

SAINT CHRISTOPHER AND NEVIS

STATUTORY RULES AND ORDERS

No. 11 of 2014

PUBLIC SERVICE STANDING ORDERS

IN EXERCISE of the powers conferred upon the Minister by section 48 of the Public Service Act, these Orders are hereby made.

[Published 15th May 2014, Official Gazette No. 21 of 2014]

PART I - PRELIMINARY

1 Citation.

These Orders may be cited as the Public Service Standing Orders, 2014.

2. Interpretation.

(1) In these Standing Orders, unless the context otherwise requires,

“Act” means the Public Service Act, No. 19 of 2011;

“Caribbean Community” means the Caribbean Community including the CARICOM Single Market and Economy established by the Revised Treaty of Chaguaramus signed at Nassau, the Bahamas on 5 July 2001;

“CARICOM Member State” means a Member State of the Caribbean Community;

“Commission” means the Public Service Commission established under section 77 of the Constitution;

“designated travelling officer” means a public officer who holds a post which has been designated by Cabinet to be a scheduled travelling post in the Public Service;

“Department” means a department of the Government referred to in section 61 of the Constitution;

“Head of Department” is the public officer who is responsible for the day to day running of a Department for which a Minister is responsible and has direction and control and which is supervised by a Permanent Secretary;

“Head of the Public Service” has the meaning given under the Public Service Act;

“immediate family”, in relation to a public officer, means his or her

(a) wife or husband;

(b) mother or father;

(c) children who have not attained eighteen years, or who are under full time education;

“office of emolument”, in relation to the definition of “public officer”, means any pensionable post;

“Permanent Secretary” means a permanent secretary whose responsibility is described under section 61 of the Constitution;

“public office” means any office of emolument in the public service;

“public officer” means any person holding or acting in any public office;

“Public Service” means, subject to the provisions of section 119 of the Constitution, the service in a Civil capacity of the Crown in right of the Government;

“Service Commission” means the Public Service Commission, the Judicial and Legal Services Commission or any other Service Commission appointed under the Constitution of Saint Christopher and Nevis.

(2) Any other term used in these Standing Orders shall have the meaning assigned to it by the Act.

3. Application of standing orders.

These Standing Orders shall apply to all public officers except in cases where, by virtue of the Constitution or any other law in force in Saint Christopher and Nevis, specific provision is made with respect to a particular public office or category of public office.

4. Duty of Head of Department to make copies of Standing Orders available.

The Head of Department or Permanent Secretary shall ensure that a sufficient number of copies of these Orders are readily available for consultation by all public officers within the Department and to meet the needs of the Department.

5. Duty of officers to familiarize themselves with the Standing Orders.

A public officer shall familiarize himself or herself with these Orders and any amendments made to these Orders.

6. Acquaintance with government notices and orders.

(1) A public officer shall acquaint himself or herself with all Government notices and Orders whether published in the *Official Gazette* or conveyed by circular or other means of communication.

(2) Permanent Secretaries as well as Heads of Department shall be responsible for the circulation of the notices and Orders referred to in subsection (1) to the public officers under their direction and control.

7. Liability of officer to disciplinary action.

A public officer shall be liable to disciplinary action in respect of a breach of any provision of these Standing Orders.

PART II - SALARIES AND ACTING ALLOWANCES

8. Salaries to be determined by Parliament.

The scales of salary attached to public officers shall be those provided for in the Government’s Annual Estimates of Expenditure, and as approved by Parliament.

9. Incremental salary scale.

Subject to the provisions of these Standing Orders, where the salary attached to any post is in an incremental scale, it shall be normal for a public officer appointed on a permanent basis to be paid initially the minimum salary of the scale, and in accordance with the provisions of the Recruitment and Employment Code, annual increments at the rates provided until the maximum of the scale is reached.

10. Payment of salaries.

(1) Salaries shall normally be paid monthly in respect of the calendar month.

(2) A public officer shall receive the salary of his or her post from the date upon which he or she assumes duties of the post.

(3) A public officer shall not be paid a salary in respect of any period during which the public officer has been absent from duty without the approval of a Permanent Secretary or Head of Department unless the Governor-General, acting in accordance with the recommendation of the Commission, directs otherwise.

(4) A public officer who is proceeding on leave outside of Saint Christopher and Nevis may receive, prior to embarkation, his or her salary for the whole of the month in which he or she leaves Saint Christopher and Nevis.

11. Promotional increases in salaries.

(1) The following provisions of this section shall apply where a public officer is promoted to a public office carrying salary on an incremental scale.

(2) If, immediately prior to his or her promotion, the salary of the public officer was less than the minimum of the new public office he or she shall receive the minimum, but if the grant of the next increment in his or her former office would have brought his or her salary in that office up to the minimum of the scale of his or her new office, he or she shall receive one increment in the new scale of his or her promotion.

(3) If, immediately prior to his or her promotion, the public officer's salary was below the maximum of the scale of his or her office, and was not less than the minimum of the scale of the new office, he or she shall receive a salary at a point in the new salary scale amounting to one full increment (but not two) higher than his or her salary in the former office.

(4) If the maximum, or fixed salary of his or her former office was not less than the minimum of the scale of his or her new office, and the public officer has at the date of his or her promotion served at that maximum, or fixed salary for a period exceeding one year, he or she shall be appointed in the new scale at a point which provides two full increments in that scale.

12. Incremental dates.

The incremental date of all officers shall be the first day of the month in which they are appointed or promoted.

13. Grant of increments.

A public officer's annual incremental shall be paid on the personal certificate of the Permanent Secretary or Head of Department in the form set out in Form 4 of Schedule 1 to these Orders.

14. Suspension, deferment and withholding of increments.

(1) A public officer's increment shall not be suspended, deferred or withheld except

by order of the Governor-General acting in accordance with the recommendation of the Service Commission.

(2) Where a Permanent Secretary or Head of Department considers that a public officer's increment should be suspended, deferred or withheld the Permanent Secretary or Head of Department shall

- (a) notify the public officer in writing, at least one month before the date on which the increment is due, that he or she considers that the increment ought not to be granted and he or she shall give reasons why the increment ought not to be given; and
- (b) report the matter to the Chief Personnel Officer, in the case of a public officer below the level of Head of Department, or the Head of the Public Service, in the case of a public officer at or above the level of Head of Department, who shall refer the case to the Commission for the making of a recommendation to the Governor- General.

(3) In making his or her recommendation for the suspension, deferment or withholding of an increment the Permanent Secretary or Head of Department shall take into account the gravity of the original misconduct or dereliction of duty, if any, and the nature of the public officer's subsequent behaviour, or his or her present degree of efficiency.

(4) An increment may be suspended for a period not exceeding three months, and the payment of the increment at the end of the period of suspension may be from the date on which it became due.

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

(6) Where an increment is withheld the public officer shall be denied that increment during each subsequent year of his or her service for a period not exceeding two years.

(7) Where an increment is withheld, the Governor- General, acting in accordance with the recommendation of the Service Commission, may at any subsequent increment date grant the public officer a special increment which will have the effect of restoring the public officer to his or her proper increment position in the salary scale.

15. Retention of services of promoted officer in former Department.

(1) Where a public officer is promoted to a public office in another Department, arrangements should normally be made whereby he or she assumes his or her new duties on the date of his or her appointment.

(2) Where, a public officer is promoted in accordance with the provisions of subsection (1) and exceptional circumstances necessitate the public officer's retention in his or her former Department beyond the promotion date, he or she shall be considered to be holding his or her new office from the date of his or her appointment to that office, and seconded to his or her former Department subject to the approval of the Chief Personnel Officer, in the case of a public officer below the level of Head of Department, or the Head of the Public Service, in the case of a public officer at or above the level of Head of Department.

(3) In implementing the provisions of this section, regard shall be had to the relevant provisions of the Recruitment and Employment Code.

16. General principle relating to allowances in relation to acting appointments.

(1) Where a public officer is absent from office due to annual leave or short absence due to illness or other cause, as a general rule, as provided by section 40.(1) of the Public Service Recruitment and Employment Code, no acting appointment may be made to that office, and no acting allowance shall be payable, except that if another officer within the Department is requested to perform those functions during the absence of the concerned officer then officer who is requested to perform those functions shall be entitled to a responsibility allowance.

(2) Without prejudice to the provisions of subsection (1), an acting allowance in relation to an acting appointment shall be paid as provided by the provisions of section 17 of these Standing Orders.

17. Acting allowance.

(1) A public officer duly appointed to act in a higher office than his or her own office shall, if required to act for a continuous period of twenty-eight days or more, be granted, in addition to his or her substantive salary, an acting allowance calculated on the following basis:

- (a) where the higher office carries a fixed salary, 95% of the difference between the public officer's substantive salary and the salary of the higher office; or
- (b) where the higher office carries a higher scale of salary, the difference between the public officer's substantive salary and the minimum salary of the higher office;

provided that in both cases, the acting allowance shall not be less than the amount of the increment in the salary scale of the higher office.

(2) Where a public officer discharges the duties of another office in addition to his or her own and the two offices are distinct and separate offices in different departments, or do not stand to one another in any immediate relationship of superiority or subordination, the public officer shall be paid an acting allowance at the rate of one half of the initial or fixed salary of the post in which he or she is acting.

18. Duty allowance.

(1) A duty allowance which is attached to a public office shall be payable to the substantive holder of the public office only when he or she is actually performing the duties of the public office.

(2) The acting public officer shall, during his or her absence or incapacity, draw duty allowance referred to in subsection (1), except that in a case where an acting appointment is necessitated by the absence of the substantive officer on duty outside Saint Christopher and Nevis or on leave or sick leave for a period not exceeding ten working days at any one time, the duty allowance shall be payable both to the substantive holder and to the acting officer.

(3) The fees, if any, attached to a public office may be paid to an acting holder of that public office.

19. Acting allowance when acting officer on leave.

(1) Subject to subsection (2), a public officer who is in receipt of an acting allowance may continue to be paid the acting allowance while he or she is on departmental leave or sick leave not exceeding ten working days if it has not been necessary to appoint another

public officer to perform the duties of the post in which he or she is acting.

(2) Except in the case of departmental leave or sick leave as provided for under this section, a public officer shall not be paid an acting allowance while on leave.

20. Subsistence and transport allowances payable to acting officers.

A public officer who is appointed to act in a higher office will be eligible for subsistence and car allowance at the rate prescribed for the higher office.

PART III - LEAVE, MEDICAL LEAVE ETC.

Leave

21. Types of leave to which public officers are eligible.

Public officers are eligible for the following types of leave, that is to say,

- (a) departmental leave;
- (b) vacation leave;
- (c) medical leave;
- (d) maternity and paternity leave;
- (e) leave on urgent private affairs;
- (f) special leave to attend sporting and other events; and
- (g) study leave.

22. Leave to be granted subject to certain conditions.

(1) Leave shall be granted subject to the exigencies of the Public Service and shall be computed in working days.

(2) The rates of leave and the condition governing the grant of leave set out in these Orders shall apply to all monthly paid officers whether on the pensionable establishment of, or temporary term of, service except that in the case of teachers and officers on contract or secondment, special conditions shall apply in terms of their service.

(3) The Governor- General may, acting on the recommendation of the Commission, direct that a public officer take vacation where it is in the interest of the Public Service to do so.

23. Authority to grant leave.

(1) A Permanent Secretary or Head of Department is authorised to grant leave to public officer in his or her Department below the level of Head of Department within the following limits:

- (a) all departmental leave;
- (b) vacation leave, up to a period not exceeding a total of absence of thirty working days in a year;
- (c) urgent private affairs.

(2) All other leave not referred to in subsection (1) and leave in excess of the limits prescribed in subsection (1) may be granted by the Chief Personnel Officer, in the case of a public officer below the level of Head of Department

(3) In the case of a Permanent Secretary or Head of Department, an application for leave shall, with the consent of the responsible Minister, be submitted to the Chief Personnel Officer who shall refer the application to the Prime Minister for his or her approval.

(4) An application for leave shall be submitted on the forms prescribed by the Minister and copies of applications for vacation leave granted by a Permanent Secretary or Head of Department shall be forwarded to the Chief Personnel Officer for record.

(5) A Permanent Secretary or Head of Department may delegate the authority to grant departmental leave under subsection (1)(a) to a senior officer.

24. Leave not to entail the employment of extra staff except in certain circumstances.

(1) As a general rule, a Permanent Secretary or Head of Department is expected to reallocate a public officer's duties while he or she is on leave without extra staff.

(2) The employment of temporary relief may be sanctioned only in the case of a public officer absent on leave for periods exceeding twenty days.

(3) Temporary relief may be allowed for shorter periods if the exigencies of the Public Service so require.

25. Cancellation of vacation leave.

(1) A public officer may be recalled from leave in the exigencies of the Public Service except that the unexpired portion of leave shall be regarded as deferred leave.

(2) Where a public officer falls sick while on vacation leave, that officer's vacation leave shall stand deferred, and the officer shall be granted medical leave following the proper procedure for granting such leave.

(3) An officer who is granted medical leave in accordance with the provisions of subsection (2) shall report back on duty after the expiry of the medical leave.

(4) A public officer whose vacation leave is deferred in accordance with the provisions of this section shall, upon application in accordance with the provisions of this Part, be allowed to take the deferred vacation leave.

26. Extensions of leave.

(1) A public officer seeking an extension of leave shall in the absence of exceptional circumstances apply to his or her Permanent Secretary or Head of Department in sufficient time for a decision on the application to be communicated to him or her before the expiry of the leave granted.

(2) An application for an extension of leave on the grounds of ill health shall,

(a) in case of a public officer who is undergoing medical treatment in Saint Christopher and Nevis, be supported by a medical certificate from a registered medical practitioner; and

(b) in case of a public officer who is undergoing medical treatment outside Saint Christopher and Nevis, be supported by a medical certificate from a registered medical practitioner in the country where the officer is undergoing

treatment together with a medical certificate from a medical practitioner registered in Saint Christopher and Nevis.

27. Compulsory leave.

(1) A public officer may be required by the Permanent Secretary Human Resources, to take leave which is due to him or her.

(2) A public officer may also be required in the public interest to proceed on leave or to remain on leave after the expiry of leave granted to him or her, provided that such leave shall not count against leave to be earned in the future.

28. Absence without permission.

(1) A public officer who absents himself or herself from his or her duties without permission being granted or who fails to resume duty on the expiry of the leave shall be regarded as absent without permission and shall not be entitled to salary during such absence.

(2) All absences referred to in subsection (1), shall be reported to the Chief Personnel Officer and the period of absence may not be set off against any leave eligibility without the approval of the Chief Personnel Officer.

(3) Where a public officer absents himself or herself from duty for a period exceeding five working days without permission being granted, then such officer shall be deemed to have abandoned his or her post, and the matter shall be reported to the Service Commission accordingly.

(4) Where a public officer is found to have abandoned his or her post in accordance with the provisions of this section, without justification, then such officer shall, in accordance with the provisions of the Code of Discipline, be liable to dismissal.

29. Overstay of approved leave and leave not earned.

(1) Where a public officer through circumstances beyond his or her control is compelled to overstay his or her approved leave, he or she may, with the approval of the Chief Personnel Officer,

- (a) have the excess leave deducted from the amount of any deferred leave or leave due in the next leave year; or
- (b) refund salary in respect of the days of excess leave taken.

(2) For the purposes of these Standing Orders, a public officer who is granted medical leave exceeding sixty days on full salary shall not, while the medical leave is still in existence, earn any vacation leave.

(3) A public officer who is granted study leave without pay shall not earn any vacation leave in respect of the period spent on his or her studies.

30. Arrangements for the grant of leave.

Subject to the exigencies of the Public Service, Permanent Secretaries and Heads of Departments shall arrange that officers take departmental leave in the year in which it accrues.

31. Forfeiture of departmental leave not taken.

(1) Any departmental leave due and not taken in a particular year will lapse unless the

public officer is precluded by the exigencies of the Public Service from taking such leave.

(2) The approval of the Chief Personnel Officer must be obtained for departmental leave not taken to be converted into vacation leave.

32. Rates of leave.

(1) The rates of leave for which the various grades of officers are eligible are set out in Schedule 1 to these Standing Orders.

(2) Where a public officer is upgraded to the higher leave earning category he or she will earn leave at the higher rate with effect from the date of upgrading.

(3) A public officer shall not be allowed to take vacation leave before he or she has completed one year of service from the date of his or her employment except on the grounds of urgent private affairs or serious indisposition.

33. Leave to be counted in respect of period of service.

(1) Except as provided by these Standing Orders, leave will be calculated or counted on the basis of one completed year in the service.

(2) For the purposes of this section, absences while on

- (a) official duty;
- (b) departmental leave; or
- (c) medical leave with salary;

will count as service.

34. Leave prior to resignation.

(1) A public officer or employee who resigns his or her appointment after giving the prescribed notice or because of ill health or who is dismissed shall be granted the departmental and accumulated vacation leave, which he or she has earned.

(2) The leave referred to in subsection (1) shall not be included as part of the period of notice of termination of service.

(3) The provisions contained in subsection (1) shall not apply to a public officer or employee who, while on duty, resigns and fails to give the requisite period of notice.

35. Leave without pay.

Leave without pay may be granted at the discretion of the Chief Personnel Officer.

Medical Leave, Maternity leave and Paternity leave

36. Circumstances in which medical leave may be granted.

(1) A public officer may be granted medical leave if the officer is ill or injured, provided that the illness or injury prevents the officer from carrying out his or her duties.

(2) Medical leave exceeding ten working days may be granted to a public officer if the officer produces additional medical evidence to the effect that such leave is required by the officer.

37. Medical leave in excess of two consecutive calendar days to require production of medical certificate.

(1) Medical leave on full pay to cover absence from duty due to illness or injury shall be granted, subject to the provisions of these Standing Orders, without affecting eligibility for departmental or vacation leave.

(2) An application for medical leave if it exceeds two consecutive working days shall be supported by a medical certificate issued by a registered medical practitioner practising in Saint Christopher and Nevis.

(3) Medical leave when granted shall be accounted for in working days.

38. Medical leave granted without production of medical certificate.

The total period of sick leave which may be granted for absence not supported by a medical certificate shall not exceed ten working days in a year, except that in the case of a teacher shall not exceed six working days in a year.

39. Maximum medical leave days to be granted.

(1) A public officer may be granted medical leave on full salary up to a maximum period of sixty working days during any period of twelve months.

(2) Where a public officer exhausts the medical leave referred to in subsection (1) and it is found necessary to extend the medical leave, then such officer may be granted an additional medical leave of sixty working days on half salary: Provided that medical leave on full salary combined with medical leave on half salary shall not exceed one hundred and twenty working days.

(3) Where a public officer exhausts the medical leave referred to in subsections (1) and (2) such officer may be granted medical leave of sixty working days without salary.

(4) Where a public officer who is granted medical leave pursuant to the provisions of subsection (2) is eligible for vacation leave after the expiry of the medical leave with half pay, such officer shall be allowed to take vacation leave with full pay.

40. Medical leave for periods exceeding one hundred and twenty working days subject to Medical Assessment Panel's recommendation.

(1) A public officer who has been on medical leave for a continuous period of one hundred twenty working days within one year, shall, unless specifically exempted on the advice of the Chief Medical Officer, be required by the Chief Personnel Officer, to submit himself or herself for an examination by the Medical Assessment Panel.

(2) Where the Medical Assessment Panel advises that the public officer be prematurely retired from the public service, unless the officer is engaged on daily rates of pay, the public officer shall be granted a minimum of two months leave on full salary.

(3) The recommendation of the Medical Assessment Panel shall be made and communicated to the Chief Personnel Officer within a period of two months prior to the expiry of the two months leave referred to in subsection (2).

41. Illness incurred while on duty.

(1) Upon production of a medical certificate, medical leave, on full pay, may be granted

where a public officer is suffering from

- (a) an injury sustained in the execution of his or her duties; or
- (b) an illness caused by or directly attributable to the nature of his or her duties.

(2) Medical leave granted under this section shall not be taken into account for purposes of counting any other leave to which the officer is entitled under these Standing Orders.

42. Officers may be required to appear before the Medical Competency Assessment Panel.

(1) Where a Permanent Secretary is of the opinion that a public officer's performance is being impaired by the health or injury of the officer, and that it is necessary for the officer concerned to be medically examined, the Permanent Secretary shall, through the Chief Personnel Officer, request the Medical District Officer to examine the officer concerned, and the officer may, on the basis of the results of the examination, be required to appear before the Medical Assessment Panel.

(2) A public officer may be called upon at any time by the Service Commission to submit himself or herself for examination by a District Medical Officer, and may, on the basis of the results of the examination, be required to appear before the Medical Assessment Panel.

(3) An officer who is required to appear before the Medical Assessment Panel may bring with him or her a personal physician.

(4) Where it is decided that a public officer needs to be examined by the Medical Assessment Panel the public officer shall present himself or herself for examination at the place and time instructed.

(5) A public officer who fails to comply with an instruction given under this section, or who fails to comply with the medical advice given, may render himself or herself liable to disciplinary action.

43. Medical Officer to make a report in certain circumstances.

The Chief Personnel Officer shall, acting in accordance with the recommendation of the Service Commission, initiate disciplinary proceedings against a public officer, if a Government Medical Officer reports to him or her the situations listed in this section:

- (a) that the public officer has refused to carry out or is neglecting to carry out the medical advice given;
- (b) that the illness of a public officer has been caused by his or her own negligence or misconduct;
- (c) that the public officer is feigning in ill-health.

44. Maternity, paternity, and family emergency leave.

(1) A female public officer shall be granted maternity leave for a period of three months.

(2) A female public officer who requires extra days in addition to the period referred to in subsection (1) may, upon application, be granted any vacation leave to which she is entitled immediately after the completion of maternity leave.

(3) Where the female public officer referred to in subsection (2) has no vacation leave she is entitled to, then she may, upon application, be granted an unpaid leave.

(4) A male public officer who has completed two years service shall be entitled to paternity leave with pay, subject to the following terms and conditions:

- (a) the officer shall be granted five working days' paid leave per confinement up to a maximum of two confinements during his term of service;
- (b) the officer shall provide documentation declaring that he is married to the expectant mother or that he has been in a spousal relationship with the expectant mother for a period of not less than five years;
- (c) the officer shall, at least three months prior to the expected date of birth of the child, produce a medical certificate stating the expected date of the birth;
- (d) paternity leave will be granted within two weeks of the birth of the child;
- (e) only one period of leave shall be granted irrespective of whether more than one child is born as a result of the same pregnancy;
- (f) paternity leave may be taken in conjunction with annual vacation leave.

(5) For the purposes of subsection (4), "spousal relationship" means a marital relationship, or a common law relationship in which a male and a female have been cohabiting for a period of not less than five consecutive years.

(6) Where a public officer's child, spouse or parent becomes seriously ill and requires care, the public officer may, upon application, be granted a compassionate leave for a period of three days in order to deal with the family emergency, provided that the public officer would be required to provide written verification of his or her family member's illness and have it signed by a medical practitioner.

Other Forms of Leave

45. Leave on urgent private affairs.

(1) A public officer may be granted leave on the grounds of urgent private affairs, and an application for such leave shall be accompanied by a statement of the reasons for the application.

(2) A statement under subsection (1) shall, if desired, be treated as confidential.

46. Granting of leave on urgent private affairs.

(1) Leave on urgent private affairs shall be granted in accordance with the provisions of section 23 of these Standing Orders.

(2) A public officer may be required to take all leave for which he or she is eligible.

(3) A public officer may be granted, in addition to the leave referred to in subsection (2), leave on full salary to bring the total leave granted to fifty-four working days provided that such additional leave as may be granted will count against his or her future leave eligibility.

(4) If a public officer retires, resigns or is discharged before he or she becomes eligible for leave equal to the additional unearned leave taken, the public officer will refund to the Government the salary he or she might have been paid during that leave.

47. Special leave to attend sporting and other events.

(1) Special leave on full salary may be granted by the Chief Personnel Officer in the

following circumstances:

- (a) to enable public officers who are selected by the proper authorities to represent Saint Christopher and Nevis or the West Indies in sports events;
- (b) to enable public officers who belong to legally recognised organisations and are selected by the proper authorities to attend gatherings of a national, regional or international character connected with such organisations;
- (c) to enable representatives of staff associations and trade unions to attend seminars, conferences, workshops in connection with the performance of the aims and objectives of their organisations;
- (d) to enable public officers who are selected by the proper authorities to represent a State or Inter-State or international side either in an administrative capacity or as a participant.

(2) Special leave under this section shall be limited to not more than one calendar month on anyone occasion or in anyone year and any leave required over and above this maximum shall be counted as leave without salary except that in any special case additional leave on full or half salary may be granted.

48. **Study leave.**

(1) Study leave may be granted to a public officer who

- (a) has been appointed to the service for a period of five years;
- (b) is nominated by the Government to attend a course of study;
- (c) attends a course of study at his or her own request, with the approval of the Government; or
- (d) is personally granted a bursary or other award to follow a Government approved course of study.

(2) Where a public officer is nominated by the Government to attend a course of study the following conditions shall apply:

- (a) a Government approved course of study is a course for which Government has specifically chosen a public officer, but not a course of training which a public officer selects of his or her own volition even if the course was advertised by Government and the public officer approved;
- (b) a Government approved course should be of not more than two years duration (Certificate, Diploma, Attachment) and only in exceptional cases should they provide for training at degree level;
- (c) a public officer should not forfeit part of his or her vacation leave towards study leave if he or she is on a Government approved course as he or she is regarded as being on duty;
- (d) a public officer on study leave should not earn vacation for any period in excess of one year's leave entitlement;
- (e) a public officer may be permitted at the conclusion of a course of study overseas to spend his or her earned leave abroad;
- (f) a public officers who is selected by the Government for a Government approved course of study and considered to be on duty shall receive full pay.

(3) A public officer who receives a bursary or other award to attend a course of study or is otherwise accepted for admission to a course but is not nominated by the Government to attend the course, shall apply for approval of his or her attendance, at the course.

(4) If approval for attendance at a course is given under subsection (3), the following conditions shall apply:

- (a) a public officer who has been confirmed in a pensionable office shall be granted study leave without pay for the full period of the course;
- (b) a public officer who has not been confirmed in his or her appointment shall resign his or her appointment if he or she wishes to attend the course, provided that in either case, a public officer may be granted the full amount of leave for which he or she is eligible.

49. Officer to execute a bond.

(1) The grant of study leave referred to in section 48.(1) (a) of these Standing Orders will be subject to the execution of an agreement by the public officer who is granted study leave to undertake to remain in the Public Service of Saint Christopher and Nevis for a minimum period specified under subsection (2) after the expiry of his or her leave.

(2) The minimum period referred to in subsection (1) shall be,

- (a) where a public officer attends a course of more than three months but less than six months duration, twelve months;
- (b) where a public officer attends a course of more than six months but less than two years duration, two years;
- (c) where a public officer attends a course of more than two years but less than four years duration, three years;
- (d) where a public officer attends a course of four years and or more, five years.

(3) The agreement referred to in subsection (1), shall take the form of a bond with or without sureties, and if a public officer fails to be bound by the bond, he or his sureties shall be liable to repay to the Government all or any part of any allowances, fares, passages and salary paid to him or her during the period of the course as the Financial Secretary may specify.

50. Assistance when granted leave to attend course of training or study.

In exceptional cases, a public officer who is granted study leave on half pay or no pay to attend a course of training or study abroad may be granted financial assistance in the form of a loan in addition to any leave salary payable, at a rate determined in the light of the prevailing circumstances.

51. Examination fees may be paid by the government.

Where a public officer is nominated by Government to attend a course of study and is granted leave for that purpose, his or her tuition and examination fees may, upon application by the officer before attending the course, be paid by the Government, unless such fees are included in any bursary or award which is made to him or her.

*Miscellaneous Provisions***52. Leave registers and leave accounts.**

(1) A Permanent Secretary or Head of Department is required to maintain a Departmental Leave Register in which leave granted by him or her shall be recorded.

(2) A Permanent Secretary shall, in addition, maintain individual leave accounts in the prescribed form in respect of all public officers in his or her Department.

(3) When a public officer is transferred from one Department to another his or her leave account shall be forwarded to the other Department.

(4) All earned leave other than departmental leave shall be entered in a public officer's leave account.

53. On death of an officer, cash equivalent of earned leave payable.

On the death of a public officer cash equivalent of any departmental or vacation leave which he or she has earned shall be paid to his or her estate.

54. Leave to count as pensionable service.

(1) Leave granted on full or half pay counts as pensionable service.

(2) Leave granted, without pay does not break continuity of pensionable service but it counts as pensionable service only when granted on grounds of public policy.

55. No pay leave to be discounted.

Leave without pay in excess of three months will not count for purposes of increment.

56. Return to duty to be reported.

The resumption of duty by a public officer after leave other than departmental leave shall be reported in writing by the Permanent Secretary or Head of Department to the Chief Personnel Officer, Accountant-General and Director of Audit.

**PART IV - ADVANCES, SUBSISTENCE, TRAVELLING AND
OTHER ALLOWANCES***Advances***57. Advances in general.**

(1) A public officer may, with the approval of the Financial Secretary, receive advances from public funds for the purposes and on the conditions set out in this Part.

(2) Where such an advance is not specifically provided in these Orders, an advance may be made in exceptional circumstances with the prior approval of Financial Secretary, and in each case of such advance the conditions of security, interest and the mode of repayment should be settled before granting it.

58. Advances to officers travelling on duty.

(1) A public officer travelling on duty to another country may be given an interest free advance in anticipation of subsistence allowance.

(2) A public officer who is required to travel on duty may be given an interest free advance before leaving his or her station on account of hotel expenses.

(3) An advance under subsection (1) or (2) shall not exceed the total amount that would be drawn by that public officer at the authorised rate payable to him or her for the period that he or she is expected to be out of Saint Christopher and Nevis.

(4) An advance under subsection (2), shall be accounted for and retired in full within fourteen days of the public officer's return to Saint Christopher and Nevis and no advance shall be drawn while any portion of a previous similar advance remains outstanding.

*Subsistence Allowance***59. Subsistence allowance on travel duty.**

(1) The payment of a subsistence allowance is intended to ensure that a public officer who is required to travel on duty outside of Saint Christopher and Nevis who is absent on duty from his or her station over-night shall not be out of pocket as a result, and that the officer shall not derive any pecuniary benefit from travel duty .

(2) Subsistence allowance shall be calculated to meet only the additional expenditure which a public officer when travelling on duty away from home is obliged to incur over and above the expense which he or she would otherwise normally incur at home.

60. Subsistence allowance payable in respect of journeys within Saint Christopher and Nevis.

A public officer who is absent overnight from his or her station on duty in Saint Christopher and Nevis will be eligible for subsistence allowance at the prescribed rates.

61. Basis upon which subsistence allowance is calculated.

The rates of subsistence allowance payable to public officers while on official Government duty abroad shall be determined, from time to time, by the Ministry of Finance.

62. Subsistence allowance when on duty outside Saint Christopher and Nevis.

A public officer who is required to travel on duty outside Saint Christopher and Nevis to attend conferences, meetings, official functions or on training shall receive subsistence allowance at the prescribed rates.

*Travelling Allowance***63. Travelling officers.**

(1) A public officer who is the holder of a travelling post shall be eligible for regular or commuted vehicle allowances.

(2) The rates of regular or commuted allowances payable to public officers referred to in subsection (1) shall be determined, from time to time, by the Ministry of Finance.

64. Mileage allowance.

A public officer who is not eligible for vehicle allowance will receive a mileage allowance in respect of travelling under-taken with the prior approval of his or her Permanent Secretary or Head of Department in his or her own car on official duties.

65. Rates of payment of vehicle and mileage allowances.

(1) The rates of regular and commuted vehicle allowances and mileage allowances shall be as prescribed by Cabinet, from time to time.

(2) The payment of vehicle allowances shall be dependent upon the public officer concerned maintaining the car in respect of which the allowance is paid, in a road worthy condition and using it for official travelling, and it shall be in the discretion of the Financial Secretary to authorise the continuation of the allowance during any period when the vehicle is temporarily not roadworthy.

66. Mileage records and mileage allowance claims.

(1) A public officer in receipt of mileage allowance are required to keep a daily record of his or her journey on duty.

(2) A record referred to in subsection (1) record must show the dates, places visited and actual mileage.

(3) A Head of Department or Permanent Secretary shall be responsible for ensuring that proper records for mileage allowance are kept.

(4) A public officer shall submit a claim for the payment of mileage allowance in the prescribed form monthly within three days of the end of the month in which the expenditure was incurred, together with a certified statement of places visited, dates, distances travelled and the nature of the duty performed and responsibility for the correctness of the claim will rest on the public officer making the claim.

67. Continuation of allowances when a public officer is removed from travelling duties.

(1) Where a public officer who is in receipt of a regular or commuted vehicle allowance is transferred permanently to a post in which he or she is not entitled to such vehicle allowance, the public officer shall receive the vehicle allowance for a period not exceeding four months if the public officer maintains the vehicle for his or her use during that period.

(2) When the public officer who is in receipt of a regular or a commuted vehicle allowance is appointed to act in a post in which a smaller allowance is attached, the public officer shall be paid the allowance attached to his or her substantive post for a period of four months if he or she maintains the car for his or her use during that period.

68. Continuation of allowance on leave.

A regular or commuted vehicle allowance shall be payable to a public officer at the full rate during leave including sick leave.

69. Removal of baggage on transfer.

(1) Where the transfer of a public officer from one station to another involves the conveyance of the public officer's baggage including furniture and household effects, the Head of Department or the Permanent Secretary shall arrange for the transportation of the

public officer's baggage to his or her new station.

(2) If damage to baggage occurs during transit, such damage may be assessed and the value of the damage reimbursed to the public officer concerned provided that no reimbursement will be made if the cause of damage is due to faulty packing.

(3) Where Government is unable to provide transportation on the transfer of a public officer from one station to another, transportation expenses shall be provided to the public officer for the transfer of his or her family and household effects.

PART V – INITIATION AND PROCESSING OF LEGISLATION

70. Promotion of new legislation or amending existing legislation.

(1) Where it is proposed to promote new legislation or to promote an amendment to existing legislation or to make subsidiary legislation the procedure set out in Schedule 2 to these Standing Orders shall, subject to the provisions of subsection (2), be followed in all cases.

(2) The procedure as set out in that Schedule shall not be changed or varied in anyway except by Cabinet, and where a change or variation becomes necessary, Cabinet authority to that effect must be sought and obtained.

(3) The Chief Parliamentary Counsel's Department shall not give consideration to any request for the preparation of legislation which does not follow the procedure referred to in subsection (1).

71. Authority to draft legislation.

Before drafting instructions are given to the Chief Parliamentary Counsel for drafting Bills or subsidiary legislation, the instructing Ministry or Department shall

- (a) seek Cabinet approval in principle authorising the subject legislation; or
- (b) request through its Minister the authority of the Attorney-General or Solicitor – General for the legislation to be drafted without the prior approval of Cabinet, provided that such approval shall be given only in special circumstances.

72. Instructions to Chief Parliamentary Counsel.

(1) When Cabinet has approved the proposals for legislation, the instructing Ministry or Department shall then forward copies of the Minister's Cabinet memorandum and the Cabinet Minute together with any other relevant papers so that the legislative draftsman is given the clearest possible explanation of what it is intended to achieve by the legislation to be drafted.

(2) For the purposes of this section, the instructing Ministry or Department shall comply with the provisions of Part III of Schedule 2 to these Orders.

73. Allocation of drafting duties.

(1) The particular drafting task shall be assigned to a particular legislative draftsman by the Chief Parliamentary Counsel, and such officer shall generally be responsible for the legislation until it is enacted.

(2) Officers in the Ministry or Department promoting the legislation may be called on to attend a number of conferences with the legislative draftsman and will be expected to seek out and provide all information that may be required for the purposes of drafting the

legislation.

74. Scrutiny of draft legislation.

The draft of any legislation when ready shall be provided to the instructing Ministry or Department, and the Ministry or Department are required not only to examine the legislation critically but also to circulate the draft legislation to persons who, in the opinion of the instructing Ministry or Department, should be given an opportunity to comment on the draft.

75. Satisfaction of the Attorney-General and the Solicitor-General.

The Chief Parliamentary Counsel shall bring to the personal attention of the Attorney-General and the Solicitor – General certain provisions in the legislation which is being drafted if such provisions

- (a) may have the effect of altering any provision of the Constitution;
- (b) may interfere with private property;
- (c) fail to preserve existing personal or similar rights;
- (d) might render a person stateless;
- (e) are contrary to the rule of law as generally understood in a democratic society;
- (f) might offend against the comity of nations or against public international law.

76. Final draft legislation.

(1) After the legislation has been drafted by the legislative draftsman and approved by the promoting Ministry or Department and by the Attorney-General and Solicitor-General, if required, then the legislation shall be submitted to the Cabinet accompanied by a Memorandum of the subject Minister explaining the legal effect of the legislation's more important provisions.

(2) No Bill or subsidiary legislation shall be tabled in the National Assembly without Cabinet approval having obtained.

PART VI - QUARTERS, FURNITURE ETC.

77. Free quarters.

(1) The Minister may prescribe quarters which shall be free quarters.

(2) Free quarters will normally be unfurnished, and if furniture is provided by the Government, a furniture rental shall be charged.

78. Reduced rent quarters.

(1) The Minister may prescribe quarters which shall be reduced rent quarters.

(2) A public officer occupying reduced rent quarters shall pay half the assessed rental up to a maximum of 10% of his or her salary.

(3) Reduced rent quarters will normally be unfurnished and if furniture is provided by the Government a furniture rental may be charged.

79. Full rent quarters.

(1) The Minister may prescribe quarters which may be quarters owned or rented by the Government, and which shall be termed full rent quarters.

(2) A public officer occupying full rent quarters shall be charged the assessed rental up to a maximum of 20% of his or her salary and if full rent quarters are furnished a furniture rental will be payable in addition.

80. Furniture.

(1) Basic furniture may be provided on the scale to be prescribed by the Minister, and at the rental of 12% per annum of the cost of the furniture or of the assessed value in the case of used furniture.

(2) Variation to the scale may be made only with the authority of Cabinet.

(3) Furniture in a quarter will be replaced when deemed unserviceable by the Chief Personnel Officer.

81. Allocation of government quarters.

(1) The allocation of Government quarters to entitled public officers shall be the responsibility of the Housing Committee, and a public officer who refuses a quarter allocated to him or her shall bear the full cost of providing himself or herself with housing.

(2) If a Government quarter assigned to a particular officer is for any reason left unoccupied by the public officer ordinarily entitled to occupy it, it may be allocated temporarily to another public officer by the Housing Committee.

(3) A public officer allocated Government quarters shall continue to pay rent for such quarters while on leave unless he or she vacates the quarters or the quarters are occupied temporarily by another officer with the approval of the Housing Committee.

82. Sharing of quarters.

(1) Officers sharing Government quarters shall be required to share the assessed rental of the quarters but in no case shall such officer be required to pay more than 10% of salary as rent.

(2) The assessed rental of any furniture provided by the Government will be shared equally.

(3) Government quarters may not be shared, however, without the approval of the Chief Personnel Officer.

83. Payment of rent.

(1) Any rent due from a public officer in respect of Government quarters or furniture allocated to him or her shall be deducted from his salary at the end of each month in arrears.

(2) Rental is payable from the date on which a public officer takes over Government quarters to the date immediately preceding the date on which he or she hands them over, both date inclusive.

84. Duties of Chief Personnel Officer.

The Chief Personnel Officer will be responsible for

- (a) maintaining inventories of all Government furniture and fittings taken over

- by officers;
- (b) the custody of the keys of all unoccupied government quarters;
- (c) taking over Government quarters vacated by officers and furniture returned by them for handing over Government quarters and furniture which are allocated to officers;
- (d) reporting to the Accountant-General the occupancy and vacation of all Government quarters, together with their assessed rental;
- (e) maintaining up to date records of the assessed rentals of all reduced rent and full rent quarters.

85. Handing over and taking over of Government Quarters and furniture.

- (1) The custody of Government quarters and furniture shall be with the Chief Personnel Officer.
- (2) An incoming occupant of Government quarters must acknowledge receipt of the Government quarters and all articles of Government furniture and equipment therein by signing the inventory.
- (3) An out-going occupant of Government quarters shall hand over the keys of the quarters he or she is vacating and all articles of Government furniture and equipment as per inventory to the Chief Personnel Officer or to a public officer authorised by the Chief Personnel Officer who will check and sign the inventory in acknowledgment of their surrender.
- (4) A public officer who is provided with Government quarters shall give at least one month's notice to the Chief Personnel Officer before he or she intends to surrender it.

86. Officer's liability for deficiencies or damages.

A public officer occupying Government quarters shall be liable for the cost of making good any deficiency, damage or neglect discovered during his or her occupancy or at the time he or she hands over the Government quarters.

87. Responsibilities of officer for Government Quarters.

- (1) A public officer shall take reasonable care of the Government quarters and its fixtures and all articles of Government furniture allocated to him or her.
- (2) A public officer who is allocated Government quarters shall not alter the structure of the fixtures.
- (3) If any alteration is desired, the public officer may make an application to the Chief Personnel Officer.
- (4) All defects in Government quarters occupied by a public officer shall be reported promptly by the public officer to the Chief Personnel Officer.
- (5) A public officer who is occupying Government Quarters is responsible for maintaining the grounds of Government quarters in reasonable conditions.
- (6) If the grounds are neglected, the Department of Public Works may direct the public officer to restore them to a neat and orderly state and if the direction is not complied with within such period as may be allowed the Minister responsible for Public Works may

direct the Chief Engineer, Ministry of Public Works, to effect the desired improvements at the expense of the public officer concerned.

88. Quarters for members of officer's family only.

(1) Government quarters are intended for the accommodation of public officers, their wives, husband, children and dependent relatives only.

(2) No part of any Government quarters may be sublet or occupied by another family unit, whether relatives or friends, without the formal permission of the Chief Personnel Officer.

89. Termination of tenancy.

The Department of Public Works may terminate the tenancy of Government Quarters at any time by giving three months notice to the occupant.

PART VII – GENERAL PROVISIONS

90. Channels of communication.

(1) A public officer who wishes to make representations relating to his or her conditions of service or any other matter of public nature shall first address the Permanent Secretary or Head of Department through his or her Supervisor.

(2) If a public officer is not satisfied by a reply received after representation made under subsection (1), he or she may write a response to the Chief Personnel Officer through the Head of Department or Permanent Secretary and the Permanent Secretary or Head of Department shall together with the response in a separate memorandum submit his or her own views on the representation made.

(3) The Chief Personnel Officer shall address his or her reply to the public officer through the Permanent Secretary or Head of Department.

(4) Representations received other than through the correct channel shall be returned unanswered to the public officer through the Permanent Secretary or Head of Department.

91. Annual confidential report.

(1) A confidential report on a public officer below the level of Head of Department shall be prepared bi-annually in the form specified and submitted to the Chief Personnel Officer during the months of January and July for the six months preceding the date of the confidential report.

(2) A report on

(a) a Head of Division shall be made by the Permanent Secretary or Head of Department;

(b) any other public officer shall be made by the Supervisor or the Head of Division, Head of Department or the Permanent Secretary.

(3) Confidential reports shall be transmitted in duplicate on the form prescribed by the Minister to the Chief Personnel Officer who will forward one copy to the Secretary to the Commission.

92. Reports may be submitted at other times.

Where there are special reasons, confidential reports on a public officer may be submitted at any time or may be called for by the Chief Personnel Officer.

93. Confidential reports to be shown to officer reported on.

(1) A confidential report on a public officer's performance shall be discussed with the public officer before it is forwarded to the Permanent Secretary of his or her Department and the Chief Personnel Officer.

(2) If a public officer's work is found to be unsatisfactory in any respect, and it is felt that he or she is capable of improvement, he or she shall be warned before his or her confidential report is written.

(3) A copy of the warning letter and of any reply which the public officer may make shall be forwarded to the Chief Personnel Officer at the time the annual confidential report on the public officer is submitted.

94. Death of a public officer to be reported immediately.

A Permanent Secretary or Head of Department shall report the death of public officer in the Department immediately to the Chief Personnel Officer.

95. Next of kin.

(1) On first appointment, a public officer is required to notify the Chief Personnel Officer of the names and addresses of not more than two relatives or friends whom he or she would wish to be informed in the event of his or her death or serious illness.

(2) Any change in those particulars should be notified promptly to the Chief Personnel Officer.

96. Death or injury to a public officer.

(1) If a public officer is killed or injured as a result of an accident while he or she is on duty, an immediate investigation shall be made and the Permanent Secretary and a Board of Enquiry shall be appointed by the Cabinet to investigate the circumstances of the death or injury.

(2) The report of the Board of Enquiry shall be sent to the Chief Personnel Officer as soon as practicable.

97. Upkeep of public buildings.

(1) A Permanent Secretary or Head of Department shall be responsible for ensuring that public buildings under his or her charge

(a) are equipped, where necessary, with extinguishers and that arrangements are made for the periodical examination of such equipment and supply of refills;
or

(b) are as far as practicable, hurricane proof, and that all doors, windows and other entrance or exits are made secure on notification of a hurricane warning.

(2) Unless otherwise expressly stated, the responsibility for maintaining all Government buildings vests in the Ministry of Public Works, Transport and Utilities.

98. Loss of, or damage to, private property.

A public officer shall not be entitled to compensation in respect of losses of, or damage, to private property incurred through fire, theft, riots, or other causes, in the course of duties,

but in special cases the grant of compensation may be made as an act of grace.

99. Occupation of public building by Departments.

(1) A Permanent Secretary or Head of Department is required to keep a register of all keys to buildings under his or her control.

(2) A public officer to whom keys are issued for retention will be required to acknowledge the receipt of keys by signature in the register kept under section (1).

(3) Duplicates of keys shall not be kept in the office of the buildings for which they are used.

(4) A Permanent Secretary or Head of Department shall ensure that keys of offices and buildings are entrusted only by responsible public officers.

(5) Any loss of keys must be reported at once to the Permanent Secretary or Head of Department.

(6) A public officer entrusted with keys under this section is personally responsible for their adequate care.

(7) The loss of any key in circumstances suggesting negligence by the public officer concerned will render him or her personally liable for any expenses incurred by the Government in its replacement or in furnishing new locks and keys.

(8) The Accountant-General shall keep all duplicate keys of safes in the Treasury vault and maintain a record of all safe and public officers to whom the safe keys are issued.

(9) A public officer to whom the safe keys are issued is personally responsible for their security and shall report losses immediately to the Accountant-General.

100. Franking of official correspondence.

Official correspondence, including letters, printed matter and miscellaneous packets, which is to be transmitted free by the post, must bear on the envelope or cover, the words "ON Saint Christopher and Nevis Government Service" and, in the lower left hand corner the signature and official designation of a public officer duly authorised to frank official postal packages.

101. Official seal.

Impressions of official seals shall not be given to any private person.

SCHEDULES

Schedule 1

(Section 32.(1))

VACATION ENTITLEMENT OR ACCRUALS

1. Vacations shall be fixed according to an officer's substantive salary scale, which is listed on a K scale.

2. The following rules shall govern the vacation leave process, that is to say,

(a) leave for all officers accrues on a monthly basis;

- (b) vacation leave requests shall be approved by an officer's Ministry, except where the request is for leave in excess of twenty working days then the approval of the Chief Personnel Officer shall be sought;
- (c) an officer may, with the approval of the Permanent Secretary, be allowed to carry a vacation leave balance, which balance must be taken in that subsequent year;
- (d) additional carry-over of vacation leave may be allowed if the exigencies of the position prevent an officer from taking the vacation leave, and which request shall be approved by the Chief Personnel Officer.

3. The entitlement or accruals for existing officers and new officers shall be as set out hereunder:

Existing Officers

K scale Forward	Monthly	Annual Accrual	Maximum Accrual	Maximum carry
	Accrual			
K21 and below	1.25	15	30	7.5
K22 – K32	1.75	21	42	10.5
K33 and above	2.25	27	54	13.5

New Officers

K scale Year9	Monthly	Annual	Maximum	Maximum	Year3	Year6	
	Accrual	Accrual	Accrual	carry Forward	+1	+1	+1
K21 and below	1	12	24	6	13	14	15
K22 – K32	1.5	18	36	9	19	20	21
K33 and above	2	24	48	12	25	26	27

Schedule 2

(Section 73.(1))

PROCEDURE FOR INITIATION AND PROCESSING OF LEGISLATION

PART I – GENERAL

1. The contents of this Schedule are intended to assist Government Ministries and Agencies in the preparation of appropriate instructions to the Attorney-General's Chambers for the drafting of legislation.
2. (1) The Chief Parliamentary Counsel's Department in the Ministry of the Attorney-General, Justice and Legal Affairs is charged with the duty of drafting both principal and subsidiary legislation.
 - (2) Primarily the duty referred to in this paragraph entails translating Government policy into Bills for enactment into laws by the National Assembly.
 - (3) The drafting of legislation can only be embarked upon on the instructions of the

Permanent Secretary of a Ministry addressed to the Attorney-General, except that such instructions shall only be given following a Cabinet decision on the matter.

3. In order to ensure speedy and effective service to every Ministry, Statutory Corporation, and Statutory body by the Chief Parliamentary Counsel's Department it is important that instructions for the drafting of any legislation (whether principle legislation or subsidiary legislation) be as adequate and as specific as possible.

PART II – INITIATION OF PROPOSALS FOR LEGISLATION

Responsibility for initiating legislation

4. (1) The responsibility for initiating legislation within
- (a) a Ministry vests in the Minister holding the portfolio of that Ministry;
 - (b) a special Department, Statutory Corporation, or Statutory body vests in the Minister to whom responsibility for the Department, Statutory Corporation, or Statutory body is assigned.

(2) Where a Ministry, Department, Statutory Corporation, or Statutory body initiates proposals for legislation, then the Permanent Secretary, Head of Department, Statutory Corporation, or Statutory body, as the case may be, shall approach the minister responsible for the subject with a view to obtaining his or her decision as to whether the legislation is necessary.

(3) Where a Ministry, Department, Statutory Corporation, or Statutory body considers that new or amending legislation by an Act of Parliament is necessary, then a Cabinet Memorandum seeking for Cabinet approval in principle shall be submitted by the Minister to the Cabinet.

Seeking Cabinet approval in principle

5. (1) The Cabinet Memorandum shall set out the principles of the policy intended to be carried into effect by the proposed legislation, and the reasons and the reasons why it is considered necessary, but should not enter on the detailed changes in existing law which will be needed.

(2) It must be stated in the Cabinet Memorandum the classification of the proposed legislation.

(3) The classifications referred to in sub-paragraph (2) of this paragraph are the following:

- (a) URGENT – To be introduced at the current meeting of the National Assembly;
- (b) PRIORITY A – To be introduced at the next meeting;
- (c) PRIORITY B - To be introduced at the next meeting but one;
- (d) PRIORITY C - To be introduced at some later time.

(4) Wherever possible, a draft of the Cabinet Memorandum should be sent in advance to the Attorney-General's Chambers in good time so that advice may be given on whether an Act of parliament is necessary in order to achieve the objects desired, and on other legal aspects of the proposal.

(5) Except in cases of extreme urgency or for other exceptional reasons, instructions for the drafting of a Bill shall not be given without Cabinet's approval in principle.

(6) Once the approval of Cabinet is obtained, the Cabinet secretary shall, as soon as possible, accordingly notify the sponsoring Ministry, Department, Statutory Corporation, or Statutory body, as the case may be.

Preparation of Green and White Papers

6. In case of any proposed legislation which is likely to be controversial, the sponsoring Ministry, Department, Statutory Corporation, or Statutory body shall, with the approval of cabinet, prepare a Green Paper containing a general outline of the policy to which legislative enactment is being sought and circulate the paper to the public for the purpose of receiving comments on the proposed legislation.

7. (1) After the comments are received from the public, the sponsoring Ministry, Department, Statutory Corporation, or Statutory body shall forward the comments to Cabinet which shall review the same and determine what is to be included in the proposed legislation.

(2) Thereafter, the sponsoring Ministry, Department, Statutory Corporation, or Statutory body shall prepare a White Paper outlining what Government intends to put in the proposed legislation.

8. The White Paper shall, after it is discussed by the relevant stakeholders as Cabinet may determine, form the basis of instructions to the Attorney-General, and it may be circulated to the public.

PART III – DRAFTING INSTRUCTIONS

9. Once cabinet approval is obtained for the drafting of any proposed legislation, the Permanent Secretary of the Ministry concerned shall, under his or her hand, forward to the Attorney-General's Chambers instructions for the drafting of the proposed legislation.

10.(1) Drafting instructions shall contain the following information:

- (a) full details of the policy intended to be carried into effect by the proposed legislation;
- (b) references to enactments proposed to be repealed or amended;
- (c) references to areas in which existing legislation is defective or reasons for wanting to enact new legislation or amend legislation;
- (d) information on how the Ministry proposes to carry its policy into effect;
- (e) information on whether Ministries and other institutions which have a stake in the matter have been consulted, and if yes, what their views are;
- (f) other information such as what the Ministry would like to be prohibited, and the applicable penalties; and
- (g) an indication of the priority of the proposed legislation as determined by Cabinet.

(2) Drafting instructions should be accompanied by any relevant memoranda, reports of committees and other material which may be useful to the legislative draftsman.

11. Where the instructing Ministry has any particular legislation which it would like to be used as a precedent, the legislation should be sent to the Attorney-General's Chambers with the drafting instructions, and not in lieu of them.

12. (1) If there were any studies or consultancies carried out in respect of any matter, the reports of such studies or consultancies should be made available to the legislative draftsman with drafting instructions and not in lieu of them.

(2) It should also be indicated which findings or recommendations of the study or consultancy, as the case may be, have been endorsed by Cabinet, and which of them Cabinet has directed should be put into legislative form.

13. If it is necessary to clarify any issue during the drafting process, the legislative draftsman will contact the sponsoring Ministry and arrange a meeting.

PART IV – CONSIDERATION OF DRAFT LEGISLATION

General

14. (1) Once a preliminary draft of the required legislation is produced and approved by the Attorney-General, a copy of the same will be forwarded to the relevant Permanent Secretary for his or her Ministry's consideration and comments.

(2) If other Ministries or institutions have a stake in the matter they should be provided with copies of the draft legislation.

(3) Any person to whom draft legislation is sent should scrutinise the such legislation with care so as to make sure that it will be able to give effect to the desired policy.

(4) Alterations to the draft legislation shall in no circumstances be made otherwise than by the legal draftsman.

15. Any comments or suggested amendments should be forwarded to the legislative draftsman as soon as possible, in writing for record purposes, in which case an amended version of the draft will be produced and the process described in paragraph 14.

16. (1) If a Ministry approves a draft legislation, it shall inform the Attorney-General's Chambers in writing, and also indicate whether it is ready to proceed to Cabinet.

(2) Cabinet copies of the draft legislation shall be produced and forwarded to the relevant Ministry to enable it to present the same to Cabinet.

17. The procedures set out in paragraphs 13 and 14 shall apply to subsidiary legislation.

Preparation of Blue Print to a Bill

18. After a draft legislation (Draft Bill) is considered and approved by Cabinet, the sponsoring Ministry shall prepare a blue print of the Bill for circulation to members of the public.

Legislative Programme

19. Before each sitting of the National Assembly, the Prime Minister's Office shall circulate a request for a list of Bills proposed to be introduced during the sitting of the National Assembly, and at subsequent sittings by each Minister.

20. (1) The returns from Ministries shall be consolidated and submitted to the Cabinet Legislation Committee, which shall prepare, for Cabinet approval, a programme for the forthcoming sitting, and subsequent sittings of the National Assembly.

(2) The order of priority of each Bill shall be determined by Cabinet.

21. Bills which are not included in the programme may be introduced during the sitting of the National Assembly, with the approval of Cabinet, should the need arise, but this should as far as possible be avoided, since in such cases there is no adequate time for full consideration of the drafting of the Bill.

Dated this 9th day of May, 2014.

DENZIL L DOUGLAS
*Minister responsible for the
Public Service*