

Statutory Instrument 1 of 2000

Public Service Regulations, 2000

SIs 1/2000, 58A/2001, 108/2001, 261/2001.

ARRANGEMENT OF REGULATIONS

PART I

PRELIMINARY

1. Title.
2. Interpretation.

PART II

APPOINTMENT, PERFORMANCE APPRAISAL AND CAREER MOBILITY

3. General principles applicable to recruitment, advancement, promotion and grading of members.
4. Staff advisory committees.
5. Entrance examinations.
6. Appointment.
7. Probationary period.
8. Performance appraisal.
9. Regrading.
10. Advancement.
11. Promotion.
12. Promotion procedures.
13. Transfer.
14. Secondment.

PART III

RESIGNATION, TERMINATION OF EMPLOYMENT AND RETIREMENT

15. Resignation.
16. Termination of contract or temporary employment.
17. Pensionable age and retirement.
18. Retirement before reaching pensionable age.

PART IV

GRADING AND SALARIES

19. Grading structure.
20. Salaries.

PART V

ALLOWANCES

21. Travel expenses.
22. Official travel.
23. Transportation of dependants, personal goods or both.
24. Subsistence allowance.
25. Proved and unproved expenses.
26. Transfer expenses.
27. Acting allowance.
28. Responsibility allowance.
29. Provision for performance awards and other allowances.

PART VI

INDEMNIFICATION OF DRIVERS

30. Interpretation in Part VI.
31. Indemnification of drivers.
32. Costs of legal representation.
33. Limitations of indemnification.
34. Right to recover.

PART VII

LEAVE

35. Interpretation in Part VII.
36. Vacation leave.
37. Annual leave.
38. Sick leave.
39. Maternity leave.
40. Manpower development leave.
41. Special leave.

PART VIII

DISCIPLINARY PROCEDURE

42. Disciplinary authorities.
43. Disciplinary committees.
44. Procedure before and immediately following allegation of misconduct.
45. Hearings before disciplinary committee.
46. Determination of allegation of misconduct.
47. Member convicted of a criminal offence.
48. Imposition of suspension order.
49. Effect and cancellation of suspension order.
50. Imposition of penalty by disciplinary authority.
51. Appeals to Labour Relations Tribunal and reviews by Commission.
52. Appeals to Labour Relations Tribunal from decisions of Commission.

PART IX

GRIEVANCE PROCEDURE

53. Interpretation in Part IX.
54. Grievance procedure for members of grades other than senior grades.
55. Grievance procedure for members of senior grades.

PART X

MAINTENANCE OF SERVICES

56. Interpretation in Part X.
57. Appointment of designated member.
58. Suspension or variation of working rules.
59. Suspension or discharge of members.
60. Notification of suspension or discharge.
61. Representations by members and former members concerning prohibition, suspension or summary discharge.
62. Charges of misconduct against suspended or reinstated members.

PART X

GENERAL

63. Discharge of members on the grounds of detention, restriction, deportation, imprisonment and abscondment.
64. Suspension of salary of member who is imprisoned, detained, restricted or deported.
65. Departures from Parts VIII and IX in certain circumstances.

66. Savings.
67. Repeals.

SCHEDULES

First Schedule: Acts of misconduct.
Second Schedule: Promotion: principles and conditions.
Third Schedule: Eligibility for manpower development leave.
Fourth Schedule: Misconduct report.
Fifth Schedule: [Repealed.]
Sixth Schedule: Repeals.

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:—

PART I

PRELIMINARY

1. Title

These regulations may be cited as the Public Service Regulations, 2000.

2. Interpretation

In these regulations—

- “appointing authority”, in relation to any appointment to the Public Service, means the Commission or a head of Ministry or department to whom it has delegated the power of appointment to any specified post;
- “confirmed member” means a member who is confirmed in his appointment after a period of probation, or was an established officer in accordance with section 5 of the Public Service (General) Regulations, 1992, before the date of commencement of these regulations;
- “delegated authority” means any authority to which the Commission has, in terms of these regulations, delegated any of its functions;
- “department” means any division of a Ministry for which a head of department has been designated by the Commission;
- “disciplinary authority” means a disciplinary authority referred to in section 42;
- “disciplinary committee” means a disciplinary committee appointed in terms of section 43;
- “establishment officer” means the member who is designated by the Commission as the establishment officer in a department;
- “grade” means the position or grade which has been allocated to a post;
- “head of department” means—
- (a) the principal establishment officer; or
 - (b) the establishment officer in a department; or
 - (c) such other member as the Commission may designate as a head of department for the purpose of these regulations;
- “head of office” means the person in charge of the office, branch or institution in which a member is employed, or such other person as may be designated by the Commission to be a head of office for the purpose of these regulations;
- “junior grade” means any grade designated to be a junior grade by the commission in terms of section 19;
[Definition inserted by s.i. 58A of 2001]
- “legal practitioner” means a person registered as such in terms of the Legal Practitioners Act [Chapter 27:07];
- “medical practitioner” means a person registered as such in terms of the Medical, Dental and Allied Professions Act [Chapter 27:08];
- “middle grade” means any grade designated to be a middle grade by the commission in terms of section 19;
[Definition inserted by s.i. 58A of 2001]
- “misconduct” means any act or omission by a member which constitutes an act of misconduct specified in the First Schedule;
- “pensionable emoluments” shall have the meaning assigned to that term by the pensions regulations;
- “pensions regulations” means any regulations in force governing the terminal benefits of members;

“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;

[Definition inserted by s.i. 58A of 2001]

“principal administrative officer” means a member designated as such by the Commission;

“principal establishment officer” means a member designated as such by the Commission;

“probation” means the period of employment before a member is confirmed in his appointment;

“senior grade” means a grade of or above the level of a deputy secretary to a Ministry or an equivalent level;

“staff advisory committee” means a committee appointed in terms of subsection (1) of section 4;

“teacher” means a member who is serving in the Ministry responsible for primary, secondary, tertiary or vocational education.

PART II

APPOINTMENT, PERFORMANCE APPRAISAL AND CAREER MOBILITY

3. General principles applicable to recruitment, advancement, promotion and grading of members

(1) In order to promote efficiency and effectiveness in the provision of services to the public, the appointing authority shall, subject to subsection (2), recruit, advance, promote or grade those members who, in relation to the post in question, are the most suitable as regards—

- (a) knowledge about the task to be performed and ability to perform it; and
- (b) relevant experience; and
- (c) the requisite qualifications and qualities; and
- (d) where applicable, potential for training and development.

(2) The recruitment, advancement, promotion or grading of members shall be on the basis of merit.

4. Staff advisory committees

(1) Every head of Ministry and head of department shall appoint a staff advisory committee to advise the head on all matters affecting appointment, transfer, promotion, and training in the Ministry or department concerned.

[Subsection amended by s.i. 58A of 2001]

(2) The Commission may, from time to time, issue notices or circulars governing the composition and procedure of staff advisory committees.

5. Entrance examinations

(1) The Commission may, with a view to ensuring that persons recruited as members meet the requirements of their posts, set Public Service entrance examinations for any administrative, professional, clerical and technical post.

(2) The Commission may set pre-confirmation promotion examinations for any administrative, professional, clerical or technical post or grade:

Provided that success in a pre-confirmation or promotion examination shall not on its own entitle a member to confirmation or promotion, as the case may be.

(3) The Commission may issue notices or circulars governing the content and conduct of entrance examinations.

6. Appointment

(1) Appointment as a member may be on—

- (a) indefinite and pensionable conditions of service;
- (b) temporary terms to fill a casual vacancy or supernumerary post;
- (c) contract for a specified period of service.

(2) The Commission may, from time to time, issue notices or circulars governing appointments to any post or grade, including notices or circulars specifying qualifications with respect to knowledge, ability, professional attainment, aptitude and potential.

(3) Every appointment shall be made by the Commission, except to the extent that the Commission has, in respect of specified posts, delegated its power of appointment to a head of Ministry or head of department.

(4) The procedure governing appointments to the Public Service shall be guided by the following principles—

- (a) candidates shall be timeously informed of any vacancy and the conditions of service attaching to it, and be given a reasonable time within which to apply; and
- (b) eligible candidates shall be considered equally on merit by fair competition under procedures which safeguard against individual bias; and
- (c) the selection criteria and techniques to be applied shall be reliable, valid and relevant to the post concerned.

(5) Before making an offer of appointment the appointing authority shall complete to its satisfaction all the checks necessary to confirm that the candidate is eligible for appointment.

(6) No appointment shall be made, whether temporary or otherwise, for which no provision has been made in the Estimates of Expenditure for the current financial year.

(7) Every notice or advertisement inviting applications for appointment to a vacancy in the Public Service shall set out as clearly and concisely as possible the job description and job specification applicable to the vacancy.

(8) A candidate shall not be appointed to the Public Service—

(a) unless he has been examined by a medical practitioner and certified, to the satisfaction of the Secretary for Health, to be free from any mental or physical deficiency or infirmity likely to interfere with the efficient performance of his duties or render necessary his retirement before pensionable age:

Provided that, a candidate having a mental or physical deficiency or infirmity which is not likely to interfere with the efficient performance of his duties but which may render necessary his retirement before reaching pensionable age, may be appointed or promoted to such posts in the Public Service and subject to such conditions as the Commission may determine;

(b) unless he has attained the age of eighteen years:

Provided that a candidate below that age may be appointed as an apprentice or cadet;

[Paragraph amended by s.i. 58A of 2001]

(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.

[Paragraph inserted by s.i. 58A of 2001]

(c) unless he has completed, in a form provided by the Commission, a declaration prohibiting the unauthorized disclosure of information connected with his official duties;

(d) who—

(i) has benefited from a voluntary retirement scheme implemented by the Commission;

(ii) has been dismissed or called upon to resign from the Public Service, within a period of two years preceding the proposed appointment; or

(iii) has been convicted of a criminal offence for which he has been sentenced to and served a term of imprisonment;

or

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

[Subparagraph inserted by s.i. 58A of 2001]

unless the Commission expressly approves such appointment in writing.

(9) Upon appointment of a member on pensionable conditions of service or, subject to subparagraph (i) of paragraph (b) of subsection (10), on contract for a specified period of service, the appointing authority shall issue to the member the appropriate letter of appointment.

(10) Members appointed on—

(a) pensionable conditions of service shall—

(i) place the whole of their time at the disposal of the State; and

(ii) accept liability to be transferred to any part of the country at any time; and

(iii) comply with all the conditions applicable to such service, as fixed from time to time by the Commission;

(b) contract for a specified period of service shall—

(i) not be appointed before the contract relating to them has been signed by them and by the appointing authority;

(ii) be governed as to their conditions of service entirely by the terms of their contract;

(c) temporary terms shall—

(i) be so advised by letter and shall indicate their acceptance in writing; and

(ii) except as otherwise stated in the letter of appointment, be bound by all the conditions applicable to service on pensionable terms.

7. Probationary period

(1) A member appointed on pensionable conditions of service shall serve a probationary period of not less than one year:

Provided that if the member was in the employment of the State immediately before the appointment, the period or any part of the period of such continuous previous service with the State shall, if the appointing authority so determines, be included in the period of probation.

(2) The appointment of a person as a member shall, subject to subsections (3) and (4), be confirmed at the end of the probationary period.

(3) If at any time during the probationary period the appointing authority considers that a member does not meet the required standard of performance, the appointing authority may, if such appraisal has not already been made, call for a performance appraisal in terms of section 8, and if such appraisal indicates that the member fails to meet the required standard of performance the appointing authority may—

- (a) discharge the member; or
- (b) extend the probationary period by not more than six months, at the end of which period the member shall be discharged if he fails to meet the required standard of performance.

(4) Notwithstanding the issue of a medical certificate under paragraph (a) of subsection (8) of section 6 upon the appointment of a member before confirmation, if the appointing authority considers that a member does not meet the required standard of health, or if a member has taken sick leave aggregating to ninety days or more during the probationary period, it shall require the member to undergo a further medical examination by a medical practitioner approved by the Secretary for Health.

8. Performance appraisal

(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.

[Subsection substituted by s.i. 58A of 2001]

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

[Subsection substituted by s.i. 58A of 2001]

(3) At the conclusion of every performance appraisal, the Commission or the head of Ministry or department, as the case may be, shall decide on what action, if any, is to be taken on the basis of the appraisal, including—

- (a) advancement or promotion;
- (b) transfer to a post more in keeping with the competence of the member concerned;
- (c) participation in a skills development course to enhance the efficiency and effectiveness of the member concerned;
- (d) the granting or withholding of any performance award;
- (e) demotion or discharge subject to and in accordance with the disciplinary procedures provided in Part VIII.

(4) The Commission may issue circulars or notices governing the content and conduct of performance appraisals.

9. Regrading

(1) A member is regraded when he moves from one category or group of functions to another laterally, whether within the same or another Ministry or department.

(2) Upon regrading the member shall be required to serve a period of not less than one year on trial, after which—

- (a) if the member's performance is appraised to be satisfactory, such member shall, subject to subsection (3), be deemed to have been confirmed in that grade; or
- (b) if the member's performance is not appraised to be satisfactory, the Commission may take such action as it deems necessary.

(3) A member referred to in paragraph (a) of subsection (2) shall not be confirmed in a grade unless previously confirmed as a member under section 7.

10. Advancement

(1) A member is advanced when, having satisfied the conditions laid down in the relevant advancement procedures and subject to satisfactory performance appraisal, he is advanced within the grade or from one grade to another.

(2) A member who is not advanced when first eligible may be considered for such advancement at a later date in terms of the relevant advancement procedures.

(3) The Commission may issue circulars or notices governing advancement procedures.

11. Promotion

(1) A member is promoted when, having undergone a competitive selection procedure, he is appointed to a vacant post to which is attached a greater responsibility and a higher salary or higher salary scale than that attached to the post to which he was last substantively appointed.

(2) Selection for promotion shall be undertaken—

(a) by the appropriate staff advisory committee in the case of promotion posts delegated by the Commission to heads of Ministry or department; or

(b) by the Commission in other cases;

subject to satisfactory performance appraisal and in accordance with the relevant promotion procedures.

(3) A member may be promoted without his consent at any time from the post which he occupies to any other post in the Public Service, whether that post is inside or outside Zimbabwe:

Provided that the member concerned shall be afforded a reasonable opportunity to make representations on the matter in writing to the Commission, which shall consider such representations before deciding on whether or not act in terms of this subsection.

(4) Section 12 shall apply to the promotion of a member referred to in paragraph (a) of subsection (2).

(5) No member shall be entitled as of right to promotion.

12. Promotion procedures

(1) In this section, “eligible member” means any member—

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

[Paragraph substituted by s.i. 58A of 2001]

(b) whom the Commission, in its discretion, regards as eligible for promotion to such vacant post.

(2) The staff advisory committee of a Ministry or department shall make recommendations to the head of Ministry or department on promotions to such posts within the Ministry or department as the Commission may specify.

(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;

[Subsection substituted by s.i. 58A of 2001]

(4) When making a recommendation as to the person to be promoted, the staff advisory committee shall submit to the head of Ministry or head of department for onward transmission to the head of Ministry—

(a) minutes of all its meetings and any other relevant documents relating to the recommendation; and

(b) a summary of its findings; and

(c) the grounds upon which its recommendation is based.

(5) The head of Ministry or department shall consider the recommendation of the staff advisory committee, and—

(a) where the authority to promote members to the post in question has been delegated by the Commission to the head of Ministry, take, subject to subsection (6), such action in the light of the recommendation as he thinks fit;

(b) in any other case, submit to the Commission—

(i) all the relevant papers referred to in subsection (4), together with his recommendation as to the person to be promoted; and

Subparagraph amended by s.i. 58A of 2001]

(ii) the grounds upon which his recommendation is based.

(6) If the head of Ministry disagrees with the recommendations of the staff advisory committee, he shall give the Commission full reasons for his decision.

(7) In determining which member should be promoted, the Commission shall comply with the principles set out in Part I of the Second Schedule.

(8) The Commission may attach such terms and conditions as it thinks fit to the promotion of any member and, without derogation from the generality of the foregoing, may require a member, as a precondition to his promotion, to agree to any of the conditions specified in Part II of the Second Schedule.

(9) The Commission shall consult the Judicial Service Commission before promoting any person to any post of magistrate or any post in the Office of the Attorney-General which is required to be held by a legally qualified person.

(10) Whenever it is necessary to determine the seniority of a member, such determination shall be made by the Commission.

13. Transfer

(1) A member may at any time without his consent be transferred by the Commission or a delegated authority from the post which he occupies to any other post in the Public Service whether the post is inside or outside Zimbabwe:

Provided that—

- (i) the member shall not suffer a reduction in his pensionable emoluments without his consent;
- (ii) a member who has been transferred to or is employed in a post which is of a higher or lower grade than his own grade without a change in pensionable emoluments shall be transferred to a post to which his pensionable emoluments are appropriate as soon as a vacancy occurs for which he is considered suitable;
- (iii) a member who has been transferred to or is employed in a post which is of a higher grade than his own grade or which is regraded or converted to a post of a higher grade than his own grade shall not, by reason only of such transfer or employment, be entitled to the higher pensionable emoluments applicable to the post.

(2) A member may be transferred either permanently or for a temporary period not exceeding three years.

(3) Every transfer shall—

- (a) be planned to minimise discomfort on the part of the member concerned and his family; and
- (b) be notified timeously to the member concerned, who shall be provided with all necessary information relating to the transfer.

(4) No transfer shall be used as a punitive measure except pursuant to the disciplinary procedures provided in Part VIII.

(5) Failure of a member to obey a lawful instruction regarding transfer shall be treated as an act of misconduct for the purposes of Part VIII.

14. Secondment

(1) A member may at any time, with his consent and at the invitation of head of Ministry or the Commission, be seconded by the Commission for a period not exceeding three years to a post in an approved service.

[Subsection amended by s.i. 58A of 2001]

(2) The terms and conditions of service of a member while on secondment shall, subject to any policy directive issued by the Commission, be governed by contract between the member and the approved service concerned.

(3) A member who, having been seconded from the Public Service to an approved service—

- (a) resigns therefrom; or
- (b) is discharged on account of misconduct or on the grounds that he is unfit or incapable of performing efficiently the duties of his post;

shall be deemed to have resigned, retired or been discharged from the Public Service in similar circumstances with effect from the date that he resigned or was discharged from the approved service unless the Commission reinstates that person in the Public Service with effect from the day following the said date.

PART III

RESIGNATION, TERMINATION OF EMPLOYMENT AND RETIREMENT

15. Resignation

(1) A member appointed on pensionable conditions of service or, unless the contract provides otherwise, under contract, may resign from the Public Service upon giving the appropriate notice in writing to the delegated authority in accordance with this section.

(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.

[Subsection substituted by s.i. 58A of 2001]

(3) The Commission or delegated authority may, during the period of notice, permit a member to withdraw his notice of resignation.

(4) During a period of notice given in terms of this section a member shall not be permitted to take any amount of accrued vacation leave or reserved vacation leave standing to the credit of the member in terms of section 36.

(5) A member who leaves the Public Service without having given the appropriate period of notice in terms of this section shall, in respect of his failure to do so, pay to the State such sum, not exceeding three months' salary, as the Commission may fix.

(6) If, after the initiation of disciplinary proceedings against a member, the member resigns, such member shall, unless the Commission or delegated authority is satisfied to the contrary, be deemed for the purposes of the pensions regulations to have been dismissed.

16. Termination of contract or temporary employment

(1) Where it appears to the Commission or delegated authority that the employment of any member appointed on temporary terms should be terminated, it shall inform the member concerned in writing of the decision and terminate his employment in accordance with the letter of appointment.

(2) Where a member is appointed under a contract which provides for the termination of the contract before the expiry of the period of service stipulated therein, the Commission or appointing authority under the contract shall, if it is of the opinion that the contract should be terminated, inform the member in writing of its decision to terminate the contract in terms of the conditions laid down in the contract.

17. Pensionable age and retirement

(1) Subject to section 18, a member appointed on pensionable terms of service—

(a) before the 1st May, 1992, shall have a pensionable age of sixty-five years;

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.

[Proviso inserted by s.i. 58A of 2001]

(b) on or after the 1st May, 1992, shall have a pensionable age of sixty years.

(2) A member's pensionable age shall be recorded on the member's record of employment for pension purposes.

(3) The Paymaster shall, on the 1st June each year, provide all heads of Ministry or department with a list of members who will reach the age of fifty-five, sixty or sixty-five years during the ensuing year.

(4) The Commission may, when it is in the interest of the Public Service to do so, permit a member whose pensionable age is sixty to continue to serve beyond the age of sixty for periods not exceeding one year at a time, provided that such member shall retire at the age of sixty-five years.

18. Retirement before reaching pensionable age

(1) A member may, on giving three months' notice of retirement, be permitted by the Commission to retire before pensionable age at any time after attaining the age of fifty-five.

(2) The Commission may, on giving the equivalent appropriate period of notice prescribed under subsection (2) of section 15 for the resignation of a member, require a member to retire on or after the date on which such member attains the age of fifty-five:

Provided that a member who having been a member on pensionable conditions of service immediately before the 1st May, 1992, has had continuous service as such member since that date, may not be required in terms of this subsection to retire before attaining the age of sixty-five years.

(3) The Commission may require a member to retire if, after having undergone a medical examination by a medical board appointed by the Secretary for Health, such member is found permanently unfit to carry out the duties of his post.

(4) Subject to these regulations, the Commission may require a confirmed member to retire—

(a) if he becomes inefficient or incapable, for a reason other than mental or physical deficiency or infirmity, of efficiently performing his duties; or

(b) if he is not suitable for the post he occupies or any other post to which he could be promoted or transferred without his consent; or

(c) if his removal will facilitate improvements in the Ministry or other division of the Public Service in which he is serving whereby greater efficiency or economy can be effected; or

(d) if he has been employed for a continuous period of not less than twelve months in a post of a lower grade than his own grade and the Commission is satisfied that it is unable to transfer him in accordance with the provisions of proviso (ii) of subsection (1) of section 13 within a reasonable period; or

[Paragraph amended by s.i. 58A of 2001]

(e) owing to—

(i) the abolition of his post; or

(ii) the reduction in or adjustment of the organization of a Ministry or other division of the Public Service;

or

(f) if, at the termination of a period of secondment in terms of paragraph (a) of (subsection (1) of section 14, he has not been transferred to the approved service or appointed to a post in the Public Service; or

[Paragraph amended by s.i. 58A of 2001]

- (g) if, in the opinion of the Commission, his retirement is in the interests of the Public Service.
- (5) A member whom it is intended to retire in terms of subsection (2), (3) or (4) shall—
 - (i) be given notice of such intention by his head of Ministry or department; and
 - (ii) be afforded an opportunity to make representations in writing concerning such intention to the Commission, which shall consider such representations before deciding on whether or not to retire the member.

PART IV

GRADING AND SALARIES

19. Grading structure

(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.

[Subsection substituted by s.i. 58A of 2001]

20. Salaries

(1) The Commission shall fix the salaries, salary scales and entry points thereto for all posts and grades in the Public Service with the concurrence of the Minister responsible for finance.

(2) The commencing salary of a member may be fixed by the Commission or appointing authority by reference to any one or more of the following—

- (a) academic, professional or technical qualifications;
- (b) training or relevant experience;
- (c) the competencies necessary for the efficient and effective execution of the tasks attached to the post.

[Paragraph amended by s.i. 58A of 2001]

(3) Nothing in these regulations shall be construed as authorizing a reduction in the fixed salary or scale applicable to any member except where the member has consented to such reduction or where he has been found guilty of misconduct.

PART V

ALLOWANCES

21. Travel expenses

(1) The State shall meet travel expenses for the following types of official travel—

- (a) travel on duty;
- (b) travel on transfer in the interest of the Public Service.

(2) Travel shall be by the most efficient and economic means. The mode and frequency of travel shall be as determined by the delegated authority from time to time.

(3) Travel within Zimbabwe may be by Government vehicles, public transport, transport on hire or the member's own vehicle.

22. Official travel

(1) Where a member is authorized by the head of Ministry or department to use his own vehicle on official duty, he shall claim distance rates approved, from time to time, by the Commission with the concurrence of the Minister responsible for finance.

(2) Where a member is authorized by the head of Ministry or department to hire a vehicle or travel by air for the purposes outlined in subsection (1) of section 21 he shall be issued with a requisition for payment only to the operator of the transport service concerned.

(3) The class of travel by air on official assignment shall be as determined by the Commission from time to time with Treasury concurrence.

23. Transportation of dependants, personal goods or both

(1) Government shall not be responsible for costs incurred when spouses, children or dependants are travelling with the member on official duty.

(2) A member authorized to use a Government vehicle for official duty shall not, except with the express permission of the head of Ministry or department, carry unauthorized passengers, including members of his family,

and, where such permission is given, Government shall not be liable in the case of a road traffic accident leading to the death or injury of any passenger.

(3) The Government shall pay the expenses of conveying the immediate family and all household goods of a member travelling on transfer.

24. Subsistence allowance

(1) A subsistence allowance shall cover the cost of meals and accommodation when a member is away from home station.

(2) A member may, on application, be paid a subsistence allowance in advance for a period not exceeding one month or such longer period in advance as the head of Ministry or department may authorize.

(3) Where a subsistence allowance is paid in advance in terms of subsection (2)—

- (a) it may be for the full amount of the allowance or such lesser amount as the member requires;
- (b) it shall be used for the purpose for which it has been made and be adjusted as soon as possible after the date on which the member returns to home station;
- (c) no new advance shall be made before the existing one is cleared, unless otherwise authorized by the accounting officer.

25. Proved and unproved expenses

(1) Expenses requiring documentary proof shall be the cost of accommodation where Government accommodation is not provided, which proof shall be provided by receipts for accommodation in the hotel or other rented housing in which the member was accommodated.

(2) The amounts reimbursable under subsection (1) shall not exceed the rates prescribed by the Commission with Treasury concurrence.

(3) The cost of breakfast, lunch and dinner when a member is out of station on official duty shall not require submission of documentary proof but be reimbursed on daily rates determined and reviewed from time to time with Treasury concurrence.

26. Transfer expenses

The following expenses shall be reimbursed to a member who is required to transfer in the interest of the Public Service—

- (a) where accommodation is not provided on transfer and the member, his family or both are required to live in a hotel or any rented accommodation temporarily, proved meals and accommodation shall be at the full rate for the first thirty days, at half rate for the next thirty days, and thereafter at the member's expense unless otherwise directed by the Commission with the concurrence of the Minister responsible for finance;
- (b) where accommodation is not provided on transfer and the member, his family or both make private arrangements in this regard, the cost of meals shall be at unproved rates;
- (c) where the member is obliged to move with his household effects there shall be paid in accordance with such rules governing such movement as are approved by the Commission, and at different rates depending on the marital status of the member—
 - (i) the cost of moving such effects; and
 - (ii) a disturbance allowance; and
 - (iii) the cost of storage of the member's belongings for periods of up to thirty days before and thirty days after the transfer.

27. Acting allowance

(1) In this section—

“act” means act for a member in a higher grade or vacant post;

“acting allowance” means the additional remuneration payable to a member appointed to act for another member or in a vacant post.

(2) Notwithstanding anything contained in this section, no member who acts shall be entitled as of right to claim an acting allowance.

(3) Subject to this section, the Commission may grant to any member who acts an acting allowance of such amount as the Commission may fix:

Provided that the aggregate of any acting allowance payable in terms of this section and the salary of the member who acts shall not exceed the salary to which such member would be entitled were he to be promoted to the post in which he acts.

(4) No acting allowance shall be paid to a member who acts for a continuous period of less than thirty days.

(5) An acting allowance shall be payable with effect from the date on which a member who is appointed to act officially assumes the duties of the post until the day prior to the date on which such member officially ceases to fulfil such duties.

(6) Except in special circumstances and on the authority of the Commission, not more than one acting allowance shall be paid in respect of the absence of any one member from duty or in respect of any one vacant post.

(7) No acting allowance shall be paid—

(a) to a member other than a teacher, after he has acted for a continuous period of one hundred and eighty-four days;

(b) to a teacher after he has acted for a continuous period of two terms;

unless such payment is authorized by the Commission, and in so authorizing the Commission may increase the rate of the acting allowance as it deems fit in the circumstances.

(8) If a member who is being paid an acting allowance is absent from duty on leave or for any other reason for a continuous period of thirty days or more, such allowance shall not be paid to him for the period during which he is absent from duty.

28. Responsibility allowance

(1) Subject to subsection (2), a member who is required to undertake work involving special responsibility may be paid such responsibility allowance as the Commission may fix after considering the degree of responsibility attaching to the work undertaken by that member.

(2) If a member who is being paid a responsibility allowance is absent from duty on leave or for any other reason for a continuous period of thirty days or more, such allowance shall not be paid to him for the period during which he is absent from duty.

29. Provision for performance awards and other allowances

The Commission may by notice or circular fix the conditions applicable to the payment of performance awards and such other allowances as the Commission, with the concurrence of the Minister responsible for finance, may fix, and may in like manner modify or withdraw the payment of such performance awards and allowances.

PART VI

INDEMNIFICATION OF DRIVERS

30. Interpretation in Part VI

In this Part—

“authorized passenger” means any person—

- (a) whom a member in charge of a vehicle is required to carry in or upon such vehicle in the normal course of the member’s official duties; or
- (b) whom a member in charge of a vehicle is authorized by his head of office, head of department or head of Ministry to carry in or upon such vehicle in the course of the member’s official duties; or
- (c) involved in an accident or other emergency whom a member in charge of a vehicle may carry in or upon such vehicle for the purpose of obtaining medical or other assistance for such person;

“third party” means any person or association of persons, but does not include the Government;

“traffic accident” means any event or occurrence—

- (a) caused by or arising out of the use of a vehicle; and
- (b) which renders a member liable to pay any sum in relation to any of the matters referred to in paragraph (a) or (b) of subsection (1) of section 31;

“vehicle” means any vehicle which is propelled by mechanical or electrical power and intended or adapted for use or capable of being used on roads, and—

- (a) includes any vehicle incorporating water-boring machinery or construction machinery such as a tracked tractor, crane, grader, shovel, scraper, pipelayer or similar vehicle;
- (b) does not include a vehicle—

- (i) sold by Government to a member under an agreement by virtue of which ownership of the vehicle does not pass from the Government to the member until the total purchase price due under the agreement has been paid; or
- (ii) purchased out of money from any general purpose fund established in terms of section 14 of the Education Act [*Chapter 25:04*].

31. Indemnification of drivers

(1) Subject to this Part, where a member is involved in a traffic accident while driving a vehicle which he has been authorized by his head of office, head of department or head of Ministry to use for the purposes of Government, the Government shall indemnify such member in respect of all sums which he may become legally liable to pay arising out of or in connection with the use of such vehicle for the purposes of Government in relation to—

- (a) the death of or bodily injury to any person, other than the member himself, including any authorized passenger who was being carried in or upon such vehicle or was entering or getting onto or alighting from such vehicle at the time of the traffic accident; or
- (b) any destruction of or damage to property, excluding property belonging to Government or to the member.

(2) The Government shall indemnify a member in terms of subsection (1) notwithstanding that no contract of indemnity has been entered into between the member and the Government.

32. Costs of legal representation

(1) Subject to this Part, the Government shall at the direction of the Attorney-General pay any costs which in his opinion have been reasonably incurred by a member who is indemnified in terms of section 31 in respect of —

- (a) legal representation at an inquest in respect of any death; or
- (b) defending in any court any civil proceedings in respect of any accident;

which is the subject of such indemnity.

(2) The Government shall not pay any costs in terms of subsection (1) unless the member concerned—

- (a) permits the Government to have the whole conduct of the case, including the power to settle or compromise any claim or action; and
- (b) allows the Government to nominate a person to represent him:
Provided that if the member concerned refuses the services of a person nominated by the Government, the Government shall pay such portion of the costs of legal representation of the member as may be determined by the Commission in consultation with the Minister responsible for finance.

(3) Where a member institutes proceedings for the recovery of damages caused by or arising out of any occurrence or event involving a vehicle used by him for the purposes of the Government, the Attorney-General may, subject to such terms and conditions as he may impose, authorize the payment by the Government of the whole or any part of the costs incurred by such member in conducting the proceedings.

(4) If a member whose costs the Government pays in terms of subsection (1) or paragraph (b) of subsection (2) succeeds in recovering part or all of his costs from another party to the proceedings concerned, the member shall reimburse the Government to the extent of the costs paid by the Government.

33. Limitations of indemnification

(1) The Government shall not indemnify a member in terms of section 31 or pay any costs in terms of section 32—

- (a) in respect of any liability or proceedings arising from the death of or bodily injury to or damage to the property of any person who at the time of the accident was being carried in or upon the vehicle concerned and was not an authorized passenger; or
- (b) if at the time of the traffic accident from which the member's liability arises the member did not hold a valid driver's licence for the class of vehicle being driven; or
- (c) if the member knew or had reason to know that the vehicle was not in a roadworthy condition or was overloaded; or
- (d) if the member was not complying with any instruction given to him by his head of office, head of department or head of Ministry concerning the route he was to follow; or
- (e) if the member was driving the vehicle while under the influence of intoxicating liquor or drugs.

(2) If a member incurs any liability or costs arising out of the use by him of a vehicle for the purposes of the Government and there is in existence a valid policy of insurance covering the use of that vehicle by the member for purposes of the Government, the Government shall not pay any sums to or on behalf of such member in respect of any liability or costs which are covered by such policy of insurance.

(3) No payments in terms of this Part shall be made by the Government to or on behalf of any member in respect of any fine or other penalty of a criminal nature imposed upon the member by any court.

(4) If a member fails to give notice to his head of office, head of department or head of Ministry immediately after—

- (a) the occurrence of any traffic accident; or
- (b) the receipt by him of any letter, claim, summons, writ or process relating to any accident; or

(c) he receives knowledge of any pending prosecution, inquest or other proceedings arising out of any accident;
or

(d) he is convicted of any offence mentioned in paragraph (c);

(5) If any member, without the written consent of the Attorney-General, makes any admission, offer, promise or payment to any person in respect of any traffic accident in which a third party is involved, the Attorney-General may direct that no payment in terms of this Part shall be made by the Government to or on behalf of such member in respect of such accident.

34. Right to recover

This Part shall not in any way compromise the rights the Government may have under any other law to recover from any member—

(a) the amount of any payment made by the Government in respect of any death, injury or damage in pursuance of any order of court made against the Government or such member or pursuant to any settlement effected with any third party; and

(b) the amount of any legal costs incurred by the Government in any proceedings relating to any claims by a third party against the Government or such member;

when such damages, payments or costs are not legally claimable by Government from any third party and have been sustained or incurred as a result of the negligence or conduct of the member.

PART VII

LEAVE

35. Interpretation in Part VII

In this Part—

“qualifying service”, in relation to vacation leave, means the period of service of a member in any year less any period—

(a) exceeding a continuous period of ninety days’ sick leave;

(b) in the case of manpower development leave granted to attend a course of training or study of more than one year’s duration, from the first anniversary of the date on which such manpower development leave first commenced until the date prior to that on which the member finally resumes duty, having completed or abandoned the course of training or study;

[Paragraph amended by s.i. 58A of 2001]

(c) of vacation leave without pay for a continuous period of thirty days or more;

(d) during which his salary is suspended in terms of paragraph (b) of subsection (1) of section 49;

“reserved vacation leave” means, in respect of a member serving on the 31st July, 1988, who was an officer as defined in the Public Service (General) Regulations, 1992, and who at that date—

(a) in the case of a teacher, had accrued more than one hundred and five days of vacation leave;

(b) in the case of any other member, had accrued more than sixty days of vacation leave;

such number of days of vacation leave by which his accrued leave exceeded one hundred and five days or sixty days, as the case may be.

36. Vacation leave

(1) The main purpose of vacation leave is that members shall be afforded the opportunity to take one long period of rest on a regular basis.

(2) Every head of Ministry or department shall actively see to it that vacation leave is planned and granted at regular intervals.

(3) Vacation leave with full pay may be granted by a head of Ministry or head of department to a member at any time after the member has completed one year’s service.

(4) Vacation leave shall not be granted to any member other than a teacher for any period which is less than three days in duration.

(5) All Saturdays, Sundays and gazetted public holidays falling within a period of vacation leave shall be counted as part of vacation leave.

(6) Subject to this section, vacation leave shall accrue to a member at the rate of one twelfth of his qualifying service in each year:

Provided that—

(i) the Commission may by notice or circular provide that a lesser or greater rate of vacation leave shall accrue to teachers or other members performing duties of a specified class or description;

(ii) reserved vacation leave shall not count as part of a member's accumulation of vacation leave.

(7) No member may accumulate vacation leave in excess of—

(a) in the case of a teacher, one hundred and twenty-three days;

(b) in the case of any other member, ninety days:

Provided that, if a member is granted only a portion of the total vacation leave which may have accrued to him, he may be granted the remaining portion at a later date, together with any further vacation leave which may have accrued to him at that date, without forfeiting any such accrued leave.

(8) The Commission may, by notice or circular, provide for the payment, at the election of a member made with the approval of the Commission, of a specified portion of the cash equivalent of any vacation leave that has accrued to the member, subject to the terms and conditions specified in the notice or circular.

(9) A member who falls sick during a period of vacation leave may cancel his vacation leave and apply for sick leave.

(10) Where a member has no vacation leave accrued, he may be granted vacation leave without pay.

(11) The cash equivalent of any vacation leave accrued to a member or reserved vacation leave standing to his credit shall be payable to a member or his estate in the event of the member's death or his retirement, resignation, or discharge from the Public Service:

Provided that the cash equivalent of any accrued vacation leave or reserved vacation leave standing to a member's credit for the purposes of this subsection shall not exceed—

(a) one hundred and twenty-three days in the case of a teacher; or

(b) ninety days in the case of any other member.

37. Annual leave

(1) Annual leave may be granted by a head of Ministry or head of department during the calendar year in which it is accrued to enable members to take short breaks from work to attend to personal matters.

(2) The amount of annual leave which may be granted each year to a member shall be twelve days:

Provided that the Commission may by notice or circular provide that a member performing duties of a specified class or description may be granted more or less than twelve days of annual leave each year.

(3) Annual leave may be granted at the discretion of the head of Ministry or head of department in conjunction with any other type of leave.

(4) All Saturdays, Sundays and gazetted public holidays falling within a period of annual leave shall not count as part of such leave unless—

(a) such leave is taken in conjunction with vacation leave; or

(b) such leave exceeds a period of five working days.

38. Sick leave

(1) Sick leave may be granted to a member who is prevented from attending his duties because he is ill or injured or undergoes medical treatment which was not occasioned by his failure to take reasonable precautions.

(2) During any one year period of service a member may be granted a maximum of ninety days' sick leave on full pay and ninety days' sick leave on half pay.

(3) A head of department may grant sick leave not exceeding three days, or, in the case of a member stationed sixteen kilometres or more from the nearest medical practitioner, six days, without the production of a medical certificate.

(4) A head of department may grant sick leave with pay for a continuous period not exceeding ninety days on production of a certificate in the prescribed form signed by a registered medical practitioner:

Provided that if, in the opinion of the head of department, the illness is likely to exceed ninety days, the head of department concerned shall report the matter to the head of Ministry twenty-one days before the expiry of the leave in order to facilitate the convening of a medical board.

(5) Sick leave on half pay which extends beyond the period of sick leave on full pay may only be granted by the head of department if recommended by a medical board appointed by the Secretary for Health if, in the opinion of the medical board, it is probable that the member concerned will be able to resume duty after such further period of sick leave.

(6) If a medical board has established that a member will be unable to resume duty because of illness or injury, the head of department shall take steps to have the member retired on the grounds of ill health.

(7) If, when a medical board has been convened to examine a member who has been notified accordingly, such member fails without adequate excuse to attend that medical board, the Commission or the delegated authority may proceed to charge the member with misconduct.

(8) A head of Ministry may grant a member who is not eligible for sick leave on full pay or half pay, sick leave without pay for a period not exceeding forty-five days.

(9) A head of department may grant an additional period of sick leave to a member to cover the period between the hearing of a medical board which recommends the member's retirement on ill health and the effective date of such retirement.

(10) A member who so wishes may be granted accrued vacation leave or annual leave instead of sick leave on half pay or without pay.

(11) A member who is injured on duty shall not be granted sick leave but may be granted compensatory sick leave in terms of the State Service (Disability Benefits) Act [*Chapter 16:05*].

39. Maternity leave

(1) Maternity leave may be granted for a period of ninety days on full pay to a woman member who has served for at least one year.

(2) On production of a medical certificate from a medical officer certifying that she is pregnant, a woman member may proceed on maternity leave not earlier than the forty-fifth day and not later than the twenty-first day prior to the expected date of delivery.

(3) A woman member shall be entitled to be granted a maximum of three periods of maternity leave during which she shall be paid her full salary:

Provided that paid maternity leave shall be granted only once during any period of twenty-four months calculated from the first day of any maternity leave last granted to the woman member.

(4) A woman member who has served for less than one year and who requires leave for maternity purposes, shall apply for ninety days' vacation leave without pay:

Provided that if, during such leave, she completes one year's service, she shall be paid her full salary for so much of such leave as is taken during her second year of service, and the period for which she is so paid shall count as one of the periods of paid maternity leave referred to in subsection (3).

(5) Any maternity leave requested in excess of the limits prescribed in this section may only be granted as unpaid maternity leave.

(6) Unless the head of Ministry grants sick leave for medical reasons other than maternity, sick leave shall not be granted once paid maternity leave has begun or during a period of unpaid maternity leave.

(7) On resumption of duty, a woman member shall retain the grade, salary and conditions of service applicable to her prior to her proceeding on paid maternity leave or leave without pay for maternity purposes, and her eligibility for advancement and promotion shall not be affected by her absence on such leave.

40. Manpower development leave

(1) In this section, "manpower development leave" means leave granted to a member to engage in study or training through the medium of any of the following—

- (a) work exchange programmes;
- (b) work attachments;
- (c) short courses;
- (d) professional training;
- (e) academic courses and examinations above the secondary level of education;
- (f) training and development seminars, workshops and conferences;

for the purposes of enhancing the efficiency, effectiveness and motivation of such member.

(2) For the purposes of this section, every head of Ministry and department shall submit for approval to the Commission each year by the 31st October a plan identifying its human resource development needs for the following year.

(3) Subject to subsection (4), manpower development leave may be granted by the Commission or a delegated authority—

- (a) in accordance with the criteria for eligibility for such leave set out in the Third Schedule; and
- (b) to any member who—

- (i) is identified and recommended for such leave in a plan approved by the Commission in terms of subsection (2):

Provided that a member not so identified or recommended may apply for such leave to the Commission or delegated authority empowered to grant it; and

- (ii) if required to be bonded in terms of subsection (8), agrees to be so bonded and signs the bonding agreement before going on such leave.

[Subparagraph amended by s.i. 58A of 2001]

(4) Manpower development leave shall be granted—

(a) by the Commission in respect of—

- (i) courses at doctorate level;
 - (ii) courses at Masters degree level undertaken outside Zimbabwe;
 - (iii) courses of study or training of more than three months' duration undertaken outside Zimbabwe;
- and

(b) by the head of Ministry in other cases.

(5) Subject to subsection (6), the salary and allowances of a member on manpower development leave shall, if the leave—

(a) does not exceed three months, be paid in full;

(b) exceeds three months but not twelve months, be paid at three-quarters of the full rate from the commencement of the leave;

(c) exceeds twelve months, be paid at half the full rate from the commencement of the leave.

(6) A member who, due to inadequate performance, does not successfully complete a course of study or training undertaken in connection with manpower development leave, may be granted a further period of manpower development leave without pay.

(7) A member may, at the discretion of the Commission or delegated authority, apply for and be granted unpaid manpower development leave.

(8) Any who goes on paid manpower development leave, whether continuously or on a part-time basis, for a period—

(a) of three months or less, shall not be bonded unless the Commission considers this essential in the circumstances;

(b) exceeding three months but not exceeding one year, shall be bonded for one year;

(c) exceeding one year shall be bonded for a period equal to the period of manpower development leave.

[Subsection amended by s.i. 58A of 2001]

(9) The Commission may grant a waiver of a bonding agreement in favour of a member who is appointed to a statutory body, statutory fund or local authority and is employed in such body, fund or authority for the remaining bonding period:

Provided that such body, fund or authority shall, before engaging the member, request a waiver on behalf of the member concerned and undertake to notify the Commission in the event that the member completes or fails to complete the bonding period during the member's period of employment with it.

(10) A member may not accrue vacation leave during any period of manpower development leave.

(11) A member on manpower development leave for a period in excess of three months shall not be considered for promotion during the period of such leave.

(12) A member who applies unsuccessfully to a head of Ministry for manpower development leave pursuant to the proviso to subparagraph (i) of paragraph (b) of subsection (3) may appeal against the decision of the head of Ministry to the Commission

41. Special leave

Special leave on full pay not exceeding twelve days in a calendar year may be granted by a head of department to a member—

(a) to prepare for and sit an examination required for his advancement in the service or which his head of department considers will increase his value to the department;

[Paragraph amended by s.i. 58A of 2001]

(b) who is required to be absent from duty on the instructions of a medical practitioner because of contact with an infectious disease;

(c) who is subpoenaed to attend any court in Zimbabwe as a witness;

(d) who is required to attend as a delegate or office bearer at a conference of a recognised association representing members;

(e) who is detained for questioning by the police;

(f) on the death of a spouse, parent, child or legal dependant;

(g) on any justifiable compassionate ground.

PART VIII

DISCIPLINARY PROCEDURE

42. Disciplinary authorities

(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.

[Subsection substituted by s.i. 58A of 2001]

43. Disciplinary committees

(1) A disciplinary authority shall appoint a disciplinary committee to hear allegations of misconduct against members and make appropriate recommendations to the disciplinary authority.

(2) A disciplinary committee appointed by—

- (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.

[Paragraph substituted by s.i. 58A of 2001]

(b) a head of Ministry shall consist of—

- (i) a chairman who shall be the principal establishment officer of the Ministry or a member of equivalent rank; and
- (ii) two other members appointed by the head of Ministry who shall be confirmed members;

(c) a head of department shall consist of—

- (i) a chairman who shall be the deputy head of department or a member nominated by the deputy head of department to act on his behalf who is approved by the head of department; and
- (ii) two other members appointed by the head of department who shall be confirmed members.

44. Procedure before and immediately following allegation of misconduct

(1) Where a member is suspected of misconduct, the disciplinary authority shall conduct or cause to be conducted such investigations as may be necessary.

(2) If, on completion of the investigations referred to in subsection (1), it is found that an allegation of misconduct should be preferred against the member, the disciplinary authority shall, within a reasonable time after the completion of the investigation—

[Subsection amended by s.i. 58A of 2001]

- (a) inform the member, in writing, of the nature of the allegation against him, and call upon him to submit a written reply to the allegation within fourteen days;
- (b) where, possible, furnish to the member copies of any material documentary evidence, if any, relating to the allegation of misconduct, or afford the member an opportunity of having sight of any such evidence.

(3) Where the disciplinary authority is not the Commission, the authority shall, within seven days of receiving the member's reply or, if no such reply has been received within the period allowed for reply in terms of paragraph (a) of subsection (2), within seven days after the expiry of such period —

[Paragraph amended by s.i. 58A of 2001]

- (a) make a report in the form set out in the Fourth Schedule to—
 - (i) the head of Ministry, in the case where the disciplinary authority is a head of department;
 - (ii) the Commission, in the case where the disciplinary authority is a head of Ministry;
 - (iii) the head of department in the case where the disciplinary authority is the head of office.

[Subparagraph inserted by s.i. 58A of 2001]

and

(b)

[Paragraph repealed by s.i. 58A of 2001]

and

(c) subject to subsection (5), refer the matter to a disciplinary committee for hearing in accordance with section 45; and

[Paragraph substituted by s.i. 58A of 2001]

(d) make available to the disciplinary committee a copy of the report referred to in paragraph (a) and any material documentary evidence relating to the allegation of misconduct.

(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.

[Subsections (4) and (5) substituted by s.i. 58A of 2001]

45. Hearings before disciplinary committee

(1) Within seven days of receiving the documents referred to in paragraph (d) of subsection (3) or paragraph (d) of subsection (4) of section 44, the disciplinary committee shall give not less than seven days' notice to the member concerned of the time, date and place of the hearing of the allegation of misconduct against him.

(2) The hearing shall be conducted without the need to observe the rules of procedure and evidence ordinarily applicable in criminal or civil proceedings, provided, however, that the member concerned is afforded the opportunity to respond to every allegation of misconduct and that substantial justice is done.

(3) At the hearing the member and the disciplinary committee may, if either so wishes, be advised and, in the case of the member, represented by a legal practitioner.

(4) The disciplinary committee may proceed to consider the allegation of misconduct in the absence of the member concerned if the member fails to attend the hearing without reasonable cause after having been duly notified.

(5) The chairman of the disciplinary committee shall keep or cause to be kept an accurate record of the substance of the evidence led at the hearing.

(6) At the conclusion of the hearing or as soon thereafter as possible, the chairman of the disciplinary committee shall submit to the disciplinary authority—

(a) a notification in writing of its findings and recommendations thereon, including a recommendation as to the penalty to be imposed upon the member where it finds the member guilty of misconduct; and

(b) the record of the evidence led at the hearing.

46. Determination of allegation of misconduct

(1) On receiving the documents referred to in subsection (6) of section 45 the disciplinary authority may—

(a) refer the matter back to the disciplinary committee for further hearing; or

[Paragraph amended by s.i. 58A of 2001]

(b) proceed to determine whether or not the member concerned is guilty of misconduct as alleged.

(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.

[Paragraph substituted by s.i. 58A of 2001]

(3) Where the disciplinary authority determines that a member is guilty of misconduct, the disciplinary authority shall—

(a) proceed to determine the penalty to be imposed upon the member; and

(b) notify the member and, where the disciplinary authority is not the Commission—

(i) the head of Ministry, in the case where the disciplinary authority is a head of department; or

(ii) the Commission, in the case where the disciplinary authority is a head of Ministry;

[Subparagraph amended by s.i. 58A of 2001]

of its determination and the penalty imposed upon the member; and

(c) take such consequential measures as may be necessary in the circumstances.

(4) It shall be competent for the disciplinary authority to find a member guilty of an act of misconduct other than the act which the member was originally alleged to have committed if the facts disclose such other act:

Provided that, where the disciplinary committee has not made a finding that the member is guilty of such other act, the disciplinary authority shall refer the matter back for further hearing by the disciplinary committee.

47. Member convicted of a criminal offence

Where a member is convicted of a criminal offence which may constitute an act of misconduct, the disciplinary authority shall endeavour to obtain a copy of the court record relating to the conviction of the member from the registrar or clerk of the court concerned, and sections 44, 45 and 46 shall thereafter apply.

48. Imposition of suspension order

(1) A disciplinary authority may at any time, by written notice, suspend from service a member who is suspected of misconduct or is subject to criminal investigation or prosecution if his continued attendance at work or continued performance of his duties or service, as the case may be, would—

- (a) be conducive to unbecoming or indecorous behaviour or further instances of misconduct; or
- (b) seriously impair the proper administration or functioning of the Ministry or department concerned; or
- (c) occasion prejudice to any moneys or property likely to be handled by the member in the course of his work; or
- (d) enable the member to hinder or interfere with any investigation or evidence relating to any alleged misconduct; or
- (e) be undesirable in the public interest or likely to lead to a loss of public confidence in the Public Service.

(2) Where a suspension order is imposed upon a member—

- (a) the order shall specify the reasons for such order, the period of suspension and, where possible, the nature of the allegations against the member;
- (b) disciplinary procedures shall be instituted forthwith in terms of section 44 if they have not already been instituted.

(3) A copy of every suspension order issued by a disciplinary authority other than the Commission shall be sent to the Commission as soon as possible after it is issued.

(4) A member who is under suspension may not leave Zimbabwe without the permission of the disciplinary authority and shall inform the disciplinary authority of any change of address.

49. Effect and cancellation of suspension order

(1) Where a member is suspended from service, he shall—

- (a) not attend at his place of work or carry out any duty unless directed to do so by the disciplinary authority, in which case he shall carry out such duties as directed;
- (b) not be entitled to his salary in respect of the period of suspension unless ordered to carry out other duties, in which case he shall continue to receive his salary;
- (c) be entitled, upon notifying the disciplinary authority, to take up other employment for the duration of his suspension from service unless ordered to carry out other duties, and shall furnish such further particulars as may be required from him of such employment and the remuneration received by him.

(2) Notwithstanding paragraph (b) of subsection (1), where the nature of the allegation of misconduct does not involve financial prejudice to the Government, and the member is not directed to carry out other duties, the member under suspension shall, pending the determination of the allegation, be entitled to an allowance equal to half his gross salary per month for up to three months:

Provided that the Commission may in exceptional circumstances authorize the payment of an allowance—

- (a) where the allegation involves financial prejudice to the Government; or
- (b) for a period in excess of three months where the allegation has not been determined; or
- (c) in excess of half the member's gross salary per month.

(3) A suspension order—

- (a) may be cancelled at any time by the disciplinary authority;
- (b) shall be deemed to be cancelled—
 - (i) where the member is found not guilty of misconduct; or
 - (ii) after three months from the date of its imposition if the allegation has not been determined, unless the Commission directs that the order remain in force for such period as it shall specify by written notice to the member.

(4) Where a member—

- (a) is found guilty of misconduct, the Commission may direct the recovery from the member of the whole or any part of an allowance paid to the member in terms of subsection (2);

- (b) is not found guilty of misconduct, the Commission may direct that the whole or any part of the salary withheld from the member, less any allowance paid in terms of subsection (2), be restored to the member.

Imposition of penalty by disciplinary authority

50. (1) Where a disciplinary authority determines that a member is guilty of misconduct the disciplinary authority may impose any one or more of the following penalties—

- (a) discharge the member from the Public Service;
 - (b) call upon the member to resign with effect from a specified date, failing which the member shall be deemed to have been discharged as from that date;
 - (c) reduce the salary or the grade or the salary and the grade of the member;
 - (d) direct that the member not be considered for promotion for a specified period;
 - (e) fine the member an amount not exceeding the equivalent of two months of his salary, which fine may be recovered by deductions from the salary of the member;
 - (f) direct that the member's performance award be withheld for a specified period;
 - (g) direct that the full amount of any remuneration paid to the member since the misconduct, or such part of that amount as the disciplinary authority may determine, be recovered from him;
 - (h) direct that the full amount of any allowance paid to the member in terms of subsection (2) of section 49, or such part of that amount as the disciplinary authority may determine, be recovered from him;
 - (i) transfer the member to another department within the same Ministry at such grade and on such salary as the disciplinary authority may determine;
 - (j) if the disciplinary authority is the Commission, transfer the member to another Ministry at such grade and on such salary as the disciplinary authority may determine;
 - (k) if the member was responsible for any deficiency in or improper payment from or loss or destruction of public moneys or the moneys of any statutory body, statutory fund or local authority, raise a surcharge against the member in respect of such deficiency, improper payment, loss or destruction, as the case may be—
 - (i) as may be fixed by the disciplinary authority; or
 - (ii) as may be fixed by the Minister responsible for finance or the Comptroller and Auditor-General;
 - (l) if the member was responsible for any deficiency in or destruction of or damage to State property or the property of any statutory body, statutory fund or local authority, make an order against the member requiring him to pay an amount equal to the cost of replacement of or repairs to the property concerned, as the case may be, or such portion of that cost as the disciplinary authority considers to be equitable in the circumstances;
 - (m) reprimand the member.
- (2)

[Subsection repealed by s.i. 58A of 2001]

(3) Sections 10, 11, 13, 21 and 48 of the Audit and Exchequer Act [*Chapter 22:03*] shall, *mutatis mutandis*, apply in relation to the powers conferred upon a disciplinary authority in terms of paragraph (k) or (l) of subsection (1), and any reference in those provisions of that Act to the Comptroller and Auditor-General or the Minister responsible for finance, as the case may be, shall, for the purposes of these regulations, be read and construed as a reference to the appropriate disciplinary authority.

(4) Where a disciplinary authority determines that a member is guilty of misconduct and discharges a member from the Public Service, the disciplinary authority may direct that the payment of any terminal benefits to him shall be withheld until the extent of any deficiency, destruction, loss or damage referred to in paragraph (k) or (l) of subsection (1) has been determined in terms of the Audit and Exchequer Act [*Chapter 22:03*] or in accordance with these regulations.

51. Appeals to Labour Relations Tribunal and reviews by Commission

- (1) A member who is aggrieved by—
- (a) a determination by a disciplinary authority other than the Commission that he is guilty of misconduct in terms of section 46;
 - (b) any penalty imposed upon him in terms of section 50 by a disciplinary authority other than the Commission;
- may, within twenty-one days from the date on which the disciplinary authority informs the member of the determination or penalty, either appeal against the determination or penalty to the Labour Relations Tribunal or request the Commission, in writing through the disciplinary authority, to review the determination or penalty in terms of this section.

(2) The disciplinary authority shall forward the request for review and all relevant papers to the Commission within fourteen days of receiving the request.

(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.

[Subsection substituted by s.i. 58A of 2001]

(4) A request for a review made in terms of this section shall not have the effect of suspending the determination or penalty sought to be reviewed.

[Subsection amended by s.i. 58A of 2001]

52. Appeals to Labour Relations Tribunal from decisions of Commission

A member who is aggrieved by a determination made or penalty imposed by the Commission as a disciplinary authority or by a decision of the Commission on review in terms of section 51 may, within twenty-one days of being notified of such decision, appeal against the decision to the Labour Relations Tribunal.

PART IX

GRIEVANCE PROCEDURE

53. Interpretation in Part IX

In this Part, “grievance” means any dissatisfaction or feeling of injustice on the part of a member which is connected with the member’s work or the member’s contact with other persons in the work place.

54. Grievance procedure for members of grades other than senior grades

(1) This section shall apply to members who are not in a senior grade.

(2) A member who has a grievance in which he is directly concerned shall seek an interview with his immediate superior who shall grant the member an interview at the earliest available opportunity.

(3) At the interview the member shall clearly state the nature of his grievance, and the immediate superior shall respond to the grievance within five working days.

(4) If the response of the immediate superior concerned fails to satisfy the member, the superior concerned shall forthwith—

(a) if he is not the head of office, bring the grievance to the attention of the head of office, who shall within ten working days—

- (i) call a meeting with the immediate superior and member to attempt to resolve the grievance; and
- (ii) if the grievance remains unresolved, bring the grievance to the attention of the head of department;

(b) if he is the head of office, bring the grievance to the attention of the head of department.

(5) Within ten working days after a grievance has come to his attention the head of department shall call a meeting with the head of office, the immediate superior (if he is not the head of office), the member concerned and a representative of the Ministry’s department responsible for personnel, at which the head of department shall—

- (a) present the grievance and ask every person attending the meeting to give their views concerning it; and
- (b) attempt to reach an agreement on what action is to be taken to resolve the grievance; and
- (c) record in writing the grievance and the action agreed for the purpose of resolving it or, if no such action is agreed, the reasons for failing to reach such agreement; and
- (d) forward a copy of the record mentioned in paragraph (c) to the head of Ministry.

(6) In the case of disagreement at a meeting called in terms of subsection (5) the head of Ministry shall make a decision on the grievance and communicate his decision to all the parties concerned.

(7) If a member remains aggrieved he may request in writing through the head of Ministry that his grievance be submitted to the Commission.

(8) At any interview or meeting held in connection with a grievance to which this section applies, the member concerned may be accompanied by a representative of a recognized association or organisation to which he belongs.

55. Grievance procedure for members of senior grades

(1) This section shall apply to members who are in a senior grade.

(2) A member who has a grievance in which he is directly involved shall seek an interview with his immediate superior who shall grant the member an interview at the earliest available opportunity.

(3) At the interview the member shall clearly state the nature of his grievance and his immediate superior shall respond to the grievance within five working days.

(4) If response of the member's immediate superior fails to satisfy the member, the superior concerned shall within ten working days—

- (a) if he is not the head of department, bring the grievance to the attention of the head of department, who shall within ten working days—
 - (i) call a meeting with the member and his immediate superior to attempt to resolve the grievance; and
 - (ii) if the grievance remains unresolved, bring the grievance to the attention of the head of Ministry;
- (b) if he is the head of department, bring the grievance to the attention of the head of Ministry;
- (c) if he is the head of Ministry, refer the grievance to the Commission for a decision.

(5) As soon as practicable after a grievance has come to his attention in terms of paragraph (a) or (b) of subsection (4), the head of Ministry shall call a meeting with the head of department, the member concerned, the member's immediate superior (if he is not the head of department) and the principal establishment officer, at which the head of department shall—

- (a) present the grievance and ask every person attending the meeting to give their views concerning it; and
- (b) attempt to reach an agreement on what action is to be taken to resolve the grievance; and
- (c) record in writing the grievance and the action agreed for the purpose of resolving it or, if no such action is agreed, the reasons for failing to reach such agreement; and
- (d) forward a copy of the record mentioned in paragraph (c) to the Commission.

(6) In the case of disagreement at a meeting called in terms of subsection (5), the Commission shall make a decision on the grievance and communicate its decision to all the parties concerned.

PART X

MAINTENANCE OF SERVICES

56. Interpretation in Part X

(1) In this Part—

“designated member” means a member designated under section 57 for the purposes of this Part;

“working rule” means any rule, regulation, agreement or system, however enacted, made or fixed, which regulates the conduct of any member while he is on duty or at work or the manner in which he performs his duties or work;

“work stoppage” means any one or more of the following acts or omissions on the part of a member—

- (a) a refusal or failure to continue work, whether the discontinuance is complete or partial;
- (b) a wilful retardation of the progress of work or a wilful obstruction of work, including a boycott, lock-out, sit-in or other such concerted act or series of acts;
- (c) a breach or unlawful termination of a member's conditions or contract of employment;

which acts or omissions may reasonably be construed as being—

- (i) in consequence of a dispute regarding conditions of employment or other matters, and in pursuance of any combination, agreement or understanding, whether expressed or not, entered into between the member concerned and any other person; and
- (ii) intended to induce or compel the Commission or the State or any other person to agree to or comply with any demand made by or on behalf of the member concerned or any other person in connection with conditions of employment or re-employment or in connection with any other matter whatsoever.

(2) Where in this Part—

- (a) a head of Ministry or head of department is permitted to take any action in relation to a member, that action may be taken only in relation to a member who is employed in the Ministry or department, as the case may be, of which the person taking the action is the head;
- (b) a designated member is permitted to take any action in relation to any member, that action may be taken only in relation to a member who is employed in the same Ministry as the designated member.

57. Appointment of designated member

(1) The Commission may, by written notice, to the member concerned, designate any member as a designated member and may in like manner revoke any such designation.

(2) A head of Ministry may, by written notice, to the member concerned, designate any member employed within his Ministry as a designated member and may in like manner revoke any such designation.

(3) A head of Ministry who has designated a member in terms of subsection (2) or who has revoked such designation shall notify the Commission forthwith of such designation or revocation, but failure to do so shall not invalidate the designation or revocation.

58. Suspension or variation of working rules

(1) Notwithstanding any other regulations made under the Act, if at any time the Commission considers it necessary to do so in order to prevent or bring to an end a work stoppage, the Commission may do all or any of the following—

- (a) by notice to the members concerned, suspend the operation of any working rule;
- (b) direct any member or class of members to carry out or perform their duties or work in accordance with specified working rules or in a specified manner, whether or not such manner is contrary to any working rule;
- (c) direct any member or class of members to carry out or perform duties or work before or after their normal hours of work.

(2) If at any time a head of Ministry, head of department or designated member considers it necessary to do so in order to prevent or bring to an end a work stoppage, he may do all or any of the things specified in paragraphs (a), (b) and (c) of subsection (1):

Provided that—

- (i) as soon as possible after taking any such action, he shall notify the Commission of what he has done and of the reasons therefor; and
- (ii) he shall not give any notice or direction which is contrary to any regulations, or to any order or direction made or given by the Commission.

(3) A notice or direction given pursuant to subsection (1) or (2) may be written or verbal.

(4) A failure promptly to notify the Commission as required by proviso (i) to subsection (2) shall not invalidate the action required to be notified.

59. Suspension or discharge of members

(1) Notwithstanding any other regulations made under the Act but subject to this section, if the Commission or head of Ministry, head of department or designated member has reason to believe that a member—

- (a) has refused or failed to carry out or perform any duty or work or has retarded or obstructed the progress of any work for the purpose of complying with any working rule which has been suspended in terms of subsection (1) or (2) of section 58; or
- (b) has refused or failed to comply with a direction given in terms of paragraph (b) or (c) of subsection (1) of section 58; or
- (c) has declared or taken part in, or has advised, encouraged, incited, commanded, aided or procured another person to declare or take part in a work stoppage or the continuation of a work stoppage;

the Commission, head of Ministry, head of department or designated member, as the case may be, may—

- (i) suspend the member from duty for a period not exceeding three months; or
- (ii) in the case of the Commission, summarily dismiss the member from the Public Service.

(2) The Commission or a head of Ministry, head of department or designated member, as the case may be, may take action in terms of subparagraph (i) or (ii) of subsection (1) notwithstanding that the conduct giving rise to the action has already ceased.

(3) As soon as possible after taking any action in terms of subparagraph (i) of subsection (1), a head of Ministry, head of department or designated member shall notify the Commission of the action taken and of the reasons therefor, but failure to do so shall not invalidate any action required to be notified.

(4) Where a member has been suspended in terms of subparagraph (ii) of subsection (1)—

- (a) he shall not attend at his place of work or carry out any duties unless directed to do so by the Commission;
- (b) he shall not be entitled to any remuneration, other than such allowance as the Commission may determine, in respect of the period of his suspension;
- (c) upon notifying the Commission and his head of Ministry, he shall be entitled to take up other employment for the duration of his suspension.

60. Notification of suspension or discharge

Where the Commission or a head of Ministry, head of department or designated member has suspended or summarily discharged a member in terms of section 59, the Commission, head of Ministry, head of department or designated member, as the case may be, shall cause the member or former member concerned to be notified of the suspension or summary discharge by whatever means seems best suited to bring it to his attention:

Provided that—

- (i) a failure promptly to notify a member or former member that he has been suspended or summarily discharged shall not invalidate the suspension or summary discharge, as the case may be;
- (ii) the suspension or summary discharge shall effect from the time that the decision was taken to suspend or summarily discharge the member or former member concerned, regardless of when he was notified thereof.

61. Representations by members and former members concerning suspension or summary discharge

(1) The fact that the Commission or a head of Ministry, head of department or designated member did not give a member an opportunity to make representations in the matter before suspending or summarily discharging him in terms of section 58 shall not invalidate the suspension or summary discharge.

(2) A member or former member who is aggrieved at having been suspended or summarily discharged in terms of section 59 may, within one month after being notified of the suspension or summary discharge, make written representations in the matter to the Commission.

(3) The Commission shall consider any representations made in terms of subsection (2) and, after causing such investigation to be made into the matter as it considers necessary or appropriate, may —

- (a) confirm, vary or set aside the suspension concerned; or
- (b) confirm the summary discharge or reinstate the former member concerned in the Public Service with effect from such date and subject to such conditions as the Commission may determine; or
- (c) give such other order or direction in the matter as the Commission thinks fit.

62. Charges of misconduct against suspended or reinstated members

Nothing in this Part shall prevent proceedings for misconduct in terms of Part VIII being instituted against any member who has been suspended, or who has been reinstated in the Public Service following his summary discharge, pursuant to this Part.

PART X

GENERAL

63. Discharge of members on the grounds of detention, restriction, deportation, imprisonment and abscondment

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.

[Subsection substituted by s.i. 58A of 2001]

64. Suspension of salary of member who is imprisoned, detained, restricted or deported

(1) A member shall not be entitled to receive any salary in respect of any period during which he is—

- (a) undergoing a sentence of imprisonment or detained pending trial, deportation or extradition; or
- (b) detained in terms of any enactment providing for the detention of persons in time of emergency or for the preventive detention of persons; or
- (c) unable to perform his duties because—
 - (i) he is subject 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
 - (ii) he is absent from Zimbabwe following the execution of a deportation or extradition order.

(2) Notwithstanding subsection (1), the Commission may direct that a member referred to in that subsection shall be paid such allowance, not exceeding the amount of his salary, as the Commission may determine, during the period that the member is not entitled to receive his salary in terms of that subsection.

(3) Upon the release of a member from prison, the lifting or expiry of any detention or restriction order or the return of a member to Zimbabwe—

- (a) a member shall not be entitled to the salary which was withheld from him in terms of subsection (1) unless the Commission determines otherwise;

- (b) the Commission may direct that the full amount of any allowance paid to him in terms of subsection (2) or such part of that amount as the Commission may determine be recovered from him.

65. Departures from Parts VIII and IX in certain circumstances

Notwithstanding anything to the contrary contained in Part VIII or IX, the Commission may at any time—

- (a) depart from or authorize the departure from any provision of Part VIII or IX; or
(b) condone any irregularity or departure from any provision of Part VIII or IX;

where the departure or irregularity has not resulted or will not result in a substantial miscarriage of justice.

66. Savings

(1) Any member who, immediately before the date of commencement of these regulations, was serving on secondment from the Public Service shall be deemed, with effect from that date, to be on secondment in terms of these regulations, and the provisions of these regulations, the State Service (Pensions) Act [*Chapter 16:06*] and the regulations made under that Act which apply to seconded members shall apply to him.

(2) Any member who—

- (a) before the date of commencement of these regulations entered into a contract of indemnity with the Government in connection with the use by him of any vehicle; and
(b) receives any payment under Part VI or does any act or thing with the object of obtaining any payment under Part VI;

shall be deemed to have agreed to the cancellation of that contract of indemnity, and shall not receive any payment in terms of that contract.

(3) Nothing contained in these regulations shall be construed to extinguish or diminish any rights acquired in terms of the Public Services (General Leave) Regulations, 1978, to the payment of cash benefits in lieu of vacation leave accrued to a member or reserved vacation leave standing to his credit before the date of commencement of these regulations.

(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 those regulations.

[Subsection substituted by s.i. 58A of 2001]

67. Repeals

The Regulations specified in the Sixth Schedule are repealed.

FIRST SCHEDULE (Section 2)

ACTS OF MISCONDUCT

1. Absence from duty without good cause, including any abuse of sick leave.
2. Improper, negligent, inefficient or incompetent performance of duties.
3. Failure to perform any work or duty properly assigned, or failure to obey lawful instructions, including circulars, instructions or standing orders issued by the Commission, the Treasury or the Accounting Officer.
4. Improper, threatening, insubordinate or discourteous behaviour, including sexual harassment, during the course of duty towards any member of the Public Service or any member of the public.
5. Hindering or obstructing any member of the Public Service in the discharge of his duty.
6. Unbecoming or indecorous behaviour during the course of duty, including the consumption of intoxicating liquor or dangerous or prohibited drugs.
7. Unbecoming or indecorous behaviour, including the consumption of intoxicating liquor to excess or of dangerous or prohibited drugs, or improper association with minors, at any time or place in any manner or circumstances likely to bring the Public Service or any part thereof into disrespect or disrepute.
8. Theft of, or failure to take reasonable care of or to account for, or making improper or unauthorized use of, public moneys or the moneys of any statutory body, statutory fund or local authority.
9. Theft of, or failure to take reasonable care of, or making improper or unauthorized use of, State property or the property of any statutory body, statutory fund or local authority, including motor vehicles, or the failure to take adequate steps to ensure that reasonable care is taken of any such property, or failure to report at the earliest opportunity any loss thereof or damage thereto.
10. Failure to repay, within the stipulated period of repayment, any moneys advanced by the State or by any statutory body, statutory fund or local authority.
11. Wilful damage to any State property or the property of any statutory body, statutory fund or local authority.
12. Unauthorized or improper disclosure or use of classified or confidential information.

13. Corruption or dishonesty, including—
 - (a) any contravention of the Prevention of Corruption Act [*Chapter 9:16*];
 - (b) making a false report, accusation, or statement against any member;
 - (c) wilfully giving false or incorrect evidence or information or failing to disclose material evidence or information in relation to any inspection, examination, investigation or inquiry in terms of these or other regulations made in terms of the Act;
 - (d) falsifying or attempting to falsify any document with fraudulent intent or uttering a forged document;
 - (e) making any false claim or return, including any claim for travel or subsistence;
 - (f) failing to disclose material information, whether personal or otherwise, in any application for employment in the Public Service, or giving false information for the purpose of gaining employment in the Public Service.
14. Failure to report improper conduct on the part of any member of the Public Service.
15. Failure to disclose to a superior any conflict of interest or other personal information relevant to any matter connected with the discharge of the member's duties.
16. Contravention of section 29 (1) of the Act (prohibiting the cession by a member of his salary, allowances or other remuneration without the written consent of the Commission or his head of Ministry).
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.

[substituted by s.i. 58A of 2001]
18. Undertaking or engaging in any other employment or service for remuneration without the written consent of the Commission.
19. Practising nepotism or any other form of favouritism in making or recommending any appointment or promotion to any post or office.
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.

[Paragraph substituted by s.i. 58A of 2001]
21. Proceeding on any period of leave without having obtained the prior approval of the Commission, head of Ministry or head of department, as the case may be.
22. Becoming insolvent or assigning one's estate for the benefit of or compromising with one's creditor generally, or being issued with a writ of civil imprisonment, unless the member shows that his financial difficulties have been caused by circumstances beyond his control.
23. Engaging in collective job action, including—

[Paragraph amended by s.i. 58A of 2001]

 - (a) incitement of members to engage in such action;
 - (b) damaging Government property or forcibly disrupting public services in furtherance of such action;
 - (c) calling meetings of members at the work place or during working hours in furtherance of such action.
24. Any act or omission which is inconsistent with or prejudicial to the discharge of official duties, including the abuse of authority.

SECOND SCHEDULE (Section 12 (7) and (8))

PROMOTION: PRINCIPLES AND CONDITIONS

PART I

PRINCIPLES RELATING TO PROMOTION

1. When considering candidates for promotion, the Commission shall have regard to the principle that preference should be given to the person who, in its opinion, is the most efficient and suitable for appointment to the post or vacancy and, for the purpose of giving effect to such principle, the Commission shall have regard to the disparity in rank between the different members and, in considering this factor, the

Commission shall be guided by the principle that the greater the disparity the more exceptional must be the efficiency and suitability of any candidate having less seniority.

2. In cases where, subject to the consideration of the factors referred to in paragraph 1, two or more members are found to be equally efficient and suitable, the decision of the Commission shall be determined by reference to the seniority of the members concerned.

PART II

CONDITIONS ATTACHING TO PROMOTION

1. If, within one year immediately following the promotion of a member, the member concerned gives notice of—
 - (a) resignation from the Public Service; or
 - (b) retirement from the Public Service in terms of the Pensions and other Benefits Act [*Chapter 16:01*], or without having been required to retire by the Commission, or in terms of any other conditions of service;
his salary and allowances shall be reduced, with effect from 30 days before the date on which he resigns or retires from the Public Service, to the level at which they would have been had he not been so promoted.
2. If the promotion is revoked in terms of paragraph 5, the Commission may reduce the member's salary and allowances to the level at which they would have been had he not been so promoted.
3. The twelve months immediately following the promotion of any member to any post or grade shall be probationary, and, subject to this paragraph, the Commission may at any time during that period revoke the promotion of that member if the Commission considers that the member, whether for reasons beyond the member's control or otherwise—
 - (a) is unable to perform efficiently, or has not performed efficiently, the functions of the post or grade to which he has been promoted; or
 - (b) is for any other reason unsuited to the post or grade to which he has been promoted.
4. Before revoking any promotion in terms of paragraph 5, the Commission shall—
 - (a) notify the member concerned, in writing, that it is considering the revocation of his promotion; and
 - (b) invite the member concerned to make written representations to the Commission within such reasonable period as the Commission shall specify; and
 - (c) consider any representations made to it in terms of subparagraph (b).
5. Whenever the Commission revokes the promotion of a member in terms of paragraph 5, it shall forthwith notify the member concerned, in writing.
6. A member whose promotion has been revoked in terms of paragraph 5 shall, subject to paragraphs 9 and 10, be placed in such post or grade as the Commission may determine.
7. If the Commission has revoked the promotion of any member, the Commission may place the member on such lower step in the appropriate salary scale as it thinks fit:
Provided that such a step shall not be lower than the step on which the person would have been had he not been so promoted.
8. If a member, within one year immediately following his promotion to any post or grade, gives notice of his resignation or retirement from the Public Service he shall, with effect from 30 days before the date of resignation or retirement, revert to such lower step in the appropriate salary scale on which he would have been had he not been so promoted.
9. Before the expiry of the period of probation referred to in paragraph 5, the Commission may, on written notice to the member concerned, extend the period of probation for a further period not exceeding six months and the member shall be informed of the reasons for such extension.

THIRD SCHEDULE (Section 40 (3)(a))

ELIGIBILITY FOR MANPOWER DEVELOPMENT LEAVE

1. The programme or course in respect of which manpower development leave ("leave") is sought shall be relevant to duties that the member is performing in his present substantive post.
[Paragraph amended by SI 261 of 2001]
2. Save in exceptional circumstances approved by the Commission, only members who have been employed in the Public Service for more than two years are eligible for leave.
3. If the leave is of less than six months' duration, members must have one year's experience in their current field of work.

[Paragraph substituted by s.i. 58A of 2001]

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

[Paragraph substituted by s.i. 58A of 2001]

- 5. If the leave sought exceeds three months' duration, and the member concerned has attained the age of fifty, such member may not be granted the leave unless the member has two years' experience in the current field of work and the leave does not exceed twelve months' duration.
- 6. Members in a trainee grade (for example, trainee technicians, university cadets, student nurses or the like) can be sent on leave immediately upon appointment.
- 7. Save in exceptional circumstances permitted by the Commission, members with existing bond commitments may not be granted leave.
- 8. Leave may not be granted unless sponsorship is guaranteed.
- 9. Members may not be granted leave if they leave their stations prior to approval of their leave.
- 10. Members on probation due to promotion are not eligible for leave.

FOURTH SCHEDULE (Section 44 (3) (a))

[Schedule substituted by s.i. 58A of 2001.]

MISCONDUCT REPORT

1.PARTICULARS OF MEMBER

Name

Date of birth

E.C. No.

Address

.....

Telephone: Home

Office

[Paragraph substituted by s.i. 58A of 2001]

2.DETAILS OF ALLEGED MISCONDUCT

.....

.....

.....

.....

[Paragraph substituted by s.i. 58A of 2001]

3.DETAILS OF ANY SUSPENSION

(Include reference to relevant paragraph(s) of the First Schedule to the Public Service Regulations, 2001)

[Paragraph substituted by s.i. 58A of 2001.]

.....

.....

.....

.....

Date:

Signature.....

4.COMMENTS, WHERE APPROPRIATE, OF HEAD OF OFFICE, HEAD OF DEPARTMENT OR HEAD OF MINISTRY

.....

.....

.....

.....

Date:

Signature: Head of Office.....

Date:

Signature: Head of Department
 Date:
 Signature: Head of Ministry

5.MEMBER’S REPLY TO ALLEGATION

(Attach separately)

Date received

Signature

6.RELEVANT DOCUMENTS AND STATEMENTS

(List and attach separately)

Date

Signature

FIFTH SCHEDULE (Section 50 (2))

SUGGESTED PENALTIES FOR MISCONDUCT

[Schedule repealed by s.i. 58A of 2001]

SIXTH SCHEDULE (Section 67)

REPEALS

<i>Title</i>	<i>Rhodesia Government Notice</i>
Public Services (Conditions of Service for Employees) Regulations, 1971	529 of 1971
Public Services (Conditions of Service for Employees) (Amendment) Regulations, 1972 (No. 1)	1192 of 1972
Public Services (Conditions of Service for Employees) (Amendment) Regulations, 1973 (No. 2)	267 of 1973
Public Services (Conditions of Service for Employees) (Amendment) Regulations, 1972 (No. 3)	748 of 1973
Public Services (Conditions of Service for Employees) (Amendment) Regulations, 1973 (No. 4)	1329 of 1973
Public Services (Conditions of Service for Employees) (Amendment) Regulations, 1975 (No. 5)	207 of 1975
Public Services (Conditions of Service for Employees) (Amendment) Regulations, 1976 (No. 6)	560 of 1976
Public Services (Conditions of Service for Employees) (Amendment) Regulations, 1976 (No. 8)	1151 of 1976
Public Services (Conditions of Service for Employees) (Amendment) Regulations, 1977 (No. 9)	610 of 1977
Public Services (Conditions of Service for Employees) (Amendment) Regulations, 1972 (No. 11)	93 of 1979
	<i>Statutory Instrument</i>
Public Services (Conditions of Service for Employees) (Amendment) Regulations, 1979 (No. 13)	585 of 1979

Public Services (Conditions of Service for Employees) (Amendment) Regulations, 1982 (No. 16)	217 of 1982
Public Services (Conditions of Service for Employees) (Amendment) Regulations, 1982 (No. 17)	366 of 1982
Public Services (Conditions of Service for Employees) (Amendment) Regulations, 1985 (No. 18)	105 of 1985
Public Services (Conditions of Service for Employees) (Amendment) Regulations, 1986 (No. 22)	133 of 1986
Public Services (Conditions of Service for Employees) (Amendment) Regulations, 1986 (No. 24)	345 of 1986
Public Services (Conditions of Service for Employees) (Amendment) Regulations, 1989 (No. 25)	16 of 1989
Public Services (Conditions of Service for Employees) (Amendment) Regulations, 1989 (No. 26)	163 of 1989
Public Services (Conditions of Service for Employees) (Amendment) Regulations, 1989 (No. 27)	276 of 1989
Public Services (Conditions of Service for Employees) (Amendment) Regulations, 1990 (No. 28)	120 of 1990
Public Services (Conditions of Service for Employees) (Amendment) Regulations, 1990 (No. 29)	136 of 1990
Public Services (Conditions of Service for Employees) (Amendment) Regulations, 1990 (No. 30)	318 of 1990
Public Services (Conditions of Service for Employees) (Amendment) Regulations, 1991 (No. 31)	343 of 1991
Public Services (Conditions of Service for Employees) (Amendment) Regulations, 1992 (No. 32)	123 of 1992
Public Service (Disciplinary) Regulations, 1992	
Public Service (Disciplinary) (Amendment) Regulations, 1995 (No. 1)	49 of 1995
Public Services (Disciplinary) (Amendment) Regulations, 1995 (No. 2)	225 of 1995
Public Services (General) Regulations, 1992	
Public Services (General) (Amendment) Regulations, 1992 (No. 1)	
Public Services (General) (Amendment) Regulations, 1992 (No. 2)	
Public Services (General) (Amendment) Regulations, 1995 (No. 3)	

*Rhodesia
Government
Notice*

Public Services (General Leave) Regulations, 1978

*Statutory
Instrument*

Public Services (General Leave) (Amendment) Regulations, 1980 (No. 1)	216 of 1980
Public Services (General Leave) (Amendment) Regulations, 1985 (No. 2)	104 of 1985
Public Services (General Leave) (Amendment) Regulations, 1986 (No. 3)	131 of 1986
Public Services (General Leave) (Amendment) Regulations, 1986 (No. 4)	347 of 1986
Public Services (General Leave) (Amendment) Regulations, 1988 (No. 5)	123 of 1988
Public Services (General Leave) (Amendment) Regulations, 1988 (No. 6)	162 of 1988
Public Services (General Leave) (Amendment) Regulations, 1988 (No. 7)	275 of 1988
Public Services (General Leave) (Amendment) Regulations, 1990 (No. 8)	121 of 1990
Public Service (Grade, Salary and Allowance) Regulations, 1992	126 of 1992
Public Service (Grade, Salary and Allowance) (Amendment) Regulations, 1995 (No. 1)	181 of 1995
Public Service (Grade, Salary and Allowance) (Amendment) Regulations, 1995 (No. 2)	241A of 1995

Public Service (Indemnification of Drivers) Regulations, 1991	239 of 1991
Public Service (Indemnification of Drivers) (Amendment) Regulations, 1992 (No. 1)	9 of 1992
Public Service (Maintenance of Services) Regulations, 1990	
Public Service (Officers) (Promotion) Regulations, 1980	
Public Service (Officers) (Promotion) (Amendment) Regulations, 1984 (No.1)	
Public Service (Officers) (Promotion) (Amendment) Regulations, 1985 (No.2)	183 of 1985
Public Service (Officers) (Promotion) (Amendment) Regulations, 1986 (No.3)	311 of 1986
	<i>Rhodesia</i>
	<i>Government</i>
	<i>Notice</i>
Public Services (Teachers' Leave) Regulations, 1972	
Public Services (Teachers' Leave) (Amendment) Regulations, 1973 (No. 1)	1328 of 1973
Public Services (Teachers' Leave) (Amendment) Regulations, 1974 (No. 2)	829 of 1974
Public Services (Travelling and Subsistence) Regulations, 1972	
Public Services (Travelling and Subsistence) (Amendment) Regulations, 1973 (No. 1)	722 of 1973
Public Services (Travelling and Subsistence) (Amendment) Regulations, 1973 (No. 2)	1221 of 1973
Public Services (Travelling and Subsistence) (Amendment) Regulations, 1974 (No. 3)	269 of 1974
Public Services (Travelling and Subsistence) (Amendment) Regulations, 1975 (No. 4)	206 of 1975
Public Services (Travelling and Subsistence) (Amendment) Regulations, 1975 (No. 5)	385 of 1975
Public Services (Travelling and Subsistence) (Amendment) Regulations, 1975 (No. 6)	600 of 1975
Public Services (Travelling and Subsistence) (Amendment) Regulations, 1978 (No. 7)	717 of 1978
Public Services (Travelling and Subsistence) (Amendment) Regulations, 1979 (No. 8)	59 of 1979
Public Services (Travelling and Subsistence) (Amendment) Regulations, 1979 (No. 9)	260 of 1979
	<i>Rhodesia</i>
	<i>Government</i>
	<i>Notice</i>
Public Services (Travelling and Subsistence for Employees) Regulations, 1972	606 of 1972
Public Services (Travelling and Subsistence for Employees) (Amendment) Regulations, 1973 (No. 1)	723 of 1973
Public Services (Travelling and Subsistence for Employees) (Amendment) Regulations, 1973 (No. 2)	1222 of 1973
Public Services (Travelling and Subsistence for Employees) (Amendment) Regulations, 1974 (No. 3)	270 of 1974
Public Services (Travelling and Subsistence for Employees) (Amendment) Regulations, 1975 (No. 4)	528 of 1975
Public Services (Travelling and Subsistence for Employees) (Amendment) Regulations, 1975 (No. 5)	601 of 1975
Public Services (Travelling and Subsistence for Employees) (Amendment) Regulations, 1979 (No. 6)	339 of 1979
Statutory Instrument	
Public Services (Travelling and Subsistence for Employees) (Amendment) Regulations, 1991 (No. 7)	41 of 1991