

Restoration of increments.

60. (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 recommendation 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 of contractual position.

61. Nothing in these Regulations shall restrict the right of Government to terminate an officer's agreement in accordance with the terms thereof.

PART VI: REVOCATIONS

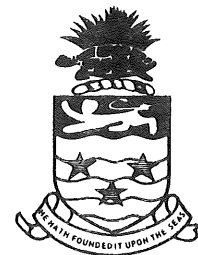
Revocation of G.N. 54 of 1968 and Public Service Commission Rules 1969.

62. The Public Service Commission (Regulations) 1968 and Public Service Commission Rules, 1969 are hereby revoked.

Made in Council this 29th day of July, 1975.

MARILEE PARSONS,
Acting Clerk of the Executive Council.

CAYMAN ISLANDS



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THE PUBLIC SERVICE COMMISSION REGULATIONS, 1975

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Proceedings against an officer serving under agreement.

56. Where it is considered necessary to institute disciplinary proceeding or proceedings for removal from the public service in the public interest 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 of the same salary; save that the provisions of Regulation 34 may be applied if deemed more appropriate.

Proceedings against a non-pensionable officer not serving under agreement in respect of whom disciplinary control has been delegated.

57. (1) Disciplinary action, including action for dismissal for disciplinary reasons, and proceedings for removal from the public service in the public interest against a non-pensionable public officer not serving under an agreement in respect of whom disciplinary control has been delegated, may be taken by the 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, the 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 from duty without leave.

58. 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 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 of increments.

59. (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 this section would be more appropriate, or for failure to pass a prescribed examination, he shall communicate to the officer in writing the reasons for his opinion and inform him that any written representations that he may wish to make are to 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 increment should be withheld notwithstanding any representations he may have received from the officer, shall report the matter with copies of the officer's representations, if any, together with his own recommendation to the Secretary and the Commission shall advise the Governor on the matter.

that the officer should be dismissed or subjected to disciplinary action for the offence of which he has been adjudged guilty, the Commission shall advise the Governor that such punishment should be inflicted without following the procedure prescribed in Regulations 50, 51, 54 or 55.

Proceedings for dismissal of a pensionable officer whose salary does not exceed CI\$11,999 per annum.

54. (1) Whenever a Head of Department considers it necessary to institute disciplinary proceedings against a pensionable public officer whose salary does not exceed CI\$11,999 per annum, and is of the opinion that the misconduct alleged is serious enough to warrant dismissal, he shall, after such preliminary investigation as he may consider necessary, frame charges in writing against the officer, after consulting the Attorney General as to the terms of the charge or charges. The charges shall be communicated to the officer in order that he may have a full opportunity of exculpating himself. If he does not avail himself of the opportunity, or if the Head of Department does not consider that the officer has exculpated himself, the case shall be referred to the Chief Secretary who shall appoint a public officer under the provisions of Regulation 44 to hold an inquiry at which the accused officer shall be permitted to be present and shall be allowed to cross-examine the witnesses, if any. The accused officer shall be allowed access to all documentary evidence against him or supplied with copies and shall be allowed to adduce witnesses in his defence. A public officer (other than the Head of Department) holding the inquiry shall, if so requested, permit the Head of Department or the accused officer to be represented at the inquiry by a public officer or a legal practitioner.

(2) If as a result of an inquiry held in accordance with the provisions of sub-regulation (1) the Chief Secretary considers it necessary to inflict on the accused officer any punishment, he shall forward a copy of the charges together with his recommendations to the Secretary. The Commission after considering the proceedings and recommendations shall advise the Governor what punishment, if any, it considers should be inflicted on the officer. The decision made on each charge preferred against the accused officer shall be communicated to him, but not the reasons for the decision.

Proceedings for misconduct not warranting dismissal against a pensionable officer whose salary does not exceed CI\$11,999 per annum.

55. (1) Whenever a Head of Department considers it necessary to institute disciplinary proceedings against a pensionable public officer whose salary does not exceed CI\$11,999 per annum and is of the opinion that the misconduct alleged is not serious enough to warrant dismissal he shall cause an investigation to be held by a public officer holding powers of inquiry under the provisions of Regulation 44 in which case the accused officer shall know the case against him and shall have an adequate opportunity of making his defence.

(2) If as a result of the investigation referred to in sub-regulation (1) the Head of Department is of opinion that the allegation is proved he shall refer the case with his recommendations to the Secretary.

(3) After considering the proceedings and recommendations referred to it under sub-regulation (2) the Commission shall advise the Governor as to what punishment, if any, other than dismissal but including retirement from the service, should be inflicted on the officer.

(4) Notwithstanding the provisions of this Regulation, if at any stage during the proceedings taken under it, it appears to the Head of Department that the offence, if proved, would justify dismissal, such proceedings shall be discontinued and the procedure in Regulation 54 shall be followed.

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

In exercise of the 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

Short title. 1. These Regulations may be cited as the Public Service Commission Regulations, 1975.

Interpretation. 2. In these Regulations, unless the context otherwise requires —

“administrative officer” includes the Chief Secretary, the Financial Secretary, the Deputy Financial Secretary, the District Commissioner, the Senior Principal Secretary, Principal Secretaries, Senior Assistant Secretaries, and Assistant Secretaries;

“appointment” means —

- (a) the engagement in a public office, 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 of a person 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;
- (d) the appointment of a public officer to act in any public office, other than the office to which he is subsequently appointed;

“Chairman” means the Chairman of the Commission and any person acting in that capacity;

“Commission” means the Public Service Commission;

“common user officers” means officers of the —

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;

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 such investigation for further enquiry 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 inflicted 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 in Regulation 50 shall be followed.

Proceedings for retirement in the public interest against a pensionable officer.

52. (1) Notwithstanding the provisions of Regulations 50, 51, 54 or 55 if a Head of Department considers that it is desirable in the public interest that a pensionable public officer serving in his department should be required to retire from the public service on grounds which cannot suitably be dealt with under Regulations 50 or 54, he shall report the fact to the Chief Secretary together with his comments thereon.

(2) The Chief Secretary may obtain from any public officer under whom such public officer has served a report as to his work and conduct, and shall allow any such officer to consider any such report and to show cause why he should not be retired from the public service.

(3) If the Chief Secretary, after considering the officer's statement and having regard to all the circumstances of the case, is of the opinion that such officer should be retired from the service in the public interest, he shall forward to the Secretary any report obtained under sub-regulation (2) and the statement of the officer, together with his own recommendations. The Commission shall advise the Governor whether or not the officer should be retired.

Criminal conviction of a pensionable officer

53. If a pensionable public officer is convicted of a criminal offence in any court, the 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 if available) and if it is of opinion

(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, if so requested, permit the Chief Secretary or the accused officer to be represented by a public officer or a legal practitioner.

(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 inquired 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 as to the punishment, if any, which should be inflicted on the accused officer. The decision on each charge preferred against the accused officer shall be communicated to him, but not the reasons for the decision.

Preliminary investigation alternative to proceedings under Regulation 50.

51. (1) Where a Head of Department considers it necessary to institute disciplinary proceedings for misconduct against a pensionable officer serving in his department whose salary exceeds CI\$11,999 per annum but is of the opinion that the misconduct alleged is not serious enough to warrant proceedings under Regulation 50 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 —

(a) 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 50 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;

(b) 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 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

First Schedule.

“Head of Department” means the public officer listed in column 1 in the first schedule in respect of the offices listed opposite in column 2 thereof;

“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;

“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;

“public officer” means the holder of a public office and includes any person appointed to act in a public office;

“public service” means the service of the Crown in respect of the Government of the Cayman Islands;

“Regulations” means these Regulations;

“salary” means basic salary;

“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 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 and appointment to the Commission.

3. The Commission shall consist of a Chairman and four other Members to be appointed by the Governor and shall hold office at the pleasure of the Governor.

Temporary membership

4. The Governor may appoint as Deputy Chairman one of the Members and may also appoint a temporary Chairman or temporary Members if for any reason the Chairman, Deputy Chairman or Members are unable to perform the functions of their offices.

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 and voting.

6. (1) The Chairman and two other Members shall constitute 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 and decisions.

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 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 or the Commission no decision shall be made on that subject except at a meeting of the Commission, and:

Provided further that where a Chairman or a Member dissents from a view recorded by a majority of 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 once 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 with persons other than Members. 10. (1) The Commission may require any public officer, excluding the Judge of the Grand Court, to attend and give evidence before it concerning any matter which it is empowered to consider in exercise of the 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.

Documents to be made available. 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 or make the affirmation set out in Form 1 of the second schedule.

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 or affirmation set out in Form 2 of the second schedule.

Unauthorised disclosure or use. 15. (1) Neither the Chairman nor any Member nor any person shall without the

proceedings instituted for the dismissal of a public officer —

(1) the Head of Department in the case of a non-pensionable officer in respect of whom disciplinary control has been delegated; and

(ii) the Governor in other cases

may, if of opinion that the officer does not deserve to be dismissed but that the proceedings disclose grounds for requiring him to retire in the public interest, require him to do so.

(3) Where a Head of Department is of opinion that sub-regulation (2) should be applied to a public officer, not being a non-pensionable public officer in respect of whom disciplinary control has been delegated, he shall forward the proceedings together with his recommendations to the Chief Secretary who shall refer the case, giving his opinion thereon, to the Secretary; and the Commission shall, after causing such further inquiry to be made as appears necessary, advise the Governor whether the officer should be required to retire.

(4) In every case of retirement in the public interest the question of pension will be dealt with by the appropriate authority under the appropriate law, but the Commission may record its opinion upon such question.

Proceedings in case of pensionable officers of salary exceeding CI\$11,999 per annum charged with misconduct.

50. (1) Whenever a Head of Department considers it necessary to institute proceedings against a pensionable public officer serving in his department, whose salary exceeds CI\$11,999 per annum, 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 51 and 52, as the case may be, 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 three in number, to inquire into the matter; and the Governor may appoint a Tribunal for such purpose. One member of the Tribunal shall be a magistrate or public officer with legal qualifications. The Head or any member of the officer's department shall not be a member of the Tribunal.

giving of the order and the reasons therefor to the authority empowered under sub-regulation (1) to interdict the junior 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 Regulations 46 and 47 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.

46. 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, or who, though not holding such an office, was selected for appointment thereto by the 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 any Committee set up under sub-regulation (2) of Regulation 50, 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.

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

47. A public officer adjudged by a court to be guilty of a criminal charge serious enough to warrant a recommendation by the Head of Department under Regulation 53 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.

Interdicted or suspended officers not to leave the Cayman Islands.

48. An officer who is under interdiction or suspension may not leave the Cayman 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.

49. (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; or
- (f) reprimand:

Provided that nothing in this Regulation shall limit the powers conferred hereinafter in this section to require a public officer to retire from the public service on the grounds of public interest.

(2) Notwithstanding the provisions of sub-regulation (1), on completion of

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 a 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 communicates any 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 and protection of Members.

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 proceeding 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 the Judge of the Grand Court in the exercise of his judicial office.

PART III: APPOINTMENTS, PROMOTIONS AND TRANSFERS

Functions of the Commission. Third schedule.

17. The Commission shall advise the Governor in the following save that any matter relating to the officers 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 by him, by Heads of Departments or other public officers in respect of appointments, promotion or transfer;
- (c) passing a promotion or efficiency bar;
- (d) selection of public officers for training courses.

Supervision of recruitment.

18. In order to perform its functions under Regulation 17 the Commission shall advise on all schemes for admission to any public office by examination, shall consult the Education Council for the award of scholarships for special training for the public service, shall consult the Principal Secretary (Establishments) on departmental in-service training courses, both local and overseas, and shall advise on all other methods of recruitment including the appointment and procedures of boards or committees for the selection of candidates. The Commission shall take into account the need to fill posts in the public service as quickly as possible, with persons of Caymanian status and the need to maintain a high standard of efficiency.

Reporting of vacancies. First schedule.

19. When it is known that a vacancy will occur or has occurred in the public service the Head of Department responsible as listed in the first schedule shall report the vacancy to the Principal Secretary (Establishments) and shall make

his recommendations for filling the vacancy. Such reports will be referred by the Principal Secretary (Establishments) to the Secretary.

Advertisement of vacancies. 20. When the Commission is satisfied that no public officer is available or suitable to fill a vacancy in the public service, and that such vacancy cannot be filled by the results of examinations or scholarships prescribed by any scheme approved by the Principal Secretary (Establishments) details of such vacancy shall, unless the Commission otherwise advises, be notified to the public by advertisement in the Gazette, the press and /or radio announcement at least thirty days before the Commission make a recommendation on the filling of the vacancy.

Principles and procedures applicable to selection for promotion. 21. (1) In considering the claims of persons in the public service for promotion, merit and ability shall be taken into account as well as seniority, experience and qualifications.

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

(3) When promotion is recommended, the Secretary shall ensure that accurate seniority rolls are made available to the Commission.

Maintenance of an Annual Confidential Report System. 22. In order to discharge its functions under Regulation 21, Heads of Departments shall in each year on or before the last day of October, furnish to the Principal Secretary (Establishments) confidential reports in respect of officers serving in their departments, and the Commission may make provision for the safe custody of such reports.

Principles and procedures applicable to selection for acting appointments. 23. (1) The principles and procedure for making acting appointments shall be identical with those prescribed in Regulation 21 for a promotion.

(2) When recommending to the Commission an acting appointment, the Heads of Departments shall state whether or not the officer recommended is in every way qualified to perform all the duties of the office in which he is to act. Where it is considered administratively inconvenient to recommend to the Commission an officer best qualified to act in a public office, detailed reasons for the recommendation of any other officer shall be given.

Selection of public officers for scholarships and courses. 24. The procedure for making promotions shall be followed when it is desired to select any officer for a scholarship or a special course of training which may enhance his qualifications for promotion or which is designed to fit him for a higher post.

Provisions for transfer. 25. Transfer shall be dealt with under the procedure for promotion when an increase in emoluments is involved, and under the procedure for appointment when there is no immediate increase in emoluments.

Procedure in case of urgency. 26. When it is necessary to make an appointment, promotion or transfer of a public officer, the procedure in Regulation 21 shall be followed except that where any delay is likely to cause serious inconvenience, the Principal Secretary (Establishments) 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 who shall report his action to the Commission at its next meeting.

Appeals.

42. (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.

The Administrative Service.

43. In regard to the disciplinary control of public officers in the Administrative Service, 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.

Delegated powers of public officers.

44. Public officers on salaries of not less than CI\$12,000 per annum may exercise powers to hold disciplinary inquiries and investigations in accordance with the provisions of Regulations 50, 53, 55 and 56:

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.

45. (1) If in any case the authority empowered by Regulations 50, 53, 54, 56 or 57 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 a junior 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 junior 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 less than CI\$12,000 per annum. Where there is no senior departmental public officer available, the District Commissioner in respect of the Lesser Islands shall be deemed to be the senior public officer for the purposes of this section. On the giving of such an order such senior public officer shall forthwith report the

PART V: DISCIPLINE

Functions of the Commission.
Third schedule.

36. (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 the opinion that disciplinary proceedings should be instituted against a public officer, 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.

37. (1) All acts of misconduct by public officers 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 shall be reported to the Secretary and the Commission may advise the Governor as to how the case should be dealt with.

Grounds for criminal prosecution.

38. 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, the 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 while criminal proceedings pending.

39. 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.

Disciplinary action after acquittal on a criminal charge.

40. 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 of inquiries.

41. 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.

Detailed procedure for appointments, promotions and transfer.

First schedule.

Overseas recruitment.

Appointments by examination or of large-scale intakes.

27. The appointments, promotions and transfers of public officers to whom this Part applies shall be made by the Governor (except when this power has been delegated) and the following procedure shall be applied —

(a) as soon as it is known that a vacancy will occur in an office, the Head of Department listed in the first schedule shall forward to the Principal Secretary (Establishments) the appropriate staff vacancy form which shall include a recommendation as to how the office should be filled. If the recommendation is for recruitment from outside the public service he shall forward a draft advertisement with the staff vacancy form;

(b) upon receipt of the staff vacancy form, the Principal Secretary (Establishments) shall verify that there is no establishment or financial objection to the filling of the office and that the terms for the draft advertisement are correct and shall then forward the staff vacancy form and draft advertisement to the Secretary;

(c) when the Commission decides that the vacancy cannot be filled by an existing member of the public service it will advertise the office locally: The Secretary shall arrange publication and shall submit the applications to the Commission with the recommendations made upon them by the Head of Department;

(d) any applications made in respect of a vacancy locally advertised by a person who is not of Caymanian status will be regarded as that made by a person overseas. When the vacancy is likely to involve the recruitment of an overseas officer, the Head of Department shall report to the Commission on the availability of qualified local officers and on the arrangements for the training of local candidates for such vacancy;

(e) the Commission shall decide whether a Panel shall be constituted to interview candidates, what the composition of any such Panel shall be and the form in which the report of such Panel shall be submitted to the Commission. The Commission may, if it sees fit, summon any of the candidates for interview by the Commission. When the Commission itself is interviewing candidates it may in its discretion be assisted by a Head of Department or technical officer as adviser.

28. If as a result of local advertisement there is no applicant of Caymanian status or no candidate is selected by the Commission, the Secretary shall inform the Principal Secretary (Establishments) who shall initiate overseas recruitment through the Ministry of Overseas Development, the Crown Agents for Overseas Governments, or through other overseas agents as he considers appropriate. When a candidate is selected by the Ministry of Overseas Development or the Crown Agents, the Principal Secretary (Establishments) will, after consulting the Chairman and the Head of Department concerned, recommend the appointment directly to the Governor, after taking into consideration the candidature of any local applicants who are not of Caymanian status. Where recruitment is initiated through any other agency its recommendations will be referred to the Commission which shall consider at the same time the candidature of any applicants who are not of Caymanian status in reply to any local advertisement.

29. Where vacancies are to be filled by examination in conformity with any approved scheme of recruitment, or by large-scale intakes of school-leavers,

the procedures described in Regulation 27 shall not apply. In such cases separate instructions shall be issued as appropriate by the Principal Secretary (Establishments) on the advice of the Commission.

**PART IV: DETERMINATION OF APPOINTMENTS AND
EXTENSION OF PROBATIONARY SERVICE**

Functions of the Commission. Third schedule.

30. The Commission shall advise the Governor in relation to matters under this Part provided that any such matters relating to the officers in the third schedule shall not be considered by the Commission.

Retirement after attaining the minimum prescribed age.

31. (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 to him, and who holds a pensionable office, shall 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 60 years will be called upon to retire from the public service after six months' notice by his Head of Department who shall advise the Principal Secretary (Establishments) and the Chairman of such action.

Termination of appointment on abolition of office.

32. Where an office which is one of a number of such offices has been abolished, but one or more officers remain, the Head of Department shall make a report through the Chief Secretary recommending, with reasons, which substantive holder of such office shall 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 thereon to the Governor.

Retirement to facilitate improvement in organisation.

33. (1) If it appears to a Head of 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 representation about the intention to retire him compulsorily and such representations should 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 shall be called upon to retire.

Premature termination of

34. (1) When a public officer is serving under an agreement which provides for

agreement and withholding of gratuities.

the termination of that agreement by notice before the expiration of the period of service stipulated in the agreement, and the Head of Department is of the opinion that the agreement should be so terminated, the Head of Department shall report the matter to the Principal Secretary (Establishments) with a full statement of his reasons. If the Principal Secretary (Establishments) 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 representation about the intention to terminate his agreement prematurely and such representation shall be transmitted to the Commission by the Principal Secretary (Establishments) with his own observations and all other relevant papers and documents. The Commission shall advise the Governor whether or not such public officer's agreement shall be so terminated:

Provided that when it appears to the Principal Secretary (Establishments) 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 the Head of Department is of the opinion that no gratuity or only part of such gratuity should be paid, the Head of Department shall report the matter to the Principal Secretary (Establishments) with a full statement of his reasons. If the Principal Secretary (Establishments) 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 representation about such intention and such representation shall be transmitted to the Commission by the Principal Secretary (Establishments) with his own observations and all other relevant papers and documents. The Commission shall give its advice thereon to the Governor.

Probationary appointments.

35. (1) The normal probationary period shall be two years and where a public officer holds a probationary appointment, the 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 so 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 Principal Secretary (Establishments) who shall report to the Secretary with his observations and the Commission shall give its advice thereon to the Governor.

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

(3) Before forwarding to the Principal Secretary (Establishments) any report recommending extensions 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 Principal Secretary (Establishments) with the report.