

SUBSIDIARY LEGISLATION CONST.01
PUBLIC SERVICE COMMISSION GENERAL
REGULATIONS

1st February, 2016*

LEGAL NOTICE 332 of 2015.

Part I - Preliminary

1. The title of these regulations is Public Service Commission General Regulations. Citation.

2. (1) In these regulations, unless the context otherwise requires: Interpretation.

"Appointments Regulations" means the Public Service Commission Appointments Regulations; S.L.Const.05

"Chairperson" means the Chairperson of the Commission and includes the Deputy Chairperson when acting as Chairperson in instances when the Chairperson is unable to perform the functions of his office;

"Commission" means the Public Service Commission as constituted under article 109 of the Constitution;

"Constitution" means the Constitution of Malta;

"Disciplinary Regulations" means any regulations on discipline in the public service issued under the Constitution;

"Executive Secretary" means the Executive Secretary of the Commission;

"head of department" means an officer to whom article 92(4) of the Constitution and article 11 of the Public Administration Act refer; Cap. 595.

"member" means any member of the Commission including the Chairperson, the Deputy Chairperson, and a temporary member;

"Principal Permanent Secretary" means the person appointed in terms of article 14 of the Public Administration Act; Cap. 595.

"public officer" means a public officer as defined by article 124 of the Constitution, but shall not, for the purposes of these regulations, include judges or magistrates;

"public service" has the meaning assigned to it by article 124 of the Constitution;

"recommendation" means, with respect to the Commission, a recommendation under article 110(1) of the Constitution.

Part II - Functions of the Commission

3. In the execution of its functions the Commission shall: Guiding principles.

*see regulation 1(2) of these Regulations as originally promulgated.

- (a) seek to maintain a high standard of competence, efficiency and integrity in the public service; and
- (b) uphold the principles of justice, fairness, merit, equality of opportunity, impartiality, and freedom from discrimination, patronage or favouritism.

Powers of inquiry.

Cap. 273.

4. (1) Saving its other powers under any other law, the Commission shall have the same powers to summon witnesses, to administer oaths, to require persons to give evidence, and to require the production of documents as are enjoyed by a Board of Inquiry under the Inquiries Act.

(2) Any person who, when summoned to appear before the Commission, refuses or without sufficient cause fails to attend at the time and place mentioned in the summons, or refuses, without sufficient cause, to answer or to answer fully and satisfactorily, to the best of his knowledge and belief, all questions put to him by or with the concurrence of the Commission, or refuses or fails, without sufficient cause, to produce any document he was required to produce by or with the concurrence of the Commission, shall be liable on conviction to a fine (*multa*) not exceeding one thousand and one hundred and sixty-four euro and sixty-nine cents (€1,164.69) or to imprisonment not exceeding three months, or to both such fine and imprisonment:

Provided that, without prejudice to the generality of sub-regulation (1), no person giving evidence before the Commission may be compelled to incriminate himself, and every such person shall, in respect of any evidence given by him before the Commission, be entitled to the same privileges to which a witness giving evidence before a court of law is entitled.

Reports.

5. (1) The Commission shall submit to the Prime Minister a report on its activities during each calendar year.

(2) The Commission may at any time, at its discretion, publish reports on any matter pertaining to its responsibilities under the Constitution, the Appointments Regulations and the Disciplinary Regulations, as well as reports of inquiries undertaken by it, together with its remarks on any matter connected therewith or incidental thereto.

Part III - Proceedings of the Commission

Regulation of proceedings.

6. Subject to the provisions of the Constitution and any regulations made thereunder, the Commission may appoint sub-committees and, in general, shall regulate its own proceedings.

Delegation of certain powers or duties.

7. The Commission may by resolution delegate to the Chairperson or any other member or members any of the powers or duties of the Commission except the taking of decisions concerning dismissal following disciplinary action or the termination or revocation of appointments in the public service for any other reason.

8. (1) Every meeting of the Commission shall be presided over by the Chairperson or, in his absence, by the Deputy Chairperson.

Meetings and minutes.

(2) Meetings of the Commission shall be convened by the Chairperson as necessary or at the request of at least two other members.

(3) A record shall be kept of the members present and of the business transacted and decisions made at every meeting of the Commission, including decisions made under regulation 9.

9. Decisions may be made by the Commission without a meeting, by circulation of the relevant papers among the members and the expression of their views in writing or through electronic means, but any member shall be entitled to require that any such decision be deferred until the subject matter can be considered at a meeting of the Commission.

Decisions by circulation of papers.

10. (1) The Chairperson and two other members shall constitute a quorum for a meeting of the Commission and a like number of members shall be required for a decision of the Commission that is arrived at as the result of the circulation of papers.

Quorum, voting and dissent.

(2) Any question proposed for decision at any meeting of the Commission shall be determined in accordance with the provisions of article 121(3) of the Constitution.

(3) Any member shall be entitled to dissent from a decision of the Commission and to have his dissent and his reasons therefor set out in the records of the Commission.

11. (1) Recommendations by the Commission shall be signed jointly by -

Signature of recommendations.

- (a) the Chairperson or such other member as may be delegated by the Commission under regulation 7; and
- (b) the Executive Secretary.

(2) Sub-regulation (1) shall not apply to the submission of recommendations by electronic means, with respect to which the Commission may make such arrangements as it considers appropriate.

Part IV - Provisions relating to judicial proceedings involving the Commission

12. Every member of the Commission shall have such and the like protection and privilege in case of any action or suit brought against him for any act done or omitted to be done in the *bona fide* execution of his duties as is by law given to the acts done or words spoken by a judge of the Superior Courts in Malta in the exercise of his judicial function.

Members' privilege.

13. Any report, statement or other communication or record of any meeting, inquiry or proceedings which the Commission may make in the exercise of its functions or any member may make in

Production in court of documents held by the Commission.

the performance of his duties, shall be privileged in that its production may not be compelled in any legal proceedings unless the Chairperson, acting in his discretion after consultation with the members, certifies that such production is not against the public interest.

Executive Secretary to represent the Commission in judicial proceedings.

14. The Executive Secretary shall be vested with the legal and judicial representation of the Commission.

Part V - The Office of the Commission

Appointment and duties of the Executive Secretary.

15. (1) The Prime Minister shall appoint an Executive Secretary to the Commission, and such other staff as he may from time to time think necessary. The Executive Secretary and other members of the staff of the Commission shall be employed on such terms of service as the Prime Minister may direct.

(2) The Executive Secretary, who shall be a head of department, shall be responsible for the proper and efficient running of the Office of the Commission.

Cap. 595.

(3) The Chairperson shall assign to the Executive Secretary any duty relating to the work of the Commission in addition to the duties under sub-regulation (2) and article 18 of the Public Administration Act.

(4) Any communication issued or declaration made by the Executive Secretary on behalf of the Commission shall be taken as a statement of the views of the Commission, unless the contrary is proved.

(5) Subject to articles 92 and 110 of the Constitution, the Chairperson may, in the absence of the Executive Secretary, designate a public officer attached to the Office of the Commission to act for the Executive Secretary:

Provided that when the office of Executive Secretary becomes vacant, the Chairperson shall request the Prime Minister to appoint a suitable officer in terms of sub-regulation (1).