

Public Service Commission Appointments Regulations, 2015

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L.N. 333 of 2015**CONSTITUTION OF MALTA****Public Service Commission Appointments Regulations, 2015**

IN EXERCISE of the powers conferred by article 121 of the Constitution of Malta, the Public Service Commission has, with the consent of the Prime Minister, made the following regulations:-

Part I - Preliminary

1. (1) The title of these regulations is Public Service Commission Appointments Regulations, 2015. Citation and coming into force.

(2) These regulations shall come into force on the 1st February 2016.

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

"the 1960 Regulations" means the Public Service Commission Regulations;

"advertise" means to issue a notice aimed at bringing a call for applications to the attention of a wider audience;

"call for applications" means a call for applications for a vacancy to which regulation 3(1) applies;

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

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

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

"Head of Department" means -

- (a) the Principal Permanent Secretary;
- (b) Permanent Secretaries;
- (c) the head of any department of Government that is listed in the Second Schedule to the Public Administration Act; Cap. 497.
- (d) any public officer at directorship level or higher who

is responsible for human resource management, corporate services or administration in a ministry; and

(e) any other public officer or other authority to whom power to make appointments has been delegated under article 110(1) of the Constitution:

Provided that where power to make appointments, or to take any other action to which these regulations apply, has been delegated to the holder of a particular office under article 110(1) of the Constitution, only the holder of that office may exercise the power so delegated;

"instrument of delegation" means an instrument through which powers are delegated under article 110(1) of the Constitution;

"merit principle" means any or all of the provisions of the following, as applicable:

- (a) regulation 5 with respect to calls for applications;
- (b) regulation 12(2) with respect to the composition of selection boards;
- (c) regulation 14 with respect to the assessment of applicants;
- (d) regulation 16(2) with respect to selection criteria; and
- (e) regulation 25 with respect to appointments;

Cap. 497. "ministry" has the meaning assigned by article 2(1) of the Public Administration Act;

"Permanent Secretary" means a public officer appointed in terms of article 92(3) of the Constitution;

Cap. 497. "post" has the meaning assigned by article 2(1) of the Public Administration Act;

Cap. 497. "Principal Permanent Secretary" means the public officer appointed in terms of article 14 of the Public Administration Act;

"public officer" or "officer" means a public officer as defined by article 124(1) of the Constitution, but shall not, for the purposes of these regulations, include judges or magistrates;

"public service" has the meaning assigned by article 124 of the

Constitution;

"Public Service Management Code" means the body of instructions to which article 15(5) of the Public Administration Act Cap. 497. refers;

"publish" includes, with respect to calls for applications, publication online and circulation to public officers electronically or through internal channels of communication;

"reasonable accommodation" includes:

(a) making existing facilities used by employees readily accessible to and usable by persons with disabilities; and

(b) restructuring jobs, instituting part-time or modified work schedules, reassigning vacant positions, acquiring or modifying equipment or devices, appropriately adjusting or modifying examinations, training materials or policies, providing qualified readers or interpreters, and making any other similar accommodation for a person with a disability;

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

"Registrar of Examinations" means the person appointed in terms of article 125 of the Education Act; Cap. 327.

"selection board" means a body appointed in terms of regulation 12;

"Standing Selection Panel" means a panel established in terms of regulation 11;

"vacancy" and "vacant post" shall be understood in accordance with regulation 3(1).

(2) In these regulations, unless the context otherwise requires, any reference to the holder of a particular office shall include any person performing the functions of that office during any period in which it is vacant or the holder thereof is absent.

3. (1) Unless provided otherwise in these regulations, these regulations apply to the filling of vacancies in the public service through appointments that are made - Applicability of these regulations.

(a) in terms of article 110(1) of the Constitution, whether by the Prime Minister or under delegated authority; and

(b) following the publication of calls for applications.

(2) Regulations 27 to 32 (both inclusive), 35, and 36 apply to all appointments under article 110(1) of the Constitution.

(3) Where these regulations are in conflict with any instrument of delegation, these regulations shall prevail unless they or the instrument of delegation specifically provide otherwise, regardless of whether the instrument was issued before or after the coming into force of these regulations.

(4) These regulations are without prejudice to the power of the Commission to recommend appointments without recourse to a call for applications where the Commission is satisfied that, in the circumstances, a call for applications is inappropriate.

(5) The Commission may make special provision, departing from the provisions of these regulations, for positions of Director and Director General and other positions equivalent thereto.

Part II - Calls for applications

Authority to
publish calls.

4. (1) A Head of Department shall not require the approval or endorsement of the Commission before publishing a call for applications, provided that the call conforms to these regulations and any requirements prescribed by the Commission under regulation 7.

(2) This regulation is without prejudice to the powers of the Commission as set out hereunder, including the power to annul provisions of a call and to direct that a call be amended or withdrawn.

General
standards
applicable to
calls.

5. (1) Any call for applications shall be published or advertised in such a manner as to afford those eligible for the vacancy a reasonable chance to see the call and to submit applications.

(2) No call for applications shall include provisions that are unfair or unreasonable when set against the duties of the vacant post and the needs of the public service.

(3) Eligibility requirements for any vacancy shall reflect solely the duties of the vacant post and the needs of the public service.

(4) The Commission may take remedial action as provided hereunder if it considers that a call for applications does not meet the standards set out in this regulation.

6. Where a call for applications is published in Maltese and in any other language, the Maltese text of the call shall prevail in the event of any conflicts between the texts.

Publication of calls in more than one official language.

7. (1) The Commission may prescribe standard requirements with respect to the drafting, publication and advertisement of all calls for applications or any particular category thereof.

Power of the Commission to prescribe requirements for calls.

(2) The Commission may, further, prescribe standard provisions for inclusion in all calls for applications or any particular category thereof.

8. (1) The Commission may, for objective reasons, exempt any applicant from any particular requirement in a call for applications to which that applicant is subject if the Commission is satisfied that such an exemption is necessary to -

Power of the Commission to exempt applicants from requirements in a call.

(a) eliminate an injustice that would otherwise occur, bearing in mind the need for fairness towards all applicants under the same call; or

(b) provide reasonable accommodation to a person with a disability in terms of the Equal Opportunities (Persons with Disability) Act, bearing in mind article 7(2)(f) of the said Act.

Cap. 413.

(2) Without prejudice to regulation 9, an applicant who is subject to any mandatory requirement in a call for applications may be exempted from that requirement only as provided for in this regulation.

9. (1) Once a call for applications has been published, the Commission shall have the power to rule on the interpretation of any provisions of the call and, subject to any other law, the ruling of the Commission shall be final and definitive.

Power of the Commission to interpret calls and to modify or annul provisions thereof.

(2) The Commission may modify by interpretation or annul any provisions of a call for applications which the Commission considers as -

(a) unclear;

(b) in conflict with other provisions of the same call including but not limited to a difference between the different language versions in which the text of the call was published;

(c) in conflict with these regulations or any other law;
or

(d) unreasonable.

(3) Where the Commission considers that action under sub-regulation (2) would not be sufficient to remedy the defects in a call for applications, the Commission may take action in terms of regulation 10.

Power of the Commission to direct that a call be amended or withdrawn.

10. (1) Where the Commission considers that a published call for applications is in conflict with these regulations or any other law, or contains any defect, and regulation 9 is not applicable or offers an insufficient remedy, the Commission may direct the responsible Head of Department to:

(a) publish an amendment to the call in such a manner and containing such provisions as the Commission may direct, including if appropriate the extension of the time available for the submission of applications; or

(b) withdraw the call and publish a revised call in such a manner and with such amendments as the Commission may direct.

(2) The Commission may in addition issue directions to the Head of Department concerning the advertisement of the published amendment or revised call.

Part III - Standing Selection Panels and selection boards

Standing Selection Panels.

11. (1) The Permanent Secretary of each ministry shall, subject to the approval of the Commission, establish a Standing Selection Panel consisting of suitable and competent persons, who shall not be serving public officers but who may be former public officers.

(2) Members of the Standing Selection Panel shall serve thereon for a period of up to thirty-six months with the possibility of renewal, subject to approval by the Commission, for further terms of up to thirty-six months each:

Provided that a member of the Panel may be removed by the Commission, at its discretion, at any time.

Appointment and composition of selection boards.

12. (1) Subject to sub-regulation (2), a selection board shall consist of not less than three persons appointed by the responsible Head of Department and drawn from any one or more of the following categories:

(a) suitable and competent serving public officers;

(b) members of the Standing Selection Panel of the relevant ministry;

(c) other persons with expertise that is particularly relevant to the vacant post or the selection process:

Provided that the selection board shall include at least one serving public officer.

(2) Except in so far as the Commission may direct otherwise, no selection board shall include:

(a) members of staff of the secretariat of the Prime Minister, or of a Minister, or of a Parliamentary Secretary;

(b) members of the House of Representatives of Malta, councillors in Maltese local councils, or members of the European Parliament;

(c) candidates for election to the House of Representatives of Malta, or a Maltese local council, or the European Parliament, or persons who were candidates in the most recent election to any of the said bodies;

(d) persons who hold posts, paid or unpaid, elected or appointed, in the structure of a political party, or persons who held such posts within the last five years;

(e) any official of a trade union that represents applicants for the vacant post;

(f) any person who is under a disqualification issued by the Commission in accordance with sub-regulation (3); or

(g) any other person who would be placed in a conflict or an apparent conflict of interest if he sat on the selection board.

(3) The Commission may disqualify any person from serving on any or all selection boards, and the disqualification shall be indefinite or for such a period as the Commission may specify.

(4) If a person is appointed to a selection board notwithstanding sub-regulation (2), or sub-regulation (2) becomes applicable to that person following his appointment to the selection board, that person shall so inform the Head of Department, who shall remove the person from chairperson or member of the selection board, unless any applicants have already been interviewed or

otherwise assessed by the selection board, in which case the Head of Department shall seek directions from the Commission.

(5) All members of a selection board, regardless of their occupation, shall in their capacity as members of the board be considered public officers for the purposes of article 92 of the Criminal Code.

Cap. 9.

Functions of
selection
boards.

13. (1) Subject to sub-regulation (2) and to regulation 34, the suitability of applicants for a vacancy shall be assessed by a selection board, which shall be responsible for all stages of the selection process including:

- (a) the determination of whether or not applicants satisfy the eligibility requirements in the call for applications;
- (b) the short-listing of applicants, where applicable; and
- (c) the conduct of interviews.

(2) Where the selection process for a vacancy includes a written examination, trade test or another selection mechanism of a specialised nature, such a mechanism may be administered by the Registrar of Examinations, or by any other person or body that may be approved for the purpose by the Commission:

Provided that a selection board may itself supplement interviews with other selection mechanisms that are within the competence of its members to administer, if such mechanisms would enable the board to better assess applicants against the selection criteria for the vacant post.

Assessment of
applicants by
and
independence of
selection
boards.

14. (1) In the assessment of applicants, a selection board shall:

- (a) apply the eligibility requirements for the vacant post uniformly to all applicants who are subject thereto in terms of the call for applications, unless the Commission has granted exemptions or modified or annulled any such requirements under regulations 8 or 9 respectively; and
- (b) assess applicants who satisfy the eligibility requirements on a consistent basis against the selection criteria for the vacant post with a view to identifying the applicant who is best suited for the post.

(2) Sub-regulation (1)(b) shall be without prejudice to:

(a) the use of short-listing with a view to limiting the number of applicants who are to undergo the remaining stages of the selection process, provided that short-listing is carried out on objective grounds that are directly relevant to the vacant post, and in accordance with any relevant directions that may be issued by the Commission; and

(b) the vacancy not being filled if, in the judgement of the selection board, none of the eligible applicants are capable of performing the duties of the post to a satisfactory standard.

(3) In the assessment of individual applicants, a selection board shall not be subject to the direction or control of any person or authority other than the Commission, acting in the exercise of its powers under these regulations.

Part IV - The selection process under delegated authority

15. The provisions of this Part shall apply where -

Application of
this Part.

(a) power to make appointments has been delegated to a public officer or other authority, not including the Commission, by means of an instrument of delegation;

(b) that instrument authorises the officer or other authority to make appointments without reference to the Commission; and

(c) appointments are so made following the publication of calls for applications.

16. (1) The selection criteria for a vacant post shall be established by the responsible Head of Department, who may, without prejudice to regulation 14(3), give general directions to the selection board concerning the interpretation of the selection criteria.

Selection
criteria.

(2) The selection criteria for a vacant post shall reflect solely the duties of the post and the needs of the public service.

17. (1) At the end of the selection process, a selection board shall submit to the responsible Head of Department a report on the selection process.

Conclusion of
the selection
process and
communication
of the outcome
to applicants.

(2) The Head of Department shall ensure that the report of the selection board satisfies any requirements concerning content and presentation that may be issued from time to time by the Commission, and he may refer the report back to the board with instructions to correct the report if the Head of Department considers that the report

contains shortcomings in this respect; but the Head of Department may not give directions to the board to alter its conclusions in any material terms, and if the Head of Department has any concerns with respect to the selection process he shall submit those concerns directly to the Commission.

(3) Upon receiving a report from the selection board that is satisfactory in terms of its content and presentation, the Head of Department shall arrange for the outcome of the selection process to be made known to applicants in accordance with any relevant directions that may from time to time be issued by the Commission.

Power of the Commission to regulate the selection process.

18. The Commission may issue directions to regulate any aspect of the selection process, including but not limited to:

- (a) the setting of selection criteria;
- (b) the procedure to be followed in dealing with applications;
- (c) the proceedings of selection boards;
- (d) the use of short-listing;
- (e) the content and presentation of selection board reports; and
- (f) the manner in which the outcome of the selection process shall be made known to applicants.

Power of the Commission to inquire into selection processes and take remedial action.

19. (1) The Commission may, on its own initiative or following petitions or representations by applicants or submissions by Heads of Department, inquire into and investigate any selection process.

(2) In its inquiries and investigations under this regulation the Commission shall not substitute the judgement of a selection board with respect to those elements of the selection process that are legitimately subjective in nature, provided that the Commission is satisfied that -

- (a) the selection process has been or is being conducted in accordance with the merit principle;
- (b) the selection board has interpreted the eligibility requirements and the selection criteria in a reasonable manner and has not been influenced by any considerations extraneous thereto; and

(c) the selection board has not committed any irregularities of procedure or errors in its appreciation of facts that have had or will have a material effect on the outcome of the selection process.

(3) Where the Commission finds that a selection process does not satisfy the requirements set out in sub-regulation (2), or is otherwise in breach of these regulations, any directions issued by the Commission, or any relevant directives issued by the Principal Permanent Secretary, the Commission may take such action as it deems fit by way of remedy, including:

(a) directing the selection board to interview an applicant whom it has wrongly deemed ineligible;

(b) suspending the selection process;

(c) issuing an amended selection result, or directing the selection board to do so;

(d) annulling the selection process and directing that it be repeated by a fresh selection board;

(e) disqualifying an applicant in accordance with regulation 20;

(f) taking action for the revocation of an appointment in accordance with regulation 32;

(g) instituting disciplinary proceedings under the Disciplinary Regulations against any public officer responsible for the deficiencies in the selection process; and

(h) making recommendations to the Prime Minister, or to other authorities as appropriate, to take such disciplinary or criminal action as it may consider appropriate in the circumstances.

(4) The issue of an amended selection result shall not entitle applicants to submit fresh petitions under regulation 24, but the Commission may, at its discretion, grant such an opportunity to any candidates who have been disadvantaged by the amended result.

(5) The issue of an amended selection result shall not affect the validity period of the result, if the result is subject to such a period, unless the Commission decides otherwise.

Power of the
Commission to
disqualify
applicants.

20. (1) Subject to sub-regulation (2), the Commission may disqualify, or direct a selection board to disqualify, an applicant if -

(a) the appointment of that applicant would be contrary to the law, or the applicant would not, if appointed, be permitted by law to carry out the duties of the vacant post;

(b) the applicant does not meet or no longer meets the eligibility requirements for the vacant post or any other mandatory requirement in the call for applications;

(c) the applicant is unable to carry out the duties of the vacant post due to physical or mental infirmity, and it is not possible to provide reasonable accommodation to enable him to perform the said duties;

(d) the applicant would, on appointment, be beyond the established retirement age;

(e) the applicant has a criminal record which, in the Commission's opinion, makes him unfit for the vacant post;

(f) the applicant was previously dismissed from the Public Service or has a disciplinary record which, in the Commission's opinion, makes him unfit for the vacant post;

(g) the applicant presents incorrect information on his qualifications, experience or other matters of direct relevance to the selection process;

(h) the applicant attempts to influence the selection process through representations with selection board members, members or staff of the Commission, or other persons, in a manner otherwise than as permitted by these regulations, the Public Service Management Code, or any other official directions or instructions relating to the selection process;

(i) the applicant would, if appointed, be in a situation of conflict of interest which in the opinion of the Commission would interfere with his ability to faithfully discharge the duties of the post, and he is unable or unwilling to take those steps necessary to remove the conflict;

(j) the applicant is unable or unwilling to adhere to any reasonable conditions or requirements attached to the vacant post; or

(k) the Commission considers the applicant to be unfit

for the vacant post for any other valid reason.

(2) Before the Commission disqualifies an applicant on any of the grounds given in paragraphs (c) and (e) to (k) (both inclusive) of sub-regulation (1), the Commission shall give the applicant the opportunity to submit representations in writing.

(3) Sub-regulations (1) and (2) shall be without prejudice to any arrangements whereby an appointment is temporarily withheld from an applicant who is facing disciplinary or criminal charges, provided that -

(a) if the appointee is cleared of the charges, he shall be entitled to the appointment; or

(b) if the appointee is found guilty of the charges, and the Commission considers that he is as a result unsuitable for the appointment, action for his disqualification shall be taken in accordance with sub-regulations (1) and (2).

Part V - The selection process where power to make appointments has not been delegated

21. (1) Where power to make appointments has not been delegated as specified in regulation 15, or power so delegated has been withdrawn, the provisions of Part IV shall apply subject to the following provisions:

The selection process where power to make appointments has not been delegated or has been withdrawn.

(a) the selection criteria shall be drawn up by the responsible Head of Department, who shall submit them for the approval of the Commission;

(b) no stage of the selection process involving the use of selection criteria shall commence unless and until the criteria are approved by the Commission;

(c) the selection board shall submit its report on the outcome of the selection process to the Commission for its approval, with a copy to the Head of Department; and

(d) the outcome of the selection process shall not be considered official and shall not be made known to any applicants unless and until the report of the selection board is approved by the Commission.

(2) The power of the Commission under sub-regulation (1) to approve the reports of selection boards shall be without prejudice to the exercise by the Commission of its other powers under these

regulations, including the power to inquire into selection processes, to consider petitions and to take remedial action.

Part VI - Representations and petitions by applicants

Right of applicants to information concerning the selection process.

22. (1) Where an applicant for a vacant post is found ineligible or is disqualified for any other reason, he shall have the right to be given the grounds for the ineligibility or disqualification as applicable.

(2) An applicant for a vacant post who is not short-listed for the post shall have the right to know on what grounds he has not been short-listed.

(3) An applicant for a vacant post who goes through all the stages of the selection process shall have the right to a breakdown of his marks according to the selection criteria, in so far as the selection process involves the allocation of marks.

(4) This regulation shall not apply to any component of a selection process which is administered by a person or body other than a selection board as provided for by regulation 13(2), if that person or body has an established procedure whereby an applicant can seek a review of the assessment of his performance in that component of the selection process.

Representations by applicants who are found ineligible or excluded at the short-listing stage.

23. (1) An applicant for a vacant post who -

(a) is found by the selection board not to satisfy the eligibility requirements for the post, or who is disqualified by the selection board for any other reason; and

(b) is of the view that the selection board has decided wrongly in his regard,

may submit representations to the Commission within five working days from the date when action is taken to inform him that he has been found ineligible or otherwise disqualified.

(2) The Commission may consider representations that are submitted after the time limit set out in sub-regulation (1) if, in the opinion of the Commission, there is reasonable justification for the late submission of the said representations.

(3) The Commission shall not be obliged to consider any representations by an applicant under this regulation unless the applicant clearly indicates the reasons for which he considers the decision of the selection board to be incorrect, and unless he submits

such evidence as he may reasonably be expected to submit in support of his representations.

(4) If an applicant submits representations to the Commission under this regulation, the selection board shall not be required to suspend the selection process; but it shall not finalise or submit its report until the Commission comes to a final decision with respect to the applicant's representations.

(5) This regulation shall apply *mutatis mutandis* to applicants who are considered eligible but who are not short-listed, if short-listing is applied in the selection process.

24. (1) An applicant for a vacant post, who goes through all the stages of the selection process and who feels aggrieved by the result of the selection board on the ground that the result does not reflect the merit principle, may petition the Commission for redress.

Petitions by applicants concerning the outcome of the selection process.

(2) A petition under this regulation shall be submitted by the applicant within ten working days from the date when action is taken to make the outcome of the selection process known to him.

(3) The Commission may consider a petition that is submitted after the time limit set out in sub-regulation (2) if, in the opinion of the Commission, there is particular justification for the late submission of the said petition.

(4) The Commission shall not be obliged to consider any petition by an applicant under this regulation unless the applicant indicates in clear and specific terms the reasons for which he considers that the outcome of the selection process does not reflect the merit principle.

(5) Where a petition is submitted to the Commission, action to fill the vacant post shall be withheld in accordance with regulation 26, unless the Commission decides otherwise as provided therein; and if the Commission upholds the petition, it shall take such action as is necessary under regulation 19 by way of a remedy for the applicant:

Provided that the Commission shall be obliged to provide a remedy only if the remedy to which the applicant is entitled according to the merits of his case is sufficient to make a practical difference to the outcome of the selection process.

(6) This regulation shall not apply with respect to any component of a selection process that is administered by a person or body other than a selection board as provided for by regulation 13(2), if that person or body has an established procedure whereby an

applicant can seek a review of the assessment of his performance in that component of the selection process.

Part VII - Appointments

Most suitable applicant to be appointed to a vacant post.

25. A vacant post shall be filled through the appointment of the applicant who is the most suitable among those available as resulting from the selection process, unless the said applicant has been disqualified by the Commission under regulation 20, or unless the validity of the selection result has expired.

Withholding of appointments pending the submission and resolution of petitions.

26. (1) Subject to sub-regulation (2), appointments to vacant posts shall be withheld until -

(a) the period allowed for the submission of petitions under regulation 24 expires; and

(b) the Commission takes a final decision with respect to any petitions that may be submitted.

(2) The Commission may take action for or permit a vacancy to be filled notwithstanding sub-regulation (1) if -

(a) it is necessary in the public interest to fill the vacancy without delay; or

(b) redress can be provided, in the event that the Commission upholds a petition made by an applicant, within a reasonable time notwithstanding that the vacancy has been filled.

(3) Where an appointment is withheld for a time in accordance with sub-regulation (1), the Commission may recommend or authorise a retroactive appointment if the Commission considers that such a retroactive appointment is necessary on grounds of equity:

Provided that a public officer shall not, by virtue of this sub-regulation, be entitled to payment for work which he did not perform.

Appointments on the basis of contracts or agreements.

27. Where an appointment is to be made on the basis of a contract of employment, agreement, or similar document requiring the signature of the appointee as confirmation that he accepts the conditions attached to the appointment, the appointment shall not have effect unless the contract, agreement or document is so signed.

Appointment to supersede previous appointment.

28. Where a serving public officer is appointed to a different post in the public service, the new appointment shall automatically supersede and terminate the previous appointment in the public

service, unless the public officer is entitled to retain concurrent appointments by virtue of arrangements approved by the Commission.

29. (1) Where an appointment is subject to a probationary period, the extension of the probationary period or the termination of the appointment during the probationary period may be made only by the Prime Minister on the recommendation of the Commission, which recommendation shall not be submitted unless the officer has been given an opportunity to submit representations, and unless the Commission is satisfied that there is good cause for such a recommendation. Probation.

(2) This regulation shall apply subject to any instrument of delegation concerning probationary appointments that may be in force from time to time, and the provisions of the instrument of delegation shall prevail in the event of any conflict with this regulation.

30. (1) A public officer who is due for a salary increment may have that increment withheld only by the Prime Minister on the recommendation of the Commission, which shall not submit its recommendation unless the officer concerned has been given an opportunity to submit representations, and unless the Commission is satisfied that there is good cause for such a recommendation. Withholding of salary increments and progression to higher salary scales.

(2) Sub-regulation (1) shall be without prejudice to any arrangements whereby a salary increment due to a public officer may be provisionally withheld for up to one year:

Provided that the increment so withheld shall be restored to the officer unless its withholding is confirmed through action under sub-regulation (1).

(3) A public officer who is due for progression to a higher salary scale under the terms and conditions of his current appointment may have such progression withheld only by the Prime Minister on the recommendation of the Commission, which recommendation shall not be submitted unless the officer concerned has been given an opportunity to submit representations, and unless the Commission is satisfied that there is good cause for such a recommendation.

(4) Sub-regulation (3) shall be without prejudice to any arrangements whereby progression to a higher salary scale may be temporarily withheld from an officer who is facing disciplinary or criminal charges, provided that -

(a) if the officer is cleared of the charges, he shall be

entitled to progression with effect from the date when it was originally due, and with arrears of salary; or

(b) if the officer is found guilty of the charges, and the Commission considers that the progression should be definitively withheld as a result, the procedure established under sub-regulation (3) shall apply.

(5) This regulation shall apply subject to any instrument of delegation concerning the withholding of salary increments or progression to higher salary scales that may be in force from time to time, and the provisions of the instrument of delegation shall prevail in the event of any conflict with this regulation.

Withholding of promotions.

31. (1) Where a public officer is due for a promotion which promotion is not subject to a call for applications, the Commission shall not be obliged to recommend the promotion of the officer if -

(a) the performance of the officer is unsatisfactory; or

(b) the officer would be subject to disqualification under regulation 20 on account of any of the considerations set out therein, were it not for the inapplicability of the said regulation:

Provided that the Commission may only decide not to recommend the promotion of the officer after the officer has been given the opportunity to submit representations thereon.

(2) Sub-regulation (1) shall be without prejudice to any arrangements whereby a promotion may be temporarily withheld from an officer who is facing disciplinary or criminal charges, provided that -

(a) if the officer is cleared of the charges, he shall be entitled to the promotion with effect from the date when it was originally due, and with arrears of salary; or

(b) if the officer is found guilty of the charges, and the Commission considers that the officer is as a result unsuitable for the promotion, he shall be given the opportunity to submit representations in accordance with sub-regulation (1) before the promotion is definitively withheld.

(3) This regulation shall apply subject to any applicable instrument of delegation that may be in force from time to time, and the provisions of the instrument of delegation shall prevail in the event of any conflict with this regulation.

32. (1) Notwithstanding any other provision of these regulations or of any other regulations made under article 121 of the Constitution, the Commission may recommend the revocation of an appointment made under article 110 of the Constitution if -

Power of the Commission to recommend the revocation of appointments.

(a) that appointment was made following the publication of a call for applications, but it was manifestly not in accordance with the principle of merit for reasons other than the reason specified in paragraph (b);

(b) the appointee manifestly did not satisfy the eligibility requirements applying to his appointment, unless he was granted an exemption under regulation 8;

(c) the appointee obtained his appointment on the basis of fraud or misrepresentation;

(d) the appointee is not, or is no longer, permitted by law to carry out the duties of his post, or no longer holds a qualification which constituted an eligibility requirement for the post;

(e) the appointee has become unable to carry out the duties of his post due to physical or mental infirmity, and it is not possible to provide reasonable accommodation to enable him to perform his duties in spite of such infirmities; or

(f) very serious reasons emerge that would have led the Commission to disqualify him from consideration for the post, had he not already been appointed thereto.

(2) The Commission may only recommend the revocation of an appointment in accordance with this regulation after giving notice to the appointee and after giving the appointee the opportunity to submit representations.

(3) An appointment shall not be subject to revocation in accordance with sub-regulation (1)(a) unless the Commission notifies the appointee in accordance with sub-regulation (2) by the end of the probationary period applying to that appointment, or, in the case of an appointment that is not subject to probation, by not later than one year from the effective date thereof.

Part VIII - Additional general provisions

33. (1) The Commission may issue directions concerning the period during which a call for applications, or the result of the selection process or any stage thereof, should remain valid.

Validity periods and possibility of extension thereof.

(2) Where a validity period is in force as provided for in this regulation, it may be extended by the Commission if the Commission considers such an extension appropriate in the public interest.

Selection of candidates through processes other than selection processes under these regulations.

34. (1) Where -

(a) applicants for a particular vacancy are required to undergo an examination or other form of assessment that is administered by an academic, professional or other competent body; and

(b) in the opinion of the Commission, that examination or assessment is sufficient to determine the suitability of applicants for the vacant post,

the Commission may authorise the filling of the vacancy on the basis of that examination or assessment, subject to any conditions the Commission may establish for the purpose.

S.L.343.24.

(2) The Commission may authorise the filling of a vacancy on the basis of a selection process undertaken in whole or in part by an employment agency or an employment business, subject to any conditions the Commission may establish for the purpose, and subject to the provisions of the Employment Agencies Regulations.

(3) The provisions of Parts III to VI (both inclusive) shall not apply to the filling of vacancies under this regulation, except in so far as the Commission may specify otherwise in the conditions established by the Commission with respect thereto.

Directions and other documents issued by the Commission under these regulations.
Cap. 497.

35. (1) Where the Commission is empowered by these regulations to issue directions, to prescribe requirements or standards, or to take similar actions, the Commission may do so directly or through directives issued by the Principal Permanent Secretary under the Public Administration Act with the agreement of the Commission.

(2) Any directions given, rulings issued, requirements prescribed or decisions taken by the Commission under these regulations shall be binding on Heads of Department, members of selection boards, and all other persons or authorities to whom the said directions, rulings, requirements or decisions apply.

(3) A failure on the part of a public officer to fulfil any obligations imposed by these regulations shall constitute misconduct in terms of the Disciplinary Regulations, without prejudice to any criminal or other action that may be taken according to law.

36. (1) No member of the Commission, nor the Executive Secretary, nor any other member of the staff of the Office of the Commission, nor any other public officer, nor any other person, board or authority assigned functions under these regulations, shall publish or disclose any information deriving from selection processes, representations or petitions under these regulations and pertaining to individuals unless such publication or disclosure -

Restriction on disclosure of information.

(a) is necessary for a legitimate official purpose in connection with selection processes, representations or petitions, appointments, or administrative procedures related thereto;

(b) is necessary in connection with court proceedings; or

(c) has been authorised in writing by the Prime Minister.

(2) Failure to comply with the provisions of this regulation shall, in the case of a public officer, constitute misconduct in terms of the Disciplinary Regulations.

37. (1) The 1960 Regulations shall be revoked.

Revocation and transitory provisions.

(2) Any selection processes which have been commenced under and in accordance with the provisions of the 1960 Regulations shall be continued and completed under and in accordance with the said provisions as if they had not been revoked, and any petitions arising from such selection processes shall also be considered and resolved under the said provisions.

(3) Sub-regulation (2) shall not apply in cases where a call for applications has been published but the selection board has not yet been appointed, and in such cases the selection board shall be appointed and the selection process held under the present regulations.

(4) Any provisions that form part of the Public Service Management Code on the date on which these regulations come into force, and that govern matters on which the Commission is empowered by these regulations to issue directions, to prescribe requirements or standards, or to take similar actions, shall in so far as they are not in conflict with these regulations be deemed directives issued by the Principal Permanent Secretary with the agreement of the Commission for the purposes of regulation 35.

