

POLICE SERVICE COMMISSION REGULATIONS

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* POLICE SERVICE COMMISSION REGULATIONS

S.I. 55/1970

S.I. 78/1971

(ARTICLE 125)

[Commencement 7th December, 1970]

PART I

PRELIMINARY

Citation.

1. These Regulations may be cited as the Police Service Commission Regulations.

Interpretation.

2. In these Regulations, unless the context otherwise requires-
"appointment" means-

- (i) the conferment of an office in the Force of and above the rank of inspector, excluding the offices of Commissioner and Deputy Commissioner;
- (ii) the grant of permanent and pensionable terms of service in an office in the Force of and above the rank of inspector, excluding the offices of Commissioner and

Deputy Commissioner, upon a person recruited and serving on contract terms of service or in a non-established capacity in a pensionable or a non-pensionable office;

(iii) the engagement in an office in the Force of and above the rank of inspector, excluding the offices of Commissioner and Deputy Commissioner, of a person on contract terms of service for a further period of service on the conclusion of his previous period of engagement on contract terms in the same or other public office; and

(iv) the appointment of an officer in the Force to act in any office in the Force of and above the rank of inspector, excluding the offices of Commissioner and Deputy Commissioner, other than the office to which he is substantively appointed;

"the Chairman" means the person appointed under the provisions of Article 118 of the Constitution as Chairman of the Commission and includes any temporary or acting Chairman;

"the Commission" means the Police Service Commission constituted under the provisions of Article 118 of the Constitution;

"the Committee" means a committee appointed under the provisions of these Regulations;

"court" means either the Supreme Court or a magistrate's court;

"criminal charge" means a charge in respect of a criminal offence whenever committed, which if committed in The Bahamas would, upon conviction by a court be punishable by imprisonment without the option of a fine;

"Force" means the Royal Bahamas Police Force;

"member" means any person appointed to the Commission under the provisions of Article 118 of the Constitution and includes any temporary member;

"official document" means any document or paper prepared by an officer of the Force in the course of his employment or any document or paper which comes into the custody of any officer of the Force in the course of such employment;

"police officer" and "officer" means any officer of the Police Force or of the Reserves and includes any supernumerary police officer appointed under Part VIII of the Police Act and any constable appointed under Part XI of that Act;

"promotion" means the conferment upon an officer in the Force of an office to which is attached a higher salary scale and rank than that attached to the office in the Force to which he was last substantively appointed;

"salary" means basic salary;

"secretary" means the secretary to the Police Service Commission;

"seniority" means the relative seniority of officers and except as may be otherwise provided by the Commission or in these Regulations shall be determinable and shall be regarded as having always been determinable as follows-

(i) as between officers of the same grade-

(a) by reference to the dates on which they respectively entered that grade;

(b) if any officers entered that grade on the same day, by reference to their seniority on the day immediately preceding that day;

(c) if any officers who entered the same grade on the same day did so by appointment and not by promotion (excluding promotion from a non-pensionable grade), their seniority relative to each other shall be determinable by reference to their respective ages;

(ii) as between officers of different grades on the same salary scale or the same flat rate of salary, by reference to the dates on which they respectively entered their grades;

(iii) as between officers of different grades on different salary scales, by reference to the maximum point in their salary scales, a flat rate of salary being regarded for this purpose as a salary scale with a maximum point equivalent to the flat rate:

Provided that when assessing the seniority of a pensionable officer, service by that officer or any other person in a non-pensionable capacity shall not be taken into account;

"transfer" means the conferment upon an officer in the Force whether permanently or otherwise of some office other than that to which the officer was last substantively appointed, not being a promotion; but the posting of an officer between duty posts in the same grade shall not be regarded for this purpose as a transfer.

PART II

POLICE SERVICE COMMISSION

Appointment of and function of secretary.

3. (1) The Governor-General acting on the recommendation of the Commission, shall appoint a secretary to the Commission, and such other staff as the Commission shall from time to time think necessary.

(2) The secretary shall not be a member of the Commission and his functions and duties shall be limited to matters of an administrative nature.

Quorum and voting.

4. (1) A quorum of the Commission for a meeting shall consist of two members.

(2) Any question proposed for a decision at any meeting of the Commission shall be determined by a majority of the votes of the members present and voting and if, on any such question, the votes are equally divided, the Chairman shall have and exercise a casting vote.

Record of meetings and decisions.

5. A record shall be kept 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 such meeting.

Other decisions.

6. A decision may be made by the Commission without a meeting by circulation of the relevant papers among the members and the expression of their views in writing, and in any such case the decision, shall be the view of the majority of members expressing a view:

Provided that if any member requires that a decision on a matter being dealt with by circulation of the relevant papers shall be deferred until the subject matter shall be considered at a meeting of the Commission, no decision shall be made on that subject except at a meeting of the Commission:

Provided further that where a member dissents from a view recorded by a majority of members on papers circulated for a decision, the decision shall not be implemented until that member records the reasons for his view.

Privilege from disclosure in legal proceedings.

7. 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-General or to any officer, shall be privileged in that its production may not be compelled in any legal proceedings if the Governor-General, certifies that such production is not in the public interest.

Protection of members from legal proceedings.

8. The Chairman and any member shall have such and the like protection and privilege in case of any action or suit brought against him for any act done or omitted to be done in the execution of his duties under these Regulations as is by law given to the acts done or words spoken by a judge of the Supreme Court in the exercise of his judicial office.

Consultation with persons other than members.

9. The Commission may require any person to attend and give evidence before it concerning any matter which it is required to consider in exercise of its functions under these Regulations and may, unless the Governor-General certifies that such production is not in the public interest, require the production of any official document relating to any such matter.

Documents to be made available.

10. Any 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 and the Commission may require the production of any further documents or information relevant to the matter under consideration.

Failure to comply with requests of Commission.

11. Any person other than a person who is notified to appear before the Commission solely in connection with his application for employment in the Police Force, who without reasonable excuse fails to appear before the Commission when notified to do so by or on behalf of the Commission in writing, or who wilfully fails to produce any document in his possession or power when requested to do so by the Commission, shall be guilty of an offence and upon summary conviction shall be liable to a fine not exceeding sixty dollars.

Persons attending to be paid allowances.

12. Any person attending before the Commission at the request of the Commission, other than a person who is applying for employment in the Police Force or a person in the public service, shall be entitled to be paid by the Commission the same allowance as a witness who appears before the Supreme Court as a witness in criminal proceedings.

Improper influence.

13. Any person who, otherwise than in the course of his duty, directly or indirectly by himself or by any other person in any matter whatsoever influences or attempts to influence any decision of the Commission or of the Chairman or of any member shall be guilty of an offence and upon summary conviction shall be liable to a fine not exceeding one hundred and fifty dollars or to imprisonment for a term not exceeding six months or to both such fine and imprisonment:

Provided that nothing in this regulation shall prohibit any person who may properly give a certificate or testimonial to any applicant or candidate for any

appointment in the Force from giving such a certificate or testimonial or from supplying any information or assistance at the request of the Commission.

Penalty for supplying false information to Commission.

14. Any person who in connection with any application by any person for employment or promotion in the Force, or with any matter upon which it is the duty of the Commission to make a recommendation to the Governor-General or to make any decision, wilfully gives to the Commission or to any member thereof, or to any person or body of persons appointed by any regulation or by any competent authority to assist the Commission in the exercise of its functions or the discharge of its duties, any information which he knows to be false by reason of the omission of any material particular, shall be guilty of an offence and upon summary conviction be liable to a fine not exceeding three hundred dollars or to imprisonment for a term not exceeding one year or to both such fine and imprisonment.

Unauthorised disclosure of information.

15. (1) Neither the Chairman nor any member nor any other person shall without the written permission of the Governor-General publish or disclose to any person, otherwise than in exercise of his functions under these Regulations, the contents of any document, communication or information whatsoever which has come to his notice in the course of his duties in respect of any matter referred to the Commission, and any person who knowingly acts in contravention of this regulation, shall be guilty of an offence and upon summary conviction shall be liable to a fine not exceeding three hundred dollars or to imprisonment for a term not exceeding one year or to both such fine and imprisonment.

(2) If any person having possession of any information which to his knowledge has been disclosed in contravention of the provisions of paragraph (1) of this regulation, publishes or communicates to any other person any such information otherwise than for the purpose of any criminal prosecution or of disciplinary proceedings in respect of such disclosure, he shall be guilty of an offence and upon summary conviction shall be liable to a fine not exceeding three hundred dollars or to imprisonment for a term not exceeding one year or to both such fine and imprisonment.

Annual report.

16. The Commission shall make an annual report to the Governor-General, a copy of which shall be sent to the Secretary to the Cabinet for the information of the Prime Minister.

PART III

APPOINTMENTS AND PROMOTIONS

General functions of the Commission with regard to appointments and promotions.

17. The Commission shall make recommendations to the Governor-General on the following-

(a) appointments and promotions of police officers to the rank of inspector and above;

(b) in respect of police officers of or above the rank of inspector-
(i) on the extension or termination of such appointments;
(ii) on the retirement of such police officers on or after reaching the age of fifty-five years;

(iii) on the appointment of such police officers to discharge temporarily for more than four weeks the duties of posts other than those to which they have been substantively appointed.

Information as to training courses.

18. The Commissioner shall keep the Commission fully informed in every case where an officer has been selected to attend a training course and as to the progress of the officer throughout such course.

Commission may consult other persons.

19. In considering the making of recommendations for the appointment or promotion of a police officer the Commission may-

(a) consult with any other person or persons; and

(b) seek the advice of a board constituted by the Chairman who may appoint to it members of the Commission and senior police officers.

Advertisement of vacancies.

20. Where any vacancy is not to be filled by promotion the existence of such vacancy shall, unless the Commission otherwise directs, be notified to the public by advertisement in time to enable candidates to make application in accordance with such advertisement.

Principles and procedures applicable to selection for promotion.

21. In making recommendations for the appointment or promotion of officers in the Force the Commission shall have regard to the maintenance of the high standard of efficiency necessary in the Force and shall take into account qualifications, experience and merit as well as seniority in the service.

Maintenance of a confidential report system.

22. The Commissioner shall maintain confidential reports on all officers in the Force and such reports shall be made available, at the request of the Chairman, to the Commission for the effective discharge of its functions.

Detailed procedure for appointments and transfers. S.I. 78/1971.

23. In the appointment and promotion of police officers to posts of or above the rank of inspector the following procedure shall be followed-

(a) when a vacancy occurs in the establishment of the Police Force in any rank of or above that of inspector, the Commissioner shall report the vacancy to the Secretary to the Cabinet in triplicate. The Secretary to the Cabinet shall forward the report together with his observations thereon to the Director of Public Personnel who shall forward it to the Chairman with his certificate that there is no financial or establishment objection to the filing of the post;

(b) if, in the opinion of the Commissioner it is unlikely that a suitably qualified serving police officer will be available to fill the vacancy, he shall state his reasons in writing for his opinion and of the arrangements which exist or are in prospect for the training of serving police officers to fill such a post and if necessary a recommendation for the post to be filled other than by a serving police officer;

(c) if the Commissioner recommends that a vacancy should be filled by the appointment or promotion of a serving police officer, he shall forward his recommendation to the Secretary to the Cabinet in triplicate, together with a record of the service of the officer recommended for the vacancy. If the recommendation would involve the supersession of any more senior officer in the Police Force, reasons for the

supersession of each such officer shall be forwarded with the recommendation for the appointment. The Secretary to the Cabinet shall forward the papers with his observations thereon to the Director of Public Personnel who shall forward them to the Chairman with his certificate that there is no financial or establishment objection to the filling of the post.

Officers on contract.

24. If a police officer is serving on a contract or an agreement, the Commissioner shall forward to the Secretary to the Cabinet six months before the expiry of such contract or agreement a notification of the date of the expiration of the contract or agreement and his recommendation whether it should be renewed or not, together with a note of the officer's wishes thereon. The Secretary to the Cabinet shall forward the recommendation with his observations thereon to S.I. 78/1971. the Director of Public Personnel who shall forward them to the Chairman with his certificate that there is no financial or establishment objection to the renewal of the contract or agreement if so recommended.

General.

25. Any police officer who has just occasion to submit any matter for the consideration of the Commission shall do so through the Commissioner.

Addressing of correspondence.

26. All correspondence for the Commission shall be addressed to the Chairman of the Police Service Commission.

Matters to be submitted in triplicate.

27. All matters submitted for the consideration of the Commission shall be forwarded in triplicate unless otherwise directed.

Cases not covered by Regulations.

28. Any case not covered by these Regulations shall be reported to the Chairman who shall issue instructions as to the procedure to be adopted and the case shall be dealt with accordingly.

Exclusion of officers of Commissioner and Deputy Commissioner.

29. Nothing in this Part of these Regulations shall affect the appointment of any person to or to act in the offices of Commissioner or Deputy Commissioner or apply to the removal from office of any such person.

PART IV

DETERMINATION OF APPOINTMENTS AND EXTENSION OF PROBATIONARY SERVICE

Termination of non-pensionable appointments. S.I. 78/1971.

30. If it appears to the Commissioner that the appointment of a non-pensionable officer should be terminated, he shall, in writing, set out the reasons and require the officer to show cause, in writing why his service should not be terminated; if no reply is received by the Commissioner within two weeks of the receipt thereof or if the Commissioner considers that no adequate cause has been shown, the Commissioner shall report the case, giving his reasons and forwarding any representations made by the officer, to the Secretary to the Cabinet who shall report to the Director of Public Personnel with his observations thereon. The Director of Public Personnel shall forward the report together with his recommendation thereon to the Chairman; and the

Commission shall recommend to the Governor-General whether the appointment should be terminated.

Probationary appointments.

31. (1) Where an officer holds an appointment subject to a period of probation, which period shall in no case be less than twelve months, six weeks before the expiration of the probationary period the Commissioner shall consider whether such officer should, on such expiration, be confirmed in an established post or should serve a further period on probation or should not remain in the Force and shall make his recommendation together with his reasons therefor to the Secretary to the Cabinet who shall report the matter to the Director of Public Personnel together with his observations thereon. The Director of Public Personnel shall forward the report together with his recommendation thereon to the Chairman; and the Commission shall make its recommendation to the Governor-General upon the matter.

(2) Where an officer holds a probationary appointment and the Commissioner at any time during the period of such probationary appointment is of the opinion that such appointment should be terminated, he shall follow the procedure provided in paragraph (1) of this regulation.

(3) Before either reaching a final conclusion or deciding to make a report to the Director of Public Personnel, as the case may be, under the provisions of paragraph (1) or (2) of this regulation, that a further period of probationary service by an officer is necessary, or that an officer should not remain in the Force, or that an officer's probationary appointment should be terminated, the Commissioner shall, if it appears prima facie that such a conclusion may be reached or that such a report may be required, call upon the officer concerned to submit his representations on the matter.

PART V

DISCIPLINE

A. Contract Officers

Premature determination of contracts and withholding of gratuities. S.I. 78/1971.

32. (1) Where an officer is serving under a contract which provides for the termination of that contract by notice before the expiration of the period of service stipulated in the contract

(a) in any case where to dismiss such officer under these Regulations the Commissioner is required to make recommendations to the Governor-General, and the Commissioner is of the opinion that such contract should be so terminated, he shall report the matter to the Secretary to the Cabinet, together with the reasons for such course; and the Secretary to the Cabinet shall refer the report to the Director of Public Personnel with his observations thereon. The Director of Public Personnel shall forward the report to the Chairman with his recommendations; and the Commission shall recommend to the Governor-General whether such course should be taken:

Provided that where it appears to the Director of Public Personnel that there is any doubt whether under the terms of the contract such termination can be lawfully effected, the Director of Public Personnel shall refer the case to the Attorney-General for advice.

(2) Where an officer is serving under a contract which provides for the payment of a gratuity on completion of satisfactory service, and the Commissioner is of the opinion that the service of the officer has not been satisfactorily completed and that no gratuity or part only of such gratuity should be paid, he shall report the matter to the

Secretary to the Cabinet, together with his reasons for such opinion; and the Secretary to the Cabinet shall with observations thereon, refer the report to the Director of Public Personnel and the Director of Public Personnel, if it appears to him that such an opinion can prima facie be justified, shall call upon the officer concerned to submit his representations on the matter and shall forward the report and any representations received from the officer to the Chairman with his recommendations; and the Commissioner shall recommend to the Governor-General whether such gratuity should be paid in whole or in part.

B. General

Procedure in the case of offences by officers of or above the rank of inspector.

33. An offence against discipline or any other misconduct by a police officer of or above the rank of inspector shall be dealt with under the provisions of regulations 40-43 inclusive of these Regulations:

Provided that nothing in this part of these Regulations shall apply to proceedings against the Commissioner or Deputy Commissioner or any person acting in either of those offices.

Regulation to govern disciplinary proceedings.

34. (1) Any act of misconduct by an officer shall be dealt with as soon as possible after the time of its occurrence.

(2) Any case of which no appropriate procedure exists under these or other Regulations, shall be reported to the Chairman and the Commission may issue instructions as to how the case shall be dealt with, and the case shall be dealt with accordingly.

No disciplinary action while criminal proceedings pending. S.I. 78/1971.

35. (1) If a criminal charge is preferred against a police officer of or above the rank of inspector in any court, the Commissioner shall forthwith report the facts to the Secretary to the Cabinet with a recommendation as to whether the officer should or should not be interdicted from the exercise of his powers and duties. The Secretary to the Cabinet shall refer the report to the Director of Public Personnel with his observations thereon. The Director of Public Personnel shall forward the report to the Chairman with his recommendations and the Commission may recommend to the Governor-General to interdict such officer.

(2) No proceedings for the dismissal of such officer upon any grounds involved in the criminal charge shall be taken until the conclusion of the criminal proceedings and the determination of any appeal therefrom.

Disciplinary action after acquittal on a criminal charge.

36. No disciplinary action of any kind shall be taken against a police officer in respect of any conduct, or any conduct raising, in the opinion of the Attorney-General, substantially the same issues as conduct in respect of which he has been acquitted in a criminal court.

Copies of evidence of inquiries.

37. (1) Subject to paragraph (3) of this regulation, any police officer in respect of whom a disciplinary inquiry is to be held, shall be entitled, at or before the commencement of the inquiry, to receive, free of charge, a copy of every document that is to be relied on for the purpose of or in connection with establishing his guilt, or in default thereof, to be allowed access thereto.

(2) Subject as aforesaid, any police officer in respect of whom a disciplinary inquiry has been held, shall be entitled after the conclusion of such inquiry to receive a copy of every document tendered in evidence at such inquiry on the payment of twenty-five cents therefor, and a copy of the record of evidence on payment of five cents for every hundred words after the first hundred words of that record.

(3) Nothing in this regulation shall entitle any person to receive any copy of any official document (not being a document given in evidence at an inquiry) or any recorded reason for any decision reached at any inquiry.

Inquiries interdiction and suspension.

38. (1) If in any case the Governor-General acting on the recommendation of the Commission, requires that a police officer should cease forthwith to exercise the powers and functions of his office, he may interdict the officer from the exercise of those powers and functions, provided that proceedings for his dismissal are being instituted against him.

(2) The Commissioner may at any time interdict from duty any police officer who is charged with any criminal or disciplinary offence if the Commissioner considers that the interests of discipline require that such officer shall forthwith cease to exercise the powers and functions of his office. The Commissioner shall without delay report to the Secretary to the Cabinet for the information of the Governor-General, the Prime Minister, and the Commission, any action taken by him under this regulation, in respect of a police officer and the Governor-General acting on the recommendation of the Commission may either confirm such interdiction or give such directions as he may think fit.

(3) A police officer under interdiction shall not leave The Bahamas without the permission of the Commissioner.

(4) It shall be the duty of a police officer under interdiction to leave with the Commissioner an address at which he may at any time be contacted.

(5) A police officer interdicted from duty shall not by reason of such interdiction cease to be a member of the Police Force:

Provided that the powers, privileges and benefits vested in him as a member of the Police Force shall be in abeyance during the period of such interdiction, but he shall remain subject to the same responsibilities, discipline and penalties and to the same authority as if he had not been interdicted.

(6) Any police officer who has been interdicted shall, during the period of interdiction, be allowed to receive such proportion of his pay not being less than one half, as the Governor-General acting on the recommendation of the Commission may think fit:

Provided that, if the proceedings against any such officer do not result in his dismissal or conviction for a criminal offence, he shall be entitled to the full amount of the emoluments which he would have received if he had not been interdicted.

Directions as to salary of officer convicted on a criminal charge.

39. Where a police officer has been convicted on a criminal charge, the Governor-General acting on the recommendation of the Commission, may direct what proportion, if any, of the emoluments of such officer shall be paid from the date of such conviction pending consideration of his case under the provisions of these Regulations.

C. Proceedings against Police Officers

Proceedings for dismissal. S.I. 78/1971.

40. (1) When the Commissioner considers it necessary to institute disciplinary proceedings against an officer to whom this regulation applies on the ground of misconduct which, if proved, would justify his dismissal from the Police Force, he shall, after such preliminary investigation as he considers necessary, report the facts to the Governor-General, the Prime Minister and the Commission through the Secretary to the Cabinet, together with a recommendation as to whether the officer should be interdicted from the exercise of the powers and functions of his office. On receipt of such a report the Secretary to the Cabinet shall report the facts to the Director of Public Personnel. On receipt of such a report the Director of Public Personnel shall, after consulting with the Attorney-General as to the terms of the charge or charges, forward to the officer through the Secretary to the Cabinet 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 officer to state in writing, within such time as shall be specified, whether he admits the charges and, if so, any mitigating circumstances he may wish to submit, or if he denies the charges, any grounds on which he relies to exculpate himself.

(2) On receipt of a reply to any charge forwarded under paragraph (1) of this regulation through the Secretary to the Cabinet, the Director of Public Personnel may, if he thinks fit, refer the matter back to the Commissioner for further consideration and report, or shall forward the Commissioner's report together with the officer's reply to the Commission.

(3) If after considering the Commissioner's report and the officer's reply and any mitigating circumstances, if any, the Commission considers that if the offence is proved some penalty other than dismissal is likely to be appropriate, it shall act in accordance with the procedure prescribed in regulation 41(1) (d) or 42, as the case may be, of these Regulations.

(4) If the charge or charges are admitted by the accused officer, the Commission shall forward the Commissioner's report, the officer's reply thereto and any relevant documents to the Governor-General and recommend the punishment, if any, which should be inflicted on the accused officer.

(5) If the officer does not furnish a reply to any charge forwarded under paragraph (1) of this regulation within the period specified, or if, in the opinion of the Commission, he fails to exculpate himself, the Commission shall advise the Governor-General whether a committee, which shall consist of not less than three members, should be appointed to inquire into the matter, and the Governor-General may appoint a committee for such a purpose. One member of the committee, if so appointed, shall be a judge, magistrate or a public officer with legal qualifications, and all members shall be selected with due regard to the standing of the officer concerned. No police officer shall be a member of the committee.

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

(7) If witnesses are examined by the committee, 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.

(8) The committee may permit the prosecuting party and the accused officer to be represented by a public officer or a counsel and attorney, provided that where the committee permit the one party to be so represented, they shall permit the other party to be represented in a similar manner.

(9) If during the course of the inquiry grounds for the framing of additional charges are disclosed the committee shall so inform the Secretary to the Cabinet S.I. 78/1971. who shall inform the Director of Public Personnel and the latter shall follow the same procedure as was adopted in framing the original charges.

(10) The committee, having inquired into the matter, shall forward their report thereon to the Commission accompanied by the record of the charges made, the evidence taken and any other proceedings relevant to the inquiry. The report of the committee shall include-

(a) a statement whether in the committee's opinion the accused officer has or has not committed the offence or offences charged and a brief statement of the reasons for that opinion;

(b) details of any matters which in the committee's opinion aggravate or alleviate the gravity of the case; and

(c) a summing up and such general comments as will indicate clearly the opinion of the committee on the matter under inquiry.

The committee shall not make any recommendation with respect to the form of punishment.

(11) The Commission after consideration of the report of the committee may, if it is of the opinion that the report should be amplified in any way or that further investigation is desirable, refer the matter back to the committee for further investigation and report.

(12) The Commission shall forward the written proceedings of the inquiry to the Governor-General together with its recommendation as to the punishment, if any, (including retirement from the service under regulation 42 of these Regulations) which should be inflicted on the accused officer.

Proceedings for misconduct not warranting dismissal.

41. (1)(a) When the Commissioner considers it necessary to institute disciplinary proceedings against an officer to whom this regulation applies on the grounds of misconduct which, if proved, would not be serious enough to warrant proceedings under regulation 40, he shall, after such preliminary investigation as he may consider necessary, report the facts to the Secretary to the Cabinet together with copies of reports of the case, the charges and his own comments.

(b) The Secretary to the Cabinet shall report S.I. 78/1971. the facts to the Director of Public Personnel who shall forward to the officer through the Secretary to the Cabinet a statement of the charge or charges made against him and shall require the accused officer to state in writing within such time as shall be specified whether he admits the charge or charges made against him or any grounds on which he relies to exculpate himself.

(c) On receipt of the accused officer's reply to S.I. 78/1971. the charge or charges, the Director of Public Personnel shall forward it together with the Commissioner's report to the Commission.

(d) If on consideration of the Commissioner's report and the officer's reply the Commission is of the opinion that no further investigation is necessary it may forthwith report the facts to the Governor-General together with a recommendation as to the penalty, if any, (other than dismissal), which should be inflicted on the officer.

(e) If the officer does not furnish a reply within the time specified or if the Commission, on consideration of the report submitted by the Commissioner, is of the opinion that the matter should be further investigated, it shall advise the Governor-General as to the manner in which the allegations against the officer should be investigated.

(f) The results of such investigation shall be communicated to the Commission in such manner as may be ordered by the person conducting such investigation.

(g) The Commission may, if it considers that 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 inquiry and report.

(h) The Commission shall forward to the Governor-General the proceedings against the officer and shall recommend the punishment, if any, (other than dismissal) which should be inflicted on the officer.

(2) Notwithstanding the provisions of this regulation, if at any stage during the proceedings

(a) it appears to the Commission that the offence, if proved, would justify dismissal; or

(b) the Commission considers that, if the offence is proved, proceedings for the retirement of the officer from the service on grounds of public interest would be more appropriate,

such proceedings shall be discontinued and the procedure in regulation 40 or 42, as the case may be, of these Regulations shall be followed.

Proceedings for discharge on the grounds of public interest. S.I. 78/1971.

42. (1) Notwithstanding the provisions of regulation 40 of these Regulations, if the Commissioner considers that an officer to whom this regulation applies should be discharged on the grounds that he is unlikely to become or has ceased to be an efficient police officer, or that for any other reason his discharge is necessary in the public interest, he shall report the fact to the Secretary to the Cabinet who shall make a report thereon to the Director of Public Personnel. The Director of Public Personnel through the Secretary to the Cabinet shall inform the officer in writing that his discharge has been recommended and the grounds upon which the recommendation has been made and allow the officer an opportunity to show cause why he should not be discharged.

S.I. 78/1971. (2) If the Director of Public Personnel, after considering the officer's statement and having regard to all the circumstances of the case, and after consultation with the Secretary to the Cabinet, is of the opinion that such officer should be discharged, he shall forward to the Commission the report of the Commissioner and the statement of the officer together with his own recommendation. The Commission shall recommend to the Governor-General the action, if any, that it considers should be taken against the officer.

Proceedings against an officer who has been convicted on a criminal charge.

43. Where an officer to whom this regulation applies is convicted by any criminal court of an offence likely to warrant disciplinary proceedings, the Commissioner shall report the matter to the Secretary to the Cabinet and the Secretary to the Cabinet shall report S.I. 78/1971. the matter to the Director of Public Personnel who shall forward the report and a copy of the charge and of the conviction (and the proceedings of the court if available) to the Commission for consideration. The Commission shall advise the Governor-General whether it considers that the officer should be dismissed or subjected to some lesser punishment in accordance with section 59 of the Police Act on account of the conviction for the offence:

Provided that before the Commission recommends any punishment under the provisions of this regulation, it shall give the officer an opportunity to make representations in writing in his own defence and shall take any such representations into consideration, but no further proceedings under this Part of these Regulations need be instituted in any such case.

PART VI

MISCELLANEOUS

Appeals.

44. (1) Where any police officer of the rank of sergeant or below appeals to the Governor-General S.I. 78/1971. under the provisions of section 53(3) or 103 of the Police Act, the Commissioner shall forthwith cause copies of all proceedings to be sent to the Secretary to the Cabinet for transmission through the Director of Public Personnel to the Commission and the Commission shall thereupon consider the appeal and make its recommendation thereon to the Governor-General.

(2) On any appeal to him under the provisions of this regulation, the Governor-General may, acting in accordance with the recommendation of the Commission, without hearing the appellant, dismiss the appeal or allow it and in either case may revoke, vary or add to any punishment.

(3) Upon any appeal the Governor-General acting in accordance with the recommendation of the Commission may-

(a) return the proceedings for further evidence to be taken;

(b) quash the proceedings and order the case to be heard de novo by some other officer; or revoke or vary any finding.

Fines to be recovered by stoppage of pay.

45. (1) All fines imposed on a police officer of or above the rank of inspector in respect of offences under these Regulations may be recovered by stoppage of the officer's pay due at the time of committing such offence or thereafter accruing.

(2) The amount of any stoppage in respect of any fine or for any other cause authorised by these Regulations shall be determined by the Governor-General acting in accordance with the recommendation of the Commission but shall in no case exceed one-half of the monthly pay of the offender, and whenever more than one order of stoppage is enforced against the same person so much only of his pay shall be stopped as shall leave him a residue of at least one-half of his monthly pay.