

THE CONSTITUTION OF JAMAICA

ORDER
(under section 67 (11))

The Constituencies (Boundaries) Order, 1998

L.N. 22D/98

ORDERS
(under section 127)

The Delegation of Functions (Public Service) Order, 1963

L.N. 331/63
175/74
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The Delegation of Functions (Postal Service) Order, 1966

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L.N. 121A/2004

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L.N. 152B/2007

ORDERS
(under section 131)

- L.N. 57/64 The Delegation of Functions (Police Service) Order, 1964
- L.N. 68/77 The Delegation of Functions (Judicial Service) Order, 1976

REGULATIONS

(Made under section 72 of the Jamaica (Constitution) Order in Council, 1959, preserved by section 2 of the Jamaica (Constitution) Order in Council, 1962)

- L.N. 94/61 The Judicial Service Regulations, 1961

REGULATIONS

(Made under section 81 of the Jamaica (Constitution) Order in Council, 1959, preserved by section 2 of the Jamaica (Constitution) Order in Council, 1962)

- L.N. 92/61 The Public Service Regulations, 1961
 330/63
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 66A/80
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REGULATIONS

(Made under section 87 of the Jamaica (Constitution) Order in Council, 1959, preserved by section 2 of the Jamaica (Constitution) Order in Council, 1962)

- L.N. 96/61 The Police Service Regulations, 1961
 200/61
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 269/68
 519/69
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THE CONSTITUTION OF JAMAICA

*Pages 3–6 contained the Constituencies (Boundaries) Order, 1976,
which was superseded by subsequent Orders.*

THE CONSTITUTION OF JAMAICA

ORDER
(under section 67 (11))

THE CONSTITUENCIES (BOUNDARIES) ORDER, 1998

(Made by the Governor-General on the 21st day of April, 1998) L.N. 22D/98

[10th March, 1998.]

1. This Order may be cited as the Constituencies (Boundaries) Order, Citation.
1998.
2. In this Order “official list” and “polling division” have the mean- Interpretation.
ings respectively ascribed to those expressions by section 2 of the
Representation of the People Act.
3. Jamaica shall continue to be divided into sixty constituencies Confirmation
having the boundaries existing immediately before the 10th day of of existing
March, 1998. constituencies.
4. Save as may be provided by an order under section 4 of the Polling
Representation of the People Act or any other enactment, the divisions.
designation and identification of each polling division within a con-
stituency shall be ascertained by reference—
 - (a) to the maps of the constituencies and polling divisions pre-
pared by the Director of Elections and deposited with the
Speaker of the House of Representatives and in the Island
Record Office on the seventeenth day of June, 1992; and
 - (b) to the instruments prepared by the Director of Elections and
attached to those maps.
5. It is hereby declared that the official lists in force immediately Saving.
prior to the 10th day of March, 1998, shall continue in accordance
with the provisions of the Representation of the People Act.

THE CONSTITUTION OF JAMAICA

ORDER
(under section 127)

THE DELEGATION OF FUNCTIONS (PUBLIC SERVICE) ORDER, 1963

(Made by the Governor-General on the advice of the Public Service
Commission on the 28th day of November, 1963)

L.N. 331/63
Amdt.:
L.N. 175/74
105/88
Proc. 5/90
L.N. 133c/95
133d/95

1. This Order may be cited as the Delegation of Functions (Public
Service) Order, 1963.

2. In this Order—

“minor offences” means the offences specified in the Annex to the
Schedule; Annex.

“officer” shall have the same meaning as in the Public Service
Regulations, 1961;

“prescribed salary rate” shall have the same meaning as in the
Public Service Regulations, 1961.

3. Subject to the provisions of section 127 of the Constitution of
Jamaica, and of the Public Service Regulations, 1961 the powers of the
Governor-General specified in the Schedule shall be exercisable by
the appropriate authority in relation to the respective offices and
officers specified in that Schedule. Schedule.

SCHEDULE

(Paragraph 3)

Officer or Office	Powers	Appropriate Authority
1. All officers	Suspension of payment of increment	Permanent Secretary or Head of Department in charge of the Ministry or Department to which the officer is attached.
2. All officers	Transfer	Permanent Secretary or Head of Department in charge of the Ministry or Department to which the officer is attached or after consultation with the Permanent Secretaries or Heads of Departments concerned, the Chief Personnel Officer.
3. Any officer of a Resident Magistrate's Court	Powers specified in section 58 of the Judicature (Resident Magistrates) Act	Resident Magistrate to whom is assigned the Court to which the officer is attached.
4. Any officer of the Supreme Court	Powers specified in section 24 of the Judicature (Supreme Court) Act	Supreme Court or a Judge thereof.
5. Correctional Officer whose basic annual salary (whether fixed or on a scale) does not exceed the maximum rate of basic annual salary payable to Staff Warders	Minor offences — fine not exceeding fifteen per cent of the amount of the minimum monthly salary payable to the officer concerned and written reprimand	Superintendent of the correctional institution in which the Officer is employed.
6. Officer whose basic annual salary (whether fixed or on a scale) exceeds the prescribed salary rate and who is employed in a public hospital, as defined in the Hospitals (Public) Act, in respect of which a Hospital Board has been established	Disciplinary control	The Hospital Board.

SCHEDULE, *contd.*

Officer or Office	Powers	Appropriate Authority
7. <i>[Deleted by L.N. 133c/1995.]</i>		
8. All officers	Disciplinary control not with a view to dismissal	In the case of— (a) an officer who is employed in a public hospital as defined in the Hospitals (Public) Act, the appropriate authority shall be— (i) the Hospital Board; or (ii) where a Hospital Board has not been established in respect of such hospital, the Permanent Secretary or the Medical Officer in charge of that hospital; (b) any other officer, the appropriate authority shall be the Permanent Secretary or Head of Department in charge of the Ministry or Department in which the officer is employed or, on the request of the Permanent Secretary or Head of Department, the Chief Personnel Officer.
9. Telephone Operators	Appointment	Chief Personnel Officer
10. Pensionable offices other than those held by Heads of Departments	Acting appointments under regulation 18 (2) of the Public Service Regulations, 1961	Chief Personnel Officer

ANNEX

(Paragraph 2)

Minor offences which may be dealt with by a Superintendent of a Correctional Institution if committed by a Correctional Officer whose basic annual salary does not exceed the maximum rate of basic annual salary payable to Staff Warders

1. **Being absent** from parade without permission.
2. Reporting for duty or being on duty while, without reasonable excuse, dirty, untidy or unshaven in appearance or with unkempt hair.
3. Reporting late for duty.
4. **Being absent from duty** without leave and without reasonable excuse where investigations reveal that the absence is of a comparatively trivial nature.

ANNEX, *contd.*

5. Failing to be attired in uniform while on duty.
6. Being disrespectful to Officers senior in rank where investigations reveal that the nature of the disrespect is not serious.
7. Preferring frivolous complaints or charges against a member of staff.
8. Failing to comply with a lawful order immediately such order is given or as soon as may be practicable thereafter in the circumstances of the case.
9. Soliciting or receiving donations for the Institution without the permission of the Superintendent.
10. Being uncivil to members of the public where investigations reveal that the nature of the uncivility is not serious.
11. Gambling in or around the precincts of a correctional institution whether the correctional officer is on or off duty.
12. Idling while on duty.
13. Failing to submit, within twenty-four hours of any matter arising in an institution, a written report on such matter where it is the correctional officer's duty to report to or inform his relief of such matter.
14. Failing while on duty to relieve promptly a member of staff scheduled to be relieved by him.
15. Wilfully or carelessly causing the waste, or loss of, or damage to, any article the property of a correctional institution or to any uniform required to be worn in such institution.
16. Failing or omitting to make any entry or observation which it is his duty to make in any official book or any official document.
17. Permitting the entry into any correctional institution of any person who has no lawful cause to enter such institution.
18. Failing to submit to being searched when so required by a Superintendent.
19. Making complaints or requests through improper channels.
20. Failing to refer to a Superintendent or Assistant Superintendent for settlement disputes on points of duty.
21. Unwarranted discharge of round(s) of ammunition.

THE CONSTITUTION OF JAMAICA

ORDER
(under section 127)

THE DELEGATION OF FUNCTIONS (POSTAL SERVICE) ORDER, 1966

(Made by the Governor-General on the advice of the Public Service
Commission)

L.N. 387/66
Amd:
L.N. 177/74

1. This Order may be cited as the Delegation of Functions (Postal Service) Order, 1966.

2. In this Order "officer" has the meaning ascribed to that word in the Public Service Regulations, 1961.

3. Without prejudice to the provisions of the Delegation of Functions (Public Service) Order, 1963, and subject to the provisions of section 127 of the Constitution of Jamaica and of the Public Service Regulations, 1961, the power to exercise disciplinary control over the officers specified in Part I of the Schedule shall, in relation to the offences specified in Part II of the Schedule, be exercisable by the Head Postmaster, Kingston. Schedule.

SCHEDULE

(Paragraph 3)

PART I—*Officers*

The following officers attached to the Post Offices in the Corporate Area of Kingston and St. Andrew—

- (a) pensionable officers whose basic annual salary (whether fixed or on a scale) does not exceed \$3,480;
- (b) non-pensionable officers whose minimum annual salary is less than \$1,100;
- (c) weekly-paid, temporary, daily-paid or casual employees.

PART II—*Offences*

1. Absence from duty without the prior knowledge and approval of the officer in charge, except in the case of proven illness.
2. Leaving working position without the permission of the supervising officer, except at meal break or any other legitimate break-time.
3. Idle, disorderly, undisciplined or improper conduct while on duty.
4. Permitting unauthorized persons to enter sorting offices.
5. Omitting to make an entry or making any improper entry or alteration in any official record.
6. Omitting to sign on or sign off the register, or being a party to someone signing the register on or off, on his behalf.
7. Careless handling of postal articles and postal equipment.
8. Failing to report any matter which ought to be reported.
9. Borrowing money directly or indirectly from or through an employee of junior rank.
10. Any act, conduct, or neglect to the prejudice of good order and discipline.

THE CONSTITUTION OF JAMAICA

ORDER
(under section 127)

THE DELEGATION OF FUNCTIONS (PUBLIC SERVICE) ORDER, 1999

*(Made by the Governor-General on the advice of the Public Service
Commission on the 26th day of February, 1999)*

L.N. 35A/99

1. This Order may be cited as the Delegation of Functions (Public Service) Order, 1999.

2. In this Order "officer" has the same meaning as in the Public Service Regulations, 1961.

3. Subject to the provisions of section 127 (4) of the Constitution of Jamaica, and of the Public Service Regulations, 1961, the powers of the Governor-General specified in the Schedule to this Order shall be exercisable by the appropriate authority specified in that Schedule in relation to the respective offices and officers specified in that Schedule.

SCHEDULE (Paragraph 3)		
Offices and Officers	Powers	Appropriate Authority
All offices in the Administrator-General's Department except the office of Administrator-General, and all officers except the Administrator-General.	Appointment Removal Disciplinary control	The Administrator-General
All offices in the Management Institute for National Development, except the office of Chief Executive Officer, and all officers except the Chief Executive Officer.	Appointment Removal Disciplinary control	The Chief Executive Officer
All offices in the Registrar General's Department, except the office of Registrar-General, and office of Registrar and all officers except the Registrar-General.	Appointment Removal Disciplinary control	The Registrar-General
All offices in the office of the Registrar of Companies, except the office of Registrar of Companies, and all officers except the Registrar of Companies.	Appointment Removal Disciplinary control	The Registrar of Companies

[The inclusion of this page is authorized by L.N. 102/2001]

THE CONSTITUTION OF JAMAICA

ORDER

(under section 127)

THE DELEGATION OF FUNCTIONS (PUBLIC SERVICE) ORDER, 2000

(Made by the Governor-General on the advice of the Public Service
Commission on the 23rd day of June, 2000)

L.N. 29/n/2000

1. This Order may be cited as the Delegation of Functions (Public Service) Order, 2000.

2. In this Order "officer" has the same meaning as in the Public Service Regulations, 1961.

3. Subject to the provisions of section 127 (4) of the Constitution of Jamaica, and of the Public Service Regulations, 1961, the powers of the Governor-General specified in the Schedule shall be exercisable by the appropriate authority specified in that Schedule in relation to the respective offices and officers specified in that Schedule.

Offices and Officers	SCHEDULE	(Paragraph 3)
	Powers	Appropriate Authority
All offices in the National Works Agency except the office of the Chief Executive Officer, and all officers except the Chief Executive Officer.	Appointment Removal Disciplinary Control	Chief Executive Officer

THE CONSTITUTION OF JAMAICA

ORDER
(under section 127)

THE DELEGATION OF FUNCTIONS (PUBLIC SERVICE) (SPECIFIED MINISTRIES
AND DEPARTMENTS) ORDER, 2000

*(Made by the Governor-General on the advice of the Public Service
Commission on the 30th day of March, 2000)*

L. N. 361w/2000

1. This Order may be cited as the Delegation of Functions (Public Service) (Specified Ministries and Departments) Order, 2000.
2. In this Order "officer" has the same meaning as in the Public Service Regulations, 1961.
3. Subject to the provisions of section 127 (4) of the Constitution of Jamaica, and the Public Service Regulations, 1961, the powers of the Governor-General specified in the Schedule shall, in relation to the respective offices and officers in the Ministry or Department so specified, be exercisable by the appropriate authority so specified.
4. The powers referred to in paragraph 3 shall be exercised in accordance with the provisions of the Public Service Regulations, 1961.

SCHEDULE			(Paragraph 3)
Offices and Officers	Powers	Appropriate Authority	
All offices in the Cabinet Office except the office of Cabinet Secretary and all officers except the Cabinet Secretary	1. Appointment	Cabinet Secretary/ Permanent Secretary	
	2. Removal, except retirement on the following grounds— (a) in the public interest (b) on medical grounds (c) premature retirement		
	3. Disciplinary Control		
All offices in the Ministry of Education and Culture except the office of Permanent Secretary and all officers except the Permanent Secretary	1. Appointment	Permanent Secretary	
	2. Removal, except retirement on the following grounds— (a) in the public interest (b) on medical grounds (c) premature retirement		
	3. Disciplinary Control		
All offices in the Ministry of Local Government, Youth and Community Development except the office of Permanent Secretary and all officers except the Permanent Secretary	1. Appointment	Permanent Secretary	
	2. Removal, except retirement on the following grounds— (a) in the public interest (b) on medical grounds (c) premature retirement		
	3. Disciplinary Control		

*THE DELEGATION OF FUNCTIONS (PUBLIC SERVICE) (SPECIFIED MINISTRIES AND
DEPARTMENTS) ORDER, 2000*

12.07

<u>Offices and Officers</u>	<u>Powers</u>	<u>Appropriate Authority</u>
All offices in the Office of the Prime Minister except the office of Permanent Secretary and all officers except the Permanent Secretary	<ol style="list-style-type: none">1. Appointment2. Removal, except retirement on the following grounds—<ol style="list-style-type: none">(a) in the public interest(b) on medical grounds(c) premature retirement3. Disciplinary Control	Permanent Secretary

THE CONSTITUTION OF JAMAICA

ORDER
(under section 127)

THE DELEGATION OF FUNCTIONS (PUBLIC SERVICE) ORDER, 2001

*(Made by the Governor-General on the advice of the Public Service
Commission on the 19th day of March, 2001)*

L.N. 37A/2001

1. This Order may be cited as the Delegation of Functions (Public Service) Order, 2001.

2. In this Order "officer" has the same meaning as in the Public Service Regulations, 1961.

3. Subject to the provisions of section 127 (4) of the Constitution of Jamaica, and of the Public Service Regulations, 1961, the powers of the Governor-General specified in the Schedule shall be exercisable by the appropriate authority specified in that Schedule in relation to the respective offices and officers specified in that Schedule.

Schedule.

SCHEDULE

(Paragraph 3)

Offices and Officers	Powers	Appropriate Authority
All offices in the National Land Agency except the office of Chief Executive Officer, and all officers except the Chief Executive Officer.	Appointment Removal Disciplinary Control	The Chief Executive Officer
All offices in the National Environmental and Planning Agency except the office of Chief Executive Officer, and all officers except the Chief Executive Officer.	Appointment Removal Disciplinary Control	The Chief Executive Officer

SCHEDULE, *contd.*

<u>Offices and Officers</u>	<u>Powers</u>	<u>Appropriate Authority</u>
All offices in the Jamaica Information Service except the office of Chief Executive Officer, and all officers except the Chief Executive Officer.	Appointment Removal Disciplinary Control	The Chief Executive Officer

THE CONSTITUTION OF JAMAICA

ORDER
(under section 127)

THE DELEGATION OF FUNCTIONS (PUBLIC SERVICE) ORDER, 2007

*(Made by the Governor-General on the advice of the Public Service
Commission on the 23rd day of August, 2007)*

L.N. 152B/2007

1. This Order may be cited as the Delegation of Functions (Public Service) Order, 2007.

2. In this Order "officer" has the same meaning as in the Public Service Regulations, 1961.

3. Subject to the provisions of section 127(4) of the Constitution of Jamaica, and of the Public Service Regulations, 1961, the powers of the Governor-General specified in the Schedule to this Order shall be exercisable by the appropriate authority specified in that Schedule in relation to the respective offices and officers specified in that Schedule.

Schedule.

SCHEDULE		(Paragraph 3)
<u>Offices and Officers</u>	<u>Powers</u>	<u>Appropriate Authority</u>
All offices in the Passport, Immigration and Citizenship Agency except the office of Chief Executive Officer, and all officers except the Chief Executive Officer.	1. Appointment 2. Removal 3. Disciplinary control 4. Training	The Chief Executive Officer

THE CONSTITUTION OF JAMAICA

ORDER
(under section 131)

THE DELEGATION OF FUNCTIONS (POLICE SERVICE) ORDER, 1964

(Made by the Governor-General on the 20th day of February, 1964) L.N. 57/64

1. This Order may be cited as the Delegation of Functions (Police Service) Order, 1964.

2. The power vested in the Governor-General by section 130 of the Constitution of Jamaica shall, subject to the Police Service Regulations, 1961, be exercisable (without prejudice to its exercise by the Governor-General) by an authorized officer as defined in those Regulations, in accordance with the provisions of those Regulations.

THE CONSTITUTION OF JAMAICA

ORDER
(under section 113)

THE DELEGATION OF FUNCTIONS (JUDICIAL SERVICE) ORDER, 1976

(Made by the Governor-General on the advice of the Judicial Service Commission on the 21st day of December, 1976) L.N. 68/77

1. This Order may be cited as the Delegation of Functions (Judicial Service) Order, 1976.

2. Subject to the provisions of section 112 of the Constitution of Jamaica, the Chief Justice may from time to time—

- (a) transfer any Resident Magistrate from one parish in Jamaica to another, or from any such parish to be the Judge of the Traffic Court or the Judge of the Family Court;
- (b) transfer the Judge of the Traffic Court or the Judge of the Family Court to any parish in Jamaica to be a Resident Magistrate;
- (c) transfer the Judge of the Traffic Court to be the Judge of the Family Court and the last-mentioned Judge to be the Judge of the Traffic Court;
- (d) make acting appointments to any of the offices of Resident Magistrate, Judge of the Traffic Court, Judge of the Family Court, Registrar of the Supreme Court, Registrar of the Court of Appeal or Registrar of the Revenue Court.

THE CONSTITUTION OF JAMAICA

REGULATIONS

(made under section 72 of the Jamaica (Constitution) Order in Council, 1959, preserved by section 2 of the Jamaica (Constitution) Order in Council, 1962)

THE JUDICIAL SERVICE REGULATIONS, 1961

(Made by the Governor, after consultation with the Judicial Service Commission, on the 1st day of June, 1961) L.N. 94/61

[1st June, 1961.]

PART I—Preliminary

1. These Regulations may be cited as the Judicial Service Regulations, 1961. Short title.

2. In these Regulations unless the context otherwise requires— Interpretation.

“authorized officer” means a member of the Commission or an authority or a public officer to whom the functions of the Governor-General have been delegated pursuant to section 71 of the Order;

“chairman” means chairman of the Commission and includes any member presiding at a meeting of the Commission;

“Commission” means the Judicial Service Commission established by section 68 of the Order;

“functions” includes powers and duties;

“judicial office” means the office of Resident Magistrate, Judge of the Traffic Court, Registrar of the Supreme Court or such other office connected with the Courts of Jamaica as, subject to the provisions of the Order, may be prescribed by any enactment of the Parliament of Jamaica;

“judicial officer” means the holder of a judicial office;

“member” means member of the Commission;

“Order” means the Jamaica (Constitution) Order in Council, 1959;

“perform” in relation to functions includes exercise;

“regulation” means one of these Regulations;

“relative office” means an office in respect of which the Commission is required to make recommendations for appointment to the Governor-General;

“secretary” means the secretary to the Commission appointed pursuant to regulation 4 and includes the person for the time being performing the functions of that office.

PART II—Judicial Service Commission

Oath of office.

3. The chairman and members and every officer appointed under regulation 4 shall on appointment take before a Justice of the Peace an oath in the appropriate Form in the Schedule.

Schedule.

Appointment of secretary and staff.

4.—(1) The Governor-General, after consultation with the Commission and with the Cabinet, may constitute the office of secretary to the Commission and such other offices as he may consider expedient for securing the due performance of the functions of the Commission.

(2) The Governor-General upon the recommendation of the Commission may from time to time appoint persons to the offices constituted pursuant to paragraph (1).

Functions of Commission.

5. Where the Order requires the Governor-General in the performance of any function to act on the recommendation of the Commission the Governor-General—

(a) may where that function has been delegated pursuant to section 71 of the Order; and

(b) shall in every other case, request the Commission to make its recommendation and it shall be the duty of the Commission to make the recommendation so requested.

Procedure and meetings.

6.—(1) The Commission shall meet as often and at such times and places as in the discretion of the chairman may be necessary or expedient for the purpose of performing its functions.

(2) In the absence of the chairman from any meeting the members present may elect one of their number to preside at that meeting.

(3) All decisions at a meeting of the Commission shall be by a majority of the votes of the members present and voting:

Provided that where the voting is equal the chairman shall have a casting vote as well as an original vote.

Record of meetings and decisions.

7.—(1) It shall be the duty of the secretary duly to record minutes of all meetings of the Commission.

(2) Copies of such minutes duly confirmed at a subsequent meeting or by the individual members on circulation thereof shall as soon as practicable thereafter be forwarded to the Governor-General.

(3) Any member of the Commission present when any decision is made who dissents therefrom may require that his dissent and his reasons for dissenting be recorded in the minutes.

8. Matters may also be decided by the Commission without a meeting upon circulation of the relevant papers among the members; but if on circulation of the papers relating to any matter a difference of opinion arises among the members, or if any member so requires, it shall be the duty of the secretary to reserve the matter for discussion at a meeting.

Decisions otherwise than at a meeting.

9. The Commission in considering any matter or question may consult with such public officer or other person as the Commission may consider proper and desirable and may require any public officer to attend and give evidence before it and to produce any official documents relating to such matter or question.

Consultation with other persons.

10. Any public officer who without reasonable cause fails to appear before the Commission when required to do so, or who fails to comply with any request properly made by the Commission, shall be guilty of a breach of discipline and the Commission may where appropriate recommend that disciplinary proceedings be instituted against him.

Failure to comply with Commission's request.

11. Except with the consent of the Governor-General signified in writing under the hand of the Governor-General's Secretary, a person shall not in any legal proceedings produce or be permitted to give secondary evidence of the contents or nature of any document, communication or information addressed, made or given—

Privileged information.

- (a) to the Commission by or on behalf of the Governor-General, the Chief Personnel Officer, a Permanent Secretary or the Head of any Government Department for the purpose of enabling the Commission to perform any of its functions; or
- (b) by the Commission to the Governor-General, the Chief Personnel Officer, a Permanent Secretary or the Head of any Government Department in relation to any matter concerning or arising out of the functions of the Commission.

Penalty for
supplying
false in-
formation to
Commission

12. Any person who in connection with any application by any person for employment or promotion in a relative office, or with any matter upon which it is the duty of the Commission to make any recommendation to the Governor-General or upon which it is the duty of the Commission or of an authorized officer to make any decision, wilfully gives to the Commission or to any member thereof, or to an authorized officer any information which he knows to be false or does not believe to be true, or which he knows to be false by reason of the omission of any material particular, shall be guilty of an offence, and upon summary conviction thereof before a Resident Magistrate shall be liable to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding two years or to both such fine and such imprisonment.

PART III—*Making and Termination of Appointment*

Principles
of selection.

13. For the purpose of making recommendations in relation to appointments to vacancies in any relative offices the Commission shall consider the eligibility of all officers for promotion, may interview candidates for such appointments and shall in respect of each candidate consider, amongst others, the following matters—

- (a) his qualifications;
- (b) his general fitness;
- (c) any previous employment of the candidate in the public service or in private practice.

Premature
retirement.

14.—(1) Where it appears to the Chief Justice that, pursuant to paragraph (b) of section 8 of the Pensions Act, a judicial officer who has attained the age of fifty years ought to be called upon to retire from the public service, the Chief Justice shall report the matter together with his reasons therefor to the Commission, and the Commission shall recommend to the Governor-General whether or not that officer ought to be called upon to retire.

(2) Any such officer shall be afforded an opportunity of submitting to the Commission any representations he may wish to make regarding his proposed retirement.

(3) A judicial officer may at any time after he attains the age of fifty years apply to the Governor-General for permission to retire pursuant to paragraph (i) of subsection (1) of section 6 of the Pensions Act, and shall in his application state the grounds on which it is based.

(4) The Commission shall recommend to the Governor-General whether or not an application under paragraph (3) ought to be granted.

15.—(1) Notwithstanding the provisions of regulation 29, where it is represented to the Commission or the Commission considers it desirable in the public interest that a judicial officer ought to be required to retire from the public service on grounds which cannot suitably be dealt with by the procedure prescribed by regulation 29, it shall call for a full report from the Chief Justice and from the Head of any Ministry or Department in which the officer has served during the immediately preceding ten years. Retirement in the public interest.

(2) If, after considering such reports and giving the officer an opportunity of submitting a reply to the grounds on which his retirement is contemplated, and having regard to the conditions of the public service, the usefulness of the officer thereto, and all the other circumstances of the case, the Commission is satisfied that it is desirable in the public interest so to do, it shall recommend to the Governor-General that the officer be required to retire on such date as the Commission may recommend.

16. Where the appointment of a judicial officer is terminated under regulation 14 or 15 his service shall terminate on such date as the Commission may recommend and the question of his pension shall be dealt with in accordance with the provisions of the Pensions Act. Pension.

PART IV—Discipline

17.—(1) The Commission shall deal with disciplinary proceedings against judicial officers. Functions respecting discipline.

(2) Subject to paragraph (3), where the Commission is of opinion that disciplinary proceedings ought to be instituted against a judicial officer, the Commission may recommend to the Governor-General that such proceedings be instituted against him.

(3) Where an offence against any enactment appears to have been committed by a judicial officer the Commission shall before making a recommendation under paragraph (2) obtain the advice of the Attorney-General as to whether criminal proceedings ought to be instituted against the officer concerned; and if the Attorney-General advises that criminal proceedings ought to be so instituted the Commission shall not recommend the initiation of disciplinary proceedings before the determination of the criminal proceedings so instituted.

Regulations
to govern
disciplinary
procedure.

18.—(1) Any report of misconduct on the part of a judicial officer shall be made to the secretary and shall be dealt with under this Part as soon as possible thereafter.

(2) Any case not covered by these Regulations shall be reported to the secretary and the Commission may issue instructions as to how the case is to be dealt with; and the case shall be dealt with accordingly.

Grounds for
criminal
prosecution.

19. Where upon a preliminary investigation or a disciplinary enquiry an offence against any enactment appears to have been committed by a judicial officer, the Chief Justice shall, unless action by the Police has been or is about to be taken, consult the Attorney-General as to whether criminal proceedings ought to be instituted.

No dis-
ciplinary
proceedings
while
criminal
proceedings
pending.

20.—(1) Where criminal proceedings have been instituted in any court against a judicial officer, proceedings for his dismissal upon any grounds arising out of the criminal charge shall not be taken until after the court has given judgment and the time allowed for an appeal from the judgment has expired; and where a judicial officer after conviction has appealed, proceedings for his dismissal shall not be taken until after the withdrawal or determination of the appeal.

(2) Nothing in this regulation shall prevent the officer being interdicted from duty pursuant to regulation 21.

Interdiction.

21.—(1) Where there have been or are about to be instituted against a judicial officer—

- (a) disciplinary proceedings; or
- (b) criminal proceedings,

and the Commission is of opinion that the public interest requires that that officer should forthwith cease to perform the functions of his office, the Commission may recommend his interdiction from such performance.

(2) An officer so interdicted shall, subject to the provisions of regulation 25, be permitted to receive such proportion of the salary of his office, not being less than three-fourths, as the Commission may recommend to the Governor-General.

(3) If disciplinary proceedings against any such officer result in his exculpation, he shall be entitled to the full amount of the salary which he would have received if he had not been interdicted but if the

proceedings result in any punishment other than dismissal the officer shall be allowed such salary as the Commission may recommend.

(4) A judicial officer who is under interdiction from duty may not leave the Island without the permission of the Governor-General acting on the recommendation of the Commission.

22. A judicial officer in respect of whom a disciplinary enquiry is to be held shall be entitled without charge to him to receive copies of or to be allowed access to any documentary evidence relied on for the purpose of the enquiry. He may also be given a copy of notes of the evidence (including copies of documents tendered in evidence) on applying therefor within thirty days of the report of the enquiry.

Copies of evidence of enquiries.

23. A judicial officer acquitted of a criminal charge shall not be dismissed or otherwise punished in respect of any charge of which he has been acquitted, but nothing in this regulation shall prevent his being dismissed or otherwise punished in respect of any other charge arising out of his conduct in the matter, unless such other charge is substantially the same as that in respect of which he has been acquitted.

Disciplinary action after acquittal of a criminal charge.

24. If a judicial officer is convicted of a criminal charge, the Commission may consider the relevant proceedings of the court and if it is of opinion that the officer ought to be dismissed or subjected to some lesser punishment in respect of the offence of which he has been convicted the Commission may thereupon recommend the dismissal or other punishment of the officer without the institution of any disciplinary proceedings under these Regulations.

Officer convicted of a criminal charge.

25. A judicial officer convicted of a criminal charge involving dishonesty, fraud or moral turpitude or convicted of a criminal charge and sentenced to imprisonment shall not receive any of his emoluments after the date of such conviction pending consideration of his case by the Commission.

Non payment of emolument on conviction of certain criminal charges.

26.—(1) The penalties which may be imposed on a judicial officer against whom a disciplinary charge has been established are—

Disciplinary penalties.

- (a) dismissal;
- (b) reduction in rank;
- (c) a fine;
- (d) a reprimand.

(2) The amount of any fine imposed on a judicial officer shall be deducted from his salary by such instalments as may be specified at the time the fine is imposed.

(3) A judicial officer who is absent from the Island without permission shall be liable to summary dismissal.

Investigation of reported misconduct.

27.—(1) A judicial officer charged with any misconduct shall be entitled to know the whole case made against him and to have an adequate opportunity of making his defence thereto.

(2) Where it is represented to the Commission that a judicial officer has been guilty of misconduct, the Commission may appoint one or more than one person who holds or has held substantive judicial office to be a tribunal for the purpose of investigating the matter and furnishing a report thereon to the Commission.

Proceedings for misconduct not warranting dismissal.

28. Where—

- (a) it is represented to the Commission that a judicial officer has been guilty of misconduct; and
- (b) the Commission is of opinion that the misconduct alleged is not so serious as to warrant proceedings under regulation 29, with a view to dismissal; and
- (c) the Commission is of opinion that the allegation has been proved,

the Commission may recommend such punishment other than dismissal as may seem just.

Proceedings for dismissal.

29.—(1) A judicial officer may be dismissed only in accordance with the procedure prescribed by this regulation.

(2) The following procedure shall apply to an investigation with a view to the dismissal of a judicial officer—

- (a) The Commission (after consultation with the Attorney-General if necessary) shall cause the officer to be notified in writing of the charges and to be called upon to state in writing before a specified day (which day shall allow a reasonable interval for the purpose) any grounds upon which he relies to exculpate himself.
- (b) The Commission shall inform the officer charged that on a specified day the charges against him will be enquired into by the Commission or by a tribunal appointed under regula-

tion 27 and that upon such enquiry he will be permitted to appear and defend himself.

(c) Where—

- (i) the investigation of matters other than those forming the subject of charges is incomplete at the time of the making of the charges; and
- (ii) the Commission desires that the charges already made should be expeditiously disposed of,

the notification of charges under sub-paragraph (a) may include a notice that further matters then under investigation may form the subject of additional charges.

- (d) If witnesses are examined by the Commission or tribunal the officer shall be given an opportunity of being present and of putting questions to the witnesses on his own behalf, and no documentary evidence shall be used against him unless he has previously been supplied with a copy thereof or given access thereto.
- (e) The Commission or tribunal may in its discretion permit the judicial officer charged or the person or authority preferring the charges to be represented by a public officer, or by a counsel or solicitor.
- (f) If during the course of the enquiry further grounds which may justify dismissal are disclosed, and the Commission or tribunal thinks fit to proceed against the officer upon such further grounds, the Commission or tribunal shall cause the officer to be furnished with charges in writing and the same steps shall be taken as those prescribed by this regulation in respect of the original charges.
- (g) If the Commission after holding the enquiry or, as the case may be, upon consideration of the report of the tribunal, is of opinion—
 - (i) that the officer ought to be dismissed the Commission shall recommend to the Governor-General that an order be made accordingly;
 - (ii) that the officer deserves some punishment other than dismissal, it shall recommend to the Governor-General what other penalty should be imposed;
 - (iii) that the officer does not deserve to be dismissed by reason of the charges alleged, but that the proceedings

disclose other grounds for removing him from the service in the public interest, it may recommend to the Governor-General that an order be made accordingly, without recourse to the procedure prescribed by regulation 15.

When
enquiry
unnecessary.

30. Where an officer charged under regulation 29 admits in writing the facts giving rise to the charges, it shall not be necessary to hold an enquiry or investigation under that regulation unless in the opinion of the Commission such enquiry or investigation is likely to find such circumstances as may modify the view taken of and the punishment to be imposed for the offence.

SCHEDULE

(Regulation 3)

FORM 1

OATH OF OFFICE

I, _____ chairman
 having been appointed (to act) as _____ of the Judicial Service Commission, do
 member
 swear

_____ that I will freely and without fear or favour,
 solemnly and sincerely declare and affirm
 affection or ill-will give my counsel and advice to the Governor-General of
 Jamaica in connection with all such matters as may be referred to the Judicial
 Service Commission under the Jamaica (Constitution) Order in Council, 1959,
 and that I will not directly or indirectly reveal any such matters to any
 unauthorized person or otherwise than in the course of duty.

Sworn _____
 Declared _____ before me this _____ day of _____, 19 ____

.....
Justice of the Peace

FORM 2

OATH OF SECRETARY OR OTHER OFFICER

I, _____
 having been appointed (to act) as *(secretary) to the Judicial Service Commission,
 do swear

_____ that I will faithfully perform my duties in that
 solemnly and sincerely declare and affirm
 office in accordance with the provisions of the Judicial Service Regulations, 1961,
 and without partiality, fear, favour, affection or ill-will, and that I will not
 directly or indirectly without permission of the Commission reveal to any person
 otherwise than in the exercise of my functions under the said Regulations any
 information which comes to my notice in the course of my duties in respect
 of any matter referred to the Commission or to any authority or public officer
 to whom the functions of the Governor-General have been delegated.

Sworn _____
 Declared _____ before me this _____ day of _____, 19 ____

.....
Justice of the Peace

*Title of officer to be inserted as may be appropriate.

THE CONSTITUTION OF JAMAICA

REGULATIONS

*(Made under section 81 of the Jamaica (Constitution) Order in Council,
1959, preserved by section 2 of the Jamaica (Constitution) Order
in Council, 1962)*

THE PUBLIC SERVICE REGULATIONS, 1961

*(Made by the Governor, after consultation with the Public Service
Commission on the 1st day of June, 1961)*

L.N. 92/61
Amul.:
L.N. 330/63
176/74
66A/80
81/85
86P/86
104/88
133B/95
36C/2000

[1st June, 1961.]

PART I—Preliminary

1. These Regulations may be cited as the Public Service Regulations, Short title.
1961.

2.—(1) In these Regulations unless the context otherwise requires—

Interpreta-
tion.

"authorized officer" means a member of the Commission or an authority
or a public officer to whom the functions of the Governor-General
have been delegated pursuant to section 80 of the Order;

"chairman" means the chairman of the Commission and includes any
member presiding at a meeting of the Commission;

"Commission" means the Public Service Commission established by
section 75 of the Order;

"emoluments" means the whole of an officer's receipts from public funds
but does not include fees, transport allowances, subsistence
allowances or allowances for out-of-pocket expenses;

"functions" includes powers and duties;

"member" means member of the Commission;

"officer" means public officer other than—

(a) a member of the Commission, the Judicial Service Commission
or the Police Service Commission;

(b) the Attorney-General;

(c) the Auditor-General;

(d) an officer whose appointment is regulated by the Judicial Service Commission or the Police Service Commission;

"Order" means the Jamaica (Constitution) Order in Council, 1959;

"perform" in relation to functions includes exercise;

"prescribed salary rate" means the maximum rate of basic annual salary payable under the scale for the time being applicable to the salary grade OPS/CR V;

"regulation" means one of these Regulations.

(2) In these Regulations a reference to the salary of an officer charged shall be construed as a reference to the salary of that officer at the date of the letter preferring charges against him.

PART II—Public Service Commission

Oath of
office of
Commission.
First Schedule
Form 1

3. The chairman and members shall on appointment take before a Justice of the Peace an oath in Form 1 of the First Schedule.

Oath of
office of
staff
Form 2
Functions
of Com-
mission

4. Every person appointed to the staff of the Commission shall on appointment take before a Justice of the Peace an oath in Form 2 of the First Schedule.

5. Where the order requires the Governor-General in the performance of any function to act on the recommendation of the Commission the Governor-General—

(a) may where that function has been delegated pursuant to section 80 of the Order; and

(b) shall in every other case,

request the Commission to make its recommendation and it shall be the duty of the Commission to make the recommendations so requested.

Duties of
Chief Per-
sonnel
Officer

6. It shall be the duty of the Chief Personnel Officer to—

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

(b) attend meetings of the Commission;

(c) carry out the decisions of the Commission;

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

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

Procedure
and meet-
ings

7.—(1) The Commission shall meet as often as may be necessary or expedient for the purpose of performing its functions and such meetings shall be held at such places and at such times as the Commission shall decide.

(2) In the absence of the chairman from any meeting the members present may elect one of their number to preside at that meeting.

(3) All decisions at a meeting of the Commission shall be by a majority of the votes of the members present and voting:

Provided that where the voting is equal the chairman shall have a casting vote (as well as an original vote).

8.—(1) Minutes of all meetings of the Commission shall be duly recorded and copies of such minutes duly confirmed at a subsequent meeting or by the individual members on circulation thereof shall as soon as practicable thereafter be forwarded to the Governor-General.

Record of meetings and decisions.

(2) Any member of the Commission present when any decision is made who dissents therefrom may require that his dissent and his reasons for dissenting be recorded in the minutes.

9. Matters may also be decided by the Commission without a meeting upon circulation of the relevant papers among the members; but if on circulation of the papers relating to any matter a difference of opinion arises among the members, or if any member so requires, the matter shall be reserved for discussion at a meeting.

Decisions otherwise than at a meeting.

10. The Commission in considering any matter or question may consult with any such public officer or other person as the Commission may consider proper and desirable and may require any public officer to attend and give evidence before it and to produce any official documents relating to such matter or question.

Consultation with other persons.

11.—(1) Any officer who without reasonable cause fails to appear before the Commission when required to do so, or who fails to comply with any request properly made by the Commission, shall be guilty of a breach of discipline and the Commission may, where appropriate, recommend that disciplinary proceedings be instituted against him.

Failure to comply with request of Commission.

(2) In this regulation "officer" includes an officer whose appointment is regulated by the Judicial Service Commission or the Police Service Commission.

12. Except with the consent of the Governor-General signified in writing under the hand of the Chief Personnel Officer, a person shall not in any legal proceedings produce or be permitted to give evidence of the contents or nature of any document, communication or information addressed, made or given—

Privileged information.

- (a) to the Commission by or on behalf of the Governor-General, the Chief Personnel Officer, a Permanent Secretary or the head of any Government Department for the purpose of enabling the Commission to perform any of its functions; or
- (b) by the Commission to the Governor-General, the Chief Personnel Officer, a Permanent Secretary or the Head of any Government Department in relation to any matter concerning or arising out of the functions of the Commission.

Penalty
for giving
false in-
formation
to Com-
mission.

13. Any person who in connection with any application for employment or promotion in the public service or with any matter upon which it is the duty of the Commission to make any recommendation to the Governor-General or upon which it is the duty of the Commission or of an authorized officer to make any decision, wilfully gives to the Commission or to any member thereof, or to an authorized officer, any information which he knows to be false or does not believe to be true, or which he knows to be false by reason of the omission of any material particular, shall be guilty of an offence, and upon summary conviction thereof before a Resident Magistrate shall be liable to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding two years or to both such fine and such imprisonment.

PART III—*Appointments, Promotions and Transfers*

Recom-
mendations
to Governor-
General.

14.—(1) The Commission shall make recommendations to the Governor-General with respect to—

- (a) appointments, promotions and transfers of suitable officers;
- (b) appointments or promotions of officers where the Commission is of the opinion that a candidate should be given direct entry into a salary scale (whether on first appointment to the public service or on promotion where such promotion is not promotion in the ordinary course) at an incremental point higher than the minimum of the salary scale attaching to the office to which he is being appointed or promoted;
- (c) confirmation of individual officers in their appointments and the passing of promotional or efficiency bars.

(2) The Commission shall not (unless so requested by the Governor-General) make any such recommendation in relation to a function which has been delegated to an authorized officer.

15. In order to perform its functions under regulation 14, the Commission shall supervise the selection of persons for admission to the public service, for the grant of study leave and for the award of scholarships for special training for the public service.

Supervision
of train-
ing.

16. Where the Commission considers either that there is no suitable candidate already in the public service available for the filling of any vacancy or that having regard to qualifications, experience and merit it would be advantageous and in the best interest of the public service that the services of a person not already in the service be secured, the Commission shall take such steps (including local advertisement of the existence of such vacancy) as it may think necessary for the filling of such vacancy.

Advertise-
ment of
vacancies.

17.—(1) From time to time as vacancies occur the Commission shall consider the eligibility of all officers for promotion, and in respect of every such officer shall take into account not only his seniority, experience and educational qualifications but also his merit and ability.

Principles
of selec-
tion for
promotion.

(2) For promotion to a post involving work of a routine nature more weight may be given to seniority than where the work involves greater responsibility and initiative. Merit and ability shall be given more weight progressively as the work involves a higher degree of responsibility and initiative.

(3) In the performance of its functions under paragraphs (1) and (2), the Commission shall take into account as respects each officer—

- (a) his general fitness;
- (b) the position of his name on the seniority list;
- (c) his basic educational qualifications and any special qualifications;
- (d) any special course of training that he may have undergone (whether at the expense of the Government or otherwise);
- (e) markings and comments made in confidential reports by any Permanent Secretary or other senior officer under whom the officer worked during his service;
- (f) any letters of commendation in respect of any special work done by the officer;
- (g) the duties of which he has had knowledge;
- (h) the duties of the post for which he is a candidate;

- (i) any specific recommendation of the Permanent Secretary or Head of Department for filling the particular post;
- (j) any previous employment of his in the public service or otherwise;
- (k) any special reports for which the Commission may call.

Principles of selection for acting appointments.

18.—(1) The procedure for making a recommendation in relation to an acting appointment as a prelude to a substantive appointment shall be the same as that prescribed in regulation 17 in relation to a promotion.

(2) Where an acting appointment falls to be made otherwise than as a prelude to a substantive appointment, the officer appointed shall—

- (a) as a general rule be the senior officer in the Ministry or Department eligible for such acting appointment;
- (b) assume and discharge the duties and responsibilities of the post to which he is appointed to act.

Procedure for appointments.

19.—(1) The Commission shall be responsible for the form and manner in which applications are to be made for appointment to public offices within its purview and for the conduct of any examinations for recruitment to such offices, and shall determine whether any candidate has the necessary qualifications for appointment to such offices.

(2) The Commission may interview candidates for appointment and shall consider in respect of each candidate—

- (a) his educational qualifications;
- (b) his general fitness;
- (c) any previous employment of his in the public service or otherwise; and
- (d) any reports for which the Commission may call from persons such as the principal, headmaster or headmistress of a candidate's university, college or school or any referees named by the candidate.

Selection Boards.

20.—(1) The Commission may from time to time appoint one or more than one Selection Board to assist in the selection of candidates for appointment to the public service and the composition of any such Board and the form in which its reports are to be submitted shall be decided by the Commission.

(2) On the consideration of any report of a Selection Board, the Commission may in its discretion summon for interview any of the candidates recommended by such Board.

21. In order to assist the Commission in performing its functions Permanent Secretaries and Heads of Departments shall in each year furnish to the Chief Personnel Officer confidential reports in respect of the twelve months immediately preceding—

Confidential reports to assist Commission.

- (a) the 1st day of November, upon all officers whose minimum annual salary is or exceeds \$2,500;
- (b) the 1st day of January, upon all officers whose minimum annual salary is or exceeds \$1,500 but is less than \$2,500;
- (c) the 1st day of March, upon all officers whose minimum annual salary is less than \$1,500.

22.—(1) Subject to the provisions of paragraph (2), a transfer not involving a change in the emoluments of an officer or the nomenclature of his post may, where the transfer—

Transfers.

- (a) is within a Ministry or between a Ministry and any Department of that Ministry, be made by the Permanent Secretary;
- (b) is within a Department, be made by the Head of that Department or the Permanent Secretary of the Ministry responsible for that Department;
- (c) is between Ministries or between Departments of different Ministries or a Ministry and a Department of another Ministry, be made by the Chief Personnel Officer after consultation with the Permanent Secretaries or Heads of Departments concerned.

(2) Where any officer is, or is to be, transferred under any of the foregoing provisions of this regulation, a Permanent Secretary or Head of Department or the officer concerned (through the Permanent Secretary or Head of Department) may lodge a written objection with the Chief Personnel Officer; and an officer lodging such an objection may transmit a copy thereof direct to the Chief Personnel Officer; and it shall be the duty of the Chief Personnel Officer forthwith to lay the matter before the Commission which may intervene and make a recommendation to the Governor-General.

PART IV—*Probationary Service and Termination of Appointments*

Probationary service.

23.—(1) On first appointment to the public service or on promotion in the service from a non-pensionable to a pensionable post or from any post listed in the First Schedule to the Provident Fund Act to a pensionable post, an officer will be required to serve a probationary period of one year unless a shorter term is specified in his letter of appointment.

(2) At intervals of six months and nine months during the probationary period Permanent Secretaries and Heads of Departments shall submit to the Chief Personnel Officer a report on every officer so promoted or appointed on probation in their Ministries or Departments. One month before the end of the probationary period Permanent Secretaries and Heads of Departments shall submit a further report and a recommendation—

- (a) that the officer be confirmed in the appointment; or
- (b) that the probationary period be extended; or
- (c) that the officer's services be terminated; or
- (d) that the officer revert to his former post.

(3) Subject to the provisions of these Regulations, the appointment on probation of an officer may, at any time during the period of probation and without any reason being given, be terminated by the Governor-General acting on the recommendation of the Commission upon one month's notice in writing or payment of one month's salary in lieu thereof.

Premature retirement.

24.—(1) Where it appears to a Permanent Secretary or Head of Department that pursuant to paragraph (2) of section 8 of the Pensions Act an officer in his Ministry or Department who has attained the age of fifty years ought to be called upon to retire from the public service, the Permanent Secretary or Head of Department shall advise the officer accordingly and report the matter together with his reasons therefor for consideration by the Commission, and the Commission shall recommend to the Governor-General whether or not that officer ought to be called upon to retire.

(2) Any such officer shall be afforded an opportunity of submitting to the Commission any representations he may wish to make regarding his proposed retirement.

(3) An officer may at any time after he attains the age of fifty years apply to the Governor-General for permission to retire pursuant to paragraph (i) of subsection (1) of section 6 of the Pensions Act and shall in his application state the grounds on which it is based.

(4) The Commission shall recommend to the Governor-General whether or not an application under paragraph (3) ought to be granted.

25.—(1) Where a post (being one of a number of like posts) has been abolished but one or more than one of such posts remains, the Permanent Secretary or Head of Department shall—

Termination of appointment in certain circumstances.

- (a) if the post is one in respect of which the power to appoint has been delegated to such Permanent Secretary or Head of Department, determine which substantive holder of such post shall have his appointment terminated; and
- (b) in any other case submit to the Chief Personnel Officer for consideration by the Commission, a report thereon containing his recommendations, with reasons therefor, as to which substantive holder of such post ought to have his appointment terminated; and the Commission shall make such recommendation thereon to the Governor-General as it may think proper (including if it thinks fit a recommendation that the officer concerned be transferred to another post not lower in status than that which has been abolished).

(2) Paragraph (1) shall apply in relation to the termination of appointments for the purpose of facilitating improvement in the organization of a Ministry or Department in order to effect greater efficiency or economy.

26.—(1) Notwithstanding the provisions of regulations 42 and 43, where it is represented to the Commission or the Commission considers it desirable in the public interest that an officer ought to be required to retire from the public service on grounds which cannot suitably be dealt with under any of these Regulations it shall call for a full report from the Head of every Ministry or Department in which the officer has served during the last preceding ten years.

Retirement in the public interest.

(2) If, after considering such reports and giving the officer an opportunity of submitting a reply to the grounds on which his retirement is contemplated, and having regard to the conditions of the public service, the usefulness of the officer thereto, and all the other circumstances of the case, the Commission is satisfied that it is desirable

in the public interest so to do, it shall recommend to the Governor-General that the officer be required to retire.

Pension.

27. Where the appointment of an officer is terminated under regulation 24, 25 or 26 his service shall terminate on such date as the Commission may recommend and the question of his pension shall be dealt with in accordance with the provisions of the Pensions Act.

PART V—Discipline

A—GENERAL

Functions
respecting
discipline.

28.—(1) The Commission shall deal with disciplinary proceedings against officers in the light of reports from Permanent Secretaries and Heads of Departments, or otherwise.

(2) Subject to paragraph (3), where the Commission is of opinion that disciplinary proceedings ought to be instituted against an officer, the Commission may recommend to the Governor-General that such proceedings be instituted.

(3) Where an offence against any enactment appears to have been committed by an officer the Commission before making a recommendation under paragraph (2) shall obtain the advice of the Attorney-General as to whether criminal proceedings ought to be instituted against the officer concerned; and if the Attorney-General advises that criminal proceedings ought to be so instituted the Commission shall not recommend the initiation of disciplinary proceedings before the determination of the criminal proceedings so instituted.

Regulations
to govern
disciplinary
procedure.

29.—(1) Any report of misconduct shall be made to the Chief Personnel Officer and dealt with under this Part of these Regulations as soon as possible after the time of its occurrence.

(2) Any case not covered by these Regulations shall be reported to the Chief Personnel Officer and the Commission may issue instructions as to how the case is to be dealt with; and the case shall be dealt with accordingly.

Grounds for
criminal
prosecution.

30. Where upon a preliminary investigation or a disciplinary enquiry an offence against any enactment appears to have been committed by an officer, the Permanent Secretary of the Ministry (or Head of Department) to which he is attached shall, unless action by the Police has been or is about to be taken, obtain the advice of the Attorney-General as to whether criminal proceedings ought to be instituted.

31.—(1) Where criminal proceedings have been instituted in any court against an officer, proceedings for his dismissal upon any grounds arising out of the criminal charge shall not be taken until after the court has given judgment and the time allowed for an appeal from the judgment has expired; and where an officer after conviction has appealed, proceedings for his dismissal shall not be taken until after the withdrawal or determination of the appeal.

No disciplinary proceedings while criminal proceedings pending.

(2) Nothing in this regulation shall prevent the officer being interdicted from duty pursuant to regulation 32.

32.—(1) Where—

Interdiction.

(a) disciplinary proceedings; or

(b) criminal proceedings,

have been or are about to be instituted against an officer, and where the Commission is of the opinion that the public interest requires that that officer should cease to perform the functions of his office, the Commission may recommend his interdiction from the performance of these functions.

(2) An officer so interdicted shall, subject to the provisions of regulation 36 and paragraph (3) hereof, be permitted to receive such proportion of the salary of his office as the Commission shall recommend to the Governor-General.

(3) The proportion of salary referred to in paragraph (2) shall be related to the nature and circumstances of the charge against the officer, so, however, that—

(a) subject to sub-paragraphs (b) and (c), the proportion shall not be less than one-half;

(b) subject to sub-paragraph (c), where the charge involves an allegation of defalcation, fraud or misappropriation of public funds or public property, the proportion shall not be less than one-quarter; and

(c) where special circumstances exist which in the opinion of the Public Service Commission justify such action, the Commission may recommend to the Governor-General that salary be paid at a proportion less than one-quarter or entirely withheld.

(4) Where disciplinary proceedings against an officer under interdiction from duty result in his exculpation, he shall be entitled to the full amount of the salary which he would have received had he not been interdicted, but where the proceedings result in any punishment other than dismissal the officer shall be allowed such salary as the Commission may in the circumstances recommend.

(5) An officer who is under interdiction from duty—

- (a) shall give to his Permanent Secretary or Head of Department an address at which he can be found; and
- (b) shall not leave the Island without the prior permission of the Governor-General, acting on the recommendation of the Commission.

(6) Without prejudice to any other form of service, a document required to be served pursuant to these Regulations on an officer under interdiction from duty shall be deemed to be properly served if sent in a prepaid registered letter properly addressed and posted to the address given by the officer in accordance with paragraph (5).

Copies of evidence of enquiries.

33. An officer in respect of whom a disciplinary enquiry is to be held shall be entitled without charge to him to receive copies of or to be allowed access to any documentary evidence relied on for the purpose of the enquiry. He shall also be given upon request a copy of the evidence (including copies of documents tendered in evidence) after the enquiry is closed.

Disciplinary action after acquittal of a criminal charge.

34. An officer acquitted in any court of a criminal charge shall not be dismissed or otherwise punished in respect of any charge of which he has been acquitted, but nothing in this regulation shall prevent his being dismissed or otherwise punished in respect of any other charge arising out of his conduct in the matter, unless such other charge is substantially the same as that in respect of which he has been acquitted.

Officer convicted of a criminal charge.

35. If an officer is convicted in any court of a criminal charge, the Commission may consider the relevant proceedings of that court, and if the Commission is of the opinion that the officer ought to be dismissed or subjected to some lesser punishment in respect of the offence of which he has been convicted the Commission may thereupon recommend the dismissal or other punishment of the officer without the institution of any disciplinary proceedings under these Regulations.

Non-payment of emolument on conviction of a criminal charge.

36. An officer convicted of a criminal charge involving dishonesty, fraud or moral turpitude or convicted of a criminal charge and sentenced to imprisonment shall not receive any of his emoluments after the date of such conviction pending consideration of his case by the Commission.

Disciplinary penalties.

37.—(1) The penalties which may be imposed on an officer against whom a disciplinary charge has been established are—

- (a) dismissal;
- (b) reduction in rank;
- (c) suspension without pay for a period not exceeding three months;

- (d) deferment or withholding of increment;
- (e) a fine;
- (f) reprimand.

(2) Where a fine is imposed the amount of such fine shall be deducted from the salary of the officer by such instalments as may be specified at the time the penalty is imposed.

(3) The absence of an officer from the Island without permission renders him liable to summary dismissal with effect from the date of his departure.

(4) The absence of an officer from duty for a period of five days or more without permission renders him liable to summary dismissal with effect from the first day of such absence.

38.—(1) Subject to the provisions of this regulation an increment shall not be suspended, deferred or withheld except by the Governor-General acting upon the recommendation of the Commission.

Suspension,
deferment
and with-
holding of
increments.

(2) The grant of an increment may be prejudiced by—

- (a) lack of efficiency;
- (b) unsatisfactory service or conduct; or
- (c) failure to pass a requisite examination conditional to the grant of the officer's increment.

(3) Where a Permanent Secretary or Head of Department considers that for any of the reasons specified in sub-paragraph (a) or (b) of paragraph (2) an officer's increment ought not to be granted he shall—

- (a) notify the officer in writing at least one month before the date on which the increment is due of the reasons for which he considers that the increment ought not to be granted; or
- (b) if he is unable to notify the officer in accordance with sub-paragraph (a), report the matter to the Chief Personnel Officer for the Commission's recommendation to the Governor-General as to whether the payment of the increment ought to be made on the date on which it becomes due.

(4) Where a Permanent Secretary or Head of Department has notified an officer in accordance with sub-paragraph (a) of paragraph (3) he may suspend for a period not exceeding three months the payment to that officer of the increment to which the notification relates, and shall at the end of the period of suspension—

- (a) grant the increment from the date on which it became due; or
- (b) recommend through the Chief Personnel Officer for the consideration of the Commission that the increment be either deferred or withheld.

(5) In making a recommendation for the suspension, deferment or withholding of an increment the Permanent Secretary or Head of Department shall take into account the gravity of the original miscon-

duct or dereliction of duty if any, and the nature of the officer's subsequent behaviour, or his present degree of efficiency; he shall bear in mind that—

- (a) "suspension" is to be applied when for any reason it is thought desirable to "reserve judgment" and allow for reformation or otherwise;
- (b) "deferment" is a substantial fine; and
- (c) "withholding" is a very serious penalty which deprives the officer of the amount of that increment during each subsequent year of his service until the officer reaches the maximum of his scale.

(6) An increment may be deferred for a period not exceeding six months including any period for which it has been suspended, and shall be payable from the date on which it is restored.

(7) Where an increment has been withheld the Governor-General, acting on the recommendation of the Commission may at any subsequent incremental date grant to the officer concerned a special increment in addition to his ordinary increment.

Reference
to Privy
Council.

39.—(1) Where—

- (a) the Commission has recommended that an officer ought to be dismissed or subjected to any other disciplinary penalty; and
- (b) the officer desires to apply by virtue of subsection (3) of section 77 of the Order for a reference to the Privy Council of that recommendation,

the application shall be made in writing to the Governor-General within fourteen days of the date on which the officer is informed of the recommendation; and the recommendation shall be referred accordingly.

(2) Only one reference to the Privy Council shall be allowed, unless new and material facts come to light which might have affected the former decision and adequate reasons are given for the non-disclosure of such facts at an earlier date.

(3) Notwithstanding the provisions of paragraphs (1) and (2), where the dismissal of an officer has been recommended, the Governor-General acting on the recommendation of the Commission may suspend the officer from the performance of his functions pending the decision of the Privy Council and the officer shall not be paid any of his emoluments during such period of suspension.

(4) An application by the Governor-General's Secretary for a reference of his case to the Privy Council made by virtue of subsection (3) of section 77 as applied by subsection (3) of section 79 of the Order shall be made in writing to the Governor-General within fourteen

days of the date on which he is informed of the Governor-General's decision to dismiss him or to impose some other disciplinary penalty, and the case shall be referred accordingly.

40. Where an officer has been suspended from duty and a reference of his case to the Privy Council results in his exculpation he shall be entitled to receive the full amount of any salary which he would have received but for his suspension; but if the reference results in any punishment other than dismissal the officer shall be allowed such salary as the Commission or the appropriate authorized officer may, in the circumstances, recommend.

Payment of salary to suspended officer.

B—PROCEEDINGS

41. [Deleted by L.N. 133B/1995.]

42.—(1) Where—

- (a) it is represented that an officer has been guilty of misconduct; and
- (b) the appropriate authorized officer is of the opinion that the misconduct alleged is not so serious as to warrant proceedings under regulation 43 with a view to dismissal,

Proceedings for misconduct not warranting dismissal.

the appropriate authorized officer (or the Commission at the request of the Governor-General) may cause an investigation to be made into the matter in such manner as he may think proper; and the officer shall be entitled to know the whole case made against him, and shall be given an adequate opportunity of making his defence.

(2) If the appropriate authorized officer is of opinion that the allegation is proved, he may inflict such punishment upon the officer other than dismissal or reduction in rank as may seem just.

(3) If the Commission is of opinion that the allegation is proved, it may recommend such punishment other than dismissal as may seem just.

(4) Unless the appropriate authorized officer is of the opinion that there are circumstances which render the following offences more serious, these offences shall be regarded as not so serious as to warrant proceedings with a view to dismissal—

- (a) absence from duty during working hours without permission of the relevant senior officer;

- (b) absence from duty without permission except in cases where by reason of illness or other unavoidable circumstance permission cannot be obtained prior to such absence;
- (c) habitual or frequent unpunctuality;
- (d) failure to sign the attendance register;
- (e) being a party to the signing of the register by another person on his behalf;
- (f) signing the attendance register for or on behalf of another officer;
- (g) being idle, disorderly, indisciplined or behaving in an improper manner while on duty;
- (h) careless handling of any article or equipment the property of a Ministry or Department;
- (i) inefficient performance of duties;
- (j) committing any act prejudicial to good order and discipline.

Proceed-
ings for
dismissal.

43.—(1) Subject to the provisions of these Regulations an officer may be dismissed only in accordance with the procedure prescribed by this regulation.

(2) The following procedure shall apply to an investigation with a view to the dismissal of an officer whose basic annual salary (whether fixed or on a scale) exceeds the prescribed salary rate—

- (a) the Commission (after consultation with the Attorney-General if necessary) shall cause the officer to be notified in writing of the charge and to be called upon to state in writing before a specified day (which day shall allow a reasonable interval for the purpose) any grounds upon which he relies to exculpate himself;
- (b) if the officer does not furnish such a statement within the time so specified or if he fails to exculpate himself the Governor-General shall on the recommendation of the Commission appoint to enquire into the matter a Committee consisting of not less than three persons of whom the chairman shall be a Judge, Resident Magistrate, or legal officer, or some other person possessing legal qualification; the members of the Committee shall be selected with due regard to the standing of the officer concerned, and to the nature of the charges made against him;

- (c) the Committee shall inform the officer charged that on a day specified the Committee will enquire into the charges and that he will be permitted to appear before the Committee and defend himself;
- (d) if witnesses are examined by the Committee the officer shall be given an opportunity of being present and of putting questions to the witnesses on his own behalf, and no documentary evidence shall be used against him unless he has previously been supplied with a copy thereof or given access thereto;
- (e) an officer against whom charges are preferred shall be entitled to be represented before the Committee by—
 - (i) a public officer;
 - (ii) an attorney-at-law;
 - (iii) an accredited representative of a trade union or staff association recognized as representing the category of staff of which the officer is one,and the person or authority preferring the charges shall be entitled to be represented by a public officer or an attorney-at-law;
- (f) if during the course of the enquiry further grounds of dismissal are disclosed, and the Commission thinks fit to proceed against the officer upon such grounds, the Commission shall cause the officer to be furnished with the written charge and the same steps shall be taken as those prescribed by this regulation in respect of the original charge;
- (g) if having heard the evidence in support of the charges the Committee is of the opinion that that evidence is insufficient it may report accordingly to the Commission without calling upon the officer for his defence;
- (h) the Committee shall furnish to the Commission a report of its findings together with a copy of the evidence and all material documents relating to the case; if the Commission is of opinion that the report should be amplified in any respect or that further enquiry is desirable, it may refer any matter back to the Committee for further enquiry or report accordingly;
- (i) if the Commission is of opinion that the officer should be dismissed the Commission shall recommend to the Governor-General that an order be made accordingly;

- (j) if the Commission is of opinion that the officer deserves some punishment other than dismissal, it shall recommend to the Governor-General what other penalty should be imposed;
- (k) if the Commission is of opinion that the officer does not deserve to be dismissed by reason of the charges alleged, but that the proceedings disclose other grounds for removing him from the service in the public interest it may recommend to the Governor-General that an order be made accordingly, without recourse to the procedure prescribed by regulation 26.

(3) The procedure prescribed by paragraph (2) shall apply to an investigation with a view to dismissal of an officer whose basic annual salary (whether fixed or on a scale) does not exceed the prescribed salary rate except that the charges may if the Commission so recommends be investigated by the Permanent Secretary, Head of Department or such other officer or officers as may be appointed by the Governor-General.

(4) Where an officer charged under this regulation admits in writing the facts giving rise to the charges, it shall not be necessary to hold an enquiry or investigation under this regulation unless in the opinion of the Commission such enquiry or investigation is likely to find such circumstances as may modify the view taken of and the punishment to be imposed for the offence.

44.—(1) Regulation 42 shall apply to an officer who is employed in a public hospital in respect of which a Hospital Board is established.

(2) [Deleted by L.N. 133B/1995.]

(3) Paragraph (2) of regulation 43 shall, in its application in relation to an investigation respecting any officer employed as described in paragraph (1) of this regulation, have effect as if—

- (a) all the words appearing after the word “matter” in sub-paragraph (b) of the said paragraph (2) had been deleted from that sub-paragraph and the words “the Hospital Board established in respect of the public hospital in which the officer is employed” had been inserted instead;
- (b) the word “Committee” had been deleted from sub-paragraphs (c), (d), (e), (g) and (h) of the said paragraph (2), wherever that word appears, and the words “Hospital Board” had been substituted therefor in each case,

Proceed-
ings
against
officers
employed
in public
hospitals.

and paragraph (3) of regulation 43 shall, in its application in relation to such an investigation, have effect as if all the words appearing after the words "prescribed salary rate" in the said paragraph (3) had been deleted therefrom.

(4) For the purposes of the foregoing provisions of this regulation, any reference to a public hospital shall be deemed to be a reference to a public hospital as defined in section 2 of the Hospitals (Public) Act.

45. The procedure in regard to the disciplinary control of officers holding non-pensionable posts and of weekly and daily-paid staff and casual employees shall be as specified in the Second Schedule.

*Proceedings
for disciplin-
ary control
of certain
non-pension-
able staff
Second
Schedule*

46.—(1) Regulations 22, 31, 33, 34, 35, 38 and 40 shall apply to an officer to whom the Second Schedule applies.

Application

(2) Save as is otherwise provided in paragraph (1) and the Second Schedule, Parts III, IV and V of these Regulations shall not apply to an officer to whom that Schedule applies.

47. The provisions of regulations 11, 13 to 20, 28, 32, 35, 36, 38 and 43 shall apply, with such modifications as may be necessary, in relation to the exercise of any powers delegated by the Governor-General pursuant to section 127 (1) of the Constitution.

*Exercise of
delegated
powers*

THE PUBLIC SERVICE REGULATIONS, 1961

FIRST SCHEDULE

(Regulation 3)

FORM 1

Oath of Office

I, _____ having been
 appointed (to act) as chairman of the Public Service Commission, do
member

swear

_____ that I will freely and with-
 solemnly, sincerely and truly declare and affirm

out fear or favour, affection or ill-will give my counsel and advice to the Governor-General of Jamaica in connection with all such matters as may be referred to the Public Service Commission under the Jamaica (Constitution) Order in Council, 1959, and that I will not directly or indirectly reveal any such matters to any unauthorized person or otherwise than in the course of duty.

Sworn

_____ before me this _____ day of _____, 19

Declared

.....
Justice of the Peace

FORM 2

(Regulation 4)

Oath of Officer of the Commission

I, _____ having been appointed
 (to act) as* _____ to the Public Service Commission,

swear

do _____ that I will faithfully perform my duties in that
 solemnly, sincerely and truly declare and affirm

office in accordance with the provisions of the Public Service Regulations, 1961, and without partiality, fear, favour, affection or ill-will, and that I will not directly or indirectly without permission of the Commission reveal to any person otherwise than in the performance of my functions under the said Regulations any information which comes to my notice in the course of my duties in respect of any matter referred to the Commission or to any authority or public officer to whom the functions of the Governor-General have been delegated.

Sworn

_____ before me this _____ day of _____ 19

Declared

.....
Justice of the Peace

* Title or rank of officer to be inserted as may be appropriate.

SECOND SCHEDULE

(Regulations 44 and 45)

Preliminary

This Schedule applies to the holders of non-pensionable posts, the holders of weekly paid posts and daily-paid and casual employees. Save as is otherwise herein provided, all such employees shall be subject to the provisions of the Staff Orders and financial regulations in so far as they are applicable.

SECOND SCHEDULE, *contd.**Appointments*

1.—(1) The appropriate authorized officer is hereby authorized to make appointments of persons temporarily or permanently—

Authorized officer may make certain appointments.

(a) to non-pensionable posts in a Ministry or Department;

(b) to weekly-paid posts governed by the Provident Fund Act or otherwise;

and to employ daily-paid and casual employees in accordance with the provisions of this Schedule.

(2) In making any permanent appointment the Permanent Secretary, Head of Department or Chief Personnel Officer (following the procedure provided by regulation 19) shall select the person in accordance with any conditions for the time being in force in relation to candidates for the particular post.

2. Every employee, other than a daily-paid or casual employee, shall on appointment receive an appropriate letter of appointment in Form I, II or III of the Annex.

Letter of appointment. Annex.

3. Every employee shall comply with all lawful departmental instructions and orders and shall perform any lawful functions in respect of which the Permanent Secretary, Head of Department or Chief Personnel Officer may think it desirable to employ him in the public interest.

Employees to comply with departmental instructions.

4.—(1) The appropriate authorized officer shall in each year cause to be furnished to him by such senior officer as he may designate evaluation reports for the twelve months preceding the 1st day of April upon—

Evaluation reports.

(a) all non-pensionable officers; and

(b) all weekly-paid officers employed on a permanent basis.

(2) Where an evaluation report is furnished pursuant to sub-paragraph (1) in relation to any officer whose next promotion is to a pensionable post that report shall be forwarded to the Chief Personnel Officer by the authorized officer.

Probationary Service and Termination of Appointments

5. Every employee shall on first permanent appointment to the established staff be required to serve a probationary period not exceeding one year, but his probationary period may be reduced and he may be confirmed in the appointment at any time after six months' service if the appropriate authorized officer is satisfied that the performance of the employee has been of so high a standard that no useful purpose would be served by further delaying confirmation. During the probationary period of any employee, his appointment may without enquiry or reason given to him be terminated by the appropriate authorized officer, in the case of a weekly-paid employee on two weeks' notice in writing or payment of two weeks' salary in lieu thereof, and in the case of an employee paid on annual basis, on one month's notice in writing or payment of one month's salary in lieu thereof.

Probationary service.

6. The appointment of any employee (other than an unestablished employee, a daily-paid or casual employee) may on one month's notice in writing be terminated at any time by the appropriate authorized officer on the ground of abolition of office, or for the purpose of facilitating improvements in the organization of the Ministry or Department to which such employee is attached.

Termination of employment of employee other than daily-paid or casual employee.

7. The appointment of an unestablished employee (that is, an employee who holds a post for which separate provision has not been made in the Estimates) may without enquiry or reason given to him be terminated by the appropriate authorized officer—

Termination of employment of unestablished employee.

(a) at any time within one year of the date of appointment of such employee on two weeks' notice in writing or payment of two weeks' salary in lieu thereof; and

SECOND SCHEDULE, *contd.*

Termination of employment of daily-paid or casual employee.
Interdiction.

- (b) at any time after one year from the date of appointment on three months' notice in writing or payment of three months' salary in lieu thereof.
8. The appointment of a daily-paid or casual employee may be terminated at the end of any day.

Discipline—General

9. (1) Where—
- (a) disciplinary proceedings; or
 - (b) criminal proceedings,
- have been or are about to be instituted against an employee, and where an authorized officer is of the opinion that the public interest requires that the employee should cease to perform the functions of his office, the authorized officer may interdict such employee from the performance of these functions.
- (2) An employee so interdicted shall, subject to the provisions of sub-paragraph (3), be permitted to receive such proportion of the salary of his office as the authorized officer shall decide.
- (3) The proportion of salary referred to in sub-paragraph (2) shall be related to the nature and circumstances of the charge against the employee, so, however, that—
- (a) subject to sub-paragraphs (b) and (c), the proportion shall not be less than one-half;
 - (b) subject to sub-paragraph (c), where the charge involves an allegation of defalcation, fraud or misappropriation of public funds or public property, the proportion shall not be less than one-quarter; and
 - (c) where special circumstances exist which in the opinion of the authorized officer justify such action, the authorized officer may determine that salary be paid at a proportion less than one-quarter or entirely withheld.
- (4) Where disciplinary proceedings against an employee result in his exculpation, he shall be entitled to the full amount of the salary which he would have received had he not been interdicted, but where the proceedings result in any punishment other than dismissal the employee shall be allowed such salary as the authorized officer may in the circumstances think appropriate.
- (5) An employee who is under interdiction from duty—
- (a) shall give to the authorized officer an address at which he can be found; and
 - (b) shall not leave the Island without the prior permission of the authorized officer.
- (6) Without prejudice to any other form of service, a document required to be served pursuant to these Regulations on an employee under interdiction from duty shall be deemed to be properly served if sent in a prepaid registered letter properly addressed and posted to the address given by the employee in accordance with sub-paragraph (5).

Penalties

- 10.—(1) The penalties which may be imposed where a disciplinary charge has been established are—
- (a) dismissal;
 - (b) reduction in rank;
 - (c) suspension without pay for a period not exceeding three months;
 - (d) withholding or deferment of increment;
 - (e) fines not exceeding one-half of one month's salary, or, in the case of an employee paid on a weekly basis, not exceeding two weeks' salary, regard being had in every case in determining the amount of a fine to the economic circumstances of the employee;
 - (f) reprimand.
- (2) Where a fine is imposed it shall be deducted from the salary of the employee by such instalments as may be specified at the time the penalty is imposed.

power of summary dismissal.

11. The appropriate authorized officer may summarily dismiss an employee in the circumstances and with effect from the date hereinafter respectively specified—

SECOND SCHEDULE, *contd.*

- (a) where he is absent from Jamaica without permission, with effect from the date of his departure from Jamaica;
- (b) where he is absent from duty without permission for five days, with effect from the first day of such absence;
- (c) where he does not reply to charges on or before the date on which his reply should be received, with effect from such date;
- (d) where he fails to attend an enquiry into charges against him, with effect from the date of such failure;
- (e) subject to regulation 31 where he is convicted of a criminal charge involving dishonesty, fraud or moral turpitude or is sentenced to imprisonment on conviction of a criminal charge, with effect from the date of such conviction;

Provided that the power of dismissal shall not be exercised in any case falling under sub-paragraph (c) or (d) if the authorized officer is satisfied that owing to illness or other reasonable cause the employee was prevented from replying to such charges, or from attending such enquiry.

12.—(1) Where—

- (a) an authorized officer has decided that an employee should be subjected to any disciplinary penalty; and
- (b) the employee desires to apply by virtue of subsection (4) of section 80 of the Order for a reference to the Privy Council of that decision,

Reference
to Privy
Council.

the application shall be made within fourteen days of the date on which the employee is informed of the decision; and the decision shall be referred accordingly.

(2) Only one reference to the Privy Council shall be allowed, unless new and material facts come to light which might have affected the former decision and adequate reasons are given for the non-disclosure of such facts at an earlier date.

(3) Notwithstanding the provisions of sub-paragraphs (1) and (2) the authorized officer may suspend the employee from the performance of his functions pending the decision of the Privy Council and the employee shall not be paid any of his emoluments during such period of suspension.

Employees with Ten Years' Service or over

13.—(1) If it is represented to the appropriate authorized officer that an employee has been guilty of misconduct and that officer is of opinion that the misconduct alleged is not so serious as to warrant proceedings with a view to dismissal, he may cause an investigation to be made into the matter in such manner as he may think proper, and the employee shall be entitled to know the whole case made against him and shall be given adequate opportunity of making his defence.

Proceedings
in respect
of miscon-
duct not
warranting
dismissal.

(2) If the authorized officer is of opinion that the allegation is proved, he may impose upon the employee such punishment (other than dismissal) as may seem just.

14.—(1) An employee (other than a temporary, daily-paid or casual employee) may be dismissed only in accordance with the procedure prescribed by paragraphs 15, 16 and 17.

Proceedings
for dis-
missal.

(2) The appropriate authorized officer may in lieu of dismissal impose some lesser penalty such as reduction in rank, withholding or deferment of increment, or fine or reprimand, or if the proceedings disclose ground for so doing he may recommend that the employee be removed from office in the public interest, and regulation 27 shall apply accordingly.

SECOND SCHEDULE, *contd.*

Procedure
in respect
of miscon-
duct
warranting
dismissal.

15. The following procedure shall apply to an investigation with a view to dismissal of an employee (other than a daily-paid or casual employee)—

The authorized officer shall as soon as practicable cause to be delivered to the employee written charges specifying the nature of the offences and informing the employee in writing—

- (a) that a written reply to the charges and any observations the employee may desire to make thereon must be received by the authorized officer within seven days (or such longer period as the authorized officer may permit) of the delivery of the written charges; and
- (b) that the employee may attach to the written reply, statements from his witnesses; and
- (c) that the employee may elect in his written reply either to have the charges dealt with by the authorized officer on the basis of the written reply and the statements (if any) of the employee's witnesses, or to have an oral enquiry before such person as the authorized officer may appoint for the purpose; and that if no election is made the employee will be presumed to have elected to have the charges dealt with on the basis of the written reply.

Finding of
authorized
officer.

16.—(1) Where an oral enquiry is not held, the authorized officer shall consider the charges, the written reply and the statements (if any) and shall find as a fact whether or not any of the charges has been established.

(2) If he finds that the charges have not been established, he shall so inform the employee in writing.

(3) If he finds that any of the charges has been established, he shall so inform the employee in writing and shall also inform the employee of the penalty to be imposed upon him.

Holding
of oral
enquiry.

17.—(1) An oral enquiry shall be held by the appropriate authorized officer (not being an officer personally involved in the circumstances leading to the charges) or by another senior officer in his Ministry or Department appointed by the appropriate authorized officer for the purpose.

(2) The time and place of the oral enquiry shall be communicated to the employee in writing by the officer holding the enquiry and it shall be the responsibility of the employee to see that his witnesses (if any) attend the enquiry; but if any such witness is in the public service, on application by the employee to the officer holding the enquiry such witness shall be allowed time to attend the enquiry.

(3) Where it is decided to hold an oral enquiry, the employee shall be entitled to receive free copies of the statements of witnesses to be called in support of the charges and shall also be furnished with copies of, or given permission to inspect, any documents to be used in support of the charges.

(4) At an oral enquiry the employee against whom charges are preferred shall be entitled to be represented before the authorized officer by—

- (a) a public officer;
- (b) an attorney-at-law; or
- (c) an accredited representative of a trade union or staff association recognized as representing the category of staff of which the employee is one,

and the person or authority preferring the charges shall be entitled to be represented by a public officer or an attorney-at-law.

SECOND SCHEDULE, *contd.*

(5) At an oral enquiry the officer holding the enquiry shall first hear the evidence in support of the charges, and permit the employee charged or his representative to put questions to the witnesses, and shall then hear the evidence of the employee and his witnesses, who may also be questioned. Notes of the proceedings shall be taken down in shorthand.

(6) Where an oral enquiry is held by an officer other than the appropriate authorized officer the officer holding the enquiry shall consider the charges and the written reply and the statements (if any) and the evidence given at the oral enquiry; he shall find as a fact whether or not any of the charges has been established, and shall report his findings to the appropriate authorized officer.

(7) The authorized officer shall consider the findings and shall take action in accordance with the provisions of sub-paragraphs (2) and (3) of paragraph 16.

Employees with less than ten years' service

18. The procedure to be followed in the case of disciplinary proceedings against an employee with less than ten years' service (other than a temporary, daily-paid or casual employee) shall be the same as that prescribed by paragraphs 13 to 17 inclusive, save that the appropriate authorized officer shall have the sole right of deciding whether or not an oral enquiry is to be conducted into the charges against the employee.

Procedure relating to employees with less than ten years' service.

Temporary Employees, Daily-paid Employees and Casual Employees

19. The following procedure shall apply only to temporary employees, daily-paid and casual employees—

- (a) the appropriate authorized officer may, after such informal enquiry as he may think fit, forthwith dismiss a temporary employee if he is satisfied that such employee has been guilty of any misconduct;
- (b) the appropriate authorized officer may, without an enquiry being held or without giving any reason, dismiss a temporary employee by giving him two weeks' notice (or such other notice as may be specified in the letter of appointment) or two weeks' salary in lieu of notice;
- (c) every daily-paid or casual employee may be dismissed by the appropriate authorized officer without an enquiry being held and without reason or notice being given.

Procedure in relation to temporary daily-paid and casual employees.

ANNEX

FORM I

(Paragraph 2)

Letter of Appointment of an Employee on the Established Staff

Sir,

I am directed by the (Permanent Secretary/Head of Department) to inform you that, in accordance with powers delegated to him by His Excellency the Governor-General, he has appointed you to the post of _____ in the _____ on the following conditions—

- (a) your appointment takes effect from the _____ day of _____ and will be on [one] years' probation and during the probationary period your appointment may be terminated at any time without any reason being assigned;
- (b) you will be required to pass a medical examination as to your physical fitness conducted by a doctor in the public service;
- (c) the salary payable to you will be at the rate of _____ a week/year in the scale of _____ a week/year and your salary will be payable weekly/monthly;
- (d) you will be required to become a contributor to the Provident Fund in accordance with the provisions of the Provident Fund Act;

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SECOND SCHEDULE, *contd.*

- (e) you will be subject to the provisions of the Public Service Regulations, 1961, governing the discipline and conditions of service of employees, and, so far as they are applicable, the Staff Orders, financial regulations and other instructions from time to time in force;
- (f) you will be required to comply with all departmental instructions and lawful orders issued to you and to discharge any duties upon which the Permanent Secretary/Head of Department may think it desirable to employ you in the interests of the Service.

Yours truly,

for (Permanent Secretary/Head of
Department)

FORM II

(Paragraph 2)

Letter of Appointment of an Employee on the Unestablished Staff

Sir,

I am directed by the (Permanent Secretary/Head of Department) to inform you that, in accordance with powers delegated to him by His Excellency the Governor-General, he has appointed you to the post of _____ on the _____ on the following conditions—

- (a) your appointment takes effect from the _____ day of _____ and will be terminable at any time within one year thereof on two weeks' notice in writing and at any time after one year on three months' notice in writing on either side;
- (b) you will be required to pass a medical examination as to your physical fitness conducted by a doctor in the public service;
- (c) your appointment will confer no right to appointment on the established staff of the public service of Jamaica;
- (d) the salary payable to you will be at the rate of _____ a week/year in the scale of _____ a week/year and will be payable weekly/monthly;
- (e) you will be required to become a contributor to the Provident Fund in accordance with the provisions of the Provident Fund Act;
- (f) you will be subject to the provisions of the Public Service Regulations, 1961, governing the discipline and conditions of service of employees and, so far as they are applicable, the Staff Orders from time to time in force;
- (g) you will be required to comply with all departmental instructions and lawful orders issued to you and to discharge any duties upon which the Permanent Secretary/Head of Department may think it desirable to employ you in the interests of the Service.

Yours truly,

for (Permanent Secretary/Head of
Department)

FORM III

(Paragraph 2)

Letter of Appointment of a Temporary Employee

Sir,

I am directed by the (Permanent Secretary/Head of Department) to inform you that, in accordance with powers delegated to him by His Excellency the Governor-General, he has appointed you temporarily to the post of _____ in the _____ on the following conditions—

SECOND SCHEDULE, *contd.*

- (a) your temporary appointment takes effect from the day of _____ and will be terminable on notice in writing on either side;
- (b) the salary payable to you will be at the rate of _____ a week/year and will be paid weekly/fortnightly/monthly;
- (c) you will be subject to the provisions of the Public Service Regulations, 1961, governing the discipline and conditions of service of employees and, so far as they are applicable, the Staff Orders from time to time in force;
- (d) you will be required to comply with all departmental instructions and lawful orders issued to you and to discharge any duties upon which the Permanent Secretary/Head of Department may think it desirable to employ you in the interests of the Service.

Yours truly,

for (Permanent Secretary/Head of
Department)

THE CONSTITUTION OF JAMAICA

REGULATIONS

(Made under section 87 of the Jamaica (Constitution) Order in Council, 1959, preserved by section 2 of the Jamaica (Constitution) Order in Council, 1962)

THE POLICE SERVICE REGULATIONS, 1961

(Made by the Governor after consultation with the Police Service Commission, on the 1st day of June, 1961)

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[1st June, 1961.]

PART I—Preliminary

1. These Regulations may be cited as the Police Service Regulations, 1961. Short title.

2. In these Regulations unless the context otherwise requires— Interpre-

“authorized officer” means the Commissioner or any other Officer not below the rank of Assistant Commissioner of Police or, except in relation to a member of or above the rank of Inspector, a commanding Officer;

tation.

“chairman” means the chairman of the Commission, and includes any member presiding at a meeting of the Commission;

“commanding Officer”, in relation to any member below the rank of Inspector, means the Officer in charge of the Division or other command to which the member is for the time being attached, or, in the absence or inability to act of that Officer, the Officer in charge of the branch or area to which that Division or command belongs, or an Officer deputed by him;

“Commission” means the Police Service Commission established by section 83 of the Order;

“Commissioner” means the Commissioner of Police;

“court” means a court of enquiry appointed under regulation 47;

“Force” means the Jamaica Constabulary Force;

“functions” includes powers and duties;

“member” except in Part II, means member of the Force;

“Officer” means any member holding any rank above that of Inspector;

“Order” means the Jamaica (Constitution) Order in Council, 1959;
 “perform” in relation to functions includes exercise;
 “police service” means service in the Force;
 “president” means the president of a court;
 “regulation” means one of these Regulations;
 “secretary” means the secretary to the Commission appointed pursuant to regulation 4 and includes the person for the time being holding or performing the functions of that office;
 “the Act” means the Constabulary Force Act for the time being in force.

PART II—*The Police Service Commission*

Oath of
office.
First
Schedule.

3. The chairman and members, and every officer appointed under regulation 4, shall, on appointment, take before a Justice of the Peace an oath in the appropriate Form in the First Schedule.

Appoint-
ment of
secretary.

4. The Chief Personnel Officer shall with the approval of the Police Service Commission appoint an officer on the staff of the Services Commissions to perform the duties of secretary to the Police Service Commission.

Function of
Commission.

5.—(1) Where the Order requires the Governor-General in the performance of any function to act on the recommendation of the Commission the Governor-General—

(a) may, where the function has been delegated pursuant to section 86 of the Order; and

(b) shall, in every other case,

request the Commission to make its recommendation and it shall be the duty of the Commission to make the recommendation so requested.

(2) The Commission shall not unless so requested by the Governor-General perform any duty in relation to a function which has been delegated to an authorized officer.

Procedure
and
meetings.

6.—(1) The Commission shall meet as often and at such times and places as in the discretion of the chairman may be necessary or expedient for the purpose of performing its functions.

(2) In the absence of the chairman from any meeting the members present may elect one of their number to preside at that meeting.

(3) All decisions at a meeting of the Commission shall be by a majority of the votes of the members present and voting:

Provided that where the voting is equal the chairman shall have a casting vote (as well as an original vote).

7.—(1) Minutes of all meetings of the Commission shall be duly recorded by the secretary and copies of such minutes duly confirmed at a subsequent meeting or by the individual members on circulation thereof shall as soon as practicable thereafter be forwarded to the Governor-General and to the Minister charged with the responsibility for the Police.

Record of meetings and decisions.

(2) Any member of the Commission present when any decision is made who dissents therefrom may require that his dissent and his reasons for dissenting be recorded in the minutes.

8. Matters may also be decided by the Commission without a meeting upon circulation of the relevant papers among the members; but if on circulation of the papers relating to any matter a difference of opinion arises among the members, or if any member so requires, it shall be the duty of the secretary to reserve the matter for discussion at a meeting.

Decisions otherwise than at a meeting.

9. The Commission in considering any matter or question may consult with any such public officer or other person as the Commission may consider proper and desirable and may require any public officer to attend and give evidence before it and to produce any official documents relating to such matter or question.

Consultation with other persons.

10. Any public officer who without reasonable cause fails to appear before the Commission when required to do so, or who fails to comply with any request properly made by the Commission, shall be guilty of a breach of discipline and the Commission may, where appropriate, recommend that disciplinary proceedings be instituted against him.

Failure to comply with request of Commission.

11.—(1) Except with the consent of the Governor-General signified in writing under the hand of the secretary a person shall not in any legal proceedings produce or be permitted to give evidence of the contents or nature of any document, communication or information addressed, made or given—

Privileged information; false information.

- (a) to the Commission by or on behalf of the Governor-General, the Commissioner, the Chief Personnel Officer, a Permanent Secretary or the head of any Government Department for the purpose of enabling the Commission to perform any of its functions; or

- (b) by the Commission to the Governor-General, the Commissioner, the Chief Personnel Officer, a Permanent Secretary or the Head of any Government Department in relation to any matter concerning or arising out of the functions of the Commission.

(2) Any person who in connection with any application for employment or promotion in the police service or with any matter upon which it is the duty of the Commission to make any recommendation to the Governor-General or upon which it is the duty of the Commission or of an authorized officer to make any decision, wilfully gives to the Commission or to any member thereof, or to an authorized officer, any information which he knows to be false or does not believe to be true, or which he knows to be false by reason of the omission of any material particular, shall be guilty of an offence, and upon summary conviction thereof before a Resident Magistrate shall be liable to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding two years or to both such fine and such imprisonment.

PART III—*Appointments and Promotions*

12. In this Part—

- (a) sub-paragraphs (c) and (d) of paragraph (2) of regulation 18 and regulation 21 apply to members below the rank of Inspector;
- (b) regulations 13 to 17, paragraph (1) and sub-paragraphs (a) and (b) of paragraph (2) of regulation 18, and regulations 19, 20 and 22 apply to all members.

13. The Commission shall make recommendations to the Governor-General with respect to—

- (a) appointments and promotions of members including questions of seniority as between members;
- (b) appointments or promotions of members where the Commission is of the opinion that a candidate should be given direct entry into a salary scale (whether on first appointment to the Force or on promotion where such promotion is not promotion in the ordinary course) at an incremental point higher than the minimum of the salary scale attaching to the rank to which he is being appointed or promoted;
- (c) confirmation of individual members in their appointments and the passing of promotional or efficiency bars.

Application
of this Part.

Recommendation
to
Governor-
General.

14. In order to perform its functions under regulation 13, the Commission shall supervise the selection of persons for admission to the Force, for the grant of study leave to members and for the award to members of scholarships for special training.

Supervision
of training.

15.—(1) From time to time as vacancies occur the Commission shall consider the eligibility of all members for promotion and in respect of every member shall take into account not only his seniority, experience and educational qualifications but also his merit, ability and good conduct.

Principles
of selection
for promo-
tion.

(2) In the performance of its functions under paragraph (1), the Commission shall take into account as respects each member—

- (a) his general fitness;
- (b) his seniority;
- (c) his basic educational qualifications and any special qualifications;
- (d) any special course of training that he may have undergone (whether at the expense of Government or otherwise);
- (e) markings and comments made in confidential reports by any officer under whom the member concerned worked during his service;
- (f) any letters of commendation in respect of any special work done by the member;
- (g) the duties of which he has had knowledge and experience;
- (h) the duties of the post for which he is a candidate;
- (i) any specific recommendation of the Commissioner for filling the particular posts;
- (j) any previous employment of his in the public service or the Force or otherwise;
- (k) any special reports for which the Commission may call.

(3) Notwithstanding anything in paragraphs (1) and (2), the Commission shall at all times give preference to members who have manifested superior intelligence and efficiency in the performance of their functions.

16.—(1) The procedure for making a recommendation in relation to an acting appointment as a prelude to a substantive appointment shall be the same as that prescribed in regulation 15. Every recommenda-

Principles
of selection
for acting
appoint-
ments.

tion by the Commission in relation to such an acting appointment shall state whether or not the member recommended is in every way qualified to perform all the functions of the office in which he is to act.

(2) An acting appointment arising from the absence from duty of an officer on leave may be made without strict regard being had to the provisions of regulation 15.

Advertise-
ment of
vacancies.

17. Where the Commission considers that there is no suitable candidate already in the Force available for the filling of any vacancy the Commission shall take such steps (including advertisement of the existence of such vacancy) as it may think necessary for the filling of such vacancy.

Procedure
for appoint-
ments.

18.—(1) The Commission shall be responsible for the form and manner in which applications are to be made for appointment to the Force and for the conduct of any examinations for recruitment thereto, and shall determine whether any candidate has the necessary qualifications for appointment to the Force.

(2) The Commission may interview candidates for appointment and shall consider in respect of each candidate—

- (a) his educational qualifications;
- (b) his general fitness;
- (c) any previous employment in the Force or otherwise; and
- (d) any reports for which the Commission may call from persons appearing to the Commission to have knowledge of the candidate, or any referees named by the candidate.

(3) Without prejudice to the foregoing provisions of this regulation, the Commissioner may appoint as constables such persons as possess the qualifications from time to time prescribed for admission to the Force, and may fill all vacancies occurring in the ranks of officers below the rank of Inspector.

(4) In making any appointments or in filling any vacancies under paragraph (3) the Commissioner shall (acting in accordance with paragraph (2)) select the person in accordance with any conditions for the time being in force in relation to candidates for the particular post.

Selection
boards.

19.—(1) The Commission may from time to time appoint one or more than one Selection Board to assist in the selection of candidates

for appointment to the Force and the composition of any such Board and the form in which its reports are to be submitted shall be decided by the Commission.

(2) On the consideration of any report of a Selection Board, the Commission may in its discretion summon for interview any of the candidates recommended by such Board.

20.—(1) In order to assist the Commission in performing its functions the Commissioner shall in each year furnish to the Commission confidential reports in respect of the twelve months immediately preceding—

Confidential reports.

- (a) the 1st day of November, upon all Officers and Inspectors;
- (b) the 1st day of January, upon all members holding the rank of Sergeant.

(2) In order to assist the Commissioner in performing his functions under this Part, the Officer in charge of each division or branch shall furnish to the Commissioner on the 1st day of January in each year confidential reports in respect of all members in that division or branch below the rank of Inspector other than constables who have not yet passed the promotion bar in their salary scale.

21. A member below the rank of Inspector who has been reduced in rank for misconduct—

Recommendation of members reduced in rank.

- (a) once, shall not be again promoted or recommended for promotion for a period of three years;
- (b) more than once, shall not be promoted or recommended for promotion save in the most exceptional circumstances.

22. Any member attempting to bring influence to bear on the Commission or the Commissioner (as distinct from making representations through the proper channels) for the purpose of obtaining promotion shall be disqualified for the position concerned.

Disqualification for attempting to use influence.

PART IV—*Probationary Service and Termination of Appointments*

23. In this Part—

Application of this Part.

- (a) paragraphs (2) and (3) of regulation 24 apply to Officers;
- (b) paragraph (4) of regulation 24 applies to Inspectors;
- (c) paragraph (5) of regulation 24 applies to members below the rank of Inspector;

- (d) paragraph (6) of regulation 24 applies to constables;
- (e) the other provisions of this Part apply generally to the Force.

Probationary
service.

24.—(1) On first appointment to the Force in or above the rank of Assistant Superintendent, or on promotion in the ranks below that of Assistant Superintendent a member shall be required to serve a probationary period of two years and six months respectively, unless in any particular case a shorter period is specified by the Commission.

(2) At the end of the first six and each succeeding six months during the probationary period of an Officer appointed on two years' probation, the Commissioner shall submit to the Commission a report on such Officer. One month before the end of the probationary period the Commissioner shall submit a further report and a recommendation—

- (a) that the Officer be confirmed in the appointment; or
- (b) that the probationary period be extended; or
- (c) that the Officer's services be terminated.

(3) Subject to the provisions of these Regulations the appointment on probation of an Officer may, at any time during the period of probation and without any reason being given, be terminated by the Governor-General acting on the recommendation of the Commission upon one month's notice in writing or payment of one month's salary in lieu thereof.

(4) At least one month before the expiration of the probationary period of an Inspector, the Commissioner shall submit to the Commission a report on such Inspector together with a recommendation—

- (a) that the Inspector be confirmed in his appointment; or
- (b) that the probationary period be extended; or
- (c) that the Inspector revert to his former rank.

(5) The Commissioner shall ensure that as respects every member below the rank of Inspector appointed on six months' probation a report is furnished to him one month before the end of such period, together with such a recommendation as is required by paragraph (4).

(6) On first appointment to the Force a constable shall—

- (a) during the period of his training be deemed to be on probation, and if during that period he is in the opinion of the Commissioner found wanting in any such qualities as are likely to

render him a useful member of the Force, his services may forthwith be dispensed with by the Commissioner; and

- (b) at the end of the period aforesaid, if his services have not been dispensed with, be deemed to have been duly confirmed as respects his enlistment.

25.—(1) Where it appears to the Commissioner that pursuant to paragraph (b) of section 57 of the Act or pursuant to paragraph (b) of section 8 of the Pensions Act, as the case may be, a member who has attained the age of fifty years ought to be called upon to retire from the Force, the Commissioner shall report the matter together with his reasons therefor for consideration by the Commission, and the Commission shall recommend to the Governor-General whether or not that member ought to be called upon to retire. Premature retirement.

(2) Any such member shall be afforded an opportunity of submitting to the Commission any representations he may wish to make regarding his proposed retirement.

(3) A member may at any time after he attains the age of fifty years apply to the Governor-General for permission to retire pursuant to sub-paragraph (a) of paragraph (1) of section 56 of the Act or pursuant to paragraph (i) of subsection (1) of section 6 of the Pensions Act, as the case may be, and shall in his application state the grounds on which it is based.

(4) The Commission shall recommend to the Governor-General whether or not an application under paragraph (3) ought to be granted.

26.—(1) Notwithstanding the provisions of regulation 46 or regulation 47 where it is represented to the Commission or the Commission considers it desirable in the public interest that any member ought to be required to retire from the Force on grounds which cannot suitably be dealt with by the procedure prescribed by regulation 46 or regulation 47 it shall require the Commissioner to submit a full report. Retirement in the public interest.

(2) If after considering the report of the Commissioner and giving the member an opportunity of submitting a reply to the grounds on which his retirement is contemplated, and, having regard to the conditions of the Force, the usefulness of the member thereto, and all the other circumstances of the case, the Commission is satisfied that it is desirable in the public interest so to do, it shall recommend to the Governor-General that the member be required to retire on such date as the Commission may recommend.

Absence
without
leave.

27.—(1) Notwithstanding the provisions of regulation 47, every Officer, sub-officer or constable who absents himself from duty without leave for more than forty-eight hours, without satisfactory explanation, shall be held automatically to have vacated his position and shall be liable to summary dismissal—

- (a) in the case of a member of the rank of Inspector or above, by the Commission; and
- (b) in the case of a member below the rank of Inspector, by the Commissioner,

with effect from the first date of such absence.

(2) A member so dismissed shall be served with a notification in writing of his dismissal and, where such member cannot be located, service shall be deemed to be effected by sending such notification by pre-paid registered post to his last known address.

(3) A member so dismissed may, within fourteen days of the date on which service of the notification of dismissal is, or is deemed to be effected, make a written application for a reference of his case in accordance with the provisions of regulation 42.

Termination
of appoint-
ment in
certain
circum-
stances.

28.—(1) Where a post (being one of a number of like posts) has been abolished but one or more than one of such posts remains, the Commissioner shall—

- (a) if the post is one in respect of which power to appoint has been delegated, determine which substantive holder of such post shall have his appointment terminated; and
- (b) in any other case submit to the Commission a report thereon containing his recommendations, with reasons therefor, as to which substantive holder of such post ought to have his appointment terminated; and the Commission shall make such recommendation thereon to the Governor-General as it may think proper (including if it thinks fit a recommendation to the Public Service Commission that the member concerned be transferred to another post not lower in status than that which has been abolished).

(2) Paragraph (1) shall apply in relation to the termination of appointments for the purpose of facilitating improvement in the organization of the Force to effect greater efficiency or economy.

29. Where the appointment of a member is terminated under regulation 25, 26 or 28 his service shall terminate on such date as the Commission may recommend and the question of his pension shall be dealt with in accordance with the provisions of the Act. Pension.

PART V—Discipline

A—GENERAL

30. Except where the contrary intention appears the provisions of this Part apply generally to the Force. Application of this Part.

31.—(1) The Commission in dealing with disciplinary proceedings against members shall take into consideration reports from the Commissioner. Functions respecting discipline.

(2) Subject to paragraph (5) where the Commission is of opinion that disciplinary proceedings ought to be instituted against a member of or above the rank of Inspector, the Commission may recommend to the Governor-General that such proceedings be instituted.

(3) Disciplinary proceedings against members below the rank of Inspector shall be instituted by or by direction of the Commissioner in the light of reports made to him, or otherwise.

(4) Subject to paragraph (5) the Commissioner where he is of the opinion that disciplinary proceedings ought to be instituted against a member below the rank of Inspector, may institute such proceedings or cause them to be instituted.

(5) Where an offence against any enactment appears to have been committed by a member the Commission, or as the case may be the authorized officer, before proceeding under this regulation shall obtain the advice of the Attorney-General or, as the case may be, of the Clerk of the Courts for the parish, as to whether criminal proceedings ought to be instituted against the member concerned; and if the Attorney-General or Clerk of the Courts advises that criminal proceedings ought to be so instituted, disciplinary proceedings shall not be initiated before the determination of the criminal proceedings so instituted.

32.—(1) Any report of misconduct on the part of a member shall be made to the Commissioner and dealt with under this Part as soon as possible thereafter. Regulations to govern disciplinary procedure.

(2) Any case not covered by these Regulations shall be reported to the Commission and the Commission may issue instructions as to how the case is to be dealt with, and the case shall be dealt with accordingly.

Grounds for
criminal
prosecution.

33. Where upon a preliminary investigation or a disciplinary enquiry an offence against any enactment appears to have been committed by a member the Commissioner shall, unless criminal proceedings have been or are about to be instituted, obtain the advice of the Attorney General as to whether criminal proceedings ought to be instituted.

No disciplin-
ary proceed-
ings while
criminal
proceedings
pending.

34.—(1) Where criminal proceedings have been instituted against a member, disciplinary proceedings upon any grounds arising out of the criminal charge shall not be taken until after judgment has been given and the time allowed for an appeal from the judgment has expired; and where a member after conviction has appealed disciplinary proceedings shall not be taken until after the withdrawal or determination of the appeal.

(2) Nothing in this regulation shall prevent the member being interdicted from duty pursuant to regulation 35.

Interdiction.

35.—(1) Where—

- (a) any disciplinary proceedings or criminal proceedings have been or are about to be instituted against a member; or
- (b) the authorized officer becomes aware of any misconduct on the part of a member below the rank of Inspector; and
- (c) the Commission or as the case may be the authorized officer is of opinion that it is necessary or desirable in the public interest that that member should forthwith cease to perform his functions as such member,

the Commission may recommend or as the case may be the authorized officer may direct that that member be interdicted from such performance.

(2) A member so interdicted shall, subject to the provisions of regulation 34, be permitted to receive such proportion of the salary of his rank, not being less than three-quarters, as the Commission may recommend to the Governor-General or, as respects a member below the rank of Inspector, as the Commissioner may decide.

(3) If disciplinary proceedings against any such member result in his exculpation, he shall be entitled to the full amount of the salary

which he would have received if he had not been interdicted; but if the proceedings result in any punishment other than dismissal the member shall be allowed such salary as the Commission may in the circumstances recommend or, as respects a member below the rank of Inspector, as the Commissioner may decide.

(4) A member who has been summoned or arrested on a criminal charge may be forthwith interdicted from duty or suspended from duty without pay and deprived of all uniform and other Government property in his possession. If admitted to bail he may be prohibited from living in a station but shall be permitted to earn his livelihood as if he were not a member.

(5) A member who is under interdiction or suspension from duty may not leave the Island without the permission of the Governor-General acting on the recommendation of the Commission and shall give to his Divisional Officer an address at which he may be found.

(6) All documents required to be served pursuant to these Regulations on a member who is under interdiction or suspension from duty shall be deemed to be properly served if sent by prepaid registered mail to the address given by that member in accordance with paragraph (5).

36. A member in respect of whom a disciplinary enquiry is to be held shall be entitled without charge to him to receive copies of or to be allowed access to any documentary evidence relied on for the purpose of the enquiry. He shall also be given a copy of the notes of the evidence (including copies of documents tendered in evidence) upon his applying therefor within thirty days of the decision of the court.

Copies of evidence of enquiries.

37. A member acquitted of a criminal charge shall not be dismissed or otherwise punished in respect of any charge of which he has been acquitted, but nothing in this regulation shall prevent his being dismissed or otherwise punished in respect of any other charge arising out of his conduct in the matter, unless such other charge is substantially the same as that in respect of which he has been acquitted.

Disciplinary action after acquittal of a criminal charge.

38. If a member is convicted in any court of a criminal charge the Commission may consider the relevant proceedings of that court and if the Commission is of the opinion that the member ought to be dismissed or subjected to some lesser punishment in respect of the

Member convicted of a criminal charge.

offence of which he has been convicted the Commission may thereupon recommend the dismissal or other punishment of the member without the institution of any disciplinary proceedings under these Regulations.

Non-payment
of emolu-
ments on
conviction
of criminal
charge

39. A member convicted of a criminal charge involving dishonesty, fraud or moral turpitude or convicted of a criminal charge and sentenced to imprisonment shall not receive any of his emoluments after the date of such conviction pending consideration of his case by the Commission or as the case may be, the Commissioner.

Disciplinary
penalties,
Second
Schedule.

40. Penalties in respect of disciplinary offences by members shall be in accordance with Parts II and III of the Second Schedule.

Suspension,
deferment,
and with-
holding of
increments.

41.—(1) Subject to the provisions of this regulation an increment shall not be suspended, deferred or withheld from any member except by the Governor-General acting upon the recommendation of the Commission.

(2) The grant of an increment may be prejudiced by—

- (a) lack of efficiency; or
- (b) unsatisfactory service or conduct.

(3) Where the Commissioner considers that for any of the reasons specified in paragraph (2) an increment of a member ought not to be granted he shall—

- (a) notify the member concerned in writing at least one month before the date on which the increment is due of the reasons for which he considers that the increment ought not to be granted; or
- (b) if he is unable to notify the member in accordance with sub-paragraph (a), report the matter to the Commission for the Governor-General's decision as to whether the payment of the increment should be made on the date on which it becomes due.

(4) Where the Commissioner has notified a member in accordance with sub-paragraph (a) of paragraph (3) he may suspend for a period not exceeding three months the payment to that member of the increment to which the notification relates, and shall at the end of the period of suspension—

- (a) grant the increment from the date on which it became due; or
- (d) recommend to the Governor-General through the Commission that the increment be either deferred or withheld.

(5) In making a recommendation for the suspension, deferment or withholding of an increment the Commissioner shall take into account the gravity of the original misconduct or dereliction of duty, if any, and the nature of the member's subsequent behaviour, or his present degree of efficiency; he shall bear in mind that—

- (a) "suspension" is to be applied when for any reason it is thought desirable to "reserve judgment" and allow for reformation or otherwise;
- (b) "deferment" is a substantial fine; and
- (c) "withholding" is a very serious penalty which deprives the member of the amount of that increment during each subsequent year of his service until he reaches the maximum of his scale.

(6) An increment may be deferred for a period not exceeding six months including any period for which it has been suspended, and shall be payable from the date on which it is restored.

(7) Where an increment has been withheld the Governor-General, acting on the recommendation of the Commission, may at any subsequent incremental date grant to the member concerned a special increment in addition to his ordinary increment.

42.—(1) Where—

- (a) the Commission has recommended or the authorized officer has directed that a member should be subjected to any disciplinary penalty; and
- (b) the member concerned desires to apply by virtue of the relevant provision of the Order for a reference to the Privy Council of that recommendation or direction,

Reference to
Privy
Council

the application shall be made within fourteen days of the date on which the member is informed of the recommendation or direction; and the recommendation or direction shall be referred accordingly.

(2) Only one reference to the Privy Council shall be allowed, unless new and material facts come to light which might have affected the former decision and adequate reasons are given for the non-disclosure of such facts at an earlier date.

(3) Notwithstanding the provisions of paragraphs (1) and (2) the Governor-General acting on the recommendation of the Commission or as the case may be, the Commissioner may suspend the member

from duty pending the decision of the Privy Council, and the member shall not be paid any of his emoluments during such period of suspension.

Payment of salary to suspended member.

43. Where a member has been suspended from duty and a reference of his case to the Privy Council results in his exculpation he shall be entitled to receive the full amount of any salary which he would have received but for his suspension; but if the reference results in any punishment other than dismissal the member shall be allowed such salary as the Commission or, as the case may be, the Commissioner may, in the circumstances, think appropriate.

Acquittal of member.

44. A member acquitted of a criminal charge shall be restored to his rank and pay and be paid the full amount of his salary for the period of his interdiction or suspension.

B—PROCEEDINGS

Members to be informed of charges.

45. A member against whom any disciplinary proceedings are taken shall be entitled to know the whole case against him and to have an adequate opportunity of preparing his defence.

Proceedings for misconduct not warranting dismissal.

46.—(1) Where—

- (a) it is represented to the Commission that a member of or above the rank of Inspector has been guilty of misconduct; and
- (b) the Commission is of opinion that the misconduct alleged is not so serious as to warrant proceedings under regulation 47 with a view to dismissal,

the Commission may cause an investigation to be made into the matter in such manner as it may think proper; and if the Commission is of opinion that the allegation is proved it may recommend such punishment other than dismissal as may seem just.

(2) Where—

- (a) it is represented that a member below the rank of Inspector has been guilty of misconduct; and
- (b) the authorized officer is of the opinion that the misconduct alleged is not so serious as to warrant proceedings under regulation 47 with a view to dismissal,

the authorized officer may make or cause to be made an investigation into the matter in such manner as he may think proper; and if after such investigation the authorized officer thinks that the charge ought

not to be proceeded with he may in his discretion dismiss the charge, but if he thinks that the charge ought to be proceeded with he shall if he is not the Commissioner, report the member to the Commissioner or in the case of any minor offence specified in Part I of the Second Schedule may deal with the case summarily, and may impose a penalty on the member in accordance with these Regulations.

Second
Schedule.

(3) Where as a result of such investigation it is decided to charge the member with misconduct not warranting dismissal, the procedure to be followed shall be similar to that prescribed by regulation 47:

Provided that this paragraph shall not apply where any offence specified in Part I of the Second Schedule is dealt with summarily.

47.—(1) Subject to the provisions of these Regulations a member may be dismissed only in accordance with the procedure prescribed by this regulation.

Proceedings
for dis-
missal.

(2) The following procedure shall apply to an investigation with a view to the dismissal of a member—

- (a) the Commission or, in relation to a member below the rank of Inspector, the Commissioner (after consultation with the Attorney-General if necessary) shall cause the member concerned to be notified in writing of the charges and to be called upon to state in writing before a specified day (which day shall allow a reasonable interval for the purpose) any grounds upon which he relies to exculpate himself;
- (b) if the member (being of or over the rank of Inspector) does not furnish such a statement within the time so specified or he fails to exculpate himself the Governor-General shall on the recommendation of the Commission appoint a court of enquiry consisting of one or more persons (who may include the Commissioner, or other Officer) to enquire into the matter; the members of the court shall be selected with due regard to the rank of the member concerned, and to the nature of the charges made against him;
- (c) if a member below the rank of Inspector does not duly furnish such a statement as aforesaid or if he fails to exculpate himself the Commissioner shall appoint a court of enquiry (constituted as under sub-paragraph (b)) to enquire into the matter;

- (d) the court shall inform the member charged that on a day specified the court will enquire into the charges and that he will be permitted to appear before the court and defend himself;
- (e) if witnesses are examined by the court the member shall be given an opportunity of being present and of putting questions to the witnesses on his own behalf, and no documentary evidence shall be used against him unless he has previously been supplied with a copy thereof or given access thereto;
- (f) the court may in its discretion permit the member charged or the person or authority preferring the charges to be represented by another member or by a member of the public service or by a solicitor or counsel and may at any time, subject to such adjournment as in the circumstances may be necessary, withdraw such permission; so, however, that where the court permits the person or authority preferring the charges to be represented the member charged shall be given the like permission;
- (g) if during the course of the enquiry further grounds of dismissal are disclosed, and the Commission thinks fit to proceed against the member upon such grounds, the Commission shall cause the member to be furnished with the written charge and the same steps shall be taken as those prescribed by this regulation in respect of the original charge;
- (h) if having heard the evidence in support of the charges the court is of the opinion that the evidence is insufficient it may report accordingly to the Commission without calling upon the member for his defence;
- (i) the court shall furnish to the Commission a report of its findings (which may include a report on any relevant matters) together with a copy of the evidence and all material documents relating to the case; if the Commission is of opinion that the report should be amplified in any respect or that further enquiry is desirable, it may refer any matter back to the Court for further enquiry or report accordingly;
- (j) if the Commission is of opinion that the member should be dismissed the Commission shall recommend to the Governor-General that an order be made accordingly;
- (k) if the Commission is of opinion that the member deserves some punishment other than dismissal, it shall recommend

to the Governor-General what other penalty should be imposed;

- (*l*) if the Commission is of opinion that the member does not deserve to be dismissed by reason of the charges alleged, but that the proceedings disclose other grounds for removing him from the Force in the public interest, it may recommend to the Governor-General that an order be made accordingly, without recourse to the procedure prescribed by regulation 26.

(3) In relation to a member below the rank of Inspector references to the Commission in sub-paragraphs (*g*), (*h*) and (*i*) of paragraph (2) shall be construed as references to the Commissioner; and in relation to such an officer references in sub-paragraphs (*j*), (*k*) and (*l*) of that paragraph to recommendations which may or are to be made by the Commission to the Governor-General shall be construed as references to decisions which may or are to be made by the Commissioner.

48.—(1) An order for the holding of a court to investigate a charge against a member of or above the rank of Inspector shall be signed by the Governor-General.

Signature
and notification of order
for holding
court.

(2) The order of the Governor-General or Commissioner appointing such a court shall be forwarded to the person named therein as president and a copy thereof shall be sent to the Officer in charge of the division or branch in which the member charged is stationed. The president shall then notify the members of the court named in the order of the time and place for the holding of the court and the Officer in charge of the division or branch shall so notify the authority preferring the charges and the member charged and furnish to each a copy of the charge, and the names of the president and members of the court, so as to enable the parties concerned to apply to the president for summonses for such witnesses as they may require.

49. When the court is assembled, the president shall read the charge or charges, and shall call upon the member charged to say whether he admits or denies them or any of them; the admission of any such charge shall be recorded in writing by or at the direction of the president and shall be signed by the member charged, and thereupon it shall not be necessary to hear evidence except as to the gravity of the offence or as to character, unless the court is of opinion that the evidence ought to be heard.

Reading of
charge and
taking of
plea.

Recording
of evidence.

50.—(1) Each witness shall be examined upon oath and his evidence shall be recorded in writing.

(2) The evidence so recorded shall be read over to and signed by the witness and by the president.

(3) The evidence shall be recorded on one side only of sheets of paper of regulation foolscap size. The pages shall be numbered consecutively for the purpose of reference. The evidence for the defence shall be marked at the top of each page "Defence".

Examination
and cross-
examination
of witnesses.

51. A person appearing on behalf of the member charged may be permitted to address the court and to assist the member charged in examining or cross-examining the witnesses; witnesses for the defence may also be examined by the member charged, and cross-examined by the complainant.

Defence.

52.—(1) After the close of the evidence in support of the charges the member charged shall proceed with his defence and if he wishes to give evidence he shall do so on oath, and before calling his witnesses.

(2) The record of his evidence shall be read over to and signed by the member charged.

(3) If the member charged does not wish to give evidence on oath, but wishes to make a statement, he shall do so before he examines his witnesses; his statement shall be in writing or recorded in writing and shall be signed by him and shall be kept with the record of evidence of the witnesses.

(4) The member charged shall be given every facility as regards the obtaining of evidence of character from any Officer under whom he has served.

Admission
of evidence
after defence
closed.

53. The person or authority preferring the charges may, after the close of the defence, by permission of the court produce evidence to rebut any statements which may have been made by the member charged or his witnesses; but such evidence shall be confined strictly to that object.

Adjourn-
ment.

54. The court may in its discretion adjourn its proceedings from time to time and place to place.

Conduct of
proceedings.

55. The president shall clear the court on any discussion and where any intemperate words are used by any member the court shall cause

them to be recorded in writing and reported to the Commissioner. It shall be the duty of the president to ensure that no unbecoming words are addressed to the member charged or to any witness and that every person attending the court is treated with proper respect and civility.

56. The president shall decide upon the admissibility of any evidence tendered, and as to the propriety of any question asked.

Admissibility
of evidence.

57.—(1) When all the evidence has been taken the president shall clear the court; he shall then record in writing the findings of the court as to whether the charges have or have not been proved and that record shall be signed by the members of the court who concur in the findings.

Findings of
the court.

(2) Any member of the court who dissents from the findings of the court shall record in writing his dissent and his reasons for dissenting and that record shall be transmitted to the Commission or, as the case may be, the Commissioner together with the report of the findings of the court.

58. The members of a court shall not disclose the findings of the court or the opinion of any particular member unless required by law to do so or in the discharge of any official duty.

Secrecy to
be observed
by members
of court.

59. A member of the court shall not—

- (a) communicate directly or indirectly with either party, except in the performance of his functions under these Regulations;
- (b) give or receive any opinion or communicate outside the court with anyone on the subject of the investigation.

Members of
court to
act im-
partially.

FIRST SCHEDULE

(Regulation 3)

FORM 1

OATH OF OFFICE

I,
 having been appointed (to act) as chairman
member of the Police Service Commission,

do swear that I will freely and without fear or
 solemnly and sincerely declare and affirm
 favour, affection or ill-will give my counsel and advice to the Governor-General
 of Jamaica in connection with all such matters as may be referred to the
 Police Service Commission under the Jamaica (Constitution) Order in Council,
 1959, and that I will not directly or indirectly reveal any such matters to any
 unauthorized persons or otherwise than in the course of duty.

Sworn
 Declared before me this day of 19 .

.....
Justice of the Peace

FORM 2

OATH OF SECRETARY OR OTHER OFFICER

I,
 having been appointed (to act) as * to the Police Service Commission,

do swear that I will faithfully perform my duties in that
 solemnly and sincerely declare and affirm
 office in accordance with the provisions of the Police Service Regulations, 1961,
 and without partiality, fear, favour, affection or ill-will, and that I will not
 directly or indirectly without permission of the Commission reveal to any person
 otherwise than in the performance of my functions under the said Regulations any
 information which comes to my notice in the course of my duties in respect
 of any matter referred to the Commission or to any authority or public officer
 to whom the functions of the Governor-General have been delegated.

Sworn
 Declared before me this day of 19 .

.....
Justice of the Peace

*Title of officer to be inserted as may be appropriate.

SECOND SCHEDULE (Regulation 46 (2) (3))

PART I—MINOR OFFENCES WHICH MAY BE DEALT WITH SUMMARILY

1. Absence from parade.
2. Leaving guards, patrols, beats or posts.
3. Irregular conduct when on duty or parade.
4. Being dirty or untidy in his person.
5. Being deficient of clothing or equipment.
6. Fighting or creating a disturbance.
7. Absence from barracks without leave.
8. Disrespect to seniors in rank.
9. Preferring frivolous complaints or charges.
10. Permitting females, not having lawful cause, to enter a Station.
11. Failing to comply immediately with an order.
12. Soliciting or receiving a gratuity.
13. Failing to take prompt measures for the arrest of an offender, or to make immediate investigation when called on.
14. Treating any prisoner or other person cruelly, harshly or with unnecessary violence, or without good and sufficient cause making any unlawful or unnecessary arrest.
15. Incivility to any member of the public.
16. Refusing or neglecting to pay any lawful debt.
17. Overholding any complaint or charge.
18. Oppressive or tyrannical conduct towards an inferior.
19. Drawing a revolver or bayonet for use without authority, except in self-defence.
20. Making any alteration or erasure in any public document, or in any official book or record for the purpose of fraud or deceit.
21. Making any false entry in any official book.
22. Omitting to make an entry in any official book as to the performance of any duty, matter or thing, which ought to be so entered.
23. Borrowing money directly or indirectly from or through any other member of the Force of inferior rank.
24. Gambling.
25. Prevarication before any court or any enquiry.
26. Entering spirit licensed premises while on duty, not being required there by any duty.
27. Idling or gossiping on duty.
28. Failing to report any matter, which it is his duty to report.
29. Any act, conduct, or neglect to the prejudice of good order and discipline, other than those which are required to be reported to the Commissioner of Police, whether or not such act, conduct or neglect has been in the execution of duty.

SECOND SCHEDULE, *contd.*

PART II—PENALTIES WHICH MAY BE IMPOSED ON MEMBERS BELOW THE RANK OF INSPECTOR, IN RESPECT OF MINOR OFFENCES DEALT WITH SUMMARILY

- (1) By the Commissioner
- (a) Deprivation of pay for a period not exceeding four days.
 - (b) Confinement to barracks for a period not exceeding five days.
 - (c) Severe reprimand.
 - (d) Reprimand.
 - (e) Caution.
- (2) By any other Officer (being in charge of a Division or holding any other command)
- (a) Deprivation of pay for a period not exceeding two days.
 - (b) Confinement to barracks for a period not exceeding three days.
 - (c) Severe reprimand.
 - (d) Reprimand.
 - (e) Caution.

PART III—PENALTIES WHICH MAY BE IMPOSED IN RESPECT OF OFFENCES NOT TRIED SUMMARILY

- (1) Upon Officers —
- (a) dismissal;
 - (b) reduction in rank;
 - (c) forfeiture of seniority;
 - (d) severe reprimand;
 - (e) reprimand;
- (2) Upon Inspectors —
- (a) dismissal;
 - (b) reduction in rank;
 - (c) a fine not exceeding one-fourth of the sum payable by way of salary in respect of a period not exceeding [six] months;
 - (d) forfeiture of seniority;
 - (e) severe reprimand;
 - (f) reprimand;
- (3) Upon members below the rank of Inspector and above the rank of constable —
- (a) dismissal;
 - (b) reduction in rank;
 - (c) confinement to barracks for a period not exceeding seven days, either with or without deprivation of pay;
 - (d) a fine not exceeding one-fourth of the sum payable by way of salary in respect of a period not exceeding [six] months;
 - (e) forfeiture of good conduct badges;
 - (f) severe reprimand;
 - (g) reprimand;
- (4) Constables —
- (a) dismissal;
 - (b) confinement to barracks for a period not exceeding seven days, either with or without deprivation of pay;
 - (c) deprivation of pay for a period not exceeding ten days;
 - (d) forfeiture of good conduct badges;
 - (e) severe reprimand;
 - (f) reprimand.