

ANTIGUA

STATUTORY RULES AND ORDERS

1967, No. 13.

The Public Service Commission Regulations, 1967, dated 14th March, 1967, made under Section 82 (8) of the Constitution of Antigua.

[*Gazetted 20th April, 1967.*]

1. Short Title. These Regulations may be cited as the Public Service Commission Regulations, 1967.

2. Interpretation. In these Regulations—

“the Commission” means the Public Service Commission established under section 82 of the Constitution;

“the Constitution” means the Constitution of Antigua;

“Salary” means basic Salary;

“Permanent Secretary” includes the Head of a non-ministerial department where the context so requires;

“Department” includes division where the context so requires.

3. Secretary of the Commission. There shall be a Secretary to the Commission who shall be a public officer.

4. Duties of Secretary. It shall be the duty of the Secretary—

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

(b) to attend meetings of the Commission;

(c) to carry out the decisions of the Commission;

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

(e) to prepare the annual report of the activities of the Commission; and

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

5. Duties of Chief Establishment Officer. It shall be the duty of the Chief Establishment Officer—

- (a) to keep the Secretary of the Commission fully informed of all the requirements of the Public Service which concern the Commission; and
- (b) to attend any meeting of the Commission when required so to do.

6. Oath of Office. (1) The oath or affirmation of allegiance and the oath or affirmation for the due execution of office required by subsection (7) of section 82 of the Constitution to be taken by a member of the Commission before entering upon the duties of his office shall be made and subscribed in the form set out in the Schedule to the Constitution.

(2) The Secretary and other members of the staff of the Commission shall on their appointment as such, take an oath or make an affirmation in the form set out in the First Schedule to these Regulations. Such oath or affirmation shall be administered by or made before the Chairman of the Commission.

7. Meetings of the Commission. The Commission shall meet at such times as may be necessary or expedient for the transaction of the business of the Commission and the meeting shall be held at such times as the Chairman shall determine.

8. Absence of Chairman. (1) In the event of the Chairman being unavoidably absent from a meeting of the Commission the duties of the Chairman shall, for that meeting only, be exercised by such one of the other members of the Commission as may be designated by the Chairman.

(2) In all other cases of absence section 82 (5) of the Constitution shall apply.

9. Decisions of Commission. (1) All decisions of the Commission shall require the concurrence of a majority of all the members.

(2) It shall be competent to any member of the Commission who is present at any meeting when a decision is made and who dissents from such decision to require that there be recorded in the minutes his dissent and his reasons therefor.

(3) Any question for consideration by the Commission may, instead of being decided at a meeting thereof, be decided by circulation of the relevant papers:

Provided that if on such circulation any member so desires, the question shall be discussed at a meeting of the Commission.

10. Minutes of Meeting. Minutes of all meetings of the Commission shall be kept by the Secretary.

11. Grant of Leave of Absence to Members. The Commission may on application of any member of the Commission, grant to such member leave of absence from the Commission.

Signature.....

.....before me this day of 19 ..

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*Chairman, Public Service Commission.***Second Schedule****Provisions to regulate manner of dealing with acts of misconduct by public officers.****Grounds for criminal prosecution**

1. When a preliminary investigation or disciplinary inquiry discloses that an offence against any law may have been committed by a public officer, his Permanent Secretary unless action by the police has been or is about to be taken shall report the matter to the Chief Establishment Officer who shall consult the Attorney General as to whether a prosecution should be instituted and if he does not advise a prosecution, as to whether disciplinary action should be taken or continued under the appropriate regulation. 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.

2. 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.

3. 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 paragraph shall prevent his being dismissed or otherwise punished on any other charges arising out of the 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

4. 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:

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

Interdiction.

5. (1) If the Permanent Secretary considers that the interests of the public service require that such public officer should cease forthwith to exercise the powers and functions of his office, he 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. The Chief Establish-

minary investigation to be made, and shall after considering the results of his preliminary investigation consult with the Chief Establishment Officer who:—

- (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, in so far 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 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, shall arrange for the procedure described in section 9 or 10 of this Schedule, as the case may be, to be followed.

(2) If the officer does not furnish a reply to any charge forwarded under sub-paragraph (a) of paragraph (1) within the period specified, or if, in the opinion of the Chief Establishment Officer after consultation with the Permanent Secretary he fails to exculpate himself, the Chief Establishment Officer shall request the Commission to inquire into the matter and forward all evidence and the charges framed by the Attorney General to the Commission.

(3) The Commission shall inform the accused Officer that on a specified day the charges made against him will be investigated by them and that he will be required to appear before it to defend himself.

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

(5) The Commission shall in their discretion permit the Permanent Secretary concerned or the accused officer to be represented by a public officer or a legal practitioner, provided that where the Commission permit the Permanent Secretary to be so represented they shall permit the accused officer to be represented in the same manner.

(6) If during the course of the inquiry grounds for the framing of additional charges against the accused officer are

- (e) 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;
- (f) the Commission may, after investigation proceed to impose on the officer such punishment, if any (other than dismissal, but including retirement from the service under regulation 11 of this Schedule), as they may think fit.

11. (1) Notwithstanding the provisions of this Schedule, if a Permanent Secretary or the Chief Establishment Officer considers that it is desirable in the public interest that a pensionable public officer serving in a department under his supervision whose salary exceeds the rate of \$2,000 per annum should be required to retire from the public service on grounds which cannot suitably be dealt with under these regulations, he shall obtain reports as to the officer's work and conduct, and may allow any such officer to consider such reports and to show cause why he should not be retired from the public service.

(2) If the Permanent Secretary or the Chief Establishment Officer 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 to the Commission any report obtained under the preceding paragraph and the statement of the officer, together with his own recommendation. The Commission shall decide whether the officer should be retired.

In every such case the question of pension will be dealt with by the appropriate authority under the appropriate law.

Criminal conviction of a pensionable Officer.

12. If a pensionable public officer whose salary exceeds the rate of \$2,000 per annum is adjudged guilty of a criminal charge in a Court the Permanent Secretary shall report the matter to the Secretary to the Commission with his recommendation as to penalty. 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 that the officer should be dismissed or subjected to some lesser disciplinary penalty on account of the conviction for the offence of which he has been adjudged guilty, the Commission may impose such

Criminal conviction of a pensionable officer whose salary does not exceed \$2,000 per annum.

16. If a pensionable officer in respect of whom disciplinary control has been delegated is adjudged guilty of a criminal charge by a Court, the Commission 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 penalty on account of the conviction for the offence of which he has been adjudged guilty, without any of the proceedings prescribed in regulation 13 or 14 of this Schedule.

Non-pensionable officers whose salaries exceeds \$2,000 per annum

17. Where it is considered necessary to institute disciplinary proceedings or proceedings for retirement from the public service in the public interest of a non-pensionable public officer, whether after being adjudged guilty by the Court of a criminal offence or otherwise, in respect of whom disciplinary control has not been delegated, the proceedings shall be in the form appropriate to a pensionable public officer of the same salary.

18. Disciplinary action, including action for dismissal for disciplinary reasons, and proceedings for retirement from the public service in the public interest against a non-pensionable public officer in respect of whom disciplinary control has been delegated may be taken by the Permanent Secretary who may cause an investigation to be made in such manner as the public officer holding the inquiry may think proper, provided that the accused officer shall be entitled to know the whole case made against him and shall have an adequate opportunity throughout of making his defence.

19. If a non-pensionable public officer in respect of whom disciplinary control has been delegated is adjudged guilty of a criminal charge by a court, the Permanent Secretary shall act as is provided by regulation 16 of this Schedule.

Withholding and restoration of increments.

20. (1) If a Permanent Secretary is of opinion that an annual increment in salary of a public officer holding a post in his departments should be withheld on the ground of unsatisfactory service during the previous year, not amounting to general inefficiency or misconduct, or for failure to pass a prescribed examination he shall—

(a) if the officer is one in respect of whom disciplinary control has not been delegated,

(i) in a case where the officer's salary exceeds the rate of \$2000 per annum, forward the report

Made by the Public Service Commission this 14th day of
March, 1967.

Hugh Burrowes,
Chairman.

Re-Printed at the Government Printing Office, Antigua, Leeward Islands,
by WILFRED ISAIAH BENJAMIN, Government Printer—By Authority.
1979.

200—1.79.

[Price 65 cents.]