

[Legal Notice No. 123]

**THE PUBLIC SERVICE COMMISSION
REGULATIONS 1998**

ARRANGEMENT OF SECTIONS

PART I - GENERAL PROVISIONS

1. Citation
2. Interpretation
3. Secretarial and Administrative Services
4. Quorum of Meetings
5. Frequency of Meetings
6. Record of Meetings and Decisions
7. Non-disclosure of proceedings and documents
8. Improper influence
9. Duty to provide information and give evidence
10. Staff Reports to be made available
11. Procedure for submissions
12. Delegation of powers
13. Exercise of powers
14. Appeals
15. Time limit on appeals
16. Form of appeal

**PART II - APPOINTMENT TO THE PUBLIC
SERVICE**

17. Qualification for entry
18. Authority to appoint
19. Appointments to be advertised
20. Exceptions to minimum qualifications
21. Appointment of Non-nationals
22. Selection on merit
23. Appointment of Selection Panels
24. Composition of Panels
25. Reference back to Commission
26. Letters of Appointments

27. Probationary period for permanent appointments
28. Confirmation, extension or termination of appointments
29. Reports during probation
30. Renewal, extension or continuation of appointments

PART III - PROMOTIONS

31. Selection to be competitive
32. Seniority
33. Field for consideration for promotion
34. Appointment of Selection Panels
35. Period of trial

PART IV - ACTING APPOINTMENTS

36. When permitted
37. Selection for Acting Appointments
38. Limitations on Acting Appointments

PART V - TRANSFER

39. Transfer at same grade level
40. Transfer involving promotion
41. Reserved right to apply for advertised appointments

PART IV - SCHOLARSHIPS AND COURSES

42. Role of Commission
43. Selection of candidates

PART VII - DISCIPLINE

44. Definition of misconduct
45. Responsibility for reporting misconduct
46. Contents of report
47. Action by SPS or Officer exercising delegated powers
48. Right of accused to respond to charge
49. Board of Inquiry in serious cases
50. Procedure of Board of Inquiry
51. Submission of report

52. Reporting criminal offences
53. Officers charged with criminal offences
54. Completion of disciplinary action
55. Officers acquitted of criminal charge
56. Officers sent to prison
57. Punishment of officers guilty of crime
58. Punishment for misconduct
59. Variation in Salary or Wages
60. Dismissal and probation
61. Unsatisfactory conduct during probation
62. Right of Commission
63. Authority to suspend from duties
64. Procedure for suspension

PART VIII - INEFFICIENCY

65. Scope
66. Responsibility of Senior Officers
67. Action in the event of continuing inefficiency
68. Consideration by the Commission or delegated officer
69. Conclusion of case
70. Deferment of action pending period of trial

PART IX - RETIREMENT AND TERMINATION OF EMPLOYMENT

71. Scope
72. Redundancy through abolition of posts
73. Retirement on medical grounds
74. Procedure

PART X - MISCELLANEOUS

75. Saving under agreement of service
76. Cases not provided for in Regulations
77. Revocation of LN 12/79 and LN 112/88

**THE SOLOMON ISLANDS INDEPENDENCE
ORDER 1978**

(Solomon Islands 1978 No. 783; LN No. 43 of 1978)

**THE PUBLIC SERVICE COMMISSION
REGULATIONS 1998**

IN exercise of the powers conferred by Section 137(1) of the Constitution, the Public Service Commission hereby makes the following Regulations:-

PART I - GENERAL PROVISION

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| Citation | 1. These Regulations may be cited as the Public Service Commission Regulations 1998, and shall come into operation on the 26th day of June, 1998. |
| Interpretation. | 2. In these Regulations unless the context otherwise requires, the words used have the meaning given to them in the Constitution or Schedule 1 to these Regulations. |
| Secretarial and Administrative Services. | 3. The Secretarial and other Administration services required to facilitate the functions of the Commission shall be provided by the Secretary for the Public Service. |
| Quorum at meetings. | 4. At meetings of the Commission the Chairman and two other members shall constitute a quorum, subject to the provisions of section 137(2) of the Constitution. |
| Frequency of meetings. | 5. The Commission shall meet at such intervals as are necessary in the opinion of the Chairman, after consultation with the Secretary for the Public Service, to deal quickly with the Commission's business. |
| Record of meetings and decisions. | 6. A record shall be kept of the members present and of business transacted at every meeting of the Commission, and of the decisions reached. Any member who is present at the meeting when a decision is made shall be entitled to disagree with it and to have his reasons for doing so set out in the record of that meeting. |
| Non-disclosure of proceedings and documents. | 7. Neither the Chairman nor any other member, nor any other person shall disclose to anyone, otherwise than to a public officer in the proper exercise of his duties, the proceedings or decisions of the Commission, nor the contents of any document, communication or information which has come to his notice in the course of duties under these Regulations. |
| Improper influence. | 8. Any public officer who, otherwise than in the course of his duty, directly or indirectly by himself or by any other person in any way whatsoever influences or attempts to influence any decision of the Commission or the Chairman or any other member shall be guilty of misconduct. |

9. It is the duty of all public officers to provide such information and documents as the Commission may require in the exercise of its functions, and to attend to give evidence when requested. Failure to do so, or wilfully to give false or misleading information, is an act of misconduct.

Duty to provide information and given evidence.

10. Staff Reports on public officers shall be made available to the Commission by the Secretary for the Public Service. The Commission may call for additional reports on public officers if they consider it necessary in any particular case.

Staff Reports to be made available.

11. All submissions to the Commission shall be made by or through the Secretary for the Public Service who will be responsible for their regularity. The administrative procedures for the submission of cases to the Commission under the various sections of these Regulations shall be decided by the Secretary for the Public Service after consultation with the Commission.

Procedure for submissions.

12. Where the Commission delegates powers to public officers it shall do so in writing after consultation with the Secretary for the Public Service. In delegating its powers the Commission shall take into account the administrative needs of the Public Service to conduct its affairs promptly, and the need to avoid excessive submissions to the Commission on minor matters.

Delegation of powers.

13. Delegation shall be exercised in accordance with the relevant provisions of these Regulations and any other conditions the Commission may impose, as well as the appropriate administrative procedures in force. The powers shall not be sub-delegated without the written approval of the Commission who may withdraw delegated powers from any particular officer if they are misused.

Exercise of powers.

14. A public officer in respect of whom a decision has been taken by the Commission, or by an officer exercising delegated powers, under the provisions of these Regulations may appeal to the Commission if he is aggrieved by that decision.

Appeals.

15. Any appeal must be made within 14 days after the date on which the decision has been communicated to the officer, or in special circumstances such period not exceeding three months as the Commission may allow.

Time limit on appeals.

16. An appeal must be made in writing, and state the grounds on which it is being made and be supported by any relevant information or evidence which may not have been available when the original decision was taken. At any interview in connection with his appeal an officer may be accompanied by a friend or an official representative of his trade union.

Forms of appeal.

PART II - APPOINTMENTS TO THE PUBLIC SERVICE

- Qualification for entry. 17. The Secretary for the Public Service shall decide on the minimum qualification, including any examinations or tests, for entry to any cadre, group or class within the Public Service.
- Authority to appoint. 18. The Commission, or any officer to whom they have delegated appropriate powers, shall decide on and make all appointments to the Public Service.
- Appointments to be advertised. 19. Unless the Commission otherwise agrees, all appointments to the Public Service will be publicly advertised, by the Secretary for the Public Service or officer delegated to make all appointments.
- Exception to minimum qualifications. 20. No person shall be appointed to any office unless he has the appropriate minimum entry qualifications, except that if there are no suitable qualified candidates the Commission may, with the concurrence of the Secretary for the Public Service, appoint a person with less than the minimum qualifications on non-permanent terms.
- Appointment of non-nationals. 21. Non-nationals shall only be appointed where the Commission is satisfied that no qualified national is available, and then only on a non-permanent basis for such time as may in the view of the Commission be necessary to obtain a qualified Solomon Islands Officer.
- Selection on merit. 22. Subject to the provisions in regulation 20-21, selection of officers for appointments shall be made on merit.
- Appointment of selection panel. 23. To help in the selection of candidates for permanent appointment (and for promotion, under regulation 34 and 43) selection panels will normally be appointed, to interview candidates and to make recommendations to the Commission.
- Composition of panel. 24. A selection panel shall consist of a Chairman and two or more members approved by the Commission. They shall all be public officers. The Chairman will normally be from the Public Service and hold a substantive appointment not less than Level 6 or two levels above the level to which the appointment is being made,

whichever is the higher. The members, (at least one of whom shall have relevant professional, technical or specialist qualifications); shall hold a substantive appointment not less than Level 5 or one grade above the level of appointment, whichever is the higher.

25. All recommendations shall be made by or through the Secretary for the Public Service. If any recommendation is not accepted by the Commission, any alternative appointment shall only be made after consultation with the Secretary for the Public Service, who shall seek the views of the panel or recommending officer before submitting his opinion to the Commission.

Reference back by
Commission.

26. Letters of appointment will be issued by the Secretary for the Public Service or by any officer exercising delegated powers as appropriate.

Letters of appointment.

27. Permanent appointments will be subject to a probationary period of one year. However, in special circumstances the Commission may, on the recommendation of the Supervising Officer, extend or reduce this period.

Probationary period for permanent appointments.

28. The confirmation, extension or termination of a probationary appointments will be decided by the Commission based on the officer's general conduct and reports submitted on his performance of duties.

Confirmation, extension or termination of probationary appointments.

29. Reports on officers on probation will be made twice in one year. The final report must be submitted to the Commission not later than two months before the end of the probationary period.

Reports during probations.

30. The renewal, extension or continuation of a non-permanent appointment beyond the term of the appointment, or six months where no term has been specified, shall be subject to the approval of the Commission.

Renewal, extension or termination of appointment.

PART III-PROMOTIONS

- Selection to be competitive. 31. The selection of public officers for substantive promotion shall be competitive, the assessment of candidates being based on qualifications and merit, taking into account staff reports (for officers Level 3 and above), the results of the examinations conducted under the Public Service (Compulsory Examinations) Rules 1992, and the recommendations of Senior Officers and any selection panel appointed by the Commission.
- Seniority. 32. If two or more candidates are judged equal on grounds of qualifications and merit, preference will be given to the most senior.
- Field for consideration for promotion. 33. The field of candidates for consideration for substantive promotion shall be determined by the Secretary for the Public Service and may be restricted to officers of certain grade levels, and with more than a specified seniority.
- Appointment of selection panel. 34. Where there is more than one qualified candidate to be considered for substantive promotion to Level 3 and above, a selection panel will normally be appointed to make recommendations to the Commission, in accordance with the procedure in regulation 23 to 25 of these Regulations. Staff reports and all other relevant information concerning the candidates will be made available to the panel by the Secretary for the Public Service.
- Period of trial. 35. All substantive promotions to Level 5 and above shall be subject to six months trial, extendible, exceptionally up to two years at the discretion of the Commission. If after due warning an officer on trial does not reach the required standard he/she will, subject to the concurrence of the Commission, be demoted.

PART IV - ACTING APPOINTMENTS

- When permitted. 36. Acting appointments will only be made:
- (a) pending a substantive promotion or appointment to a vacant office; or

- (b) where the substantive holder of an officer is absent; or
- (c) where the post is of a temporary nature.

And normally only where the officer is to perform the full details of the office in which he is to act.

37. Appointments to act in any office shall be made by the Commission, or by any officer exercising delegated powers, who will appoint the most senior officer within the Ministry, Division or Office concerned who in their judgement is qualified and suitable to fill the office.

Selection for acting appointments.

38. No acting appointment shall extend beyond six months without the express approval of the Commission, which shall be withheld unless it is satisfied that the office cannot or should not be filled substantively.

Limitation for acting appointment.

PART V - TRANSFERS

39. Transfer from one cadre, group, or class to another at the same grade level shall be approved by the Commission on the recommendation of the Secretary for the Public Service if the officer is qualified and such a move would be in the public interest. On transfer an officer will not carry over any seniority held in his former cadre, group or class.

Transfer at same grade level.

40. Where a transfer would involve accelerated promotion, the case will be considered under the procedure for substantive promotion Part III of the Regulations, except that the officer's seniority will not be taken into account.

Transfer involving promotion.

41. Nothing in regulations 39 and 40 shall preclude a public officer from applying and being considered for an appointment advertised under Part II of these Regulations, in a different cadre, group or class.

Reserved right to apply for advertised appointments.

PART VI - SCHOLARSHIPS AND COURSES

42. The Commission shall consider all proposals to send public officers on scholarships or any course of training which would lead to qualifications for promotion.

Role for Commission.

43. In considering such proposals the Commission will ensure that candidates are selected on merit, having regard to the claims of other eligible officers. Wherever practicable the Commission will appoint a panel in accordance with the

Selection of candidates.

procedure set out in regulations 23-25 of these Regulations, to make recommendations for its consideration.

PART VII - DISCIPLINE

viii

Definition of misconduct.

44. Misconduct for the purpose of these Regulations includes acts of misconduct specified in Chapter (VII) of the Constitution, or acts contrary to Chapter C of the General Orders, non compliance with or disobedience of Public Service Act, Public Finance and Audit Act any General Order, Financial Instruction, Store Regulations from time to time in force, Minor acts of misconduct such as lateness, idleness or indiscipline after a written warning, acts of insubordination to Responsible Officers directives or Public Service and Cabinet directives, or acts contrary to any rules or regulations applying to public officers, or wilful neglect of duty, and failure of Responsible Officers under delegated power to expedite conclusion of disciplinary and criminal proceedings within a reasonable time, or any act that the Commission considers or decides to be a misconduct.

Responsibility for reporting misconduct.

45. It is the responsibility of public officers to report at once suspected acts of misconduct by the staff for whom they have supervisory responsibility, and to deal with disciplinary cases promptly. Failure to do so shall in itself be treated as an act of misconduct.

Contents of report.

46. The report shall give:

- (a) the facts of the case;
- (b) whether or not it is considered that there has been a misconduct;
- (c) the terms of the disciplinary charge, if there has been misconduct; and
- (d) all relevant documents.

47. On receipt of this report the Secretary for the Public Service or officer exercising delegated powers may make such further inquiries as may be thought necessary, and if he considered there has been misconduct he will inform the officer concerned in writing of the charge.

Action by SPS or officer exercising delegated power.

48. The officer shall be given not less than seven days to respond to the charge, and if he so requests he may be accompanied by a friend or an official representative of his trade union. A report of any such interview shall be placed on record, and a copy sent to the officer accused of misconduct.

Right of accused to respond to charge.

49. The Commission may, in serious cases of misconduct or where it is not satisfied that all the facts of the case have been established, appoint a Board of Inquiry to carry out an investigation. The Board shall consist of not more than three officers, all whom shall be public officers senior to the accused officer, but none shall be from the department in which that officer works, nor be a relative, or have any personal or other connection with him.

Procedure of Inquiry in serious cases.

50. The Board shall take evidence from all parties concerned, including the officer accused of misconduct who may, if he is interviewed, be accompanied by a friend or an official representative of his trade union. The accused officer shall be given the opportunity to be present and to put questions on his own behalf where witnesses are interviewed by the Board, and shall be allowed to see or have copies of any documents relied on for purpose of the enquiry.

Procedure of Board of Inquiry.

51. The Board shall submit a report to the Commission, through the Secretary for the Public Service, which shall set out the facts established and recommend any changes in the terms or scope of the charges against the accused officer. If the Commission accepts any change in the charges, the officer concerned shall be informed in writing by the Secretary for the Public Service.

Submission of report.

52. Were it appears that a public officer has in the course of his duties committed a criminal offence, the police and the *secretary for Public Service shall be informed immediately.*

Reporting criminal offences.

Officers charged with criminal offences

53. If a public officer has been or is to be charged with any criminal offence, no decision on any question of misconduct shall be made pending the conclusions of the legal proceedings and any consequent appeal. Nothing in this paragraph shall however preclude any investigation within the public service, nor the right to suspend an officer as provided for in regulations 63-64.

Completion of disciplinary action.

54. Following the conclusion of criminal proceedings, disciplinary action shall be commenced.

Officers acquitted of criminal charge.

55. A public officer acquitted of a criminal charge shall not be dismissed or otherwise punished for misconduct in respect of the offence alleged in that charge, but this shall not prevent his being dismissed or otherwise punished if the acts show that the officer has otherwise committed an act of misconduct under the provisions of these Regulations.

Officers sent to prison.

56. Where an officer has been convicted and sentenced to imprisonment, his pay will stop from the date on which he has been sentenced. This is a management action and is unrelated to disciplinary proceedings under these Regulations.

Punishment of officers guilty of crime.

57. An officer convicted of a criminal offence (in relation of his official work, or very severe private matter) shall be instantly dismissed.

Punishment for misconduct.

58. Where the Commission ⁶ officer exercising delegated powers is satisfied that any act misconduct warrant punishment, it shall be at their discretion to impose the penalties as follows:-

- (a) reprimand;
- (b) severe reprimand;
- (c) reduction in salary or wages;
- (d) demotion by one or more grade levels;
- (e) dismissal.

59. Reduction in salary or wages under regulations 58(c) shall normally be by an amount equal to one or more increments for a specified period, the officer's incremental progressing remaining unchanged.

Reduction in salary or wages.

60. an officer should only be dismissed when the Commission, or officer exercising delegated powers, is fully satisfied that the nature of his misconduct together with any other evidence regarding his previous behaviour makes him unfit to continue in office. If in any particular case the Commission or officer exercising delegated powers is in doubt, a probationary period of up to two years may be imposed, with or without a lesser punishment, which shall expire without further action if the officer is of good behaviour.

Dismissal and probation.

61. If during any probationary period imposed under paragraph 58 an officer's conduct is unsatisfactory, the facts shall be reported at once to the Commission or officer exercising delegated powers, who shall decide whether the officer should in consequence be dismissed.

Unsatisfactory conduct during probation.

62. Nothing in these Regulations shall preclude the Commission from requiring that disciplinary inquiries should be instituted if they have grounds for believing that a public officer may be guilty of misconduct.

Right of Commission.

63. The authority to suspend an officer is vested in the Secretary for the Public Service, or any officer to whom he may delegate that authority.

Authority to suspend from duties.

64. An officer may be suspended from all part of his duties pending the conclusion of disciplinary proceedings, if this is in the interest of the Public Service. An officer will not be suspended when, as an alternative, it would be possible or appropriate to move him to other work. An officer who is suspended shall be entitled to be paid one half of his substantive pay, provided that if the disciplinary proceedings do not result in dismissal, of the officer suspended, such officer shall be entitled to be paid the difference, if any, between the amount paid to him during the period of suspension and the amount of salary and wages that

Procedure for suspension.

would normally be due to him if he had not been suspended.

The suspended officer must remain at his duty station unless he has the written permission of the Secretary for Public Service of officer exercising delegated powers to leave it. A public officer who leaves his duty station without the written permission of the Secretary for Public Service is liable to be charged for misconduct.

PART VIII - INEFFICIENCY

Scope.

65. The provisions in the Part of the Regulations do not apply to officers on probation or trial, which are dealt with in Part II regulations 27-29 and Part III regulation 35.

Responsibility of senior officers.

66. Where an officer's performance of his duties unsatisfactory, and not up to the standard of his grade, the responsibility rests in the first place with his senior officers to try to establish the cause by discussion with the officer. The officer must in particular be told of his short-comings so that the officer should be given training or a change of work to establish whether his performance can be improved.

Action in the event of continuing inefficiency.

67. If within six months these measures fail to improve the officer's performance to an acceptable standard, a report shall be made to the Commission, through or by the Secretary for the Public Service, or to any officer exercising delegated powers, recommending appropriate action, which may be one of the following:

- (a) demotion to a level suited to his abilities;
- (b) dismissal with due notice;
- (c) retirement in the public interest.

Consideration by SPS or delegated officer.

68. If the Secretary for the Public Service, or officer exercising delegated powers, is satisfied that any of the measures provided in regulation 67 (a-b) should be taken he must so inform the officer in writing stating the reasons, and allow the officer 14 days to make representation.

69. After considering any representations the officer may make, the case shall be submitted to the Commission or dealt with under delegated powers as appropriate, and thereafter the officer will be informed of the decision.

Conclusion of
case.

70. Nothing in this Part of the Regulations shall preclude the Commission or any officer exercising delegated powers from deferring action recommended under regulation 67 pending a further period of trial not exceeding six months, subject to the officer being informed accordingly.

Authority to
appoint.

*Deferment
of action*

PART I RETIREMENT AND TERMINATION OF EMPLOYMENT

71. This part deals with retirement and termination of employment of permanent officers, not otherwise provided for in these Regulations.

Scope.

Namely:

- (a) Retirement on or after reaching the compulsory prescribed retirement age.
- (b) Retirement and termination of employment prior or on or after reaching the minimum prescribed retirement age with the concurrence of the Secretary for the Public Service provided that:
 - (i) Solomon Islands government undertakes redundancy exercise for purposes of streamlining the size of the Public Service, facilitate improvement in the organisation of the department to which he belong by which greater efficiency or economy may be affected, or Solomon Islands Government ceases to be the employer.
 - (ii) On medical evidence to the satisfaction of the Commission that he is incapable by reason of any infirmity of mind or body of discharging the duties of his office and such infirmity is likely to be permanent.

Redundancy through abolition of posts.

72. Where termination of employ under Regulation 71 (b) and (I) is being considered as a consequence of the reduction or abolition of posts, and there will be one or more posts remaining, officers shall be selected for termination of employment in the following order:

- (a) Volunteers
- (b) Officers over the minimum prescribed retirement age; that is 55 years of age.
- (c) Other Officers in order of juniority; the most junior first.

Retirement on medical grounds.

73. An Officer shall only be retired on medical grounds if a medical officer, appointed by the Commission on the recommendation of the Permanent Secretary, Ministry of Health and Medical Service, certifies that the officer is unlikely, because of his health, to give future satisfactory service. The medical officer appointed shall not be a relative or have any personal or other connections with the Officer whose retirement is being considered.

Procedure.

74. Any recommendation for the retirement or termination of employment of an officer in accordance with Regulation 71 shall be made to or by the Secretary for the Public Service who, if he is satisfied that such action should be taken, shall advise the Officer concerned stating the reasons for the proposed action. Thirty days shall be allowed for the officer to make any representations and thereafter the case shall be submitted to the Commission for decision, together with any representations the officer may have made.

PART X - MISCELLANEOUS

Saving under agreement of service.

75. Nothing in these Regulations shall restrict the right of Solomon Islands Government to terminate a public officer's employment or to take any other action in accordance with his agreement of service.

76. The action to be taken on any matter within the competence of the Commission not provided for in these Regulations shall be decided by the Commission after consultation with the Secretary of the Public Service.

Cases not provided for in Regulations.

77. The Public Service Commission Regulations 1979 (LN 12/79) is hereby revoked except LN 112/88. Revocation of LN.

Dated the twenty sixth day of June, 1998.

WAETA B TABUSASI, CSI
Chairman
Public Service Commission