LEGAL NOTICE NO. 72

THE SERVICE COMMISSIONS ACT
(Cap. 185)

IN EXERCISE of the powers conferred by section 13 of the Service Commissions Act, the Public Service Commission makes the following Regulations:

THE PUBLIC SERVICE COMMISSION (LOCAL AUTHORITY OFFICERS) REGULATIONS, 2007

PART I—PRELIMINARY

1. These Regulations may be cited as the Public Service Commission (Local Authority Officers) Regulations, 2007.

2. (1) In these Regulations, unless the context otherwise requires—

   "Chairman" means the person appointed under section 106 of the Constitution as the chairman of the Commission and includes the Deputy Chairman or a member of the Commission who acts as the chairman of the Commission in accordance with subsection (10) of that section;

   "chief officer" means a local authority officer holding or acting in the office of head of a department in a local authority and includes a deputy clerk, town treasurer, county treasurer, town engineer, medical officer of health, education officer, director of housing, planning and social services and, public health officer;

   "clerk to council" means the town clerk of a city or municipal council or the clerk of a county council or town council and includes, a person duly appointed to act as clerk to council;

   "Commission" means the Public Service Commission established under section 106 (1) of the Constitution;

   "council" means the council of a local authority;

   "Deputy Chairman" means the person appointed under section 106 (1) of the Constitution as the deputy chairman of the Commission;
“disciplinary control” includes control in so far as it relates to any of the punishments specified in regulation 26;

“local authority” means a city council, municipal council, county council, town council, or urban council established under the Local Government Act;

“local authority officer” means a person holding or acting in an office on the staff of a local authority.

“member” includes any person appointed as a member of the Commission under section 106 of the Constitution or any person for the time being appointed to act as a member under section 106 (11) of the Constitution;

“official document” means any document or paper prepared by any public officer in the course of his employment or any document or paper which comes into the custody of any public officer in the course of such employment;

“promotion” means the conferment upon a person in the public service of an office to which is attached a higher salary or higher salary scale than that attached to the office to which he was last substantively appointed;

“public officer” means any person holding or acting in any public office and includes a local authority-officer;

“salary” means basic salary and, where applicable, includes inducement or overseas allowance.

“Secretary” means the person appointed as secretary to the Commission under section 3(1) of the Act;

“seniority” means the relative seniority of local authority officers and, except as may be otherwise provided by the Commission or in these Regulations, shall be determinable and shall be regarded as having always been determinable as follows—

(a) as between local authority officers of the same grade—

(i) by reference to the dates on which they respectively entered the grade;

(ii) if any local authority officers entered that grade on the same day, by reference to their seniority on the day immediately preceding that day;

(iii) if any local authority officers who entered the same grade on the same day did so by appointment and not by promotion (excluding promotion from a non-pensionable to a pensionable grade), their seniority relative to each other shall be determinable by reference to their respective ages;
(b) as between local authority officers of different grades on the same salary scale or the same flat rate of salary, by reference to the dates on which they respectively entered their grades;

(c) as between local authority officers of different grades on different salary scales, by reference to the maximum point on their salary scales, a flat rate of salary being regarded for this purpose as a salary scale with a maximum point equivalent to the flat rate;

(d) when assessing the seniority of a pensionable local authority officer, service by himself or any other person in a non-pensionable capacity shall not be taken into account;

"transfer" means the conferment, whether permanently or otherwise, of some office in a local authority other than that to which the person concerned was last substantively appointed, not necessarily being a promotion; but the posting or secondment of a local authority officer between duty posts in the same grade in the local authority service shall not be regarded for this purpose as a transfer.

(2) Nothing in these Regulations empowering a local authority or any person to perform any function vested in the Commission shall preclude the Commission from itself performing that function in any particular case.

PART II—GENERAL

3. These Regulations shall apply to all officers in the local authorities, and the performance of the duties and the functions of the Commission in relation to such officers.

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

5. Any member who dissents from a decision of the Commission shall be entitled to have his dissent and the reason therefore set out in the records of the Commission.

6. A record shall be kept of the members present and of the business transacted at every meeting of the Commission.

7.(1) The Commission may require any public officer to attend and give information before it concerning any matter which it is required to consider in exercise of its functions.

(2) The Commission may require the production of any official document relevant to any exercise of its functions, and any public officer who submits any matter for the consideration of the Commission shall ensure that all relevant documents and papers are made available to the Commission.
(3) Any public officer who without reasonable excuse fails to appear before the Commission when notified to do so, or who fails to comply with any request lawfully and properly made by the Commission, shall be guilty of a breach of discipline and the Commission may direct the person responsible for initiating disciplinary proceedings against such public officer that disciplinary proceedings should be instituted against him.

(4) Notwithstanding paragraphs (1), (2) and (3), a public officer may withhold information on any matter or production of an official document when directed by the President in writing to do so.

8. All correspondence for the Commission shall be addressed to the Secretary or, in special cases, to the Chairman.

9. (1) The Commission shall, at the request of a clerk to council, hear him or his representative personally in connexion with any matter a local authority has referred to the Commission.

(2) The Commission shall, at the request of the permanent secretary to the ministry for the time being responsible for local authorities, hear him or his representative personally in connexion with any matter relating to a local authority officer.

PART III—APPOINTMENTS (INCLUDING ACTING APPOINTMENTS EXCEEDING A PERIOD OF ONE MONTH AND TEMPORARY APPOINTMENTS), PROMOTIONS, TRANSFERS, CONFIRMATION OF APPOINTMENTS AND TERMINATION OF APPOINTMENTS (OTHERWISE THAN BY DISCIPLINARY PROCEEDINGS)

10. (1) The following powers vested in the Commission are, subject to these Regulations and to such instructions as the Commission may, from time to time issue, delegated to a local authority—

(a) in respect of all local authority officers who have been assigned the salary scale SS 10 and below—

(i) the power of appointment, including acting appointment, promotion and transfer;

(ii) the power of extension of the probationary period of any such officer;

(iii) the power to terminate the probationary appointment of any such public officer under these Regulations and any other law which may be in force;

(b) in respect of all local authority officers, irrespective of their Salary Scales, the power of confirmation in appointment of any local authority officer appointed on probation;

(c) in respect of local authority officers serving on written contracts or Letters of Temporary Appointment, the power
to terminate, otherwise than by dismissal, in accordance with the provisions of a written contract or a Letter of Temporary Appointment, the appointment of a local authority officer serving on such contract or Letter of Temporary Appointment.

(2) Nothing in these Regulations shall affect the power of the Commission to terminate the appointment of a local authority officer in accordance with the terms or conditions contained in his contract or letter of appointment.

(3) A local authority exercising the powers conferred on it by this regulation shall act in accordance with these Regulations and any other regulations which may be in force, as appropriate.

(4) A local authority officer affected by the decision of the local authority under this regulation may, through the clerk to council, appeal to the Commission within forty-two days from the date of receiving the decision appealed against.

(5) Notwithstanding the provisions of this regulation, the Commission may, when necessary, institute an inquiry to determine whether or not the powers delegated under this regulation have been properly exercised by a local authority.

11. (1) A local authority exercising the powers conferred by regulation 10 (1) (a) (i) shall—

(a) at least twenty-one days before the exercise of the powers, notify the Commission of the vacancies or the particulars respecting the appointment or promotion or transfer, as the case may be; and

(b) within twenty-one days after exercising the powers, notify the Commission of the particulars of the local authority officer appointed or promoted or transferred, as the case may be.

(2) Where delegated powers of appointment under regulation 10 are not conferred to a local authority and a vacancy occurs or it is known that a vacancy will occur, the clerk to council shall notify the Commission and the Commission shall take the appropriate steps to fill that vacancy.

12. Where vacancies are to be filled according to the results of examinations held under the authority of the Commission, the Commission shall make such arrangements and issue such instructions as may be appropriate.

13. (1) Subject to paragraph (2), applications for appointment to vacancies shall be invited by public advertisement in such manner as the Commission may determine.

(2) A vacancy need not be advertised where—
(a) the Commission is satisfied that the vacancy should be filled by the appointment or reappointment or re-designation of a local authority officer holding an office in the local authority in which the vacancy exists or by the continued employment of a local authority officer on temporary terms; or

(b) the Commission is satisfied that there is no reasonable likelihood of any application being received in response to advertisement from a candidate who is likely to be qualified.

(3) Where, in the opinion of the Commission, it would be likely to find a public officer in some ministry or department or public body other than the local authority in which the vacancy occurs, it may invite applications from serving public officers.

(4) Where a local authority is conferred with the delegated powers of appointment, the local authority shall exercise such powers in the manner determined by the Commission under paragraph (1).

14. (1) In selecting candidates for appointment, promotion and transfer, the Commission or local authority shall have regard to the efficiency of a local authority and, in considering the claims of local authority officers for promotion, merit and ability shall be taken into account as well as seniority, experience and official qualifications; and as between local authority officers of equal official qualifications, proved merit and suitability for the vacancy in question, shall be given greater weight than seniority.

(2) Recommendations made to the Commission by a local authority for promotion shall state whether the person recommended is a senior local authority officer in the local authority or grade eligible for promotion and, where this is not the case, detailed reasons shall be given in respect of each person in that local authority or grade over whom it is proposed that the person recommended should be promoted and the Commission shall make a decision.

15. (1) Where a local authority officer has been appointed on probation the local authority shall, not less than three months before the expiration of the probationary period, inform the Commission whether in its opinion—

(a) the probationary period should be extended so as to afford the local authority officer further opportunity to pass any examination, the passing of which is a condition of the confirmation, his service otherwise being satisfactory; or

(b) the probationary period should be extended to afford the local authority officer the opportunity of improvement in any respect in which his work or conduct have been adversely reported on; or
(c) the local authority officer's appointment should be terminated.

(2) The local authority shall not recommend the extension or termination of an appointment under subparagraph (b) or subparagraph (c) of paragraph (1) unless it has first, by letter, informed the local authority officer of its intention and of the right of the officer to make representations thereon within a period to be specified in such letter and required the officer to acknowledge receipt of such letter in writing within that period; the local authority shall attach copies of all such correspondence to its recommendation.

(3) Notwithstanding paragraph (1) but subject to paragraph (2), the local authority may, at any time, recommend to the Commission that a probationary appointment be terminated.

16. (1) Where it is desired to transfer a local authority officer assigned salary scale SS 9 or above from his present local authority to another local authority with or without change of designation or grading, the recommendations and comments of the local authorities concerned shall be forwarded to the Commission, which shall decide whether the transfer should be approved.

(2) Where it is desired to transfer a local authority officer assigned salary scale SS 9 or above from his present office to another office on a different designation but of similar grading, either in his own or in another local authority, the local authority or authorities concerned, as the case may be, shall forward its or their recommendations and comments to the Commission, which shall decide whether the transfer should be approved.

(3) The recommendations and comments to the Commission under this regulation shall be forwarded by the clerk to council through the Permanent Secretary to the Ministry for the time being responsible for local authorities.

(4) Nothing in this regulation shall apply to the posting of local authority officers from one station to another in their substantive capacities within a local authority.

17. (1) Subject to regulation 10(1)(c), where a local authority officer is serving on a written contract and is willing to engage for a further term of service, the local authority shall notify the Commission of the date when such contract will expire, and its recommendation whether it should be renewed or not.

(2) So far as is practicable, every notification under paragraph (1) shall be forwarded to the Commission in sufficient time to enable the Commission to give its decision not less than three months before the local authority officer's contract is due to expire.

(3) The notification under this regulation shall be forwarded by the Clerk to Council through the Permanent Secretary to the Ministry for the time being responsible for local authorities.
18. The regulations and procedures which apply to appointments and promotions shall also apply, where appropriate, to all acting appointments exceeding a period of one month, subject to such instructions as the Commission may, from time to time, issue.

19. (1) Where it appears to a local authority that there is reason why a local authority officer should be called upon to retire from the local authority service on the grounds that he has reached the age at which he can lawfully be required to retire from the service under the rules relating generally to the establishment, control, management and maintenance of, and contribution to, and benefits from any pensions, provident or benevolent fund established by the local authority, the local authority shall advise the officer that his compulsory retirement is under consideration and ask if he wishes to make any representations thereon.

(2) The local authority shall forward such representations, if any, together with its own observations to the Commission, and the Commission shall decide whether the local authority officer should be called upon to retire.

(3) On being advised of the decision of the Commission, the local authority shall notify the local authority officer and, if the officer is to be retired, it shall take the necessary steps for the officer to be paid his retirement benefits.

(4) A local authority officer whose compulsory retirement is under consideration under this regulation may, where possible, be given the option to retire voluntarily provided that the reasons for requiring his retirement do not involve disciplinary action.

20. (1) Where it appears to a local authority that a local authority officer is incapable by reason of any infirmity of mind or body of discharging the functions of his office, it may (and shall if the local authority officer so requests) call upon the local authority officer to present himself before a medical board (which shall be appointed by the Director of Medical Services) with a view to it being ascertained whether or not the local authority officer is incapable as aforesaid.

(2) After the local authority officer has been examined, the Director of Medical Services shall forward the medical board's proceedings, together with his comments thereon, to the local authority, which in turn shall forward them, together with any representations which the local authority officer desires to make and its own recommendation, to the Commission.

(3) Unless the Commission considers that further inquiry is necessary, in which case it shall issue directions to the local authority accordingly, it shall decide forthwith whether the local authority officer should be called upon to retire on the grounds of ill health.

(4) On being advised of the decision of the Commission, the local authority shall notify the local authority officer and, if the officer—
is to be retired on the grounds of ill health, it shall take the necessary steps for the officer to be paid his retirement benefits.

21. (1) Where a local authority officer, who is one of a number of local authority officers holding similar local authority offices, is to be retired, either on the abolition of the office he holds; or upon the re-organization of the local authority in which he holds an office for better efficiency or economy, but one or more of such local authority officers is to remain in office, the local authority shall inform the local authority officer that his compulsory retirement is under consideration and invite him to make representations thereon, if any.

(2) The local authority shall forward the representations, if any, together with its own observations thereon to the Commission, and the Commission shall decide whether the local authority officer should remain in the office he holds in the local authority service, should be transferred or seconded to another local authority, Government Department, Ministry, or the officer should be retired on abolition of office or on reorganization of the local authority for greater efficiency or economy.

(3) On being advised of the decision of the Commission, the local authority shall notify the local authority officer and, if the officer is to be retired, it shall take the necessary steps for the officer to be paid his retirement benefits.

(4) The provisions of this regulation shall not apply to any local authority officer who has reached the age at which he can lawfully be required to retire from the local authority service under the rules relating generally to the establishment, control, management and maintenance of, and contribution to, and benefits from any pension, provident or benevolent fund established by the local authority in accordance with regulation 19.

(5) Any local authority officer dissatisfied with the decision of the Commission under this regulation may, in writing through the clerk to council, seek a review of the decision within forty-two days from the date of receiving the communication of the Commission’s decision.

(6) Notwithstanding paragraph (5), the Commission may entertain a request for a review of the decision out of time if the circumstances warrant it.

22. Where the Commission is satisfied that the public interest requires that any matter relating to the appointment, promotion, transfer, secondment or confirmation in his appointment of a local authority officer be dealt with otherwise than in accordance with the procedure laid down in this Part, it shall take such action or issue such directions with regard to that matter as appears to it to be most appropriate in the circumstances.
PART IV—DISCIPLINE

23. (1) The following disciplinary powers vested in the Commission are, subject to these Regulations and to such instructions as the Commission may, from time to time issue, hereby delegated to a local authority—

(a) in respect of all local authority officers—

(i) the power to interdict any local authority officer under regulation 24;
(ii) the power to suspend any local authority officer under regulation 25;
(iii) the power to stop, withhold or defer a normal increment of any local authority officer or to inflict a severe reprimand or a reprimand on him or to stop his pay or salary under regulation 27;

(b) in respect of all local authority officers assigned salary scale SS 10 and below—

(i) the power of dismissal or reduction in rank or seniority in accordance with regulation 35;
(ii) the power to inflict any of the punishments mentioned in paragraph (1) of regulation 26 on a public officer who is convicted in any court of a criminal offence in accordance with regulation 38.

(2) Any local authority exercising the powers conferred on it by this regulation shall act in accordance with these Regulations and any other relevant provisions of the law for the time being in force.

24. (1) Where in any case a local authority is satisfied that the public interest requires that a local authority officer should cease forthwith to exercise the powers and functions of his office, it may interdict the local authority officer from the exercise of those powers and functions, provided proceedings which may lead to his dismissal are being taken or are about to be taken or that criminal proceedings are being instituted against him.

(2) A local authority officer who is interdicted shall receive such salary, not being less than half his salary, as the local authority shall deem fit.

(3) Where disciplinary or criminal proceedings have been taken or instituted against a local authority officer under interdiction and such local authority officer is neither dismissed nor otherwise punished under these Regulations, the whole of any salary withheld under paragraph (2) shall be restored to him upon the termination of such proceedings.
(4) Where any punishment other than dismissal is inflicted, the local authority officer may be refunded such proportion of the salary withheld as a result of his interdiction, as the Commission shall decide.

(5) A local authority officer who is under interdiction may not leave his station without the permission of the local authority or of any local authority officer who is empowered to give such permission on behalf of the local authority.

25. (1) Where a local authority officer has been convicted of a serious criminal offence, other than such as are referred to in regulation 38 (3), a local authority may suspend the local authority officer from the exercise of the functions of his office pending consideration of his case under these Regulations.

(2) A local authority may suspend from the exercise of the functions of his office, a local authority officer against whom proceedings for dismissal have been taken if, as the result of those proceedings, it considers that the local authority officer ought to be dismissed.

(3) While a local authority officer is suspended from the exercise of the functions of his local authority office under this regulation, he shall not be entitled to any salary:

(4) Notwithstanding paragraph (3) the local authority may, if it thinks fit, direct that any suspended local authority officer shall be granted an alimentary allowance in such amount and on such terms as it may determine.

(5) A local authority officer who is suspended may not leave his station without the permission of the local authority or of any local authority officer who is empowered to give such permission on behalf of the local authority.

26. (1) The following are the punishments which may be inflicted upon a local authority officer as a result of disciplinary proceedings under this Part—

(a) recovery of the cost or part of the cost of any loss or breakage caused by default or negligence provided no such cost has been recovered by surcharge action under section 236 of the Local Government Act.

(b) reprimand (including severe reprimand);

(c) deferment of increment;

(d) withholding of increment;

(e) stoppage of increment;

(f) reduction in rank or seniority; and

(g) dismissal.

(2) Nothing in this regulation shall limit the powers conferred by these Regulations to require a local authority officer to retire from the local authority service on the grounds of public interest.
(3) No punishment shall be inflicted on any local authority officer which would be contrary to any law.

27. (1) Notwithstanding any other provisions of these Regulations, a local authority may, without reference to the Commission—

(a) stop, withhold or defer a local authority officer’s normal increment for a period not exceeding one year on the grounds of unsatisfactory service:

(b) notwithstanding subparagraph (a) where the stoppage or deferment is recommended to be continued beyond one year, the matter shall be referred to the Commission for its decision;

(c) after investigation and after giving the local authority officer an opportunity for making his defence (which shall be recorded), inflict on a local authority officer a severe reprimand or a reprimand; or

(d) stop the pay or salary of a local authority officer who has been absent from duty without leave or lawful cause or reasonable excuse, an amount which bears the same relation to his annual pay or salary as such period of absence bears to one year.

(2) A local authority exercising the powers conferred on it by this regulation shall act in accordance with regulation 33.

28. Where a local authority officer is absent from duty without leave or reasonable or lawful cause for a period exceeding twenty-four hours and the local authority officer cannot be traced within a period of ten days from the commencement of such absence, or if traced, no reply to a charge of absence without leave is received from him within ten days after the despatch of the charge to him, the authority empowered to dismiss him may summarily dismiss him.

29. Subject to any law for the time being in force, a local authority officer who is dismissed shall forfeit all rights or claims to pension, gratuity, annual allowance or other retiring award, and any rights or claims he enjoys in regard to leave or passages at the local authority expense.

30. (1) All acts of misconduct by local authority officers shall be dealt with under this Part as soon as possible after the time of their occurrence.

(2) Where, in any case which comes to the attention of the Commission, the Commission is of the opinion that disciplinary proceedings should be instituted against a local authority officer, the Commission shall, notwithstanding any other provisions of these Regulations, direct the local authority to initiate such proceedings.
31. A local authority officer subject to disciplinary action shall not be entitled to copies of office orders, minutes, reports or recorded reasons for decisions of the disciplinary process.

32. (1) An appeal by a local authority officer shall lie to the Commission through the clerk to council concerned against an order made under these Regulations in relation to the local authority officer subject to disciplinary proceedings involving any of the punishments mentioned in regulations 26 and 27 except that no appeal shall be entertained in any case unless it is received within forty-two days of the date upon which the decision is addressed to the local authority officer.

(2) Notwithstanding paragraph (1) the Commission may entertain an appeal out of time if, in the opinion of the Commission, the circumstances warrant it.

(3) Nothing in this regulation shall prevent a clerk to council or any chief officer from appealing directly to the commission for redress without having to channel his appeal through his clerk to council.

(4) The Commission shall entertain an appeal only once in respect of each case.

(5) A local authority officer may, within one year of the date upon which any decision of the Commission under this Part is addressed to the local authority officer, apply for review and the application may be admitted if the Commission is satisfied that there appear in the application new and material facts which might have affected a former decision, and if adequate reasons for the non-disclosure of such facts at an earlier date are given, or, there is an error apparent on record of the earlier decision.

(6) An application to review a decision of the Commission made on review shall not be allowed.

(7) Notwithstanding the right of appeal or the right to apply for review conferred on a local authority officer by this regulation, disciplinary action shall not be deferred or suspended pending the determination of the appeal or the application for review.

33. (1) Where proceedings have been taken against a local authority officer under this Part, he shall be informed by the local authority—

(a) of the findings on each charge which has been preferred against him;

(b) of the punishment, if any, to be inflicted upon him; and

(c) that an appeal may be lodged within forty-two days from the conclusion of such proceedings.

(2) Failure to communicate the right of appeal under paragraph (1) shall not invalidate the said findings or punishment.
34. (1) The provisions of this regulation shall apply to disciplinary proceedings for dismissal or reduction in rank or seniority for a local authority officer assigned salary scale SS 10 and above other than a clerk to council or a chief officer.

(2) Where a local authority considers it necessary to institute disciplinary proceedings against a local authority officer to whom this regulation applies on the ground of misconduct which, if proved, would, in its opinion, justify dismissal or reduction in rank or seniority.

(3) The clerk to council shall, after such preliminary investigation and consultation as to the terms of the charge or charges as it considers necessary shall—

(a) forward to the local authority officer a statement of the charge or charges framed against him together with a brief statement of the allegations, in so far as they are not clear from the charges themselves, on which each charge is based; and

(b) invite the local authority officer to state in writing, should he so desire, before a day to be specified, any grounds on which he relies to exculpate himself.

(4) Where the local authority officer does not furnish a reply to a charge or charges forwarded under paragraph (2) within the period specified, or if in the opinion of the local authority he fails to exculpate himself, the local authority shall forward to the Commission copies of the statement of the charge, or charges, the reply, if any, of the local authority officer and the comments of the local authority thereon.

(5) If, on consideration of the statement of the charge or charges, the reply, if any, of the local authority officer, and the comments of the local authority, the Commission is of the opinion that no further investigation is necessary, it shall forthwith decide on any of the punishments mentioned in regulation 26 (1), if any, which should be inflicted on the local authority officer, or whether he should be retired in the public interest.

(6) Where the Commission, on consideration of the submissions by the local authority, is of the opinion that the matters should be further investigated, it shall direct the local authority to conduct such further investigation.

(7) Any investigation carried out under this regulation shall be undertaken by local authority officers senior to the accused local authority officer, who have not, directly or indirectly, dealt with the case before.

(8) If, during the course of the investigation, the grounds for the framing of additional charges are disclosed, the local authority shall follow the same procedure as was adopted in framing the original charges.
(9) After conducting the investigation, the local authority shall forward a report of the investigation to the Commission together with the record of the charges framed, evidence led, the defence and other proceedings relevant to the inquiry; and the report of the investigation under this regulation shall include:

(a) a statement whether the charge or charges against the accused local authority officer have been proved and the reasons therefor;

(b) details of any matters which may aggravate or alleviate the gravity of the case; and

(c) a summing up and such general comments as will indicate clearly the opinion on the matter being investigated;

(10) The report of the investigation submitted under paragraph (9) shall not make any recommendation regarding the form of punishment to be inflicted on the accused local authority officer.

(11) The Commission, after consideration of the report, shall, if it is of the opinion that the report should be amplified in any way or that further investigation is desirable, refer the matter back to the local authority which shall conduct the investigation for a further report.

(12) The Commission shall decide on any of the punishments mentioned in regulation 26 (1), if any, which should be inflicted on the local authority officer, or whether he should be retired in the public interest.

35. (1) The provisions of this regulation shall apply to disciplinary proceedings for dismissal or reduction in rank or seniority for a local authority officer assigned salary scales SS 9 and below.

(2) Where a local authority considers it necessary to institute disciplinary proceedings against a local authority officer to whom this regulation applies on the ground of misconduct which, if proved, in its opinion, justify dismissal or reduction in rank or seniority.

(3) The clerk to council shall after such preliminary investigation as he considers necessary shall--

(a) forward to the local authority officer a statement of the charge or charges against him with brief allegations, in so far as they are not clear from the charges themselves, on which each charge is based; and

(b) invite the local authority officer to state in writing, should he so desire, before a day to be specified, any grounds on which he relies to exculpate himself.
(4) If the local authority officer does not furnish a reply to a charge or charges forwarded under paragraph (3) within the period specified, or, if in the opinion of the local authority he fails to exculpate himself, and the local authority is of the opinion that no further investigation is necessary, the local authority shall forthwith decide on the punishments mentioned in regulation 26 (1) if any, which should be inflicted on the local authority officer.

(5) If the local authority, on consideration of the charge or charges against the local authority officer, the local authority officer's reply and the grounds, if any, on which the local authority officer relies to exculpate himself, is of the opinion that the matter should be further investigated, the local authority shall conduct such further investigation.

(6) Any investigation carried out under this regulation shall be undertaken by local authority officers senior to the accused local authority officer, who have not, directly or indirectly, dealt with the case before.

(7) The local authority shall decide on any of the punishments mentioned in regulation 26 (1), if any, which should be inflicted on the local authority officer.

36. (1) The provisions of this regulation shall apply to disciplinary proceedings for dismissal or reduction in rank or seniority for a clerk to council or a chief officer.

(2) Where the Permanent Secretary to the Ministry for the time being responsible for local authorities considers it necessary to institute disciplinary proceedings against a local authority officer to whom this regulation applies on the ground of misconduct which, if proved, in his opinion justify dismissal or reduction in rank or seniority, the Permanent Secretary shall--

(a) after such necessary preliminary investigation and consultation with the local authority concerned, forward to the local authority officer a statement of the charge or charges against him with brief allegations, in so far as they are not clear from the charges themselves, on which each charge is based; and

(b) invite the local authority officer to state in writing, should he so desire, before a day to be specified, any grounds on which he relies to exculpate himself.

(3) If in the opinion of the Permanent Secretary the presence of a local authority officer to whom this regulation applies may hinder the proper operation of the local authority, he may interdict or suspend the officer and regulations 24 or 25 shall apply to the local authority officer.
(4) If the local authority officer does not furnish a reply to a charge or charges forwarded under paragraph (2) within the period specified, or if in the opinion of the Permanent Secretary he fails to exculpate himself, the Permanent Secretary shall forward to the Commission copies of the statement of the charge, or charges, the reply, if any, of the local authority officer and the Permanent Secretary's comments thereon.

(5) If, on consideration of the statement of charge or charges, the reply, if any, of the local authority officer, and the comments of the Permanent Secretary, the Commission is of the opinion that no further investigations are necessary, it shall forthwith decide on any of the punishments mentioned in regulation 26 (1), if any, which should be inflicted on the local authority officer, or whether he should be retired in the public interest.

(6) If the Commission, on consideration of the submissions by the Permanent Secretary is of the opinion that the matters should be further investigated, it shall direct the Permanent Secretary to conduct such further investigation in consultation with the local authority concerned.

(7) Any investigation carried out under this regulation shall be undertaken by the Permanent Secretary or public officers who are senior to the local authority officer accused and, who have not, directly or indirectly, dealt with the case before.

(8) If, during the course of the investigation, the grounds for framing of additional charges are disclosed, the Permanent Secretary shall follow the same procedure as was adopted in framing the original charges.

(9) After conducting the investigation, the Permanent Secretary shall forward a report of the investigation to the Commission together with the record of the charges framed, evidence led, the defence and other proceedings relevant to the inquiry; and the report of the investigation under this regulation shall include—

(a) a statement whether the charge or charges against the accused local authority office have been proved and the reasons therefor;

(b) details of any matters which may aggravate or alleviate the gravity of the case; and

(c) a summing up and such general comments as will indicate clearly the opinion on the matter being investigated; but the report of the investigation shall not make any recommendation regarding the form of punishment to be inflicted on the accused local authority officer.

(10) The Commission, after consideration of the report, shall, if it is of the opinion that the report should be amplified in any way or that further investigation is desirable, refer the matter back to the Permanent Secretary who shall conduct the investigation for a further report.
(11) Nothing in this regulation shall prevent the local authority concerned from making a representation directly to the Commission on any issue on a particular case before the Commission makes its final decision in the case.

(12) The Commission shall decide on any of the punishments mentioned in regulation 26 (1), if any, which should be inflicted on the local authority officer, or whether he should be retired in the public interest.

37. (1) Where a local authority, after having considered every report in its possession made with regard to a local authority officer, is of the opinion that it is desirable, in the public interest, that the service of the local authority officer be terminated on grounds which cannot suitably be dealt with under any other provision of these Regulations, it shall notify the local authority officer, in writing, specifying the complaints by reason of which his retirement is contemplated, together with the substance of any report or part thereof that is detrimental to the officer.

(2) If, after giving the local authority officer an opportunity of showing cause why he should not be retired in the public interest, the local authority is satisfied that the officer should be required to retire in the public interest, it shall, in the case of any local authority officer, forward to the Commission the report on the case, the local authority officer's reply and his own comments, and the Commission shall decide whether the local authority officer should be required to retire in the public interest.

(3) Where, in any case which comes to the attention of the Permanent Secretary to the ministry for the time being responsible for local authorities, the Permanent Secretary is of the opinion that proceedings should be instituted against a clerk to council or a chief officer under this regulation, the Permanent Secretary shall, notwithstanding any other provision of this regulation, direct the local authority to initiate such proceedings.

(4) Where a public officer is retired in the public interest, the local authority shall take the necessary steps for the local authority officer to be paid his retirement benefits.

38. (1) Where a local authority officer is convicted of a criminal offence which, in the opinion of the local authority, warrants disciplinary proceedings, the local authority shall, in the case of a local authority officer to whom regulation 34 or 36 apply, forward a copy of the charge and of the judgment and any judgment or order made on appeal or revision to the Commission for consideration, and the Commission shall decide whether the local authority officer should be dismissed or subjected to any of the other punishments mentioned in regulation 26 or retired in the public interest.

(2) Where the local authority officer is one to whom regulation 35 applies, the local authority, after consideration of such judgement
or order, may itself dismiss the public officer or subject him to any of
the other punishments mentioned in regulation 26.

(3) For the purposes of this regulation, proceedings for minor
offences, such as those under the Traffic Act and by-laws, may be
disregarded, and disciplinary proceedings shall normally be confined
to proceedings under the Penal Code and other Acts where a prison
sentence may be imposed, other than in default of payment of a fine.

**PART V—MISCELLANEOUS**

39. Where under these Regulations it is necessary to serve any
notice, charge or other document upon a local authority officer or to
communicate any information to any local authority officer having
absented himself from duty and it is not possible to effect such service
upon or communicate such information to the local authority officer
personally, it shall be sufficient if the notice, charge or other
document, or a letter containing such information, is sent by registered
post addressed to his usual or last known place of address or post
office box.

40. The Secretary shall advise the local authority concerned of the
decision of the Commission on any particular matter and the local
authority shall take the appropriate action.

41. Nothing in these Regulations shall prevent a local authority
officer from sending, directly to the Commission, an advance copy of a
document which under these Regulations is required to be forwarded to
the Commission through the relevant local authority.

42. The Commission may institute an audit or investigation of
the manner in which any of the local authorities has exercised any of
the powers delegated by the Commission under these Regulations.

43. Any case not covered by these Regulations shall be dealt
with in accordance with such instructions as the Commission may,
from time to time, issue.

44. The Commission may prescribe forms for the better
carrying out of the provisions of these Regulations.

45. The Public Service Commission (Local Authority Officers)
Regulations are revoked.


T. J. K. GATEERE,
Chairman, Public Service Commission of Kenya.