

THE ISLAND OF NAURU

NO. 3 OF 1961.

A N O R D I N A N C E

Relating to the Public Service of Nauru.

I, the Administrator of the Island of Nauru, in pursuance of the powers conferred by Article 1 of the Agreement dated the second day of July, 1919, between the Government of the United Kingdom, the Government of the Commonwealth of Australia and the Government of New Zealand, hereby make the following Ordinance.

Dated this 29th day of June, 1961.

(Signed) J. Preston White

Administrator of the
Island of Nauru.

PUBLIC SERVICE ORDINANCE 1961*

PART I. - PRELIMINARY.

- Short title. 1. This Ordinance may be cited as the Public Service Ordinance 1961.
- Commencement. 2. This Ordinance shall come into operation on a date to be fixed by the Administrator by notice in the Gazette.
- Repeal and saving. 3.-(1.) The Public Service Ordinance 1924 and the Public Service Ordinance 1951 are repealed.
- (2.) Notwithstanding the repeal effected by the last preceding sub-section, officers of the Public Service of Nauru holding office immediately before the commencement of this Ordinance continue, subject to this Ordinance, to be officers of the Public Service of Nauru under this Ordinance as if this Ordinance had been in force at the time they were appointed and they had been appointed under this Ordinance, and this Ordinance applies to them accordingly.

(3.) An officer of the Public Service of Nauru who is holding office immediately before the commencement of this Ordinance and, at that commencement, has attained the age of sixty years may, notwithstanding the provisions of section fifty-eight of this Ordinance, continue to be an officer of the Public Service of Nauru under this Ordinance for such period as the Minister determines.

(4.) The persons who, immediately before the commencement of this Ordinance, were temporarily employed in the Public Service of Nauru shall remain in employment as employees subject to the provisions of this Ordinance, and this Ordinance applies to them accordingly.

4. This Ordinance is divided into Parts, as follows:-

Part I. - Preliminary (Sections 1-7).

Part II. - Composition and Administration of the
Public Service.

Division 1. - General (Sections 8-12).

Division 2. - Divisions and Offices of the Public
Service (Sections 13-16).

Division 3. - Appointments and Filling of Vacancies
(Sections 17-25).

Division 4. - Temporary Employees (Section 26).

Part III. - Salaries and Allowances.

Division 1. - Salaries (Sections 27-31).

Division 2. - Payment for Overtime and Sunday and
Holiday Duty (Sections 32-35).

Division 3. - Allowances (Sections 36-38).

Part IV. - Hours of Attendance, Holidays and Leave of
Absence.

Division 1. - Hours of Attendance and Holidays
(Sections 39-44).

Division 2. - Recreation Leave (Sections 45-46).

Division 3. - Leave of Absence on account of Illness
(Sections 47-48).

- Division 4. - Furlough and Payment in lieu of
Furlough (Sections 49-53).
- Division 5. - Other Leave of Absence (Sections 54-57).
- Part V. - Tenure of Office (Sections 58-64).
- Part VI. - Duties of Officers and Discipline.
- Division 1. - Disciplinary Offences (Sections 65-71).
- Division 2. - Punishment of Disciplinary Offences by
Second and Third Division Officers
(Sections 72-78).
- Division 3. - Appeals against Punishment of Second
and Third Division Officers (Sections
79-91).
- Division 4. - Disciplinary Offences by First Division
Officers (Sections 92-98).
- Division 5. - Proceedings by Appeal Boards and Boards
of Inquiry (Sections 99-103).
- Division 6. - Miscellaneous (Sections 104-110).
- Part VII. - Miscellaneous (Sections 111-114).

Interpretation. 5.-(1.) In this Ordinance, unless the contrary
intention appears -

"classification" means the arrangement of officers and
positions in Divisions, and includes the allotment
to officers and positions of salaries or limits of
salary according to the value of the work;

"Department" means a Department of the Public Service
established by the Minister, but does not include a
Department which is abolished by the Minister or in
lieu of which another Department is established;

"Division" means a division of the Public Service;

"efficiency" means special qualifications and aptitude
for the discharge of the duties of an office,
together with merit, diligence and good conduct
and "efficient" has a corresponding meaning;

"employee" means a person appointed under section twenty-six of this Ordinance, but does not include an officer;

"Head of the Department", in relation to a Department, or to an officer or employee employed in the Department, in connexion with which the term is used or is applicable, means the person for the time being holding an office which the Minister has determined constitutes the occupant the head of the Department;

"holiday" means a day observed as a holiday under section forty-four of this Ordinance;

"officer" means a person appointed under Division 3 of Part II of this Ordinance;

"the Commissioner" means the Public Service Commissioner appointed under section nine of this Ordinance, and includes a person appointed to act in the office of Commissioner under section ten of this Ordinance while he is so acting.

(2.) A reference in a provision of this Ordinance to the salary payable to an officer shall be read as a reference to salary at the rates or in accordance with the scale of rates fixed by the Minister under sub-section (1.) of section twenty-seven of this Ordinance payable to the officer under Part III as varied in accordance with sub-section (2.) of that section.

Exempt
officers and
employees.

6.-(1.) The Minister may, by order in writing under his hand, declare that the provisions of this Ordinance specified in the order shall not apply to an officer or employee, or to officers and employees included in a class of officers or employees, specified in the order.

(2.) An order under the last preceding sub-section may be expressed to be in force for a period specified in the order and, in that case, the order shall be in force for that period only.

(3.) The Minister may determine the terms and conditions of employment (including rates of payment) of an officer or employee in relation to whom an order is in force under sub-section (1.) of this section but no such determination shall be made in respect of a matter dealt with in a provision of this Ordinance which the order does not declare not to apply to the officer or employee.

Delegation.

7.-(1.) The Minister or the Commissioner may, in relation to a matter or class of matters, by writing under his hand, delegate all or any of his powers and functions under this Ordinance (except this power of delegation).

(2.) A power or function so delegated may be exercised or performed by the delegate with respect to the matters, or to the matters included in the class of matters, specified in the instrument of delegation.

(3.) A delegation under this section is revocable at will and does not prevent the exercise of a power or the performance of a function by the Minister or the Commissioner, as the case may be.

PART II. - COMPOSITION AND ADMINISTRATION OF THE PUBLIC SERVICE.

Division 1. - General.

Composition of the Public Service.

8. The Public Service consists of -
(a) officers whose service is, subject to this Ordinance, of a permanent nature; and
(b) employees appointed to provide temporary assistance.

Public Service Commissioner.

Amended by No. 108 of 1962 s. 3

9.-(1.) For the purposes of this Ordinance, the Minister may appoint a person to be Public Service Commissioner.

(2.) The Minister may grant leave of absence to the Commissioner on such terms and conditions as the Minister determines.

(3.) The Commissioner shall be paid such salary, allowances and expenses as the Minister determines.

Acting
Commissioner.

*Amended by
No 1 of 1962-54*

10.-(1.) The Minister may appoint a person to act in the office of Commissioner during any vacancy in the office of Commissioner or whenever the Commissioner is absent from Nauru or is unable, by reason of illness or incapacity, to exercise and perform the powers and functions of his office.

(2.) A person appointed under the last preceding subsection and acting in the office of Commissioner has, and may exercise and perform, all the powers and functions of the Commissioner.

(3.) A person appointed under this section shall be paid such salary, allowances and expenses as the Minister determines.

Dismissal and
resignation of
Commissioner
or Acting
Commissioner.

11.-(1.) The Minister may terminate the appointment of the Commissioner, or a person appointed to act in the office of Commissioner, for misbehaviour or incapacity.

(2.) The Commissioner or a person appointed to act in the office of Commissioner may resign his office by writing under his hand delivered to the Minister, but the resignation is not effective unless and until it has been accepted by the Minister.

Functions of
Commissioner.

12.-(1.) The Commissioner shall furnish to the Administrator, for presentation to the Minister, reports or recommendations on all matters required to be dealt with by the Minister under this Ordinance or referred to the Commissioner by the Minister.

(2.) The Commissioner shall furnish to the Minister, at least once in each year, a report on the conditions and efficiency of the Public Service.

(3.) The Minister may direct that a report under the last preceding sub-section need not be furnished.

Division 2. - Divisions and Offices
of the Public Service.

Divisions of
the Public
Service.

13.-(1.) Officers of the Public Service shall be divided into three divisions, namely, the First Division, the Second Division and the Third Division.

(2.) The First Division includes officers in charge of Departments and officers whom the Minister directs to be included in that Division.

(3.) The Second Division includes officers who are required to exercise executive, professional or clerical functions in offices of the Public Service which the Minister directs to be included in that Division.

(4.) The Third Division includes officers whom the Minister directs to be included in that Division.

(5.) An unattached officer shall be deemed to be included in the Division in which the officer was included immediately before he became an unattached officer.

Departmental
Heads.

14.(1.) The Head of the Department shall be responsible for the general working and efficient conduct of his Department.

(2.) The Head of the Department shall report to the Commissioner, whenever the necessity arises -

- (a) any alterations necessary or expedient in his opinion for the more economical, efficient or convenient working of his Department or a branch of his Department;
- (b) any alterations necessary in his opinion in the salaries or allowances of any officers under his control; and
- (c) any matter in relation to an officer or the work of a branch of his Department with which he thinks it desirable for the Commissioner to be acquainted.

Creation and
abolition of
offices.

15.--(1.) The Minister may -

- (a) create a new office;
- (b) abolish an office; or
- (c) raise or lower the classification of an office.

(2.) Where the classification of an office is altered, the office shall be deemed to be vacant and the officer who occupied the office immediately before the alteration shall become an unattached officer.

(3.) Where the Minister makes the same alteration of the classification of all offices having the same designation and classification, the Minister may, by notice published in the Gazette, direct that the last preceding sub-section shall not apply and in that case that sub-section does not apply.

(4.) Where -

- (a) The Minister makes an alteration of the classification of an office in a case where there is no other office having the same designation and classification as that office; and
- (b) the Minister declares, by notice published in the Gazette, that that alteration is related to an alteration in respect of which a notice is or has been published under the last preceding sub-section,

the Minister may, in that first-mentioned notice, direct that sub-section (2.) of this section shall not apply in relation to that first-mentioned alteration and, in that case, that sub-section does not apply.

(5.) Notice of the creation of a new office, the abolition of an office or the variation of the classification of an office under this section shall be published in the Gazette.

Temporary positions.

16.-(1.) The Commissioner may, after receiving a report from the Head of the Department, provide a temporary position in the Department.

(2.) Where the Commissioner provides a temporary position, he shall furnish a report to the Minister setting out his action and the reasons for it.

(3.) The Commissioner may, in his discretion, and shall, if so directed by the Minister, cancel a temporary position.

Division 3. - Appointments and Filling of Vacancies.

Appointments.

17. All appointments to the Public Service shall be made by the Minister.

Admission to the Public Service.

18.-(1.) A person is not eligible for appointment to an office in the Public Service after the commencement of this Ordinance unless -

(a) he is a Nauruan, or he is a person recommended by the Commissioner for appointment to the office;

(b) he produces evidence to the satisfaction of the Minister as to -

(i) his health and physical fitness for appointment to that office;

(ii) his possession of the qualifications required for appointment to that office as specified in the notification under section twenty of the Ordinance in relation to that office; and

(iii) his date of birth; and

(c) he makes and subscribes an oath or affirmation in the form in the First Schedule to this Ordinance.

(2.) The Commissioner shall not recommend that a person who is not a Nauruan be appointed to an office in the Public Service unless the Commissioner is of the opinion that there is no officer or a Nauruan who is available and as capable of performing the duties of the office.

Appointments
to be on
probation.

19.-(1.) Every appointment to the Public Service shall be probationary until confirmation.

(2.) The period of probation shall be twelve months, but the Minister may extend the period for a further twelve months or part of twelve months.

(3.) The services of a probationer may be dispensed with by the Minister at any time during the period of probation.

(4.) The Minister may dispense with the period of probation in special cases in which the Minister thinks it expedient or desirable in the interests of the Public Service to do so.

(5.) The Minister may require a probationer to undergo a course of training before confirmation of appointment and, in such a case, the period of probation may be extended until the completion of the course in training.

(6.) During the month immediately preceding the expiration of the period of twelve months on probation, the Minister shall confirm or annul the appointment of the probationer, or extend the period on probation in accordance with this section.

(7.) If the Minister does not confirm or annul the appointment of a probationer, or extend his period of probation, as provided in the last preceding sub-section, the appointment of the probationer shall be deemed to be confirmed at the expiration of that period of twelve months on probation.

(8.) Unless otherwise directed by the Minister, an annulment of appointment takes effect from the date on which the probationer is directed to cease to perform the duties of the office.

Vacancies.

20.-(1.) Where a vacancy exists in an office in the Public Service and, in the opinion of the Commissioner, it is necessary to fill the vacancy, the Commissioner may

direct that a notification be published in the Gazette inviting applications for transfer, promotion or appointment and setting out the qualifications required for the office.

(2.) Upon receipt of applications, the Commissioner may -

- (a) transfer or promote an officer to the vacancy; or
- (b) recommend to the Minister that the Minister appoint a person from outside the Public Service to the vacancy.

(3.) The Commissioner shall not recommend that a person from outside the Public Service be appointed to a vacancy unless he considers, and certifies accordingly, that the office could not be suitably filled by the transfer or promotion of an officer.

(4.) The promotion or transfer of an officer or the appointment of a person as an officer to a vacant office shall be published in the Gazette.

Permission to decline promotion or transfer.

21.-(1.) The Commissioner may permit an officer to decline a promotion or transfer without prejudice to his right of future promotion or transfer.

(2.) Where the Commissioner makes an order directing the transfer of an officer from one office to another of equal or higher classification, the officer shall comply with the order.

Selection of officers for promotion.

22. In the selection of an officer for promotion to a vacant office, consideration shall first be given to the relative efficiency of the officers available for promotion and, in the event of equality of efficiency of two or more officers, then to the relative seniority of those officers.

Seniority.

23.-(1.) For the purposes of this Ordinance, the relative seniority of officers shall, subject to this section, be determined according to the dates of their appointments as officers to the Public Service whether before or after the commencement of this Ordinance.

(2.) The respective seniorities of two or more officers who are or were appointed on the same day shall be determined by the Commissioner.

Qualifications for particular offices.

24. The Minister may, by instrument in writing published in the Gazette, determine that an officer shall not be transferred or promoted to a specified office, or to an office included in a specified class of offices, unless the officer possesses such qualifications, and complies with such conditions, as are specified.

Appeals against promotions.

25.-(1.) The promotion of an officer to a vacant office shall be provisional and without increase in salary pending confirmation of the promotion and shall be subject to appeal as provided in this section.

(2.) An officer who considers that he should have been promoted to a vacant office in preference to the officer provisionally promoted may appeal to the Secretary to the Department of Territories on the ground that -

(a) he is more efficient than the officer provisionally promoted; or

(b) he is just as efficient as, and is senior to, the officer provisionally promoted.

(3.) An appeal shall be in writing setting out the ground of appeal and shall be lodged with the Commissioner within seven days after the date on which the provisional promotion is notified in the Gazette.

(4.) Upon an appeal being made, the Secretary to the Department of Territories shall inquire into the claims of the appellant and those of the officer provisionally promoted and shall determine the appeal.

(5.) Where the appeal is upheld, the appellant shall be promoted to the vacant office and the provisional promotion shall be cancelled.

(6.) Where the appeal is disallowed, or where no appeal is made in accordance with this section, the provisional promotion shall be confirmed with effect from the date on which the provisional promotion was notified in the Gazette.

(7.) Notwithstanding anything contained in this section the Commissioner may, at any time after the notification of a provisional promotion to a vacant office and before the promotion has been confirmed, cancel the provisional promotion if he is satisfied that -

- (a) the office is unnecessary;
- (b) the office can be filled by the transfer of another officer; or
- (c) in the circumstances, further notification of the vacant office is desirable.

(8.) The powers of the Commissioner under the last preceding sub-section may be exercised whether an appeal has been made or not.

Division 4. - Temporary Employment.

26.-(1.) The Commissioner may, if he is satisfied that temporary assistance is required, engage persons for temporary employment.

(2.) A person shall not be continued in temporary employment beyond the first period of six months or any further period of six months of that employment unless the Commissioner extends his employment for a further period of six months.

(3.) Subject to any provisions of this Ordinance which are expressly applicable to employees, the hours and conditions of work and the rates of pay of employees and the allowances and leave of absence that may be granted to them, shall be as determined by the Minister.

Temporary employees.

(4.) An employee employed for a continuous period of twelve months or more may be granted leave of absence for recreation, or on account of illness, on the same terms and conditions as that leave of absence may be granted to officers.

(5.) Subject to the next succeeding sub-section, the services of an employee may be dispensed with by the Commissioner or the Head of the Department in which the employee is employed at any time upon giving to the employee fourteen days' notice of his dismissal or payment of fourteen days' pay in lieu of notice.

(6.) Where an employee is, in the opinion of the Head of the Department in which the employee is employed, absent from duty without authority, or inefficient or guilty of misconduct which, if the employee were an officer, would be a disciplinary offence, the Commissioner may -

- (a) dismiss the employee without the notice, or the payment in lieu of notice, referred to in the last preceding sub-section; or
- (b) fine the employee an amount not exceeding Twenty pounds.

PART III. - SALARIES AND ALLOWANCES.

Division 1. - Salaries.

Salaries of officers.

27.-(1.) Officers shall be paid salaries at the rates, or in accordance with the scales of rates, as are fixed from time to time by the Minister and notified in the Gazette.

(2.) The salaries so payable to officers shall be varied by the amount of any variation in the basic wage for Nauruans as determined from time to time by the Administrator and notified in the Gazette (that is to say, that wage or that part of a wage determined by the

Administrator as the basic wage for an adult Nauruan, without regard to any circumstance pertaining to the work upon which he is employed).

Salary on appointment.

28. The salary payable to an officer upon his appointment to the Public Service shall be such salary, within the limits of salary fixed for the office to which the officer is appointed, as the Minister determines.

Increments.

29.-(1.) Where a scale of rates of salary fixed under section twenty-seven of this Ordinance is applicable in relation to an officer, the officer may, subject to this section, be paid increments of salary in accordance with that scale.

(2.) An officer is not entitled to receive an increment of salary until he has received salary without the increment for not less than twelve months.

(3.) The date from which an officer is entitled to receive an increment of salary is not affected by -

(a) variations of rates of salary according to variations in the basic wage for Nauruans; or

(b) an alteration of the classification of the office occupied by the officer, being an alteration in relation to which a notice is published in the Gazette under sub-section (3.) or (4.) of section fifteen of this Ordinance.

(4.) If, having regard to the conduct, diligence, efficiency or attendance for duty of an officer during the period after which he is entitled to receive an increment of salary, the Commissioner is of the opinion that the officer should not immediately receive that increment, the Commissioner may, by order in writing, direct that the increment shall not be paid until the expiration of such period as he thinks fit, and, in that case, payment of the increment shall be deferred until the expiration of that period.

(5.) An officer in relation to whom the Commissioner has made an order under the last preceding sub-section, may appeal to the Minister and the Minister shall, after enquiry, determine the appeal.

Salaries of officers on promotion or transfer.

30.-(1.) Unless otherwise determined by the Minister, the salary to be paid to an officer upon promotion to a higher office shall not exceed the minimum salary of the higher office.

(2.) Where an officer is transferred or promoted and is in receipt of salary above the minimum salary fixed for the office to which he is transferred or promoted, his transfer or promotion shall, unless otherwise determined by the Minister but subject to the next succeeding sub-section, be effected without reduction in salary.

(3.) Unless otherwise determined by the Minister, an officer to whom the last preceding sub-section applies shall not be paid salary in excess of the maximum salary of the office to which he is transferred or promoted.

(4.) The Minister may determine that an officer transferred or promoted with a salary at or exceeding the minimum salary of the office to which he is transferred or promoted shall not be eligible for advancement in salary until a date fixed by the Minister, being a date not later than the date upon which he would have been eligible for advancement in salary if he had been transferred or promoted at the minimum salary of the office.

(5.) Where an officer is transferred or promoted from one office to another with differing rates of incremental advancement, the Minister may determine the salary to be paid to the officer upon transfer or promotion and the date, for purposes of granting of increments, from which that salary shall be deemed to have been paid.

Conditions of advancement.

31.-(1.) The Minister may, by notice in writing published in the Gazette -

- (a) determine that an officer occupying an office specified in the determination shall, upon compliance with such conditions as are so specified, be paid salary at such rate as is so specified, being salary at a rate not exceeding the maximum salary of that office; and
- (b) determine that an officer shall not be paid salary at a rate exceeding such rate as is specified in the determination unless he has complied with such conditions as are so specified.

(2.) A determination under the last preceding subsection has effect notwithstanding section twenty-nine of this Ordinance.

Division 2. - Payment for Overtime and Sunday and Holiday Duty.

Definitions.

32. In this Division -

"normal hours of duty" means, in relation to an officer, the hours of duty provided for the officer under section thirty-nine of this Ordinance;

"officer" includes an employee.

Overtime.

33.-(1.) Officers may, where it is necessary to bring up arrears of work or to meet pressure of business, be required to perform duty after the normal hours of duty.

(2.) An officer shall, when required by the Head of the Department, remain after the normal hours of duty to complete work considered necessary to be done on the same day.

(3.) Where attendance beyond the normal hours of duty is considered necessary and that attendance may involve the payment of overtime, the Head of the Department shall forthwith report, in writing, the circumstances to the Commissioner.

(4.) The report shall specify the officer or officers to be employed and the probable duration of the overtime and the Commissioner, if satisfied that the overtime is necessary, may authorise the working of overtime.

(5.) In the case of emergency, the Head of the Department may authorise directly the working of overtime and in such a case he shall forthwith report, in writing, the circumstances to the Commissioner.

(6.) Where it is necessary for an officer to work beyond the normal hours of duty to meet an emergency and it is not practicable to obtain prior authority, the officer shall, immediately upon the completion of the work, report in writing, the circumstances to the Head of the Department.

(7.) Upon receipt of a report under the last preceding sub-section, the Head of the Department shall forward the report, with his comments and recommendations, to the Commissioner who, if he is satisfied that it was necessary for the officer so to work, shall authorise the recording as overtime of the work performed by the officer beyond the normal hours of duty.

(8.) At the end of each fortnightly pay period, the Head of each Department shall furnish to the Commissioner a return showing -

- (a) all overtime worked during the period;
- (b) all claims of officers for payment at overtime rates; and
- (c) a certificate by the Head of the Department that the overtime has been authorised under this section.

(9.) Overtime shall be recorded and, subject to the approval in each case of the Commissioner, or of such officer as he authorises for the purpose, paid in accordance with this section.

(10.) For the purpose of payment, overtime shall be calculated to the nearest quarter of an hour of the total period of overtime worked in each fortnightly pay period.

(11.) Subject to the next two succeeding subsections, the hourly rate of overtime payment shall be calculated in accordance with the following formulae:-

(a) for the first four hours worked in any one day -

$$\frac{\text{Annual salary}}{313} \times \frac{9}{\text{normal hours of duty per week.}}$$

(b) for each subsequent hour worked in that day -

$$\frac{\text{Annual salary}}{313} \times \frac{12}{\text{normal hours of duty per week.}}$$

(12.) The hourly rate of overtime payment shall be calculated to two decimal points of a penny.

(13.) The minimum rate of overtime payment shall be Two shillings per hour and the maximum hourly rate of overtime payment shall be determined by the Minister and notified in the Gazette.

(14.) An allowance paid to an officer for performance of higher duties and allowances granted in such other cases as the Commissioner determines shall be regarded as salary for the purpose of computing overtime payment.

(15.) Any period of absence from duty on leave of absence granted to an officer under this Ordinance or the period during which he is absent from duty on a holiday during the period in respect of which he claims payment for overtime shall, in the calculation of the number of hours to be worked before overtime can be claimed, be added to the number of hours actually worked by the officer in that period.

(16.) Officers -

- (a) in receipt of annual salary at a rate exceeding the rate of annual salary determined, for the purpose of this sub-section, by the Minister and notified in the Gazette;
- (b) not working under close supervision; or
- (c) whose hours of duty cannot be definitely determined,

shall not be eligible to receive overtime payment except in such special cases as the Commissioner approves.

(17.) In this section, "overtime" means authorised duty in a week in excess of the normal hours of duty per week and performed after the normal hours of attendance on any day, but does not include duty performed on Sunday or on a holiday.

(18.) Where an officer is recalled for duty after he has ceased work for the day, the period of duty shall, for the purpose of recording overtime, be deemed to include the time necessarily spent in travelling to his place of duty to perform the duty for which he was recalled and returning to his home.

(19.) Where an officer is required to perform duty above and below the normal hours of duty, overtime shall be the aggregate time worked in excess of the normal hours of duty per week.

Sunday duty.

34.-(1.) Subject to this section, an officer who is required to perform duty on a Sunday shall, in addition to his salary for his normal hours of duty per week, be paid in respect of that duty in accordance with this section.

(2.) Payment for duty performed on a Sunday by an officer, other than a shift worker, shall be at double his hourly rate of salary.

(3.) Where an officer who is a shift worker performs scheduled duty on a Sunday and the period of that duty and the duty performed by him in the six days preceding that Sunday does not exceed his normal hours of duty per week, payment for the Sunday duty shall be at his normal hourly rate of salary.

(4.) Where the whole or any part of the duty performed on a Sunday by an officer who is a shift worker is in excess of his normal hours of duty per week, payment for the duty performed on that Sunday that is in excess of his normal hours of duty per week shall, subject to the next succeeding sub-section, be at double his hourly rate of salary.

(5.) For the purposes of this section, the maximum hourly rate of payment for duty performed on a Sunday shall be the rate determined by the Minister and notified in the Gazette.

(6.) In computing payments for duty performed on a Sunday -

(a) scheduled duty ending at two o'clock in the morning or earlier on the Sunday shall not be paid for at the rate of double time unless the officer is again required to be on duty on the same day; and

(b) scheduled duty commencing at ten o'clock in the morning or later on a Sunday shall not be paid for at the rate of double time unless the officer has already been on duty on the same day.

Holiday pay.

35.-(1.) The Commissioner may require any officer to work, in the public interest, for the whole or part of a day observed as a holiday under section forty-four of this Ordinance.

(2.) An officer who is required to work on a holiday shall be granted, in addition to his normal salary -

- (a) if the officer's hours are arranged by schedule and his hours of duty under that schedule commence or cease on that holiday - an amount calculated at the hourly rate prescribed in sub-section (4.) of this section;
- (b) if the officer's hours are arranged by schedule, but the duty performed on the holiday is outside that schedule - an amount calculated at twice that hourly rate;
- (c) if the officer whose hours are not arranged by schedule performs duty on the two days before and the two days after the performance of the holiday duty - an amount calculated at twice that hourly rate; and
- (d) in any other case - an amount calculated at that hourly rate.

(3.) The amount calculated in respect of an officer under the last preceding sub-section shall be not less than half a day's salary at the rate applicable to the officer.

(4.) The hourly rate of salary shall be ascertained in accordance with the following formula:-

$$\frac{\text{Annual salary}}{313} \times \frac{6}{\text{normal hours of duty per week.}}$$

(5.) For the purpose of a calculation under the last preceding sub-section, the normal hours of duty per week for an officer shall, notwithstanding section thirty-nine of this Ordinance be not less than thirty-six hours.

(6.) Where an officer performs on a holiday the duties of an office having a higher classification than his own, the annual salary of that officer shall, for the purposes of this section, include any allowance payable for the performance of those duties.

Division 3. - Allowances.

Higher duties
allowance.

36.--(1.) An officer may be called upon to perform temporarily the duties of an office having a higher classification than his own.

(2.) Subject to this section, an officer who performs all the duties of a higher officer shall be paid in respect of the performance of those duties an allowance equal to the amount of the difference between his salary and the minimum salary of the higher office.

(3.) An officer who performs the duties of a higher office for a period of less than one day shall not be paid an allowance under this section, and that period shall not be included in any period of service in the higher office for the purpose of this section.

(4.) Where an officer temporarily performs the duties of a higher office for a continuous period of more than twelve months after the date on which he first commenced to perform those duties, he may, after the completion of each period of twelve months' performance of those duties, be granted increments of allowance of the same amounts as are payable as increments of salary to an officer occupying the higher office.

(5.) For the purposes of the last preceding subsection, the performance of the duties of another office having the same classification as, or a higher classification than, the higher office shall be deemed to be performance of the duties of the higher office.

(6.) For the purpose of determining the date from which an increment in an allowance is payable under this section, and for the purpose of determining whether the performance of the duties of a higher office has been for a continuous period, an officer who performs the duties of a higher office immediately before he is absent from duty on -

- (a) a public holiday;
- (b) leave of absence for recreation;
- (c) leave of absence on account of illness not exceeding two weeks in any one period of twelve months of the performance of duties in the higher office; or
- (d) other authorised leave not exceeding in all six days in any twelve months,

shall be deemed to have performed the duties of a higher office if the officer resumes duty in the same office or another office of higher classification than his own immediately after the expiration of the absence.

(7.) Where an officer who is performing the duties of a higher office is permanently promoted to that office, he shall not suffer any reduction in his remuneration and he may receive the same increments as if he had, during the period of his temporary service in the higher office, been the permanent occupant of that office.

(8.) Where an officer is permanently promoted to an office and, before his promotion, has performed the duties of a higher office of the same classification as the office to which he is promoted but is not performing those duties when he is promoted, the period for which he performed those duties shall be taken into account for the purposes of his incremental advancement in the same manner as it would have been taken into account under sub-section (4.) of this section if he had not been promoted.

(9.) Where an officer who is, or has been, performing the duties of a higher office is promoted to an office which is of lower classification than the office the duties of which he is or has been temporarily performing, his remuneration on promotion shall be the same as the remuneration which he would have received had his period of service in the higher office been service in the office of lower classification.

(10.) Where an officer performs the duties of a higher office and is in receipt of a salary above the minimum salary payable to the occupant of the higher office, he shall, upon commencing to perform the duties of the higher office, be paid allowance at such rate as will cause the total remuneration to be the same as that which would have been payable if he had been permanently promoted to the higher office.

(11.) Where an officer, temporarily performing the duties of a higher office does not perform all the duties of that office, he may be paid in respect of the performance of those duties an allowance of such amount and subject to such conditions as the Commissioner determines.

(12.) An allowance granted under this section shall be regarded as salary for the purpose of calculation of travelling allowance.

Travelling and
car and cycle
allowances.

37.-(1.) Where an officer is required to travel on duty in Australia or to attend for duty at a place in Australia, he shall be paid travelling allowance in accordance with the rates set out in the Public Service Regulations made from time to time under the Public Service Act 1922 as in force as amended at the relevant time, as if the officer were an officer of the Commonwealth Public Service.

(2.) Where travelling allowance is payable, under the last preceding sub-section, for less than a day, the allowance shall be at an hourly rate of one twenty-fourth of the daily rate or one hundred and sixty-eighth part of the weekly rate, as the case requires.

(3.) Where an officer is required to travel on duty in a place outside Nauru other than Australia or to attend for duty at a place outside Nauru other than Australia, he shall be paid a travelling allowance at such rates as the Minister determines.

(4.) An officer who uses his own motor truck, motor car, motor cycle or bicycle for official purposes or when travelling on public business, or an officer whose motor truck, motor car, motor cycle or bicycle is used for those purposes, may, on the authority of the Commissioner, be paid an allowance for that use at such rates and in accordance with such conditions as the Commissioner determines.

Special allowance.

38. The Minister may, in special circumstances on the recommendation of the Commissioner, approve the payment to an officer of a special allowance at such rates as the Minister determines.

PART IV. - HOURS OF ATTENDANCE, HOLIDAYS
AND LEAVE OF ABSENCE.

Division 1. - Hours of Attendance and Holidays.

Hours of attendance.

39.-(1.) Except where otherwise determined by the Commissioner or in the case of a holiday, the hours of duty for officers and employees performing clerical or professional duties shall be worked between the hours of thirty minutes past eight o'clock in the morning and thirty minutes past four o'clock in the afternoon on Monday, Tuesday, Wednesday, Thursday and Friday of each week and between the hours of thirty minutes past eight o'clock in the morning and twelve o'clock noon on Saturday of each week.

(2.) Except where otherwise determined by the Commissioner or in the case of a holiday, the hours of duty for employees who are engaged as labourers or tradesmen shall be worked between the hours of seven o'clock in the morning and thirty minutes past four o'clock in the afternoon on Monday, Tuesday, Wednesday, Thursday and Friday of each week and between the hours of seven o'clock in the morning and eleven o'clock in the morning on Saturday of each week.

(3.) The hours of duty for teachers and shift workers shall be such as are determined by the Commissioner.

(4.) There shall be an interval of one and a half hours for lunch on each day on which duty is performed except Saturday.

Records of attendance.

40.-(1.) The Commissioner shall determine the means of recording the attendance of officers and employees.

(2.) The Head of the Department is responsible, using the means of record determined by the Commissioner, for the recording of attendance of officers and employees in that Department in accordance with this Ordinance and such directions as are given to him by the Commissioner.

Obligation to record attendance.

41.-(1.) Every officer and employee, other than an officer of the First Division or an officer or employee specially exempted by the Commissioner, shall record daily, by the means of record determined by the Commissioner, the actual times of his arrival at, and his departure from, his place of duty.

(2.) The exemption of an officer or employee from the obligation to record his attendance does not authorise that officer or employee to leave his place of duty except on official business within his hours of duty.

Availability of attendance record.

42. The means of record of attendance shall be available each day at the commencement of the hours of duty of officers and employees and shall be made available at the time fixed for the cessation of duty but where practicable, not before that time.

Late attendances and absences.

42.-(1.) Where an officer or employee arrives on duty later than ten minutes after the time fixed for the commencement of duty, he shall not record his attendance but shall report himself to the Head of the Department or, in his absence, to a person appointed by him for that purpose and give an explanation for his late attendance.

(2.) The Head of the Department or, in his absence, the person appointed by him for the purpose shall record the time of reporting and the explanation given by an officer or employee under the last preceding sub-section.

(3.) The Head of the Department or, in his absence, the person appointed by him for the purpose shall duly record in the record of attendance any period during which an officer or employee is absent otherwise than on official business.

(4.) If an officer is prevented by illness or other emergency from attending to duty, he shall immediately report the fact to the Head of the Department or, in his absence, to the person appointed by him for the purpose and he shall furnish such evidence of the nature of the illness or emergency as the Commissioner considers necessary.

Holidays.

*Amended by
No. 1 of 1962
S. 5*

44.-(1.) Subject to this section, the following days are holidays in the Public Service:-

The first day of January.

The anniversary of the return of Nauruans from the Caroline Islands after the war which commenced on the third day of September, One thousand nine hundred and thirty-nine, that is to say, the thirty-first day of January.

Good Friday and the following Saturday and Monday.

Anzac Day, that is to say, the twenty-fifth day of April.

Angam Day, that is to say, the twenty-sixth day of October.

The anniversary of the Birthday of the Sovereign.

Christmas Day and the following day.

(2.) Whenever a day specified in the last preceding sub-section, except Christmas day and Anzac day, falls on a Sunday, the following Monday is a holiday.

(3.) Whenever Christmas day falls on a Sunday, the following Monday and Tuesday are holidays.

(4.) In addition to the days specified in sub-section (1.) of this section, the Commissioner may, by notice published in the Gazette, appoint a day or part of a day to be a holiday observed by officers and employees.

(5.) The Commissioner may, in any year, declare that a day which would otherwise under this section be observed as a holiday should not be a holiday in that year by a notice published in the Gazette not less than seven days before the day so declared, and that day shall cease to be a holiday in the Public Service in that year accordingly.

(6.) The Commissioner may, in the notice referred to in the last preceding sub-section, appoint another day to be a holiday in that year in substitution for the day declared in that notice not to be a holiday in that year.

Division 2. - Recreation Leave.

Recreation
leave.

*Amended by
No. 1061/62
S.C*

45.-(1.) Subject to this Ordinance, the Commissioner may grant to every officer leave of absence for recreation for a period or periods not exceeding in the whole ~~twelve~~ days (exclusive of Sundays and holidays) in respect of each year of his service.

(2.) The Commissioner shall, wherever practicable make arrangements whereby each officer can be granted leave of absence for recreation annually.

(3.) Where it is not practicable for an officer to take leave of absence for recreation in the year in which it accrues, the Commissioner may direct, by writing under his hand, that the leave of absence for recreation in respect of that year may be granted in the following year.

(4.) If an officer resumes duty before the expiration of a period of leave of absence for recreation, the Commissioner may direct, by writing under his hand, that the unexpired portion of that period of leave may be added

to the next succeeding period of leave of absence for recreation granted to the officer.

(5.) Leave of absence for recreation shall not be accumulated for more than two years.

(6.) Where an officer resigns, is retired or dies during a period of leave of absence for recreation, the Commissioner may authorize the payment of a sum not exceeding the salary that would, but for his resignation, retirement or death, have been payable to the officer for the unexpired period of that leave of absence.

(7.) In the foregoing provisions of this section, "officer" includes an employee who has been employed for a continuous period of twelve months or more but does not include an officer who is a teacher in the Department of Education.

(8.) An officer, or employee, who is a teacher in the Department of Education may be granted leave of absence for recreation for such period or periods as the Commissioner determines.

Deductions from recreation leave on account of other absences.

46.--(1.) Where an officer has, during the period of twelve months immediately preceding the date from which he is granted leave of absence for recreation, been absent from duty for more than fifty-one working days, the period of leave of absence for recreation which may be granted to the officer shall, subject to this section, be reduced by one-twelfth of the period of recreation leave to which the officer is entitled under the last preceding section for each twenty-six working days (other than the first twenty-six days) on which he has been absent from duty during that period.

(2.) Where an officer has, during the period of twelve months immediately preceding the date from which he is granted leave of absence for recreation, been absent with leave granted under section forty-seven,

fifty-four, fifty-six or fifty-seven, the period for which the officer was so absent from duty shall not be taken into account for the purposes of the last preceding sub-section.

Division 3. - Leave of Absence on
Account of Illness.

Leave of
absence on
account of
illness.

47.-(1.) The Commissioner may grant to an officer leave of absence on account of illness in accordance with this section.

(2.) Leave granted under this section shall be granted -

- (a) if the officer is eligible for the grant of a period of leave of absence on full salary - on full salary;
- (b) if the officer is eligible for the grant of a period of leave of absence on half salary but not on full salary - on half salary; or
- (c) in any other case - without salary.

(3.) Unless the officer produces a certificate from a legally qualified medical practitioner or other evidence approved by the Commissioner as to the officer's unfitness for duty, leave granted under this section shall, except as provided in the next succeeding sub-section be without salary.

(4.) It shall not be necessary for a medical certificate or other evidence of unfitness for duty to be produced in respect of an absence or absences not exceeding four days in the aggregate in any twelve months.

(5.) An officer is eligible for the grant of leave of absence on account of illness -

- (a) on full salary for a period equal to the period by which the officer's credit for leave on full salary ascertained in accordance with sub-section (8.) of this section exceeds the period for which he has been granted leave of absence on account of illness on full salary; and

(b) on half salary for a period equal to the period by which the officer's credit for leave on half salary ascertained in accordance with sub-section (8.) of this section exceeds the period for which he has been granted leave of absence on account of illness on half salary.

(6.) An officer who has been granted leave of absence on account of illness on a day which is a holiday in the Public Service shall, if he was on duty on the working day immediately preceding, or is on duty on the working day immediately following, the holiday, be credited with leave on full salary for a period equal to the period of the holiday.

(7.) Where an officer who is absent from duty on leave of absence for recreation is ill for a period of not less than four days, the officer may, on the production of a certificate from a legally qualified medical practitioner certifying that the officer has been unfit for duty for the period specified in the certificate, be granted leave of absence on account of illness for that part of the period specified in the certificate which is part of his leave of absence for recreation and the grant of leave of absence for recreation for that part of that period shall be cancelled.

(8.) An officer shall be credited with -

- (a) a period of one week's leave on full salary and a period of one week's leave on half salary on his appointment as an officer;
- (b) a period of one week's leave on full salary and a period of one week's leave on half salary on completion of six months' service;
- (c) a period of two weeks' leave on full salary and a period of two weeks' leave on half salary on the anniversary of his appointment; and

(d) a period of two weeks' leave on full salary and a period of two weeks' leave on half salary in respect of each subsequent period of twelve months of his service as an officer.

(9.) Where the Commissioner considers that the absence of an officer is due to an illness caused by the misconduct of the officer or that the officer is absent from duty without sufficient cause, leave of absence with salary on account of illness shall not be granted in respect of the period of absence and the Commissioner may determine that the period of absence shall not form part of the officer's service.

(10.) Where the Commissioner has occasion to doubt the cause of the illness or the reason for the absence, he may instruct a legally qualified medical practitioner to visit and examine the officer, or may direct the officer to attend on a legally qualified medical practitioner for examination.

(11.) Where an officer is absent from duty on account of illness for a continuous period of thirteen weeks, the Commissioner shall not grant further leave of absence under this section unless a legally qualified medical practitioner approved by the Commissioner certifies that the officer is unfit for duty.

(12.) If the Commissioner has reason to believe that an officer is in such a state of health as to render him a danger to his fellow officers or employees or to the public or is unfit for duty, he may require the officer to submit himself for medical examination by a legally qualified medical practitioner approved by the Commissioner.

(13.) Upon receipt of the medical report, the Commissioner may direct the officer to absent himself from his duties until a legally qualified medical practitioner certifies that he is fit to resume duty.

(14.) The period for which an officer is absent under the last preceding sub-section shall be deemed to be a period of leave of absence on account of illness granted under this section.

(15.) The maximum period of continuous leave on account of illness that may be granted under this Division is -

- (a) with salary - fifty-two weeks; and
- (b) without salary or with salary and without salary - seventy-eight weeks.

(16.) In this section -

"officer" includes an employee who has been employed for a continuous period of twelve months or more;

"unfit for duty" includes unfit for duty from dental causes.

Credits of sick leave after decision to retire an officer and on re-appointment.

48.-(1.) An officer shall not be credited with a period of leave of absence on account of illness in respect of his service after a decision to retire him.

(2.) Where an officer who was retired from the Public Service on the ground of illness is re-appointed, he shall be credited upon re-appointment with the leave of absence on account of illness at his credit immediately before his retirement.

Division 4. - Furlough and Payment in lieu of Furlough.

Furlough.

49.-(1.) The Minister may grant to an officer, whose period of service is not less than fifteen years, leave of absence for furlough for a period not exceeding three-tenths of one month on full salary or three-fifths of one month on half salary in respect of each completed year of his period of continuous service.

(2.) An officer shall not be granted furlough under the last preceding sub-section for a continuous period exceeding twelve months at any one time.

(3.) Upon the retirement of an officer who is eligible for furlough under sub-section (1.) of this section, the Commissioner may, in lieu of granting that furlough, authorise the payment to the officer of a sum not exceeding the amount of salary, calculated at the rate payable to him on the date of his retirement, for a period equal to the period of furlough on full salary which the officer could have been granted under that sub-section.

(4.) Upon the death of an officer who, at the date of his death, was eligible for furlough under sub-section (1.) of this section, the Commissioner may authorise payment to the dependants of the officer of a sum equivalent to the amount of salary which the Commissioner could have authorised to be paid to the officer under the last preceding sub-section if the officer had retired immediately before the date of his death.

50.-(1.) The Minister may grant to an officer who has continued in the Public Service for not less than four years but less than fifteen years, immediately prior to his retirement from the Public Service on, or subsequent to, his attaining the age of fifty-five years, leave of absence for furlough on full salary, as follows:-

- (a) where the period of service of the officer is not less than four years but is less than eight years - two months;
- (b) where the period of service of the officer is not less than eight years but is less than twelve years - three months;
- (c) where the period of service of the officer is not less than twelve years but is less than fifteen years - four months.

Long service leave or pay in lieu to officers not entitled to furlough.

(2.) Where an officer is eligible for leave under the last preceding sub-section, the Commissioner may, in lieu of granting that leave, authorise payment to the officer, upon his retirement from the Public Service, of a sum not exceeding his salary for a period equal to the period of leave which the officer could have been granted under that sub-section.

(3.) Where an officer who is less than fifty-five years of age -

- (a) retired from the Public Service after not less than four years' service but less than fifteen years' service satisfies the Board that his retirement is due to ill-health that is permanent and is not due to misconduct or to causes within his own control; or
- (b) is retired from the Public Service under section sixty of this Ordinance after not less than eight years' service but less than fifteen years' service,

the Commissioner may authorise payment to the officer of a sum not exceeding his salary for a period equal to the period of leave which the officer could have been granted under sub-section (1.) of this section if he had attained the age of fifty-five years.

(4.) Where, before an officer has completed fifteen years' service in the Public Service and either before or after he has attained the age of fifty-five years -

- (a) the officer dies; or
- (b) the Commissioner, after consideration of all the circumstances, directs that the death of the officer be presumed,

the Commissioner may authorise payment to the dependants of the officer of a sum equivalent to the amount of salary which the Commissioner could have authorised to be paid to the officer under sub-section (2.) of this

section if -

- (c) he had retired from the Public Service on the date of his death or, where the Commissioner has directed that the death of the officer be presumed, on a date determined by the Commissioner; and
- (d) in the case of an officer who had not attained the age of fifty-five years at that date, he had attained that age.

(5.) The official conduct record of an officer shall be taken into consideration in determining whether, and to what extent, leave of absence shall be granted, or payment authorised, in accordance with this section.

Meaning of
"service" in
this Division.

51.-(1.) For the purposes of this Division, the period of service of an officer is the period for which he has been employed continuously in the Public Service as an officer and, where that continuous period of employment in the Public Service as an officer is continuous with a period or periods of service in the Public Service as an employee, or a period or periods of employment as an employee and a period or periods of earlier employment as an officer, the period or periods for which he was so employed shall be deemed to be a period of continuous employment in the Public Service as an officer.

(2.) The period of service of an officer does not include a period of employment in respect of which leave of absence for furlough, or long service, on retirement on or subsequent to attaining the age of fifty-five years has been granted, or a payment made, to the officer under this Division.

(3.) In this section, the continuity of the service of an officer shall be deemed not to have been, or to be, broken by a period or periods of absence (including a period or periods when the officer was not employed in the Public Service) unless -

- (a) the period of absence exceeds or has exceeded twelve months; or
- (b) the number of days included in the period or periods of absence exceed in the aggregate one-seventh of the number of days occurring after the commencement of the first period of employment which may be included in the period of his service under sub-section (1.) of this section, but any such period or periods of absence shall not, for the purposes of this section, be included in the period of service of the officer.

(4.) For the purposes of the last preceding subsection, an officer shall be deemed not to be absent for any period of absence during which-

- (a) he is on leave of absence with salary or part salary; or
- (b) he is on leave of absence without salary where the leave of absence is granted in pursuance of another provision of this Ordinance under which a period of absence has been, or is allowed to be, included as service for the purposes of this Ordinance.

Payment in lieu of unexpired furlough.

52. Where an officer resigns, is retired or dies during a period of furlough, the Commissioner may authorise payment to the officer, or to the dependants of the deceased officer, as the case may be, of a sum not exceeding the salary that would, but for his resignation, retirement or death, have been payable to the officer for the unexpired period of furlough.

Payment to female officers on retirement on marriage.

53. Where a female officer who has continued in the Public Service for not less than five years but less than fifteen years and is not eligible for, and has not been granted, furlough, or pay in lieu of furlough, under section fifty of this Ordinance retires from the Public

Service under section sixty-one of this Ordinance, there shall be payable to the officer, upon her retirement, an amount ascertained as follows:-

- (a) where her period of service is not less than five years but is less than eight years - an amount equal to her salary for one month;
- (b) where her period of service is not less than eight years but is less than twelve years - an amount equal to her salary for two months;
- (c) where her period of service is not less than twelve years but is less than fifteen years - an amount equal to her salary for three months.

Division 5. - Other Leave of Absence.

Special
leave.

54.--(1.) The Commissioner may, upon sufficient cause being shown, grant to an officer special leave of absence with salary not exceeding three days in any twelve months without deduction from leave of absence for recreation.

(2.) In addition to leave of absence granted under the last preceding sub-section, the Commissioner may grant to an officer leave of absence not exceeding three days in the aggregate in any twelve months without salary, or subject to deduction of the period of leave from the next accruing leave of absence for recreation, as the Commissioner directs.

Leave with-
out pay.

55.--(1.) The Commissioner may, on the application of an officer, who is appearing as counsel for a party in proceeding before a Court, grant to the officer leave of absence without salary for the period necessary for him to represent that party in those proceedings.

(2.) The Minister may, on the application of an officer, grant to the officer leave of absence without salary for any purpose (not being a purpose for which leave may be granted under any other provision of this Ordinance) for a period not exceeding twelve months.

(3.) The period during which an officer is absent on leave granted under this section shall not, unless the Minister otherwise determines, be deemed to form part of the period of service of the officer under this Ordinance.

Leave of absence to officers called as witnesses.

56.-(1.) An officer who is subpoenaed or called as a witness shall promptly notify the Head of his Department.

(2.) An officer subpoenaed or called as a witness on behalf of the Administration shall be granted leave of absence with salary for the period necessary for his attendance as a witness, and, if it is necessary for the officer to travel for the purpose of so attending, the officer shall be entitled to the payment of travelling allowances and expenses on the same basis as if he had travelled in the course of his duties.

(3.) An officer who, by reason of attending to give evidence in the circumstance referred to in the last preceding sub-section receives payment, other than payment of travelling allowances and expenses by reason of operation of that sub-section, of witnesses expenses shall pay the amount received to the Administration.

(4.) An officer subpoenaed or called as a witness in any other circumstances may be granted leave but that leave shall be without salary and any fees received as a witness may be retained by the officer.

Leave of absence for service as councillor, magistrate or coroner.

57.-(1.) The Commissioner may grant leave of absence with salary without deduction from leave of absence for recreation to an officer who is a member of the Nauru Local Government Council for the purpose of his attendance to the business of the Council.

(2.) Any fees, allowances or expenses received by an officer for his attendance to the business of the Nauru Local Government Committee may be retained by the officer.

(3.) An officer required to serve as magistrate or coroner shall promptly notify the Head of his Department.

(4.) The officer so required shall be granted leave of absence with salary for the period necessary for his attendance upon the court.

(5.) The officer shall pay the Administration any amounts received by him as fees in respect of his attendance upon the court.

PART V. - TENURE OF OFFICE.

Retirement
of officers.

58.-(1.) An officer who has attained the age of fifty-five years is entitled to retire from the Public Service if he desires to do so, but, subject to the next succeeding sub-section, may continue in the Public Service until he attains the age of sixty years.

(2.) If an officer continues in the Public Service after he has attained the age of fifty-five years, he may, at any time before he attains the age of sixty years, be retired from the Public Service by the Commissioner.

(3.) An officer shall, on attaining the age of sixty years be retired from the Public Service.

Resignations.

59.-(1.) An officer may resign his office by giving one month's notice of intention to resign in writing under his hand addressed to the Minister but the resignation is not effective unless and until it has been accepted by the Minister.

(2.) The Minister may reduce the period of notice under the last preceding sub-section if in any case he considers the circumstances warrant the reduction.

Excess
officers.

60.-(1.) If, at any time, the Minister finds that a greater number of officers is employed than is necessary for efficient working, an officer whom the Minister finds to be in excess may be transferred to such other position of equal classification as the officer is competent to fill and, if no such position is available, the officer may be transferred to a position of lower classification.

(2.) If no position is available for the officer, the Minister may retire him from the Public Service.

(3.) An officer shall not be retired under this section unless he has been given at least one month's notice or is paid salary in lieu of notice.

Married officers. 61. A female officer shall be retired from the Public Service upon her marriage unless the Minister is satisfied that there are special circumstances which make it desirable that she should continue in the Public Service.

Retirement of unfit, inefficient, &c., officers.

62.-(1.) If an officer appears to the Minister to be inefficient or incompetent, or unfit to discharge or incapable of discharging the duties of his position, the Minister may retire him from the Public Service or transfer him to some other position in the Public Service with salary appropriate to that other position.

(2.) An officer shall not be retired from the Public Service under the last preceding sub-section unless he has been given at least one month's notice or is paid a month's salary in lieu of notice.

(3.) If the Commissioner is satisfied that an officer is unable to resume his duties after the maximum period of continuous leave on account of illness referred to in sub-section (15.) of section forty-seven of this Ordinance has been taken by the officer, the officer shall be retired from the Public Service.

(4.) Where the Commissioner decides to retire an officer on the ground of illness, the officer shall not, except with his consent, be retired from the Public Service until he has taken -

(a) so much of the period of leave of absence on account of illness on full salary for which he is eligible at the time of the decision under Division 3 of Part IV of this Ordinance as does not exceed fifty-two weeks; or

(b) where that period of leave of absence on account of illness on full salary would, but for this paragraph, expire on a day after the day on which he attains the age of sixty years - so much of that period of leave on full salary as will expire on the day on which he will attain that age.

(5.) At the expiration of the period of leave on full salary granted to him under the last preceding sub-section, the officer shall be retired from the Public Service.

Dismissal
of officers.

63. An officer may only be dismissed as provided in Part VI. of this Ordinance or under the Official Secrecy Ordinance 1938.

Gazettal of
retirements,
&c.

64. Notice of all retirements, resignations and dismissals of officers shall be published in the Gazette.

PART VI. -DUTIES OF OFFICERS AND DISCIPLINE.

Division 1. - Disciplinary Offences.

Disciplinary
offences.

65. An officer who -
- (a) is guilty of disgraceful or improper conduct, either in his official capacity or otherwise;
 - (b) is negligent or careless in the discharge of his duties;
 - (c) acts in a disorderly manner or in a manner unbecoming an officer;
 - (d) acts in a manner that is prejudicial to the good order and discipline of the Public Service;
 - (e) unlawfully uses intoxicating liquor or drugs;
 - (f) having made or subscribed the oath or affirmation required by this Ordinance does or says anything in violation of that oath or affirmation;
 - (g) does not give a satisfactory explanation for his late attendance or absence under section forty-three of this Ordinance;

- (h) is frequently late after the time for commencing duty;
- (i) leaves duty without authority before the time for ceasing duty;
- (j) absents himself without the permission of the Head of the Department during his hours of duty;
- (k) fails to record or records incorrectly the time of his arrival or departure;
- (l) contravenes, or fails to comply with, a provision of this Division;
- (m) uses for any purpose, other than the discharge of his official duties, information gained by or confided to him through his connexion with the Public Service; or
- (n) seeks the influence or interest of any person in order to obtain promotion, transfer, or other advantage, or supplies to another officer, for use for any such purpose, certificates or testimonials relating to official capacity or performance of official duties,

is guilty of a disciplinary offence and is subject to punishment in accordance with the next succeeding Division.

Performance of duties.

66. An officer -

- (a) shall, during his hours of duty, devote himself exclusively and zealously to the discharge of his duties;
- (b) shall behave at all times with courtesy to the public;
- (c) shall give prompt attention to all matters that come within the scope of his duties;
- (d) shall promptly carry out all his duties; and

(e) shall comply with and give effect to such of the provisions of this Ordinance and any other Ordinance and to such determinations, rulings and instructions as are applicable to him in the performance of his duties.

Obedience to lawful instructions and appeals against instructions.

67.-(1.) An officer shall promptly obey all lawful instructions given to him by an officer under whose control, direction or supervision he performed his duties.

(2.) An officer who considers that he has grounds for complaint arising out of an official instruction or for any other cause may appeal to the Commissioner, through the Head of the Department but he shall, nevertheless as far as possible, carry out any instruction given to him until it is countermanded or varied by competent authority.

(3.) The Commissioner's decision on an appeal made under the last preceding sub-section is final.

Solicitation of gifts.

68. An officer shall not, either directly or indirectly, solicit or accept a gift, fee, reward or present from any person concerned directly or indirectly with any matter in which the officer or the Administration is interested or concerned.

Performance of work outside the Public Service.

69.-(1.) An officer shall not, except with the express permission in writing of the Commissioner -

(a) accept, or continue to hold, or discharge the duties of, or be employed in, a paid office in connexion with any business, whether carried on by a body corporate, partnership or an individual;

(b) engage in business, whether as a principal or agent;

(c) engage or continue in the private practice of, a profession, occupation or trade or enter into employment, whether remunerated or not, in a profession, occupation or trade with a body corporate, partnership or individual; or

(d) accept or engage in any remunerative employment other than in connexion with his duties as an officer.

(2.) The last preceding sub-section does not prevent an officer from becoming a member or shareholder of an incorporated company or of a company or society of persons, but an officer shall not take part in the conduct of the business of the company or society otherwise than in the exercise of his rights as a member or shareholder of the company or society.

Monetary transactions between officers prohibited.

70. An officer shall not -

- (a) borrow money from another officer; or
- (b) be a party to a transaction with another officer either as principal or agent whereby an interest or the return of money or kind is to be charged or paid.

Care of property of the Administration.

71. An officer shall take appropriate care of all property of the Administration in his possession, custody or care and shall take such steps as are necessary to preserve the property of the Administration and to ensure the economical use of the property of the Administration.

Division 2. - Punishment of Disciplinary Offences by Second and Third Division Officers.

Definition.

72. In this Division, "officer" means an officer of the second or Third Division.

Charge for disciplinary offence.

73.-(1.) Where the Head of the Department has reason to believe that an officer in his Department has committed a disciplinary offence, the Head of the Department may charge the officer with the offence.

(2.) The Head of the Department shall, as soon as practicable after the charge has been made against the officer, cause a copy of the charge to be served on the officer together with a notification requiring the officer to reply, within a time specified in the notification, to the charge and to give any explanation that

the officer may wish to give in relation to the charge.

(3.) If the officer does not reply to the charge within the time specified in the notification, the officer shall be deemed to have denied the allegations contained in the charge.

Suspension
from duty.

74.-(1.) If the Head of the Department considers that the disciplinary offence with which the officer is charged is of such a serious nature that the member should not continue to perform his duties until the charge is disposed of, the Head of the Department may suspend the officer from duty.

(2.) The Head of the Department may suspend an officer either before, at the time of, or subsequent to, the making of a charge against the officer.

(3.) The Commissioner may, at any time before the determination of the hearing of the charge, remove the suspension of an officer and shall, in any case, where the charge is dismissed, immediately remove the suspension.

(4.) An officer who has been suspended from duty under this section shall, unless the Commissioner otherwise directs, be paid his salary during the period of his suspension.

Determination
of the charge.

75. If, after considering reports relating to the alleged disciplinary offence and the reply and explanation of the officer charged and any other circumstances which the Commissioner considers relevant, the Commissioner is satisfied that the officer has committed the disciplinary offence, the Commissioner shall find the member guilty of the disciplinary offence, but if not so satisfied, the Commissioner shall dismiss the charge.

Punishment.

76.-(1.) Where the Commissioner finds that an officer has committed a disciplinary offence, the Commissioner may -

- (a) caution or reprimand the officer;
- (b) fine the officer an amount not exceeding Five pounds;
- (c) reduce the officer to a lower office and salary;
- (d) reduce the rate of salary of the officer to a rate of salary within the limits of salary fixed for the office held by the officer;
- (e) transfer the officer to another office or Department; or
- (f) recommend to the Minister that the officer be dismissed from the Public Service.

(2.) The punishment referred to in paragraph (e) of the last preceding sub-section may be imposed in addition to the punishment of a fine, reduction to a lower office or reduction in salary.

Decision and punishment to be notified to the officer.

77. The Commissioner shall cause a copy of his decision and a notification of the punishment imposed on an officer to be served on the officer.

Dismissal.

78. Where -

- (a) the Commissioner has recommended that an officer be dismissed from the Public Service; and
- (b) the officer does not appeal against the recommendation of the Commissioner;

The Minister may dismiss the officer or impose such other punishment as he considers the circumstances justify.

Division 3. - Appeals against Punishment of Second and Third Division Officers.

Right of appeal in certain cases.

79.-(1.) Where -

- (a) the Commissioner has imposed on an officer of the Second or Third Division a punishment, other than -
 - (i) a caution or reprimand; or
 - (ii) a fine not exceeding Five pounds;

- (b) The Commissioner has recommended to the Minister that the officer be dismissed from the Public Service;
- (c) the Commissioner has imposed a punishment on an officer who, having been suspended from duty, was deprived of an amount of salary exceeding Five pounds; or
- (d) the Commissioner has imposed on an officer a fine not exceeding Five pounds and the amount of the fine and the amount of salary of which the officer was deprived by reason of having been suspended together exceed Five pounds,

the officer may appeal against the decision or recommendation of the Commissioner.

(2.) An appeal by an officer -

- (a) shall be in accordance with the form approved by the Commissioner;
- (b) may be made on the ground of innocence of the charge or against the severity of the punishment; and
- (c) shall be lodged with the Commissioner within seven days after the decision of the Commissioner is served upon the officer.

Appeal to be heard by Appeal Board.

80.-(1.) An appeal under the last preceding section shall be heard by an Appeal Board consisting of a Chairman and two other persons.

(2.) The Chairman shall be a magistrate of the Central Court appointed by the Minister.

(3.) One of the members of the Appeal Board shall be a person appointed by the Commissioner and the other member shall be a member elected by and from officers of the Public Service.

(4.) The Chairman of the Appeal Board shall not, whilst acting as Chairman, be subject to direction by any person or authority.

(5.) A member of the Appeal Board shall not be a person in any way concerned in, or in connexion with, the charge against the appellant or a person who may be in any way affected by the decision of the Appeal Board.

Election of
Appeal Board
member.

81.-(1.) The election by officers of a member of the Appeal Board representing officers shall be carried out in such manner as the Minister directs.

(2.) The Minister may, in a direction under the last preceding sub-section, make provision for the election of a member of the Appeal Board and of such number of deputies of the member as he considers necessary.

Appeal to be
forwarded to
the Appeal
Board.

82. The Commissioner shall, within seven days after the receipt of an appeal, refer the appeal to the Chairman of the Appeal Board and notify him of the name of the person appointed by the Commissioner as a member of the Appeal Board.

Time and
place for the
hearing of
the Appeal.

83.-(1.) The Chairman of the Appeal Board shall, as soon as practicable and in any case not later than seven days after he receives the appeal, fix a time, date and place for the hearing of the appeal and shall notify the Commissioner and the appellant of the date, time and place so fixed.

(2.) In fixing the date, the Chairman shall fix a date not earlier than seven days after the date on which the appellant would, in the ordinary course of post, receive the notification.

Officers'
representative
to be notified.

84. The Chairman shall, as soon as practicable after the appeal, notify the member of the Appeal Board representing the officers of the time and place fixed for the hearing of the appeal, and, if for any reason that

member of the Appeal Board is not able to act as member of the Appeal Board, the Chairman shall give the notification to a deputy of the member.

Circumstances in which officers' representative or deputy not to act.

85. ~~The member of the Appeal Board representing~~ officers, or a deputy of that member, who is in any way concerned in the charge against which an appeal is made, or who may be affected in any way by the decision of the Appeal Board, shall not act as a member of the Appeal Board and shall notify the Chairman accordingly.

Two members may act as Appeal Board.

86. An Appeal Board may, with the consent of the Commissioner and the appellant, be constituted by two members and a Board so constituted may exercise all the powers of an Appeal Board under this Part.

Copies of documents to be supplied to the appellant.

87. The Commissioner shall, where practicable, cause to be furnished, at least seven days before the date fixed for the hearing of an appeal, to an officer who has lodged the appeal, a copy of all documents intended to be used by the Commissioner on the appeal.

Commissioner to be respondent.

88. At the hearing of an appeal under this Division, the Commissioner shall be the respondent to the appeal.

Decision of an Appeal Board.

89.-(1.) An Appeal Board may confirm, annul or vary the decision against which the appeal is brought.

(2.) An Appeal Board may vary the decision by imposing any punishment that the Commissioner is, by paragraphs (a), (b), (c), (d) or (e) of section seventy-six of this Ordinance, authorised to impose or by recommending that the appellant be dismissed.

(3.) The decision of an Appeal Board shall, subject to the next succeeding sub-section, be final.

(4.) Where in any case the Appeal Board -

(a) confirms the decision of the Commissioner by which the Commissioner has recommended to the Minister that an officer be dismissed from the Public Service; or

(b) varies the decision of the Commissioner by recommending to the Minister that the officer be dismissed from the Public Service, the Chairman of the Appeal Board shall refer the appeal to the Minister.

Dismissal by the Minister.

90. Where the Appeal Board refers an appeal to the Minister, the Minister may dismiss the officer or impose such other punishment as he considers the circumstances justify.

Decision of Appeal.

91.-(1.) A statement of the decision of an Appeal Board under the hand of the Chairman shall be furnished to the Commissioner and to the appellant within seven days after the decision is made.

(2.) A copy of the statement shall also be furnished to the Minister.

Division 4. - Disciplinary Offences by First Division Officers.

Definition.

92. In this Division, "officer" means an officer of the First Division.

Charge for offence.

93.-(1.) Where the Commissioner has reason to believe that an officer of the First Division has committed a disciplinary offence, the Commissioner may charge the officer with the offence.

(2.) The Commissioner shall, as soon as practicable after the charge has been made against the officer, cause a copy of the charge to be served on the officer, together with a notification requiring the officer to reply, within a time specified in the notification, to the charge and to give any explanation that he may wish to give in relation to the charge.

(3.) If the officer does not reply to the charge in writing within the time specified in the notification, the officer shall be deemed to have denied the allegations contained in the charge.

Suspension
from duty.

94.-(1.) The Commissioner may suspend an officer either before, at the time of, or subsequent to, the making of a charge against the officer.

(2.) The Commissioner may, at any time before the hearing of the charge, remove the suspension of an officer and shall, in any case where the charge is dismissed, immediately remove the suspension.

(3.) An officer who has been suspended from duty under this section shall, unless the Minister otherwise directs, be paid salary for the period of the suspension.

Report to
the Minister.

95. Upon the charging of an officer, and the suspension of an officer, under this Division, the Commissioner shall report, in writing, the charge and suspension to the Minister.

Determination
of the charge
by Board of
Inquiry.

96.-(1.) If an officer charged under this Division does not in writing admit to the charge, the Commissioner shall submit the case to a Board of Inquiry consisting of a chairman and two other members.

(2.) The Chairman shall be a magistrate of the Central Court appointed by the Minister.

(3.) The other members of the Board of Inquiry shall be Heads of Departments appointed by the Commissioner.

(4.) A member of a Board of Inquiry shall not be a person in any way concerned in, or in connexion with, the charge against the officer or a person who may be, in any way affected by the decision of the Board.

(5.) The Chairman of a Board of Inquiry shall not, whilst acting in his capacity as Chairman, be subject to direction by any person or authority.

(6.) A Board of Inquiry may, with the consent of the Commissioner and the officer charged, be constituted by two members and a Board so constituted may exercise all or any of the powers of a Board of Inquiry under this Part.

(7.) A Board of Inquiry shall inquire into the truth of a charge submitted to it and shall report its findings to the Commissioner.

Decision and punishment.

97.-(1.) Where a charge is admitted by the officer charged or a Board of Inquiry reports that in its opinion it finds a charge submitted to it to be proved, the Commissioner may make such recommendations to the Minister as to punishment or otherwise of the officer charged as the Commissioner thinks fit.

(2.) Upon receiving a recommendation of the Commissioner under the last preceding sub-section, the Minister may dismiss the officer from the Public Service or impose such penalty or other punishment as he considers the circumstances justify.

(3.) If a Board of Inquiry finds that a charge against an officer is not proved, the charge shall be dismissed.

Time and place for hearing by Board of Inquiry.

98.-(1.) The Chairman of a Board of Inquiry shall, as soon as practicable after a case has been submitted to it under this Division, fix a time, date and place for the hearing and shall notify the Commissioner and the officer charged accordingly.

(2.) The Commissioner shall, where practicable, cause to be furnished, at least seven days before the date fixed for the hearing to an officer who has been charged under this Division, a copy of all documents intended to be used by the Commissioner in the inquiry.

Division 5. - Proceedings by Appeal Boards and Boards of Inquiry.

Definition.

99. In this Division, "Board" means an Appeal Board under Division 3 of this Part or a Board of Inquiry under Division 4 of this Part, as the case requires.

Oath to be taken by members of Boards.

100. A member of a Board shall, before proceeding to perform the duties or exercise the powers or functions of a member of a Board, take an oath or make an affirmation before the Commissioner or a person authorised by the Commissioner for the purpose, in the form in the Second Schedule to this Ordinance.

Procedure at hearings by Boards.

101.-(1.) At a hearing by a Board, the officer charged or appellant, as the case may be, and the Commissioner, may call evidence, may examine and cross-examine witnesses and may address the Board.

(2.) At a hearing of a Board -

(a) the officer charged or the appellant, as the case may be, may appear personally or may be represented by not more than one counsel or solicitor or by an officer acting on his behalf; and

(b) the Commissioner may be represented by not more than one counsel or solicitor or by an officer appointed for the purpose by the Commissioner.

(3.) A Board may take evidence on oath and the Chairman may administer an oath to a witness.

(4.) A Board shall make a thorough investigation into the subject-matter of the charge without regard to legal forms and solemnities.

(5.) A Board is not bound by legal rules of evidence and may inform itself on any matter in such manner as it thinks fit.

(6.) A hearing by a Board shall not, unless the Board otherwise determines, be open to the public.

Summons of witness.

102.-(1.) The Chairman of a Board may, by writing under his hand, summon any person to attend before the Board at a time and place specified in the summons and then and there to give evidence and to produce any books,

documents and writings in his custody or control which he is required by the summons to produce.

(2.) A summons under the last preceding sub-section shall be served personally or by leaving it with a person apparently over the age of sixteen years at the usual place of abode of the person to whom it is addressed.

(3.) A person who is served with a summons to attend before a Board shall not, without reasonable excuse -

- (a) fail to attend before the Board at the time and place specified in the summons;
- (b) fail to produce any books, documents or writings in his custody or control which he is required to produce; or
- (c) withdraw from the presence of the Board unless the Board grants permission for him to do so.

Penalty : Fifty pounds.

(4.) A person, whether or not he has been served with a summons, who attends to give evidence before a Board shall not refuse -

- (a) to be sworn or to make an affirmation; or
- (b) to answer any question relevant to the matter before the Board put to him by a member of the Board.

Penalty : Fifty pounds.

(5.) Nothing in the last preceding sub-section requires a person to answer a question the answer to which would tend to criminate him.

(6.) It is a defence to a prosecution for an offence against paragraph (b) of sub-section (3.) of this section if the defendant proves that the books, documents or writings were not relevant to the matter before the Board.

Costs.

103.-(1.) A Board may, subject to the next succeeding sub-section, recommend that all or any part of the costs and expenses reasonably incurred by an officer charged, or an appellant, in connexion with a hearing by the Board, whether or not the charge is found proved or the appeal is upheld, as the case may be, shall be paid by the Administration, and the Administration shall make payment accordingly.

(2.) A Board shall not recommend that any of the costs and expenses of an officer in connexion with a hearing by the Board that are related to the representation of the officer by counsel or a solicitor who is not resident in Nauru shall be paid to the officer unless the Minister has, before the hearing by the Board, approved of the officer being so represented.

Division 6. - Miscellaneous.

Previous record of officer.

104. The Commissioner, an Appeal Board, a Board of Inquiry or the Minister shall, in imposing a punishment, take into consideration the previous record and conduct of the officer.

Conviction for criminal charge.

105.-(1.) Where an officer is charged with having committed a criminal offence against the law of Nauru, punishable either on indictment or on summary conviction, the Commissioner may suspend the officer from duty.

(2.) If, upon the hearing of the charge by a court, the officer is found guilty of the offence, the Minister may (whether the officer has been suspended or not) dismiss the officer from the Public Service or inflict any other punishment that could be imposed on the officer for the commission of a disciplinary offence under Division 2 or 4 of this Part.

(3.) The Commissioner may at any time remove the suspension of an officer suspended under this section, whether before or after conviction.

(4.) This section does not prevent an officer from being charged under other provisions of this Ordinance, but an officer shall not be punished under this Ordinance twice in respect of the same offence or matter.

(5.) A member who is suspended or dismissed under this section shall not, unless the Minister otherwise directs, be paid salary during the period of suspension, or after the time from which he ceased to perform his duties, as the case may be.

(6.) Where a person has been dismissed under sub-section (2.) of this section, but -

- (a) the conviction or finding has been subsequently quashed;
- (b) the person has received a pardon;
- (c) the conviction or finding has been otherwise nullified; or
- (d) the person has been released from prison as a result of an inquiry into the conviction,

the Minister may re-appoint the person as an officer.

(7.) Where a person is re-appointed as an officer under the last preceding sub-section -

- (a) the person shall be deemed to have been, during the period which commenced on the date of his dismissal and ended on the date of his re-appointment, on leave of absence without pay; and
- (b) that period shall, for all purposes other than the payment of salary, be counted as a period of service as an officer.

106. An officer or employee who is adjudicated insolvent or whose estate is sequestrated either voluntarily or compulsorily for the benefit of his creditors -

Insolvent
officers.

- (a) shall forthwith give notice to the Commissioner of the fact that he has become so insolvent or that his estate has been so sequestrated; and
- (b) shall, as and when required to do so by the Commissioner furnish such information in relation to his insolvency or his estate as the Commissioner requires.

Strikes.

107.-(1.) An officer shall not foment or take part in a strike which interferes with or prevents the carrying on of a part of the Public Service.

(2.) Where an officer is adjudged by the Commissioner after investigation and hearing, to be guilty of an offence under the last preceding sub-section, the Minister may summarily dismiss the officer from the Public Service without regard to the procedure prescribed in this Ordinance for dealing with offences against this Ordinance.

Record of punishments.

108.-(1.) The Commissioner shall cause a record to be kept of all punishments imposed on officers under this Ordinance.

(2.) A punishment of an officer by a caution, reprimand or a fine not exceeding Ten shillings shall not be kept for a longer period than two years and no such caution, reprimand or fine of over two years' standing shall be taken into account in any matter affecting the officer.

Breaches of Ordinance to be reported.

109. An officer in charge of a Department, or a Branch or section of a Department, shall report to the Commissioner any breach of this Ordinance which comes to his notice.

Deduction of pecuniary penalty from salary.

110.-(1.) On receipt of notice of a pecuniary penalty imposed upon, or an order for the payment of money made against, an officer under this Ordinance, the officer who pays the salary of the officer so punished or

against whom the order is made shall unless he is satisfied that the penalty or the money ordered to be paid has been paid by the officer so punished or against whom the order is made, deduct from that salary the amount of the penalty or the sum ordered to be paid, as the case may be.

(2.) The deduction may be made by instalments equal as nearly as practicable to one-fourth of the salary due from time to time to the officer.

PART VII. - MISCELLANEOUS.

Attachment
of salaries
for judgment
debts.

111.-(1.) Where judgment has been given by a Court against an officer or employee for the payment of a sum of money, the person in whose favour the judgment is given may serve on the Head of the Department in which the officer or employee is employed a copy of the judgment, certified in writing by the Registrar or other proper officer of the Court and a statutory declaration stating that the judgment has not been satisfied by the judgment debtor and setting out the amount due by the judgment debtor under the judgment.

(2.) Upon the service upon him of a copy of a judgment and a statutory declaration under the last preceding sub-section, the Head of the Department shall, as soon as practicable, notify the judgment debtor in writing of the service of the copy of the judgment and statutory declaration and require him to state in writing, within a time specified by the Head of the Department, whether the judgment has been satisfied and, if so, furnish evidence in support of his statement and if the judgment has not been satisfied, to state the amount then due under the judgment.

(3.) If the officer or employee fails to prove to the satisfaction of the Head of the Department, within the time so specified, that the judgment has been satisfied, the Head of the Department may cause such sums as are, in his opinion, necessary to satisfy the judgment to be deducted from time to time from any moneys due to the officer or employee and shall cause those sums to be paid to the judgment creditor.

(4.) The Head of a Department shall not cause a deduction to be made which will reduce the moneys which would, but for this section, be payable to the officer or employee to less than one-third of those moneys.

(5.) A payment made to a judgment creditor under this section shall, as between the Administration and the officer or employee, be deemed to be a payment by the Administration to the officer or employee.

(6.) If a payment under this section exceeds the amount due under the judgment, the excess is repayable by the judgment creditor to the judgment debtor and, in default, may be recovered by the judgment debtor from the judgment creditor in a court of competent jurisdiction.

(7.) This section does not apply to an officer or employee who has given notice under section one hundred and six of this Ordinance that he has become insolvent or that his estate has been sequestrated and has not yet obtained a discharge.

Administration
of oaths, &c.

112. An oath or an affirmation under this Ordinance required to be made and subscribed shall be administered by the Commissioner, the Official Secretary or such other officer appointed by the Commissioner for the purpose of administering oaths or affirmations under this Ordinance.

Accounts and
public moneys.

113. An officer who is responsible for accounts in the Public Service or for the payment or receipt of public moneys shall, with the necessary changes, follow the accounting procedures or provisions for the payment or receipt of public moneys of the Commonwealth, as the case may be, required by the Audit Act 1901 as in force as amended from time to time and by the regulations in force under that Act to be followed by a person who, the Commissioner determines, holds the corresponding office in the Commonwealth Public Service, to the extent to which those procedures or provisions are applicable to Nauru.

Acquaintance
with this
Ordinance.

114. All officers and employees shall acquaint themselves with the provisions of this Ordinance.

T H E S C H E D U L E S .

FIRST SCHEDULE.

Section 18.

OATH ON APPOINTMENT.

I, A.B., do swear that I will render true and faithful service as an officer of the Public Service of Nauru : SO HELP ME GOD!

AFFIRMATION ON APPOINTMENT.

I, A.B., do solemnly and sincerely promise and declare that I will render true and faithful service as an officer of the Public Service of Nauru.

SECOND SCHEDULE.

Section 100.

OATH BY MEMBER OF APPEAL BOARD OR
BOARD OF INQUIRY.

I, A.B., do swear that I will render true and faithful service as a member of the Appeal Board (or Board of Inquiry) constituted under the Public Service Ordinance 1961 for the purpose of the appeal made by (insert name of appellant) (or for the purpose of inquiring into a charge against (insert name of officer charged)) and that I will perform the duties and exercise the powers imposed or conferred upon me as such a member without fear or favour, affection or ill-will : SO HELP ME GOD!

AFFIRMATION BY MEMBER OF APPEAL BOARD
OR BOARD OF INQUIRY.

I, A.B., do solemnly and sincerely affirm and declare that I will render true and faithful service as a member of the Appeal Board (or Board of Inquiry) constituted under the Public Service Ordinance 1961 for the purpose of the appeal made by (insert name of appellant) (or for the purpose of inquiring into a charge against (insert name of officer charged)) and that I will perform the duties and exercise the powers imposed or conferred upon me as such a member without fear or favour, affection or ill-will.