Department	Chief Fire Officer	All officers in the Cayman Islands Fire Service except officers in common user posts.

PUBLIC SERVICE COMMISSION REGULATIONS - 1985
FIRST SCHEDULE

DEPARTMENT I	HEAD OF DEPARTMENT II	OFFICERS III
Communications Works and District	Principal Secretary CW & DA	Chief Engineer; Postmaster General; Director of Ports All other officers in the Portfolio of Communications and Works other than, those specified hereinafter in this column, administrative officers and officers in common user posts.
	District Commissioner	All officers in the District Administration in the Portfolio of Communications Works and District Administration other than administrative officers and officers in common user posts.
Postal Department	Postmaster General	All officers in the Postal Department of the Portfolio of Communications Works and District Administration other than officers in common user posts.
Public Works Department	Chief Engineer	All officers in the Public Works Department of the Portfolio of Communications Works and District Administration other than officers in common user posts.
Audit Department	Auditor General	All officers in the Audit Department other than administrative officers and officers in common user posts.

PUBLIC SERVICE COMMISSION REGULATIONS 1985
SECOND SCHEDULE

FORM I

OATH TO BE TAKEN BY THE CHAIRMAN
AND ANY MEMBER OF THE COMMISSION
(Regulation 14(1))

I, _____, swear that I will not directly or indirectly reveal to any unauthorised person or persons otherwise than in the course of the business of the Commission any information in connection with the business of the Commission which may come to my knowledge in the course of my duties as (_____) of the said Commission.

Signed _____

Sworn before me, at (_____) this _____ day of 19(_____).

Signed _____
Justice of the Peace

Note: The words "solemnly affirm" will be substituted for the word "swear" where an affirmation is made.

FORM II

OATH TO BE TAKEN BY ANY MEMBER
OF THE STAFF OF THE COMMISSION
(Regulation 14(2))

I, _____, swear that I will not directly or indirectly reveal to any unauthorised person or persons otherwise than in the course of the business of the Commission any information in connection with the business of the Commission which may come to my knowledge in the course of my duties as a member of the staff of the said Commission

Signed _____

SWORN before me, at _____, this _____ day of, 19(_____)

Signed _____
Justice of the Peace

Note: The words "solemnly affirm" will be substituted for the word "swear" where an affirmation is made.

PUBLIC SERVICE COMMISSION REGULATIONS 1985
THIRD SCHEDULE

OFFICES EXCLUDED FROM CONSIDERATION
BY THE PUBLIC SERVICE COMMISSION
(Regulations 17,26,32 and 33.)

1. The President of the Court of Appeal, Justices of Appeal, Chief Justice, Puisne Judge, any Magistrate, the Registrar of the Court of Appeal, Clerk of the Court and any other office subordinate to the Chief Justice for which a legal qualification is required.
2. Attorney General and any office subordinate to the Attorney General for which a legal qualification is required.
3. Auditor General.
4. Members of the Governor's personal staff.
5. Offices graded in the salary Scale SS 8 - 15
6. Offices in the Royal Cayman Islands Police Force
7. Offices in the Cayman Islands Prisons Service to the extent only that the right to instituted disciplinary or dismissal proceedings are vested in the Director of Prisons
8. All offices the remuneration of which is not paid from provision made in the Estimates for an established office.

Made in Council this 29th day of October 1985

JENNY MANDERSON
CLERK TO THE EXECUTIVE COUNCIL