

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 26.

*Parliamentary Service.*

GENERAL ANNOTATION.

ADMINISTRATION.

There was no gazetted indication where the administration of this Chapter was vested at the date of its preparation for inclusion. However, direction and control of the Parliamentary Service itself was, by Section 132 (*the Parliamentary Service*) of the Constitution, vested in the Speaker. It appears therefore, that under Constitution, Section 148 (2) the Prime Minister was politically responsible.

The present administration may be ascertained by reference to the most recent Determination of Titles and Responsibilities of Ministers, made under Section 148 (1) of the Constitution.

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<sup>1</sup>Subsidiary legislation has not been up-dated.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 26.

*Parliamentary Service Act.*

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INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 26.

*Parliamentary Service Act.*

Being an Act to implement Section 132 (*the Parliamentary Service*) of the Constitution by making provision for and in respect of a Parliamentary Service<sup>1</sup>.

PART I.—PRELIMINARY.

1. Interpretation.

In this Act, unless the contrary intention appears—

“the Appeal Board” means the Appeal Board constituted under Section 19;

“classification” means the arrangement of officers and offices in classes, and includes the allotment to officers or offices of salaries or limits of salary according to the value of the work;

“the Clerk” means the Clerk of the National Parliament;

“employee” means a person employed to render temporary or casual assistance in the Service, but does not include a person who is—

- (i) employed in an honorary capacity; or
- (ii) remunerated by fees, allowances or commission only;

“holiday” means a day appointed to be a holiday in the National Public Service;

“office” means an office in the Service created under Section 9;

“officer” means an officer in the Service, but does not include—

- (a) an employee; or
- (b) a person employed in an honorary capacity; or
- (c) a person remunerated by fees, allowances or commission only;

“the regulations” means any regulations made under this Act;

“the Service” means the Parliamentary Service established by Section 2;

“this Act” includes the regulations.

PART II.—THE PARLIAMENTARY SERVICE.

2. Establishment of the Parliamentary Service.

(1) A Parliamentary Service is hereby established.

(2) The Service shall consist of—

- (a) the Clerk; and
- (b) the officers and employees of the Service.

3. Functions of the Service.

The functions of the Service are to provide—

- (a) sufficient clerical staff to enable the Parliament to operate efficiently; and

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<sup>1</sup> The original Act was made by the Constituent Assembly as a Provisional Act of the Parliament.  
See Constitution, Section 266(2).

- (b) research and legal and other advisory services for—
  - (i) the Speaker; and
  - (ii) Committees of the Parliament; and
  - (iii) members of the Parliament other than Ministers; and
- (c) an efficient Parliamentary reporting service; and
- (d) adequate library facilities for members of the Parliament; and
- (e) attendants, interpreters and other staff to ensure the efficient functioning of the Parliament.

**4. The Clerk.**

The Clerk is the Head of the Service, and is responsible to the Speaker for the general working and the efficient conduct of the business of the Service.

**5. Delegation by Clerk.**

The Clerk may, in respect of an officer or employee, or officers or employees included in a class of officers or employees, by writing under his hand delegate to a person all or any of his powers and functions under this Act (except this power of delegation).

**6. Responsibilities of Clerk.**

- (1) The Clerk shall report to the Speaker, whenever the necessity arises—
  - (a) any alterations in the organization, staffing or management of the Service that are, in his opinion, necessary or expedient for the more economical, efficient or convenient working of the Service or any branch of it; and
  - (b) any alterations that are, in his opinion, necessary in the salaries or allowances of any of the officers or employees under his control.
- (2) The Clerk shall bring to the attention of the Speaker any matter, whether in relation to an officer or to the work of a branch or section of the Service, that he thinks it desirable for the Speaker to be acquainted with.

**7. Parliamentary Counsel.**

- (1) Within the Service there shall be an office of Parliamentary Counsel.
- (2) The Parliamentary Counsel shall—
  - (a) provide legal advice to—
    - (i) the Speaker; and
    - (ii) Committees of the Parliament; and
    - (iii) members of the Parliament, other than Ministers in their capacity as Ministers; and
  - (b) draft for private members bills and amendments to Government bills; and
  - (c) undertake research into specific legal questions connected with the work of the Parliament, and assist other officers in the Service in legal aspects of their work.

**8. Principal Research Officer, Research Information Service.**

- (1) Within the Service there shall be an office of Principal Research Officer.
- (2) The Principal Research Officer shall supervise and control the work of a Research and Information Service for the benefit of members and Committees of the Parliament.

**9. Creation of offices.**

The Head of State, acting with, and in accordance with, the advice of the Speaker given after receiving reports from the Public Services Commission and the appropriate Permanent Parliamentary Committee—

- (a) shall create such number of offices in the Service as shall ensure the efficient functioning of the Service; and
- (b) may create and abolish, and change the designation of, offices in the Service.

**10. Appointment, etc., of officers<sup>1</sup>.**

The Speaker, after having—

- (a) received the advice of the Clerk; and
- (b) in relation to prescribed senior appointments, consulted with any APPROPRIATE Permanent Parliamentary Committee,

may—

- (c) appoint a person to an office; or
- (d) promote an officer from one office to another office having a higher salary classification; or
- (e) transfer an officer from one office to another office having an equivalent salary classification.

**11. Terms and conditions of employment.**

(1) Subject to this Act, officers hold office on such terms and conditions as the Head of State, acting with, and in accordance with, the advice of the Speaker given after receiving a report from the Public Services Commission, determines.

(2) If an officer was, immediately before his appointment to the Service, an officer of the Public Service, his service as an officer of the Service shall be counted as service in the Public Service for the purposes of determining his rights (if any) in respect of—

- (a) absence or leave on the ground of illness; and
- (b) furlough or pay in lieu (including pay to dependants or personal representatives on the death of the officer).

(3) Section 104 of the *Public Service Act* applies in relation to offices in the Service as if they had been specifically included in that section.

**12. Leave to serve under other Acts.**

(1) If a member of the Service is appointed to an office provided by or under an Act other than this Act, the Speaker may, on application by the officer, grant him leave without pay for a period not exceeding three years.

(2) The period during which a member of the Service is absent on leave under Subsection (1) shall be regarded for all purposes as part of his period of service in the Service.

**13. Temporary and casual employees.**

(1) The Clerk may, with the approval of the Speaker, appoint such temporary or casual employees as he thinks necessary for the purposes of the Service.

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<sup>1</sup> See, also, the *Parliamentary Service Act* 1975 (made as a Provisional Act of the Parliament by the Constituent Assembly), Section 41(1) and (2).

(2) Employees appointed under Subsection (1) shall be employed on such terms as the Speaker, after consultation with the Public Services Commission, determines.

**14. Declaration of office.**

Before taking up the duties of his office an officer shall make the Declaration of Office before the Clerk or a person appointed by the Clerk.

**PART III.—DISCIPLINE.**

*Division 1.—Definition of Disciplinary Offences.*

**15. Disciplinary offences.**

An officer who—

- (a) except in the course of official duty, divulges, directly or indirectly, any information concerning public business or any matters of which he has official knowledge; or
- (b) wilfully disobeys or disregards a lawful order made or given by a person having authority to make or give it; or
- (c) is negligent or careless in the discharge of his duties; or
- (d) is inefficient or incompetent from causes within his own control; or
- (e) uses intoxicating liquors or drugs to excess; or
- (f) solicits or accepts a fee, reward, gratuity or gift in connexion with the discharge of his official duties (other than his official remuneration); or
- (g) is guilty of disgraceful or improper conduct in his official capacity or otherwise,

is guilty of a disciplinary offence and is liable to be dealt with and punished under this Part.

*Division 2.—Minor Disciplinary Offences.*

**16. Dealing with minor disciplinary offences.**

(1) If the Clerk, or an officer authorized by the Clerk to deal with minor offences, has reason to believe that an officer has committed a disciplinary offence that, in his opinion, would properly be dealt with under this section, he may call on the officer for an explanation as to the alleged offence, and if, on consideration of the explanation, he is of opinion that the offence has been committed, he may caution or reprimand the offending officer or fine him a sum not exceeding K1.00.

(2) A caution, reprimand or fine by an officer other than the Clerk shall be immediately reported to the Clerk, and where the offence has been punished by a fine the officer affected may appeal to the Clerk within 48 hours after the notification to him of the punishment.

(3) On an appeal under Subsection (2) the Clerk may confirm, annul or vary the punishment, and his decision is final<sup>1</sup>.

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<sup>1</sup> See Constitution, Section 155.



*Division 3.—Serious Disciplinary Offences.*

**17. Dealing with serious disciplinary offences.**

(1) Where there is reason to believe that an officer has committed a disciplinary offence other than an offence that may be dealt with under Division 2, this Division applies.

(2) The officer may—

(a) be charged by the Clerk or an officer authorized by the Clerk to lay charges under this Division; and

(b) if it is considered that the charge is of such a serious nature that the charged officer should not continue in the performance of his duty, be suspended—

(i) by the Clerk; or

(ii) in case of emergency, by an officer authorized by the Clerk to lay charges under this Division.

(3) Suspension may be effected before, at the time of or after the laying of the charge, and may be removed at any time by the Clerk pending determination of the charge, and where the charge has not been sustained shall be lifted immediately on a finding to that effect.

(4) On a charge being laid against an officer, he shall—

(a) be furnished with a copy of the charge; and

(b) be directed—

(i) to reply in writing stating whether he admits or denies the truth of the charge; and

(ii) to give any explanation that he desires in regard to the charge,

and if a reply is not given by the officer within seven days after his receipt of the charge the officer may be deemed to have admitted the truth of the charge<sup>1</sup>.

(5) If, after consideration of reports relating to the offence and charge, the reply and explanation (if any) of the officer charged and any further report that he considers necessary, the Clerk is of opinion that the charge has been sustained, he may—

(a) fine the officer any sum not exceeding K40.00; or

(b) reduce the officer's pay; or

(c) reduce the officer to an office having a lower classification, and to a salary within that classification; or

(d) in addition to or instead of imposing a punishment specified in Paragraph (a), (b) or (c), transfer the officer to some other office; or

(e) recommend to the Speaker that the officer be dismissed from the Service.

(6) The Clerk shall notify an officer of a punishment imposed or recommendation made under Subsection (5), and where the punishment is other than the imposition of a fine not exceeding K4.00 the officer may, within the prescribed time, appeal to the Appeal Board constituted under this Part.

<sup>1</sup> Compare Section 27.

**18. Powers of Speaker in relation to serious offences.**

Where—

- (a) the Clerk, under Section 17, recommends to the Speaker that an officer be dismissed from the Service; and
- (b) the officer does not appeal to the Appeal Board within the prescribed time; and
- (c) the Speaker, after consideration of—
  - (i) reports relating to the offence and charge; and
  - (ii) the reply and explanation (if any) of the officer charged; and
  - (iii) the recommendation of the Clerk; and
  - (iv) any further reports that he thinks necessary,

is of opinion that the charge has been sustained,

the Speaker may impose a punishment specified in Section 17(5)(a), (b), (c) or (d), or dismiss the officer from the Service.

**19. Constitution of Appeal Board.**

(1) For the purposes of this Division, there shall be an Appeal Board.

(2) The Appeal Board shall consist of—

- (a) a Judge, who shall be the Chairman; and
- (b) an officer (not being an officer concerned in the laying or the hearing of the charge against the appellant) appointed by the Speaker; and
- (c) an officer elected or appointed as prescribed.

(3) Before taking up the duties of their offices, the members of the Appeal Board referred to in Subsections (2)(b) and (c) shall make the Declaration of Office.

(4) The Declaration of Office shall be made before the Head of State or a person authorized by him for the purpose.

**20. Appeals.**

(1) An appeal under this Division may be made on the ground of innocence of the charge or excessive severity of the punishment.

(2) The Appeal Board may confirm, annul or vary the decision appealed against, and if the Board varies the decision it may—

- (a) impose a punishment specified in Section 17(5)(a), (b), (c) or (d); or
- (b) recommend to the Speaker that the officer be dismissed from the Service.

(3) Except where the Appeal Board recommends that an officer be dismissed from the Service, its decision is final<sup>1</sup>.

(4) In deciding an appeal made on the ground of excessive severity of the punishment, the Appeal Board shall take into consideration the previous record of the officer.

(5) Where, under this section—

- (a) the Appeal Board recommends to the Speaker that an officer be dismissed from the Service; or

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<sup>1</sup> See Constitution, Section 155.

(b) the Clerk recommends to the Speaker that an officer be dismissed from the Service and on appeal the Board confirms the recommendation—  
the Speaker may—

- (c) impose a punishment specified in Section 17(5)(a), (b), (c) or (d); or
  - (d) dismiss the officer from the Service.
- (6) Before imposing a punishment under Subsection (5), the Speaker shall consider—
- (a) the reports relating to the offence; and
  - (b) the reply and explanation (if any) of the officer charged; and
  - (c) the evidence (if any) given before the Appeal Board; and
  - (d) any recommendation of the Clerk or the Board.

*Division 4.—Proceedings, etc., of Appeal Board.*

**21. Powers of Chairman of Appeal Board.**

- (1) The Chairman of an Appeal Board may—
- (a) summon any person whose evidence is likely to be material to the consideration of any question that the Board has to determine under this Act; and
  - (b) administer an oath or affirmation to any person summoned by him or appearing voluntarily before the Board; and
  - (c) require a person to produce documents within his possession or subject to his control.
- (2) A person who knowingly makes a false or misleading statement in any evidence before an Appeal Board is guilty of an offence.  
Penalty: A fine not exceeding K40.00.
- (3) An officer who neglects or fails, without reasonable excuse (proof of which is on him), to attend in obedience to a summons under Subsection (1), or to be sworn or answer questions or produce documents when required to do so under that subsection, is guilty of an offence.  
Penalty: A fine not exceeding K40.00.
- (4) A person other than an officer who, after payment or tender of reasonable expenses, neglects or fails, without reasonable excuse (proof of which is on him), to attend in obedience to a summons under Subsection (1), or to be sworn or answer questions or produce documents when required to do so under that subsection, is guilty of an offence.  
Penalty: A fine not exceeding K40.00.
- (5) This section does not make any person compellable to answer a question that might tend to criminate him.

**22. Proceedings before Appeal Board.**

- (1) On a hearing by the Appeal Board in relation to a charge against an officer, he is entitled to be represented by a lawyer or agent, who may examine witnesses and address the Board on his behalf.
- (2) The charging authority may also be represented at any such hearing by a lawyer or agent.

(3) The Appeal Board shall make a thorough investigation without regard to legal forms or solemnities or the rules of evidence, and may inform itself on any matter in such manner as it thinks proper.

(4) If the Appeal Board is of opinion that the appellant officer had no reasonable grounds for appeal, or that the appeal was frivolous or vexatious, it may recommend to the Speaker that the officer be required to pay such sum, not exceeding the cost of the hearing of the appeal, as the Board thinks proper.

(5) The Speaker may order an appellant to pay a sum recommended under Subsection (4) or such less amount as he thinks proper, and the sum so ordered to be paid is recoverable in the same manner as fines for breaches of this Act.

**23. Proceedings where officer or witness in remote locality.**

(1) Where it appears to the Appeal Board that it is undesirable, by reason of expense, inconvenience or delay, to require an officer charged under this Part, or a witness, to attend before it to give evidence, the Board may, by written order under the hand of the Chairman, appoint a fit and proper person to take the evidence of the officer or witness.

(2) A person appointed under Subsection (1) to take evidence shall take the evidence of the officer or witness on oath or affirmation, and for the purposes of doing so has all the powers, immunities and privileges of the Chairman of the Appeal Board.

(3) Any party to the appeal who is entitled to be represented before the Appeal Board is entitled to be represented before a person taking evidence under this section.

(4) Evidence taken under this section shall be certified under the hand of the person taking it and forwarded to the Appeal Board, and shall be considered by it in connexion with the appeal.

**24. Proceedings on appeal generally.**

(1) Where a charge against an officer is dealt with by the Appeal Board, a copy of all documents intended to be used at the appeal shall, where practicable, be furnished to the officer at least seven days before the appeal is heard.

(2) Where a charge against an officer is dealt with by the Appeal Board, the Board has the right to determine whether the appeal shall be heard in public or in private.

(3) Where the Appeal Board finds that a charge is not proved or upholds an appeal, it may recommend that the reasonable expenses, as specified in the recommendation, or any part of those expenses, incurred by the officer in meeting the charge or prosecuting the appeal be paid, and if approved by the Speaker the amount may be paid to the officer.

*Division 5.—Miscellaneous.*

**25. Salary during suspension.**

Where an officer has been suspended in connexion with a charge of a disciplinary offence, he is entitled to receive his pay during the period of suspension unless he absconds or unless it is otherwise ordered by the Speaker after receiving a report from the Clerk.

**26. Deduction of fines, etc., from pay.**

(1) Where a fine or pecuniary penalty is imposed on an officer under this Act, the amount of the fine or penalty may be deducted from the pay of the officer.

(2) A deduction under Subsection (1) shall be made by instalments each not exceeding 25% of the pay payable from time to time to the officer.

(3) All fines and penalties imposed and recovered under this Act shall be paid into the Consolidated Revenue Fund.

**27. Procedure where address of officer unknown.**

(1) In the event of the address for the time being of an officer being unknown to the Clerk, all notices, orders or communications to or for the officer may be posted to the last-known address of the officer, and compliance with this subsection shall be deemed to be a sufficient service on the officer of any such notice, order or communication.

(2) Where a notice, order or communication posted to an officer in accordance with Subsection (1) relates to a charge made against him, then, if within a reasonable time specified in the notice, order or communication no answer is received by the authority that has asked whether the officer admits the truth of a charge brought against him, the officer shall be deemed to have denied the truth of the charge, and the charge may be dealt with in the absence of the officer<sup>1</sup>.

**28. Officer charged with criminal offence.**

(1) Where an officer is charged with having committed an offence against a law, he may be suspended by the Clerk.

(2) If the officer is convicted of the offence by a court of competent jurisdiction, the Speaker may, whether or not the officer has been suspended—

- (a) dismiss him from the Service; or
- (b) reduce him to an office of lower classification or reduce his salary, or both; or
- (c) impose such other punishment as the case demands.

(3) Unless the Speaker otherwise directs, an officer who is suspended or dismissed under this section shall not receive any pay from the date on which, or for the period during which, he ceased to perform the duties of his office.

(4) The Clerk may at any time remove the suspension of an officer suspended under this section.

(5) This section does not prevent an officer from being dealt with under some other provision of this Act, but an officer shall not be punished under this Act twice in respect of the same offence or matter.

**29. Re-appointment, etc., of certain convicted persons.**

(1) This section applies where—

- (a) a person has been dismissed from the Service or reduced to a lower office or to a lower salary under Section 18; and
- (b) subsequently—
  - (i) the conviction is quashed; or
  - (ii) he receives a pardon; or
  - (iii) the conviction is otherwise nullified; or
  - (iv) he is released from prison as a result of an inquiry into the conviction.

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<sup>1</sup> Compare Section 17(4).

(2) A person to whom this section applies may be re-appointed to the Service or re-instated in the Service by the Speaker—

- (a) in an office not lower in classification than the office that he occupied immediately before his dismissal or reduction in office; or
- (b) in the case of a person who has been reduced in salary alone and subject to Subsection (6), at the rate of salary to which he was entitled immediately before his reduction in salary.

(3) A person re-appointed under this section shall be deemed to have continued in the Service as if he had not been dismissed but had been on leave without salary during the period from the day on which his dismissal became effective to and including the day on which he was re-appointed.

(4) The period referred to in Subsection (3) forms part of the officer's service for all purposes.

(5) A person re-instated in office under this section is entitled to salary as if he had not been reduced to a lower office.

(6) A person re-instated in salary under this section is entitled to salary as if he had not been reduced in salary.

### 30. Strikes.

(1) An officer who aids, abets, foments or takes part in a strike that—

- (a) interferes with or prevents; or
- (b) is intended or calculated to interfere with or prevent,

the carrying on of any part of the public service or utilities of the country, or attempts to do so, shall be deemed to have committed an illegal action against the peace and good order of the country.

(2) An officer adjudged by the Speaker, after investigation and hearing, to be guilty of any action referred to in Subsection (1) may be summarily dismissed by the Speaker from the Service, without regard to the procedure prescribed in this Act for dealing with disciplinary offences.

### 31. Appeal to Speaker.

Where no other provision is made for an appeal from the conviction of, or from a punishment imposed on, an officer under this Part, the officer may appeal to the Speaker who may confirm, annul or vary the conviction or punishment.

## PART IV.—MISCELLANEOUS.

### 32. Acting appointments.

(1) Where an officer is absent from his office or unable to perform the duties of his office, or when there is a vacancy in an office, the Clerk may, if he thinks fit, appoint another officer to act in the place of the officer during his absence or inability, or may appoint another officer to fill the vacancy temporarily.

(2) The regulations shall make provision for and in relation to appeals against appointments under Subsection (1) the terms of which exceed, or are likely to exceed, six months.

(3) Where the Speaker thinks that there is a good reason to cancel an appointment under Subsection (1) of an officer to act in the place of another officer, he may cancel the appointment.

**33. Holidays.**

- (1) All holidays in the Public Service are holidays in the Service.
- (2) The Speaker may require an officer or employee to work in the public interest for the whole or a part of a holiday.
- (3) The regulations may make provision for, and in relation to—
  - (a) the payment of holiday pay, in respect of his attendance and services on a holiday to an officer who is included in a class of officers specified in the regulations; and
  - (b) the grant of leave of absence in place of holiday pay, in respect of his attendance and services on a holiday, to an officer who is not included in a class of officers so specified.

**34. Bankrupt officers.**

An officer who becomes bankrupt or insolvent or whose estate is sequestrated voluntarily or compulsorily for the benefit of his creditors shall—

- (a) immediately give notice to the Clerk of that fact; and
- (b) furnish, as and when required to do so by the Clerk, such information relating to the bankruptcy, insolvency or sequestration as the Clerk requires.

**35. Attachment of salaries.**

An order for the attachment of the pay of an officer or employee may be made by any court of competent jurisdiction in the country.

**36. Service.**

All periods that were counted as service of a person in the pre-Independence Public Service shall be counted as service for the equivalent purpose under this Act.

**37. Additional powers of Speaker.**

Where there is no provision, or no sufficient provision, in this Act in respect of any matter or thing that is necessary or desirable to give effect to this Act, the Speaker may, with the approval of the National Executive Council, specify in what manner and form the want of provision or insufficient provision shall be supplied.

**38. Regulations.**

(1) The Head of State, acting on advice, may make regulations not inconsistent with this Act, prescribing all matters that by this Act are required or permitted to be prescribed, or that are necessary or convenient to be prescribed for carrying out or giving effect to this Act, or for the more efficient control and management of the Service, and in particular for—

- (a) prescribing the terms and conditions of employment of officers; and
- (b) making provision for the establishment of a superannuation scheme or provident fund to provide benefits for officers of the Service on retirement, resignation, retrenchment or death; and

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- (d) prescribing penalties of fines not exceeding K100.00 for offences against the regulations.
  - (2) A regulation may provide for the insurance of an officer or his goods.
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INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 26.

*Parliamentary Service Regulation.*

ARRANGEMENT OF SECTIONS.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 26.

*Parliamentary Service Regulation.*

MADE under the *Parliamentary Service Act.*

PART I.—PRELIMINARY.

1. Interpretation.

In this Regulation, unless the contrary intention appears—

- “non-sessional week” means any period of one week during which the Parliament does not sit on any day;
- “pay” means salary, and in relation to any provision of this Regulation, includes any allowances prescribed under the Act;
- “sessional week” means any period of one week during which the Parliament sits for any period.

PART II.—APPOINTMENTS TO THE SERVICE.

2. Qualifications for admission to the Service.

A person appointed under Section 10 of the Act shall not be appointed as an officer unless he provides evidence to the satisfaction of the Speaker as to—

- (a) his health and physical fitness; and
- (b) his possession of qualifications which will enable him to perform the duties of the office to which he is appointed; and
- (c) his age; and
- (d) his good character.

3. Appointments to be on probation.

(1) Every appointment to an office other than the office of the Clerk is probationary until confirmed by the Speaker.

(2) The period of probation is 12 months unless the Speaker in a particular case determines that the period should be extended.

(3) The services in the Service of a person on probation may be dispensed with by the Speaker on the advice of the Clerk at any time during the period of probation.

(4) At the end of the period of probation the Speaker may, on the advice of the Clerk, confirm or annul the appointment, and if the appointment is not annulled, in the absence of anything to the contrary, it shall be deemed to be confirmed.

4. Appointment of officers of Public Service.

(1) The Speaker may, having received the advice of the Clerk, and with the approval of the Public Services Commission, appoint officers of the Public Service or of a State instrumentality or authority to the Service for a period not exceeding three years.

(2) The appointment of an officer under Subsection (1) may be renewed by the Speaker, having received the advice of the Clerk, and with the approval of the Public Services Commission for a further period not exceeding three years.

(3) At the expiration of the further period referred to in Subsection (2), the Speaker may, after having received the advice of the Clerk, appoint that person to be an officer on a permanent basis.

(4) An officer appointed in accordance with Subsection (3) shall be deemed for all purposes to have been appointed as an officer on and from the date of his appointment under Subsection (1).

**PART III—GENERAL**

**5. Hours of duty.**

(1) The hours of duty of officers and employees shall be fixed by the Speaker on the recommendation of the Clerk.

(2) The hours of duty referred to in Subsection (1) shall not—

- (a) in any sessional week, exceed 43 hours; and
- (b) in any non-sessional week, be less than 32 hours.

**6. Duty outside usual hours.**

Notwithstanding Section 5, officers or employees shall, whenever required by the Clerk, perform duty outside their usual hours of duty in order to meet the exigencies of parliamentary business.

**7. Absence without leave.**

(1) An officer or an employee shall not be absent from duty without authorized leave, unless reasonable cause is shown to the Clerk.

(2) If an officer or employee is prevented by illness or other emergency from attending duty, he shall, as soon as possible, advise the Clerk of the circumstances, and furnish any further particulars the Clerk considers necessary.

(3) Without prejudice to any other action that may be taken for a breach of this Regulation, where an officer's or employee's absence from duty has not been sanctioned, he shall not receive pay for the period of his absence.

**8. Attendance as witness before court.**

(1) An officer or employee summoned or called as a witness before a court shall immediately advise the Clerk.

(2) An officer or employee required as a witness on behalf of the State is not entitled to receive any witness' fee but shall be granted leave with pay for the period during which he was necessarily absent from duty.

(3) Where, by reason of his attendance as a witness on behalf of the State, an officer or employee is obliged to incur expense, he may be reimbursed the expense to such extent as the Clerk approves.

(4) An officer or employee summoned or called as a witness before a court otherwise than as a witness on behalf of the State shall be granted leave but, unless otherwise determined by the Clerk, the leave shall be without pay and any fees received by the officer or employee as a witness may be retained by him.

**9. Attendance as a witness in arbitration proceedings.**

(1) An officer or employee summoned or called as a witness in proceedings under the *Public Services Conciliation and Arbitration Act* shall immediately advise the Clerk.

(2) Subject to Subsection (3), an officer or employee referred to in Subsection (1) shall be granted leave with pay for the period during which he was necessarily absent from duty.

(3) Subsection (2) applies only to officers or employees summoned to appear on behalf of the State or the Service and to officers or employees summoned on behalf of an organization where the Chairman of the Public Services Conciliation and Arbitration Tribunal certifies that this attendance was desirable for the proper presentation of the case by the organization.

**10. Maintenance of order.**

Officers-in-charge of branches or sections of the Service are responsible for the maintenance of good order, and shall afford the utmost assistance to the Clerk.

**11. Care of State property.**

An officer or employee is responsible for the careful use and preservation of all State property in his occupation, possession, custody or care.

**12. Borrowing or lending money.**

An officer or employee shall not, as principal or agent, enter into a monetary transaction with another officer or employee, by which any interest or other return in money or kind is charged or paid.

**13. Accounts and public moneys.**

In the matter of accounts and the collection and payment of public moneys, officers and employees shall conform strictly to the provisions of the *Public Finances (Control and Audit) Act* and any regulations made or instructions issued under that Act.

**14. Authority to contract.**

Unless duly authorized an officer or employee shall not—

- (a) incur any liability or enter into any contract on behalf of the State; or
- (b) alter the terms or conditions of any approved contract,

or purport or attempt to do so.

**15. Engagement in outside employment and acquisition of land.**

(1) Subject to this section, except with the permission of the Speaker (which permission may at any time be withdrawn) an officer or employee shall not—

- (a) accept or continue to hold an office in or under the State, or in or under any public or municipal corporation; or
- (b) accept or continue to hold or discharge the duties of, or be employed in, a paid office in connexion with any banking, insurance, agricultural, mining, mercantile or other commercial business, whether carried on by a corporation or an individual; or
- (c) engage in or undertake any such business whether as principal or agent; or
- (d) engage or continue in the private practice of any profession, occupation or trade or enter into any employment, whether remunerative or not, with any person, company or firm with whom or with which he is so engaged; or

(e) accept or engage in any remunerative employment other than in connexion with the duties of his office or offices in the Service.

(2) Subject to Subsections (3), (4), (5) and (6), Subsection (1) does not prevent an officer or employee from becoming a member or shareholder of any incorporated company or of any company or society of persons registered under a law of the State or elsewhere, but an officer or employee shall not take any part in the conduct of the business of the company or society otherwise than by the exercise of his right to vote as a member or shareholder.

(3) Except with the written consent of the Speaker, an officer or employee shall not personally or by his agent—

(a) hold shares in any company or society of persons operating in the State; or

(b) acquire land in the State not being land on which a building is or is to be erected which is to be occupied by him as a residence, or as a dwelling house for occasional use by him for reasons of health.

(4) For the purposes of Subsection (3), the wife of an officer or employee shall be deemed to be the agent of her husband.

(5) Subsection (3) does not operate so as to prevent an officer or employee who is a citizen from acquiring land in accordance with custom.

(6) Notwithstanding this section, an officer or employee may, with the approval of the Speaker (which approval may at any time be withdrawn) act as a director of a co-operative company within the meaning of the *Companies Act*.

#### 16. Permission to decline promotion or transfer.

(1) An officer may, within 14 days, or such longer period as the Speaker allows, after receiving notification that he has been promoted or transferred under Section 10 of the Act, apply to the Speaker for permission to decline the promotion or transfer.

(2) If the Speaker considers that changed conditions relating to the office to which the promotion or transfer was made or changed circumstances of the officer make the request reasonable, the Speaker may in his discretion permit the officer to decline the promotion or transfer, as the case may be.

(3) Where the Speaker permits an officer to decline a promotion or transfer, the Speaker may, after having received the advice of the Clerk—

(a) if an appointment, promotion or transfer to the office from which the officer was promoted or transferred has not been made—reinstatement him in his former office; or

(b) if an appointment, promotion or transfer to the office from which the officer was promoted or transferred has been made—transfer him to any other office, but so that his pay shall not be reduced by the transfer; or

(c) in any case, transfer the officer to any other office not lower in classification than his former office.

#### 17. Date of effect of promotion or transfer.

A promotion or transfer takes effect as from the date on which the promotion or transfer was made by the Speaker.

**18. Notification of appointment, promotion or transfer.**

The Speaker shall, as soon as practicable after a decision has been made on the matter of an appointment, promotion or transfer under Section 10 of the Act, notify the officer of the decision.

**19. Pay on promotion or transfer.**

(1) Subject to Subsection (2), and unless otherwise approved by the Speaker, the pay to be paid to an officer on transfer or promotion shall not exceed the minimum pay of the office to which he is transferred or promoted.

(2) Where, before an officer is transferred or promoted he is in receipt of pay above the minimum pay fixed for the office to which he is transferred or promoted—

(a) his transfer or promotion shall, unless otherwise approved by the Speaker be effected without reduction in pay; but

(b) unless otherwise directed by the Speaker, he shall not be paid in excess of the maximum pay of the position to which he is transferred or promoted.

(3) The Speaker may direct that an officer transferred or promoted to an office, at or exceeding the minimum pay of the office to which he is transferred or promoted, shall not be eligible for incremental advancement in pay until a date to be fixed by the Speaker, not being later than the date on which he would have been eligible for incremental advancement in pay if he had been transferred or promoted at the minimum salary of the position according to age.

(4) Where an officer is transferred or promoted from one position to another with differing rates of incremental advancement, the Speaker may fix the pay to be paid on transfer, or promotion and the date, for the purpose of the granting of increments, from which that pay shall be deemed to have been paid.

(5) In this section, a reference to the maximum or minimum pay fixed for an officer shall, where the pay otherwise payable to the officer transferred or promoted to that office is liable to reduction on account of the age of the officer, be read as a reference to that maximum or minimum pay as so reduced.

**PART IV.—LEAVE OF ABSENCE.**

**20. Right to leave.**

An officer or employee is entitled to the grant of leave in accordance with this Part.

**21. Intervals at which recreation leave accrues.**

Subject to this Regulation, leave of absence for recreation accrues when the officer or employee has completed a period of 12 months service commencing—

(a) on the date on which he first commenced duty after his appointment; or

(b) on the date on which he last proceeded on recreation leave.

**22. Recreation leave.**

Every officer and employee is entitled to leave of absence for recreation of at least 24 days in each year, exclusive of Sundays and public holidays, as determined by the Speaker.

**23. Leave fares.**

(1) The Speaker may grant to every officer or employee of the Service fares to proceed to his home area and return, for recreation leave once in every period of two years' service.

(2) The Speaker may authorize payment for a leave fare before the completion of a period of two years' service.

(3) Where an officer or employee, who with the approval of the Speaker, proceeds on recreation leave before the completion of two years' service since his appointment or since the previous grant of leave fares, is granted leave fares and resigns whilst on leave, the amount of leave fares is a debt due to the State.

(4) Leave fares shall be granted only in respect of each complete period of two years' service from the date of the appointment of the officer.

**24. Special leave.**

(1) Subject to Subsections (2) and (3), the Clerk may, on sufficient cause being shown, grant to an officer or employee special leave of absence.

(2) Subject to Subsection (3), leave of absence granted to an officer or employee under Subsection (1) is without pay or shall be deducted from any recreation leave due or subsequently accruing to the officer or employee, as the Clerk directs.

(3) Where—

(a) the Clerk has directed that leave of absence under this section be deducted from any recreation leave due or subsequently accruing to the officer or employee; and

(b) the officer or employee ceases to be an officer or employee before he becomes entitled to the grant of recreation leave,

if the leave of absence granted to him under this section, is greater than the period of recreation leave due to him, a sum equivalent to the pay paid to the officer or employee for so much of the period of the leave of absence under this section as cannot be deducted from his recreation leave is a debt owed by the officer or employee to the State and shall be—

(c) deducted from any money due to the officer or employee by the State; or

(d) paid by the officer or employee to the State.

**25. Emergency leave.**

The Clerk may grant to an officer or employee leave of absence on full pay, not exceeding 3 days in any period of 12 months, for urgent personal reasons.

**26. Maternity leave.**

(1) A female officer or employee, whether married or single, may be granted up to 12 weeks leave—

(a) subject to the production of a certificate by a medical practitioner stating the estimated date of confinement—for a period of up to six weeks prior to that date; and

(b) for a period of not less than six weeks following confinement.

(2) Resumption of duty after a period of less than six weeks under Subsection (1) (b) is subject to approval by the Clerk.

(3) The period of leave granted under Subsections (1) and (2)—

(a) shall be deemed to be sick leave for the period which has accrued to the officer or employee under Section 27; and



(b) where the accrued sick leave credits do not amount to 12 weeks—may, at the request of the officer or employee, be deducted from any leave to which she has an entitlement at the time.

(4) In addition to leave granted under this section, an officer or employee may take further leave to which she has an entitlement at the time, either before or after the leave granted under Subsection (1), but sick leave taken in accordance with this subsection shall not exceed 12 weeks.

(5) The period of leave granted under this section and any other accrued leave, shall not in any case exceed the period of leave to which the officer or employee has an entitlement.

(6) An officer or employee shall not be entitled to salary in respect of absence from duty for a confinement except absence on paid leave granted under this section.

(7) Any period of maternity leave taken under this section shall be taken into account in calculating the period of service for all purposes.

(8) Any period of recreation leave taken additional to maternity leave under this section shall not be taken into account in calculating the period of service for accrual of recreation leave.

#### 27. Sick leave.

(1) The Clerk may, in case of illness, grant to an officer or employee leave of absence, to be designated sick leave, not exceeding 12 months, in accordance with this section and Section 28.

(2) Where in the case of illness an officer or employee who has received sick leave for 12 months is not so far recovered as to be able to resume his duties, the Speaker may grant the officer or employee further sick leave for a period not exceeding six months.

(3) No salary or allowance shall be paid to an officer or employee during any further sick leave granted under Subsection (2).

(4) If at the expiration of any further leave granted under this section the officer or employee is unable to resume his duties, the Speaker after having received the advice of the Clerk may retire him from the Service.

(5) On a report by a medical practitioner that an officer or employee is in such a state of health as to constitute him a danger to his fellow members of the Service or the public, the Speaker may direct the officer or employee to absent himself from his duties for a specified period, and the officer's or employee's absence shall be counted as sick leave.

(6) Sick leave shall not be reckoned as, or included in, recreation leave or furlough.

#### 28. Amount of sick leave, etc.

(1) In this section "working week" means the number of hours of duty for each week fixed under Section 5.

(2) Sick leave may be granted in accordance with this section.

(3) Subject to Subsections (5) and (6), the basis for determining the leave which may be granted shall be ascertained by crediting the officer or employee with the following cumulative periods of leave :—

	Leave on Full Pay.	Leave on Half Pay.
	<i>Working Weeks.</i>	<i>Working Weeks.</i>
On date of appointment	2	2
On completion of 12 months' service	2	2
On completion of each additional 12 months' service	2	2

(4) In the event of the retirement of an officer on the ground of invalidity, the retirement shall not, except with the consent of the officer, be effected earlier than the date on which the officer's credit of leave on full pay is exhausted, but—

- (a) the continuous period for which an officer may be granted sick leave on full pay immediately before retirement shall not exceed 12 months; and
- (b) no further credit of sick leave accrues to an officer after the date of the decision to retire him; and
- (c) an officer is not entitled to sick leave extending beyond the day immediately preceding his sixty-fifth birthday.

(5) An officer who was an employee immediately before his appointment as an officer shall, where he was an employee for a period of less than 12 months, be credited with the following cumulative periods of leave :—

	Leave on Full Pay.	Leave on Half Pay.
	<i>Working Weeks.</i>	<i>Working Weeks.</i>
On date of appointment as an officer	2 (less sick leave on full pay granted during the period of employment immediately before appointment).	2 (less sick leave on half pay granted during the period of employment immediately before appointment).
On completion of 12 months' continuous temporary and permanent service	2	2
On completion of each additional 12 months' service	2	2

(6) An officer who was an employee immediately before his appointment as an officer shall, where he was an employee for a period of 12 months or more, be credited with the following cumulative periods of leave :—

	Leave on Full Pay.	Leave on Half Pay.
	<i>Working Weeks.</i>	<i>Working Weeks.</i>
On date of appointment as an officer	Total credits of leave on full pay accrued during the period of employment immediately before appointment (less sick leave on full pay granted during that period).	Total credits of leave on half pay accrued during the period of employment immediately before appointment (less sick leave on half pay granted during that period).
On date on which further credits would have next accrued had he remained an employee	2	2
On completion of each additional 12 months' service	2	2

(7) Subject to Subsection (8), if an officer or employee falls sick while on recreation leave or furlough and produces at the time a satisfactory medical certificate, the Speaker may grant him, at a time convenient to the Service, additional leave equivalent to the period of sickness falling within the scheduled period of leave, and the absence shall, subject to sick leave credits, be recorded as sick leave.

(8) An officer or employee shall not be granted sick leave under Subsection (7) unless the medical certificate indicates—

- (a) that during the currency of that certificate the officer or employee would be unfit for duty; and
- (b) that the unfitness for duty would continue—
  - (i) in the case of sickness on recreation leave—for a period of not less than five days; or
  - (ii) in the case of sickness on furlough—for a period of not less than two weeks.

(9) Where—

- (a) an officer or employee is granted a period of sick leave such that his credits of sick leave on full pay will not extend to the full period; and
- (b) the officer or employee has credits of sick leave on half pay available,

he may elect, subject to such conditions as are approved by the Speaker, to convert some or all of his credits of sick leave on half pay to sick leave on full pay to such extent as is necessary to cover all or part of the period of leave.

#### 29. Health of officer, etc., making him a danger to others.

(1) If the Speaker has reason to believe that an officer or employee is in such a state of health as to constitute him a danger to his fellow members of the Service or to the public, the Speaker may require the officer or employee—

- (a) to obtain and furnish a report as to his condition from a medical practitioner; or
- (b) to submit himself for examination by a medical practitioner named by the Speaker.

(2) On receipt of a medical report under Subsection (1), the Speaker may direct the officer or employee to absent himself from his duties for a specified period, or, if already on leave, direct him to continue on leave for a specified period, and the officer's or employee's absence or continued leave, as the case may be, shall be counted as sick leave.

#### 30. Leave: Infectious disease contacts.

(1) On a report by a medical practitioner that, by reason of contact with a person suffering from an infectious disease and through the operation of restrictions imposed by or under any law of the State in respect of the disease, an officer or employee is unable to attend for duty, the Speaker may grant the officer or employee leave of absence.

(2) Leave of absence granted under this section may be counted as sick leave or, at the option of the officer or employee, the whole or any portion of the leave may be deducted from recreation leave.

(3) Leave of absence shall not be granted under this section for any period beyond the earliest date at which, having regard to the restrictions imposed by law, it would be practicable for the officer to resume duty.

**31. Illness due to misconduct.**

(1) An officer or employee shall not be granted sick leave with pay on account of physical disability or ill-health caused by his misconduct, or in any case of absence from duty without sufficient cause.

(2) Where the Speaker desires to satisfy himself as to the cause of any disability or illness, he may—

(a) require the officer or employee to present himself for examination by a medical practitioner at a stated time; or

(b) make such arrangements as are necessary for his examination by a medical practitioner.

(3) If the medical report is not favourable to the officer or employee, or if the officer or employee is not available for examination at the appointed time, the cost of the examination, or of the visit of the medical practitioner, as the case may be, shall be debited to the officer or employee.

**32. Accidents on duty.**

(1) Notwithstanding anything in the Act or this Regulation, where an officer or employee sustains physical injury in the execution of his duty and the Speaker is satisfied that the injury is not attributable to wilful misconduct of the officer or employee—

(a) the Speaker may grant leave of absence on full pay to the officer or employee for a period not exceeding three months; and

(b) if, at the end of three months, it is shown to the satisfaction of the Speaker that the injured officer or employee is unable to resume duty, the Speaker may grant further leave of absence under such terms and conditions as he considers justified in the circumstances.

(2) The State may pay such transport, medical and hospital expenses necessarily incurred in consequence of the injury as the Speaker considers reasonable.

(3) Any leave granted under this section shall not be counted as sick leave.

(4) This section does not derogate any rights which an officer possesses under any law relating to compensation to employees of the State for injuries suffered in the course of their employment, but an officer or employee is not entitled to receive benefits under this section and that law at the same time.

**33. Recovery of moneys paid under Section 32.**

(1) For the purposes of this section "compensation" includes any payment under Section 32.

(2) Where an injury in respect of which compensation is payable under this Regulation is caused under circumstances which appear to create a legal liability in some person other than the State to pay damages, compensation, medical or other expenses in respect of the injury—

(a) the officer may take proceedings against that person to recover damages and may also make a claim under Section 32; and

(b) the State may request the officer to take proceedings and, where the officer takes such proceedings at the request of the State, the proceedings shall be conducted on the officer's behalf at the expense of the State; and

(c) where the officer receives compensation under this Act or any other Act, and damages from that other person, he shall repay to the State such amount of

the compensation as does not exceed the amount of damages recovered from that person; and

- (d) on notice to that person, the State shall have a fixed charge on moneys payable by that person to the officer to the extent of any compensation which the State has paid to the officer; and
- (e) where the officer has received compensation under this Act, but no damages or less than the full amount of damages to which he is entitled, the person liable to pay the damages shall indemnify the State against so much of the compensation paid to the officer as does not exceed the damages for which that person is liable; and
- (f) payment of money by that person to the State under Paragraph (e) shall, to the extent of the amount paid, be in satisfaction of the liability of that person to the officer.

(3) All questions as to the right to and amount of any indemnity for which a person other than the State is liable under this section shall, in default of agreement, be settled by action or, by consent of the parties, by arbitration.

**34. Leave without pay.**

(1) The Speaker may, on the recommendation of the Clerk, grant leave of absence without pay—

- (a) where the leave of absence is for the purpose of enabling the officer to pursue a course of study, or to undertake research work related to the duties of his office—for a period not exceeding three years or such further period as the Speaker approves; or
- (b) where the leave of absence is for any other purpose—for a period not exceeding 12 months.

(2) The period during which an officer is absent on leave granted under this section shall not be deemed to affect the continuity of the officer's service but, unless otherwise determined by the Speaker that period shall not, for any purpose, be included as part of the officer's period of service.

**35. Leave for purposes of study.**

(1) The Speaker may, on the application of an officer, grant to that officer leave of absence for purposes of study on a course approved by the Speaker.

(2) Leave granted under Subsection (1) is subject to such terms and conditions as the Speaker thinks fit.

(3) Subject to Subsection (4), the period of leave granted under Subsection (1) shall not exceed 12 months.

(4) The Speaker may, on the request of an officer enrolled in a degree course at a recognized university, grant leave to complete the course of study, subject to the officer submitting to the Speaker when required by him, satisfactory reports of his academic progress from the university.

(5) The period during which an officer is absent on leave granted under Subsections (1) and (4) shall be included as part of the officer's period of service for the purposes of Sections 38 and 39.

**36. Leave to attend arbitration proceedings.**

(1) The Speaker may grant leave of absence with pay to not more than two officers or employees who are representatives of an organization within the meaning of the *Public Services Conciliation and Arbitration Act* for the purposes of attending proceedings under that Act.

(2) The Speaker may grant leave of absence without pay, for such periods as he thinks fit to officers or employees who are representatives of an organization referred to in Subsection (1) for the purposes of the preparation of evidence for submission on behalf of the organization in any proceeding referred to in that subsection.

(3) The periods during which an officer is absent on leave granted under Subsection (2) shall be included as part of the officer's period of service for the purposes of this Regulation.

**37. Leave for defence purposes.**

(1) The Speaker may grant leave of absence to an officer or employee—

- (a) to enable him to engage in such service as is prescribed in the Defence Force, a United Nations Force or any other force approved by the Speaker; or
- (b) to enable him to engage in work or employment that is in the interests of the defence or public safety of the State.

(2) Leave granted under this section is subject to such terms and conditions as the Speaker thinks fit.

(3) The period for which an officer is absent on leave granted under this section is part of the period of his service for the purposes of this Regulation.

**38. Leave for service with other governments, etc.**

(1) On request by—

- (a) the United Nations; or
- (b) the South Pacific Commission; or
- (c) any other organization, government or authority approved by the Speaker,

that the services of an officer be made available to that organization, government, body or authority, as the case may be, the Speaker may, on application by the officer, grant to him leave of absence without pay for that purpose for a period not exceeding three years.

(2) The period during which an officer is absent on leave granted under this section shall not, unless otherwise ordered by the Speaker, for any purpose, be included as part of the officer's period of service, but does not affect the continuity of his service.

(3) If, in the opinion of the Speaker, it is necessary to fill the office of an officer who is granted leave under this section, he may declare the office to be vacant and then the officer is an unattached officer.

(4) Where an officer is an unattached officer by virtue of Subsection (3), he is entitled, on the termination of a period of leave of absence under this section, unless he has been dismissed for misconduct or has attained the age of 65 years, to be appointed to an office not lower in classification than his former office, after taking into account any variation in the classification of that office during the period of the officer's leave of absence under this section.

(5) Where there is no vacant office to which an officer may suitably be appointed in accordance with Subsection (4), he continues as an unattached officer at a classification determined in accordance with that subsection until a suitable office becomes available.

**39. Furlough.**

(1) When an officer has served in the Service for a period of at least 15 years, the Speaker may, from time to time, grant to him leave of absence as furlough, calculated at the rate of nine days on full pay, or in the discretion of the Speaker 18 days on half pay in respect of each completed year of continuous service in respect of which he has not been granted furlough.

(2) Where an officer who is eligible for furlough in accordance with this section ceases to be an officer otherwise than by death, the Speaker may authorize payment to the officer of a sum equivalent to his pay for a period of furlough not exceeding that which he could have been granted on full pay under this section.

(3) On the death of an officer who was eligible at the time of his death for furlough in accordance with this section, or if the Speaker after consideration of all the circumstances directs that the death of an officer so eligible be presumed, the Speaker may authorize payment to the dependants of the officer of a sum equivalent to the pay of the officer for a period not exceeding the period of furlough which he could have been granted on full pay under this section had he ceased to be an officer immediately before the date of his death, or, where the Speaker has directed that the death of the officer be presumed, immediately before a date determined by the Speaker.

(4) Temporary service in the Service, if continuous with permanent service in the Service, shall be taken into account in calculating the period of service for the purposes of this section.

**40. Leave to officers not eligible for furlough.**

(1) This section relates to retirement at the age of 55 years or upwards.

(2) Where an officer has served in the Service for not less than four years and less than 15 years, the Speaker may, in his discretion, if he thinks fit to do so, grant to the officer leave of absence with full pay before his retirement, calculated at the rate of nine days on full pay, or 18 days on half pay in respect of each completed year of continuous service.

(3) Where an officer who is eligible for leave in accordance with this section retires or is retired or is retrenched from the Service, the Speaker may authorize payment to the officer on retirement of a sum equivalent to his pay for a period of leave not exceeding that which he could have been granted under Subsection (2).

(4) Where an officer is less than the age of 55 years and has completed not less than four years service but less than 15 years' service, retires or is retired from the Service, and satisfies the Speaker that the retirement is caused by physical injury sustained in the execution of duty or ill health which is permanent but not due to misconduct or to causes within the control of the officer, the Speaker may, notwithstanding anything in this section, authorize payment to the officer of a sum equivalent to his pay for a period of leave not exceeding that for which, if he was, at the date of retirement, of the age specified in Subsection (1), he would have been eligible under Subsection (2).

(5) Where an officer has completed not less than four years service but before he has completed 15 years' service and either before or after he has attained the age of 55 years—

(a) the officer dies; or

- (b) the Speaker, after consideration of all the circumstances, directs that the death of the officer be presumed,

the Speaker may authorize payment to the dependants of the officer of a sum equivalent to the pay of the officer for the period of leave which he would have received had he been eligible under Subsection (2), and been granted, leave of absence immediately before the date of his death, or, where the Speaker has directed that the death of the officer be presumed, immediately before a date determined by the Speaker.

(6) The official conduct of an officer shall be taken into consideration in determining whether the whole or any portion of the leave of absence or pay provided in this section may be granted.

(7) Temporary service in the Service, if continuous with permanent service in the Service, shall be taken into account in calculating the period of service for the purpose of this section.

#### 41. Recognition of certain prior service.

- (1) <sup>1</sup>This section applies in respect of any service which an officer has had—

- (a) as an Administration Servant under the pre-Independence *Administration Servants Act 1958*; or
- (b) as an employee of the State to whom Administration Instruction H.I./1951, issued by the Public Service Commissioner on 19 October 1951, applied; or
- (c) in any other capacity approved by the Speaker either generally or in a particular case, as State service for the purposes of this section,

or continuous service in more than one of those categories, being service which is continuous with service to which Section 39 applies.

#### 42. Continuity of service.

(1) For the purposes of Sections 38 and 39, except in the event of his dismissal on account of unsatisfactory service, the continuity of service of an officer shall not be deemed to be, or to have been, broken by any periods of absence, if—

- (a) any period of absence does not exceed, or has not exceeded, 12 months in a continuous period; and
- (b) the periods of absence do not exceed in the aggregate one-seventh of the total number of working days and holidays occurring after the first period of his employment which may be included in the period of service under either of those sections.

(2) For the purposes of this section and Sections 38 and 39, a person shall not be deemed to break, or to have broken, the continuity of his service or to be or to have been absent, by reason of his being—

- (a) on leave of absence with pay or part pay; or
- (b) on leave of absence without pay, where the leave of absence is granted—
  - (i) on account of illness; or
  - (ii) for a purpose approved by the Speaker.

<sup>1</sup>There was no Subsection (2) in the printed copy of this Regulation. A similar section in the *Public Service Act* (Section 108 (3)) stated—

"Any service of an officer to which this section applies shall be taken into account in calculating his entitlements under Section 106 or 107."

Sections 106 and 107 of the *Public Service Act* are similar to Sections 39 and 40 of this Regulation.



**43. Resignation or retirement on leave.**

(1) Where an officer or employee gives notice of resignation effective from the end of a period of leave of absence to which the officer or employee is entitled or which he has been granted, the Speaker may, in his discretion, direct that the resignation become effective from an earlier date, and shall in that case give approval for the payment of pay instead of the leave of absence for the period of leave or the residue of the period, as the case requires.

(2) Where an officer gives notice of his intention to retire at the end of a period of leave of absence, the Speaker may, in his discretion, at any time during that period declare the position occupied by that officer to be vacant, and then that officer is an unattached officer.

**44. Pro rata leave, etc.**

(1) Where an officer or employee ceases to be an officer or employee otherwise than by death, the Speaker may give approval for the payment of pay instead of any period of recreation leave to which the officer or employee was entitled immediately before his retirement or resignation.

(2) Where an officer or employee ceases to be an officer or employee during a period of leave of absence for recreation, the Speaker may revoke the grant of that leave as from the date on which the officer or employee ceases to be an officer or employee and give approval for the payment of pay instead of the leave of absence for recreation for the residue of the period for which it was granted.

(3) Where—

(a) an officer or employee dies; or

(b) the Speaker after consideration of all circumstances directs that the death of an officer or employee be presumed,

the Speaker may authorize payments to the dependants of the officer or employee of pay instead of any period of recreation leave to which the officer or employee was entitled immediately before his death.

(4) Except as provided in Subsection (5) for the purposes of this section an officer or employee shall be credited, in respect of any period of service in relation to which entitlement to recreation leave had not as yet accrued, with pro rata recreation leave calculated to the nearest completed month of that period of service.

(5) Subsection (4) does not apply to an officer or employee who ceases to be an officer or employee by dismissal for a disciplinary offence, or under Section 28 of the Act.

**45. Total period of leave.**

Except as is otherwise specifically provided by this Regulation or immediately before the retirement of an officer, the total period of leave of absence granted to an officer at any one time shall not exceed 12 months, or such longer period as the Speaker in any particular case approves.

PART V.—MARRIED OFFICERS.

**46. Appointment to the Service.**

A married woman is eligible for appointment as an officer.

**47. Marriage of officers.**

(1) In this section, "service in the Service" includes all periods that would be taken into account in calculating eligibility for furlough.

(2) Subject to Subsection (3), an officer who marries may continue as an officer after marriage.

(3) Where the Speaker certifies that there are special circumstances that make the continued employment of an officer referred to in Subsection (2) undesirable, that officer shall be retired from the Service.

(4) Where an officer—

(a) is retired under this section; and

(b) has had not less than four years' service in the Service; and

(c) is not eligible for and has not been granted furlough or pay in lieu of furlough, the officer is entitled on that retirement, to payment of an amount in lieu of furlough calculated as follows:—

(d) where the period of service of the officer is not less than four years but is less than eight years—an amount equal to the officer's pay for one month; or

(e) where the period of service of the officer is not less than 8 years but is less than 12 years—an amount equal to the officer's pay for two months; or

(f) where the period of service of the officer is not less than 12 years but is less than 15 years—an amount equal to the officer's pay for three months.

**48. Fares and removal expenses for married female officers.**

A married female officer who is the wife of an officer or employee is not entitled to fares or removal expenses under this Regulation both in her capacity as an officer and in her capacity as the wife—

(a) of an officer or employee; and

(b) of an officer or employee of a State Service or an authority or instrumentality of the State.

PART VI.—RETIREMENT.

**49. Age of retirement.**

(1) Subject to this section, an officer other than the Clerk, who has attained the age of 55 years is entitled to retire from the Service if the officer desires to do so, but such an officer may, subject to this Regulation, continue in the Service until he attains the age of 65 years.

(2) An officer who continues in the Service after he has attained the age at which he is entitled to retire—

(a) may be retired from the Service at any time before attaining the age of 65 years; and

(b) shall retire from the Service on attaining the age of 65 years.

(3) A retirement under Subsection (2) (a) shall be effected by the Clerk.

**50. Retirement on account of infirmity or incapacity.**

(1) If an officer, other than the Clerk, appears to the Speaker or the Clerk, after full investigation of the circumstances—

- (a) to be, by reason of mental or bodily infirmity or for any other reason, unfit to discharge or incapable of discharging the duties of his office efficiently; or
- (b) to have ceased to have the qualifications for his office, or to be or to have become legally disqualified from carrying out those duties or legally incompetent to carry them out,

the Speaker, after receiving a report from the Clerk may retire the officer from the Service or transfer him to some other position of equal or lower status and pay.

(2) The retirement of an officer under this section shall not be deemed to be on account of mental or bodily infirmity unless it is so stated in the instrument effecting the retirement.

(3) An officer retired or transferred under this section may, within 30 days of receiving notice of such retirement or transfer appeal to a tribunal constituted in accordance with Subsection (4) against—

- (a) his retirement or transfer; or
- (b) in the case of retirement—the failure by the Speaker to state that the retirement was on account of mental or bodily infirmity.

(4) The tribunal referred to in Subsection (3) shall consist of—

- (a) a Judge or Magistrate Grade IV, appointed by the Speaker, who shall be the chairman; and
- (b) an officer, other than the Clerk, appointed by the Speaker; and
- (c) a doctor nominated by a registered industrial organization of which officers are entitled to become members.

(5) The decision of the tribunal on appeal is final, and the Speaker shall comply with that decision.

(6) Until the time for appeal under Subsection (3) has expired, and pending the hearing of an appeal, the officer shall be deemed to be on leave without pay, unless he advises the Clerk that he does not intend to appeal in which case his retirement or transfer takes effect on the date on which the Clerk receives that advice.

(7) Where the Speaker refuses to retire an officer under this section, the officer may appeal within 30 days of receiving notice of such decision to a tribunal constituted in accordance with Subsection (4), and the decision of the tribunal on appeal is final.

**51. Appeal against acting appointment.**

(1) Where the Clerk has made an acting appointment for a period of more than six months under Section 32 of the Act, a person aggrieved by the decision of the Clerk may appeal to the Speaker within 30 days of the date of the appointment.

(2) On an appeal under Subsection (1), the Speaker may—

- (a) confirm the appointment made by the Clerk; or
- (b) direct the Clerk to appoint a person named by the Speaker to act in the position in place of the person appointed by the Clerk.

PART VII.—MISCELLANEOUS.

**52. The General Orders.**

The Speaker may give to officers and employees directions (to be known as "General Orders"), not inconsistent with this Regulation as to any matter prescribed by this Regulation, or to any matter that is necessary or desirable for the efficient control of the Service.

**53. Officers to be acquainted with Act, etc.**

All officers shall acquaint themselves with the provisions of the Act, this Regulation and the General Orders.

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 26.

*Parliamentary Services.*

APPENDIXES.

APPENDIX 1.

SOURCE OF THE PARLIAMENTARY SERVICE ACT.

Part A.—Previous Legislation.

*Parliamentary Service Act 1975 (No. 101 of 1975).*

Part B.—Cross References.

Section, etc., in Revised Edition.	Previous Reference <sup>1</sup> .	Section, etc., in Revised Edition.	Previous Reference <sup>1</sup> .
1	1	20	21
2	2	21	22
3	3	22	23
4	4	23	24
5	5	24	25
6	6	25	26
7	7	26	27
8	8	27	28
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14	15	33	34
15	16	34	35
16	17	35	36
17	18	36	43
18	19	37	38
19	20	38	13, 37

<sup>1</sup>Unless otherwise indicated, references are to the Act set out in Part A.

## APPENDIX 2.

## SOURCE OF THE PARLIAMENTARY SERVICE REGULATION.

## Part A.—Previous Legislation.

*Parliamentary Service Regulation 1977 (Statutory Instrument No. 12 of 1977).*

## Part B.—Cross References.

Section, etc., in Revised Edition.	Previous Reference <sup>1</sup> .	Section, etc., in Revised Edition.	Previous Reference <sup>1</sup> .
1	1	28	28
2	2	29	29
3	3	30	30
4	4	31	31
5	5	32	32
6	6	33	33
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22	22	49	49
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<sup>1</sup>Unless otherwise indicated, references are to the Act set out in Part A.