

Public Service (Amendment) Regulations, 2001 (No. 1)

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IT is hereby notified that the Public Service Commission has, in terms of section 31 of the Public Service Act [*Chapter 16:04*], made the following regulations with the concurrence of the Minister of Public Service, Labour and Social Welfare:—

1. These regulations may cited as the Public Service (Amendment) Regulations, 2001 (No. 1).

2. The Public Service Regulations, 2000, published in Statutory Instrument 1 of 2000 (hereinafter called “the principal regulations”) are amended in section 2—

(a) by the insertion of the following definitions—

““junior grade”, means any grade designated to be a junior grade by the commission in terms of section 19;

“middle grade”, means any grade designated to be a middle grade by the commission in terms of section 19;”;

(b) by the repeal of the definition of “performance award” and the substitution of the following—

““performance award” means any award of additional remuneration in cash or in kind to a member, including any bonus or increment, made in accordance with the Commission’s determination of the level of performance attained by that member.”.

3. Section 4 of the principal regulations is amended by the deletion in subsection (1) of “, training and discipline” and the substitution of “and training”.

4. Section 6 of the principal regulations is amended in subsection (8)—

(a) in paragraph (b) by the deletion of “as an apprentices or cadet” and the substitution of “as an apprentice or cadet”;

- (b) by the insertion after paragraph (b) of the following paragraph—

“(b1) on pensionable conditions of service if he is fifty years of age or above:

Provided that any such person may be appointed on contract for a specified period of service;”;

- (c) in paragraph (d) in subparagraph (iii) by the deletion of “the he” and the substitution of “he”;

- (b) in paragraph (d) by the insertion after subparagraph (iii) of the following subparagraph—

“(iv) has resigned from the Public Service for personal reasons within a period of one year preceding the proposed appointment;”.

5. Section 8 of the principal regulations is amended by the repeal of subsections (1) and (2) and the substitution of the following—

“(1) The Commission may issue circulars or notices governing the content and conduct of performance appraisals for the purpose of evaluating the performance of members.

(2) In evaluating the performance of members, the Commission shall endeavour to do so in accordance with equitable and realistic standards of performance.”.

6. Section 12 of the principal regulations is amended—

- (a) in subsection (1) by the repeal of paragraph (a) and the substitution of—

“(a) who meets the requirements of the post as specified in any notice, circular or advertisement and whose name has been submitted for consideration;”;

- (b) by the repeal of subsection (3) and the substitution of—

“(3) Whenever a recommendation from a staff advisory committee is required, the staff advisory committee shall investigate the suitability of persons it considers eligible for promotion, for which

purpose it shall furnish a list of such persons for endorsement by the head of Ministry or department.”;

- (c) in subsection (5) in paragraph (b) by the deletion in subparagraph (i) of “subsection (3)” and the substitution of “subsection (4)”.

7. Section 14 of the principal regulations is amended in subsection (1) by the insertion after “with his consent,” of “and at the invitation of head of Ministry or the Commission,”.

8. Section 15 of the principal regulations is amended by the repeal of subsection (2) and the substitution of—

“(2) Unless the Commission or delegated authority waives all or part of such notice, the period of notice for—

- (a) a member serving a probationary period shall be twenty-four hours;
- (b) a confirmed member shall be three calendar months;
- (c) a member who is a teacher shall be ninety days terminating on the last day of the school or college term.”.

9. Section 17 of the principal regulations is amended in subsection (1) by the insertion in paragraph (a) of the following proviso—

“Provided that any member appointed before the 1st May, 1992, on terms permitting that member to retire at the age of sixty, shall be permitted to retire at that age.”.

10. Section 18 of the principal regulations is amended in subsection (4)—

- (a) in paragraph (d) by the deletion of “subsection (1) of section 12” and the substitution of “subsection (1) of section 13”;
- (b) in paragraph (f) by the deletion of “subsection (1) of section 13” and the substitution of “subsection (1) of section 14”.

11. Section 19 of the principal regulations is repealed and the following is substituted—

*"Grading structure"*

19. (1) The Commission may, as and when necessary grade all posts within the Public Service into such categories or groups of functions as it deems fit.

(2) The Commission shall, for the purposes of Part VIII and IX (concerning disciplinary procedure and grievance procedure) furnish every head of Ministry and department with a description of the grading structure applicable to the establishment for which the head of Ministry or department is responsible, showing in particular which members belong to a senior, middle or junior grade."

12. Section 20 of the principal regulations is amended in subsection (2) in paragraph (c) by the deletion of "attributes" and the substitution of "competencies".

13. Section 35 of the principal regulations is amended in paragraph (b) of the definition of "qualifying service" by the deletion of "special leave" wherever it occurs and the substitution of "manpower development leave".

14. Section 40 of the principal regulations is amended in—

- (a) subsection (3) in paragraph (b) by the deletion in subparagraph (ii) of "subsection (7)," and the substitution of "subsection (8).";
- (b) in subsection (8) by the deletion of "who goes on paid manpower developmen leave" and the substitution of "who goes on paid manpower development leave".

15. Section 41 of the principal regulations is amended in paragraph (a) by the deletion of "to sit", and the substitution of "to prepare for and sit".

16. Section 42 of the principal regulations is repealed and the following is substituted—

*"Disciplinary authorities"*

42. (1) The disciplinary authority for the purposes of appointing a disciplinary committee in terms of section 43, determining any allegations of misconduct by a member in terms of section 46 and imposing a penalty in terms of section 50 shall be—

- (a) in the case of a member in a senior grade, the Commission;
- (b) in the case of a member in a middle grade, the head of Ministry;
- (c) in the case of a member in a junior grade, the head of department:

Provided that the commission may determine that it shall be the disciplinary authority in any particular case.

(2) The disciplinary authority for the purposes of sections 44, 47 and 48 shall be—

- (a) in the case of a member in a senior grade, the Commission;
- (b) in the case of a member in a middle grade, the head of Ministry or the head of office in charge of the member;
- (c) in the case of a member in a junior grade, the head of department or the head of office in charge of the member.”.

17. Section 43 of the principal regulations is amended in subsection (2) by the repeal of paragraph (a) and the substitution of—

“(a) the Commission shall consist of—

- (i) a chairman who shall be any head of Ministry appointed by the Commission; and
- (ii) two other members appointed by the Commission who are in a senior grade from any Ministry other than the one in which the allegation of misconduct arose.”.

18. Section 44 of the principal regulations is amended—

- (a) in subsection (2) by the deletion of “within seven days” and the substitution of “within a reasonable time”;
- (b) in subsection (3)—
  - (i) by the deletion of “, determine whether the member has a case to answer, and if it so determines it shall, within that period”;



- (ii) by the insertion in paragraph (a) after subparagraph (ii) of the following subparagraph—
    - “(iii) the head of department in the case where the disciplinary authority is the head of office.”.
  - (iii) by the repeal of paragraph (b);
  - (iv) by the repeal of paragraph (c) and the substitution of—
    - “(c) subject to subsection (5), refer the matter to a disciplinary committee for hearing in accordance with section 45; and”;
  - (c) by the repeal of subsection (4) and the substitution of—
    - “(4) Subject to subsection (5), where the disciplinary authority is the Commission, the Commission shall within fourteen days of receiving a report from the head of Ministry and all material documents, refer the matter to a disciplinary committee for hearing in accordance with section 45.
    - (5) Where there is no material dispute of fact and the member concerned so consents in writing, the disciplinary authority may proceed to determine the allegation without a hearing in terms of section 45:
    - Provided that such a member shall not be deemed to have waived his right to appeal against any determination so made.”.
19. Section 46 of the principal regulations is amended—
- (a) in subsection (1) by the deletion in paragraph (a) of “investigation or”;
  - (b) by the repeal of subsection (2) and the substitution of—
    - “(2) Where the disciplinary authority determines that the member is not guilty of misconduct, the disciplinary authority shall forthwith notify the member and—

- (a) the head of Ministry, in the case where the disciplinary authority is a head of department;
  - (b) the Commission, in the case where the disciplinary authority is a head of Ministry.”;
  - (c) subsection (3) in paragraph (b) by the deletion in subparagraph (ii) of “the Commission, the case” and the substitution of “the Commission, in the case”.
20. Section 50 of the principal regulations is amended by the repeal of subsection (2).
21. Section 51 of the principal regulations is amended—
- (a) by the repeal of subsection (3) and the substitution of the following—

“(3) On reviewing the determination or penalty concerned the Commission may confirm the determination or penalty or refer the matter back to the disciplinary authority for—

    - (a) redetermination in terms of section 46;  
or
    - (b) further hearing in terms of section 45;  
or
    - (c) further investigation in terms of section 44.”;
  - (b) in subsection 4 by the deletion of “shall have the effect” and the substitution of “shall not have the effect”.
22. Section 63 of the principal regulations is repealed and the following substituted—
- “Discharge of members on the grounds of detention, restriction, deportation, imprisonment and abscondment*
63. The Commission or a head of Ministry may discharge from the Public Service with effect from the date of detention, restriction or conviction, as the case may be, a member who—

- (a) has been subject, for a period of three months or more to an order made in terms of any enactment providing for the detention of persons in time of emergency or for the preventive detention of persons; or
- (b) has been subject, for a period of three months or more to an order made in terms of any enactment whereby he is required to remain within, or is prohibited from entering a specified area in Zimbabwe; or
- (c) is deported or extradited from Zimbabwe; or
- (d) has been imprisoned in pursuance of a conviction of an offence for an effective term of three months or more; or
- (e) has been absent from duty for a continuous period in excess of thirty days without having been granted leave of absence.”.

23. Section 66 of the principal regulations is amended by the repeal of subsection (4) and the substitution of the following—

“(4) In the case of a member against whom an allegation of misconduct is made and in respect of whom any action has been taken prior to the date of commencement of these regulations in terms of the Public Service (Disciplinary) Regulations, 1992, any such action shall be continued in terms of these regulations.”.

24. The First Schedule of the principal regulations is amended—

- (a) by the repeal of paragraph 17 and the substitution of—

“17. Except as a member, director or manager of any statutory body (not being a successor company to a statutory body), the control, direction or management, whether directly or indirectly of any business or, other income earning activity including appointment as a company director, without the written consent of the Commission.”.

- (b) by the repeal of paragraph 20 and the substitution of the following—

“20. Being a member who—

- (a) holds a magisterial office; or



- (b) presides over a community court; or
- (c) is delegated by the Attorney-General to appear on his behalf as a prosecutor in any court, or
- (d) is appointed for the purpose of giving legal advice to the Government;

and holds office in or addresses any political party, organisation or movement.”;

- (c) in paragraph 23 by the deletion of the word “illegal”.

25. The Third Schedule of the principal regulations is amended—

- (a) by the repeal of paragraph 3 and the substitution of the following—

3. If the leave is of less than six months’ duration, members must have one year’s experience in their current field of work.”;

- (b) by the repeal of paragraph 4 and the substitution of the following—

4. If the leave exceeds six months duration, members must have two years experience in their current field of work.”.

26. The Fourth Schedule of the principal regulations is amended—

- (a) by the deletion of “Public Service Regulations, 1998” wherever it occurs and the substitution of “Public Service Regulations, 2001”.
- (b) by the repeal of paragraph 1 and the substitution of the following—

“1. PARTICULARS OF MEMBER

Name: .....

Date of birth: .....

E.C. No.: .....

Address: .....

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.....  
Telephone:

Home: .....

Office: .....;

- (c) by the repeal of paragraph 2 and the substitution of the following—

“2. DETAILS OF ALLEGED MISCONDUCT

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27. The Fifth Schedule of the principal regulations is repealed.