

Service Commissions

Cap. 34.

SERVICE COMMISSIONS (POLICE SERVICE) REGULATIONS, 1964

1964/69.
1979/120.
1983/165.
1998/121.

Authority: These Regulations were made on 3rd April, 1964 by the Governor after consultation with the Police Service Commission under section 16 of the *Police Service Commission Act, 1961* (now *Service Commissions Act*).

Commencement: 16th April, 1964

PART I

Preliminary

1. These Regulations may be cited as the *Service Commissions (Police Service) Regulations, 1964*. Short title.

2. In these Regulations,

Interpreta-
tion.

"the Act" means the *Police Service Commission Act, 1961* now *Service Commissions Act*;

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

"Commissioner" means the Commissioner of Police;

"the Force" means the Barbados Police Force as constituted and maintained under the provisions of the *Police Act*;

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"functions" includes powers and duties;

"gazetted police officer" means the Commissioner, the Deputy Commissioner, an Assistant Commissioner or any Superintendent of Police;

1998/121.

"perform", in relation to functions, includes exercise;

"regulation" means one of these Regulations;

"subordinate police officer" means any Station Sergeant or Sergeant;

"Superintendent" includes Senior Superintendent and Assistant Superintendent;

"Tribunal" means a Tribunal appointed by the Governor under regulation 29.

PART II

Proceedings of Commission

Duties of
Chief
Personnel
Officer.

- 3.** 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 when required so to do by 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.

Procedure
and
meetings.

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

(2) All decisions at a meeting of the Commission shall be by a majority of the votes of the members present and voting, but where the voting is equal the Chairman shall, in addition to an original vote, have a casting vote.

Record of
meetings
and
decisions.

5. (1) Minutes of all meetings of the Commission shall be duly recorded and shall be confirmed at a subsequent meeting of the Commission or by the individual members of the Commission on circulation thereof.

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

6. 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 the Commission to reserve the matter for discussion at a meeting.

Decisions
otherwise
than at a
meeting.

7. The Commission in considering any matter or question may consult with such public officer or other person as the Commission considers 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.

Consulta-
tion with
other
persons.

8. 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 Com-
mission's
request.

PART III

Termination of Appointments

9. (1) Where it appears to the Commissioner that, pursuant to paragraph (b) of subsection (1) of section 8 of the *Pensions Act*, a member of the Force who has attained the age of 50 years ought to be called upon to retire from the Force, the Commissioner shall advise the member accordingly and shall report the matter together with his reasons therefor for consideration by the Commission, and the Commission shall recommend to the Governor whether or not that member of the Force ought to be called upon to retire.

Premature
retirement.
Cap. 25.

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

(3) Any member of the Force may at any time after he attains the age of 50 years apply to the Governor for permission to retire pursuant to subsection (1) of section 6 of the *Pensions Act*, and shall in his application state the grounds on which it is based.

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

(5) The foregoing provisions of this regulation shall apply to members of the Force to whom the provisions of the *Police Act, 1908* relating to pensions apply, as if

- Cap. 25. (a) a reference to subsection (3) of section 73 of the *Police Act, 1908* were substituted for the references in paragraphs (1) and (3) of this regulation to paragraph (b) of subsection (1) of section 8 and to subsection (1) of section 6 of the *Pensions Act*; and
- (b) the word "55" were substituted for the word "50" in paragraphs (1) and (3) of this regulation.

- Removal from office for inefficiency dismissal under section 29(4) of *Police Act*.
Cap. 167.
Cap. 25.
10. (1) Notwithstanding the provisions of regulation 28 or regulation 29, where it is represented to the Commission or the Commission considers it desirable that
- (a) any member of the Force ought to be removed from his office on the ground of his inability to discharge efficiently the duties thereof as provided in section 7 of the *Pensions Act*; or
- (b) any member of the Force below the rank of Superintendent ought to be dismissed, or that his services ought to be dispensed with, on the ground of his unfitness for further service in the Force as provided in subsection (4) of 29 of the *Police Act*,
- Cap. 167.

the Commission shall require the Commissioner to submit a full report.

(2) If after considering the report of the Commissioner and giving the member of the Force an opportunity of submitting a reply to the grounds on which it is contemplated to remove him from office, dismiss him or dispense with his services, as the case may be, 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 so to do, it shall recommend to the Governor that the member of the Force be removed from office, or be dismissed or that his services be dispensed with from such date as the Commission may recommend.

- Pension.
11. Where the appointment of a member of the Force is terminated under regulation 9 or 10 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*, or any other pensions law applicable to the member of the Force.
- Cap. 25.

PART IV

Discipline

A – GENERAL

12. In this Part of these Regulations, "officer" means a gazetted police officer (other than the Commissioner) and an inspector.

Interpretation.
1998/121.

13. (1) Any report of misconduct on the part of an officer shall be made to the Commissioner.

Procedure in cases of alleged misconduct.

(2) Where any alleged misconduct on the part of an officer is reported to, or comes to the notice of, the Commissioner, the matter shall without delay be reported by the Commissioner to the Commission; and the Commission shall, subject to the provisions of regulation 14, determine whether disciplinary proceedings ought to be instituted.

14. (1) The Commission in dealing with disciplinary proceedings against officers shall take into consideration reports from the Commissioner.

Functions of the Commission respecting discipline.

(2) Where the Commissioner is of the opinion that disciplinary proceedings ought to be instituted against an officer, the Commission may recommend to the Governor that such proceedings be instituted.

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

15. Where upon a preliminary investigation or a disciplinary enquiry an offence against any law appears to have been committed by an officer, the Commission shall, unless criminal proceedings have been or are about to be instituted, obtain the advice of the Solicitor-General as to whether criminal proceedings ought to be instituted.

Grounds for criminal prosecution.

No disciplinary proceedings while criminal proceedings pending.

16. (1) Where criminal proceedings have been instituted against an officer, 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 an officer 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 officer from being suspended from duty pursuant to regulation 17.

Suspension from duty.

17. (1) Where

- (a) any disciplinary proceedings or criminal proceedings have been or are about to be instituted against an officer; or
- (b) the Commissioner is of the opinion that it is necessary or desirable in the public interest that the officer should forthwith cease to perform his functions as an officer,

the Commission may recommend to the Governor that the officer be suspended from the performance of his functions.

(2) An officer so suspended, shall subject to the provisions of regulation 22, be permitted to receive such proportion of the salary of his rank, not being less than one-half, as the Commission may recommend.

(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 suspended; but if the proceedings result in any punishment other than dismissal, the officer shall be allowed such salary as the Commission may in the circumstances recommend.

(4) An officer who has been arrested on a criminal charge may be forthwith suspended from duty without pay by the Commissioner 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 an officer.

(5) An officer who is under suspension from duty may not leave Barbados without the permission of the Governor acting on the recommendation of the Commission.

18. An officer 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 suspension.

Acquittal
of member
of Force.

19. 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 copies of the evidence (including copies of documents tendered in evidence) after the enquiry is closed.

Copies of
evidence
of enquiries.

20. An 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.

22. 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 to the Governor the dismissal or other punishment of the officer without the institution of any disciplinary proceedings under these regulations.

Disciplinary
action after
conviction of
a criminal
charge.

22. An officer convicted of a criminal charge involving 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 emolu-
ments on con-
viction of a
criminal
charge.

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

Disciplinary
penalties.

- (a) dismissal;
- (b) reduction in rank;
- (c) deferment or withholding of increment;

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- (d) forfeiture of seniority;
- (e) severe reprimand;
- (f) reprimand.

(2) An officer who is absent from Barbados without permission obtained from the Commissioner shall be liable to summary dismissal.

Suspension,
deferment
and with-
holding of
increments.

24. (1) Subject to the provisions of this regulation an increment shall not be suspended, deferred, or withheld except by the Governor acting on 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 an officer ought not to be granted he shall

- (a) notify the officer concerned in writing at least 1 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) of this paragraph, report the matter to the Commission for its recommendation 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 an officer in accordance with sub-paragraph (a) of paragraph (3) he may suspend for a period not exceeding 3 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 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 Commissioner

shall take into account the gravity of the original misconduct or dereliction of duty, if any, and the nature of the subsequent behaviour of the officer, or his present degree of efficiency; the Commissioner shall also 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 he reaches the maximum of his scale.

(6) An increment may be deferred for a period not exceeding 6 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, 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.

25. (1) Where the Commission has recommended that

- (a) an officer should be dismissed or subjected to any other disciplinary penalty; or
- (b) an Inspector, subordinate police officer or constable should be dismissed or reduced in rank or pay,

Reference
to Privy
Council.

and such officer, Inspector, subordinate police officer or constable desires to apply by virtue of section 12 or section 14 of the Act, for a reference to the Privy Council of that recommendation, the application shall be made in writing to the Governor within 14 days of the date on which the person concerned is informed of the recommendation; and the recommendation shall be referred accordingly.

S.I.
1979/120.

(2) An application by the Commissioner for a reference to his case to the Privy Council made by virtue of subsection (3) of section 13 of the Act shall be made in writing to the Governor within 7 days of the date on which he is informed

of the Governor's decision to dismiss him or to impose some other disciplinary penalty; and the case shall be referred accordingly.

(3) 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 non-disclosure of such facts at an earlier date.

(4) An officer, Inspector, subordinate police officer or constable who, pursuant to section 12 or section 14 of the Act, is suspended from duty pending the decision of the Privy Council shall not be paid any of his emoluments during such period of suspension.

Payment of
salary after
decision
of Privy
Council.

26. Where an officer, Inspector, subordinate police officer or constable 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 he shall be allowed such salary as the Commission may in the circumstances recommend.

B – PROCEEDINGS

Members of
Force to be
informed of
allegations
and charges.

27. An officer against whom

- (a) an allegation of misconduct has been made; or
- (b) any disciplinary proceedings are taken,

shall be informed in writing of the allegation or charge made against him and given an adequate opportunity of preparing his defence.

Proceed-
ings for
misconduct
not
warranting
dismissal.

28. Where

- (a) it is represented to the Commission that an officer has been guilty of misconduct; and
- (b) the Commission is of the opinion that the misconduct alleged is not so serious as to warrant proceedings under regulation 29 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 the opinion that the allegation is proved it may recommend such punishment other than dismissal as may seem just.

29. (1) Subject to the provisions of these regulations an officer may be dismissed only in accordance with the procedure prescribe by this regulation. Proceedings for dismissal.

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

- (a) the Commission shall cause the officer (hereinafter in these regulations referred to as "the accused") 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 accused does not furnish such statement within the time so specified or if he fails to exculpate himself the Governor shall on the recommendation of the Commission appoint to enquire into the matter a Tribunal consisting of 1 or more persons, the members of the Tribunal being selected with due regard to the rank of the accused and to the nature of the charges made against him;
- (c) the Tribunal shall inform the accused that on the day specified the Tribunal will enquire into the charges and that he will be permitted to appear before the Tribunal and defend himself;
- (d) if witnesses are examined by the Tribunal the accused shall be given an opportunity of being present and of putting questions to the witnesses on his behalf, and documentary evidence shall not be used against the accused unless he has previously been supplied with a copy thereof or given access thereto;
- (e) if during the course of the enquiry further grounds of dismissal are disclosed and the Commission thinks fit to proceed against the accused upon such grounds, the Commission shall cause the accused 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;

- (f) if having heard the evidence in support of the charges the Tribunal is of the opinion that the evidence is insufficient it may report accordingly to the Commission without calling upon the accused for his defence;
- (g) the Tribunal 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 the opinion that the report should be amplified in any respect or that further enquiry is desirable, it may refer the matter back to the Tribunal for further enquiry or report accordingly;
- (h) if the Commission is of the opinion that the accused should be dismissed the Commission shall recommend to the Governor that an order be made accordingly;
- (i) if the Commission is of the opinion that the accused deserves some punishment other than dismissal it shall recommend to the Governor what other penalty should be imposed;
- (j) if the Commission is of the opinion that the accused 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 as set out in regulation 10, it may recommend to the Governor that an order be made accordingly, without recourse to the procedure prescribed by that regulation.

Payment of
members of
Tribunal.

30. A member of a Tribunal appointed under subparagraph (b) of paragraph (2) of regulation 29, who is not a public officer, may be paid such fee for his services as the Governor acting in his discretion after consultation with the Commission and the Director of Finance and Planning may fix.

Procedure
for dismiss-
al etc. of
Inspectors
subordinate
police
officers and
constables.

31. (1) Where the Commissioner is of the opinion, or where it is represented to him, that an Inspector, subordinate police officer or constable convicted of an offence against

discipline under the *Police (Discipline) Regulations, 1961*, ought to be subjected to a penalty greater than any which may be imposed under those Regulations, the Commissioner shall submit to the Commission for its consideration

- (a) a record of the proceedings taken under the *Police (Discipline) Regulations, 1961* including a copy of the evidence and all material documents relating to the case; and
- (b) a covering report.

(2) Subject to the provisions of paragraph (3) if after considering a case submitted under paragraph (1) the Commission is of the opinion that the Inspector, subordinate police officer or constable, as the case may be, ought to be dismissed, or reduced in rank or pay, the Commission shall recommend to the Governor that an order be made according.

(3) The Commission may, if it considers it expedient to do so after considering any case submitted under paragraph (1), recommend to the Governor that proceedings be taken under regulation 28 or 29.

32. An officer, Inspector, subordinate police officer or constable shall have the right to be represented

- (a) by an attorney-at-law in any proceedings under regulation 29 or in any other proceedings under these regulations where the allegation against him, if proved, is in the opinion of the Commission, serious enough to warrant dismissal or reduction in rank as a punishment;
- (b) by another member of the Force or by a member of the public service in any other proceedings under these regulations.

Representation of members of Force in disciplinary proceedings.

33. (1) The order of the Governor appointing such a Tribunal shall be forwarded to the person named therein as chairman and a copy thereof shall be sent to the gazetted police officer in charge of the division or department in which the accused is stationed. The Chairman of the Tribunal (hereinafter in these regulations referred to as the Chairman) shall then notify the members of the Tribunal named in the order and such gazetted police officer of the time and place

Signature and notification of order for setting up of Tribunal.

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for the sitting of the Tribunal. Such gazetted police officer shall so notify the authority or person preferring the charges and the accused and furnish to each a copy of the charge, and the names of the Chairman and members of the Tribunal so as to enable the parties concerned to apply to the Chairman for summonses for such witnesses as they may require.

Reading of charge and taking of plea.

34. (1) When the Tribunal is assembled the Chairman shall read the charge or charges and shall call upon the accused to say whether he admits or denies them or any of them.

(2) If the accused admits the charges or any of them such admission shall be recorded in writing by or at the direction of the Chairman and shall be signed by the accused, and thereupon it shall not be necessary to hear evidence except as to the gravity of the offence or as to the character, unless the Tribunal is of the opinion that the evidence ought to be heard.

Recording of evidence.

35. Each witness shall be examined upon oath and his evidence shall be recorded in writing, read over to and signed by him and by the Chairman.

Examination and cross-examination of witnesses.

36. A person appearing on behalf of the accused shall be permitted to address the Tribunal and to assist the accused in examining or cross-examining the witnesses; witnesses for the defence may also be cross-examined by the person prosecuting the case against the accused.

Defence.

37. (1) After the close of the evidence in support of the charges the accused 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 the evidence of the accused shall be read over to and signed by him.

(3) If the accused 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 accused shall be given every facility as regards the obtaining of evidence of character from any gazetted police officer under whom he has served.

38. The person presenting the case against the accused may, after the close of the defence, by permission of the Tribunal produce evidence to rebut any statements which may have been made by the accused or his witnesses; but such evidence shall be confined strictly to that object.

Admission of evidence after close of defence.

39. The Tribunal may in its discretion adjourn its proceedings from time to time and place to place.

Adjournment.

40. It shall be the duty of the Tribunal and of the Chairman, where the Tribunal consists of more than 1 person, to ensure that no unbecoming words are addressed to the accused or to any witness and that every person appearing before the Tribunal is treated with proper respect and civility.

Conduct of proceedings.

41. The Chairman shall decide upon the admissibility of any evidence tendered and as to the propriety of any question asked.

Admissibility of evidence.

42. (1) When all the evidence has been taken the Chairman shall record in writing the findings of the Tribunal as to whether the charges have or have not been proved and that record shall be signed by the members of the Tribunal who concur in the findings.

Findings of Tribunal.

(2) Any member of the Tribunal who dissents from the findings of the Tribunal shall record in writing his dissent and his reasons therefor, and that record shall be transmitted to the Commission together with a report of the findings of the Tribunal.

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

Secrecy to be observed by members of Tribunal.

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Members of
Tribunal to
act impar-
tially.

- 44.** A member of the Tribunal 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 Tribunal with any one of the subject of the investigation.

General
powers and
procedure
of Tribunal.

45. (1) The Tribunal, or the Chairman where the Tribunal consists of more than 1 person, shall have the same powers in respect of securing and compelling the attendance of witnesses and the examination and otherwise as are conferred upon a magistrate under any Act for the time being in force regulating procedure before magistrates in the exercise of summary jurisdiction.

(2) Subject to the provisions of this Part, the proceedings before the Tribunal shall be conducted as if they were proceedings before a Court of Justice.