

NO. 10 OF 2017

PUBLIC SERVICE COMMISSION ACT

SUBSIDIARY LEGISLATION

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PUBLIC SERVICE COMMISSION REGULATIONS, 2005

[L.N. 28/2005, L.N. 49/2014.]

PART I — PRELIMINARY**1. Citation and application**

(1) These Regulations may be cited as the Public Service Commission Regulations, 2005.

(2) These Regulations shall apply to all public offices to which the Commission's constitutional powers and functions as set out in section 107 of the Constitution apply, other than offices in the Kenya Police Force, the Kenya Prisons Service and local authorities.

2. Interpretation

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

"authorized officer" means—

- (a) the Permanent Secretary who exercises supervision over the ministry concerned, or over the ministry in which the public officer concerned holds an office, as the case may be; or
- (b) in the case of a department which is not assigned to any Minister, the head of that department; or
- (c) in the case of the National Audit Office, the Controller and Auditor-General,

and includes any other public officer appointed by the Commission to be an authorized officer for the purposes of these Regulations;

"the 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;

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

"the 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 25;

"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;

"the Order" means the Kenya Independence Order in Council, 1963, (L.N.718/1963);

"pensions benefits" means any pensions, compensation, gratuities or other similar allowances payable to persons in respect of their service as public officers, or to the widows, children, dependants or personal representatives of such persons, in respect of that service;

"pensionable public officer" means any public officer who has been confirmed in a public office and admitted to the permanent and pensionable establishment;

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"pre-service trainee" means any person who is undergoing or has undergone a recognized training programme in a government training institution as a pre-condition for appointment into the public service;

"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;

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

"seniority" means the relative seniority of public 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 public officers of the same grade —
 - (i) by reference to the dates on which they respectively entered the grade;
 - (ii) if any public officers entered that grade on the same day, by reference to their seniority on the day immediately preceding that day;
 - (iii) if any public 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 public 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 public 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:

Provided that when assessing the seniority of a pensionable public 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 public office other than that to which the person concerned was last substantively appointed, not necessarily being a promotion; but the posting or secondment of a public officer between duty posts in the same grade in the public service shall not be regarded for this purpose as a transfer.

(2) Nothing in these Regulations empowering an authorized officer or any other 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. Decisions may be made by circulation of papers

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.

4. Dissent by members

Any member who dissents from a decision of the Commission shall be entitled to have

his dissent and his reason therefor set out in the records of the Commission.

5. Record of meetings

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

6. Commission may require attendance and production of documents

(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.

7. Correspondence

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

8. Right of authorized officer to be heard

The Commission shall, at the request of an authorized officer, hear him or his representative personally in connexion with any matter he has referred to the Commission.

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).

9. Delegation of powers to authorized officers

(1) With the consent of the President, 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 authorized officers—

- (a) In respect of public offices which have been assigned Job Groups "A" to "P" —
 - (i) the power of appointment, including acting appointment, promotion and transfer (but excluding the power of initial appointment or change of designation of public officers in Job Groups "J", "K" or "L" and the appointment of pre-service trainees to positions in Job Groups "A" to "H");
 - (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 regulations which may be in force;
- (b) in respect of all public officers, irrespective of their Job Groups, the power of confirmation in appointment of any public officer appointed on probation;
- (c) in respect of public officers serving on written contracts or Letters of Temporary Appointment, the power to terminate, otherwise than by dismissal,

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in accordance with the provisions of a written contract or a Letter of Temporary Appointment, the appointment of a public officer serving on such contract or Letter of Temporary Appointment:

Provided that nothing in these Regulations shall affect the power of the Commission to terminate the appointment of such public officer in accordance with a term or condition contained in his contract or Letter of Appointment.

(2) An authorized officer exercising the powers conferred on him by this regulation shall act in accordance with these Regulations and any other regulations which may be in force, as appropriate.

(3) A public officer affected by the decision of the authorized officer under this regulation may, through the authorized officer, appeal to the Commission within forty-two days from the date of receiving the decision appealed against.

(4) Notwithstanding the provisions of this regulation, the Commission may, when necessary, institute an enquiry to determine whether or not the powers delegated under this regulation have been properly exercised by the authorized officer.

[L.N. 49/2014, r. 2.]

10. Notification of vacancies

(1) An authorized officer exercising the powers conferred by regulation 9 (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) at least twenty-one days after exercising the powers, notify the Commission of the particulars of the public officer appointed or promoted or transferred, as the case may be.

(2) Where the authorized officer is not conferred with the delegated powers of appointment under regulation 9 and a vacancy occurs or it is known that a vacancy will occur, the authorized officer shall notify the Commission and the Commission shall take the appropriate steps to fill that vacancy.

11. Vacancies dependent of examinations

(1) 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.

12. Advertisement of vacancies

(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 public officer held against the establishment of the ministry or department in which the vacancy exists or by the continued employment of a public 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 that in which the vacancy occurs, it may invite applications from serving public officers.

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

13. Criteria concerning appointments

(1) In selecting candidates for appointment, promotion and transfer, the Commission shall have regard to the efficiency of the public service and, in considering the claims of public officers for promotion, merit and ability shall be taken into account as well as seniority, experience and official qualifications; and as between public 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 for promotion shall state whether the person recommended is the senior public officer in the department or grade eligible for promotion and, where this is not the case, detailed reasons shall be given in respect of each person in that same department or grade over whom it is proposed that the person recommended should be promoted and the Commission shall make a decision.

(3) The provisions of paragraph(1) shall, with the necessary modifications, apply to an authorized officer exercising delegated powers of appointment, promotion or transfer under these Regulations.

14. Probationary appointments

(1) Subject to regulation 9, where a public officer has been appointed on probation the authorized officer shall, not less than three months before the expiration of the probationary period, inform the Commission whether in his opinion —

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

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

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

15. Transfers

(1) Where it is desired to transfer a public officer in Job Group "Q" or above from his present ministry or department to another ministry or department without change of designation or grading, the recommendations and comments of the authorized officers concerned shall be sent to the Commission, which shall decide whether the transfer should be approved.

(2) Where it is desired to transfer a public officer in Job Group "Q" or above from his present office to another office of different designation but of similar grading, either in his own or in another ministry or department, the authorized officers concerned shall forward their recommendations and comments to the Commission, which shall decide whether the transfer should be approved.

(3) Nothing in this regulation shall apply to—

- (a) the posting of public officers from one station to another in their substantive capacities within ministries or departments; or
- (b) the transfer between ministries or departments of public officers in any office which is common to departments generally, which shall be effected by the

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authorized officers concerned in consultation, where necessary, with the Director of Personnel Management.

[L.N. 49/2014, r. 3 & 4.]

16. Further engagement on contract

(1) Subject to regulation 9(1)(c), where a public officer is serving on a written contract and is willing to engage for a further term of service, the authorized officer shall notify the Commission of the date when such contract will expire, and his recommendation whether it should be renewed or not.

(2) So far as is practicable, every notification under paragraph (4) shall be forwarded to the Commission in sufficient time to enable the Commission to give its decision not less than three months before the public officer's contract is due to expire.

17. Acting appointments

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.

18. Compulsory retirement on reaching the mandatory retirement age

(1) If it appears to an authorized officer that there is reason why a pensionable public officer should be called upon to retire from the public service on the grounds that he has reached the age at which he can lawfully be required to retire from the public service under the pensions legislation, the authorized officer shall advise the public officer that his compulsory retirement is under consideration and ask if he wishes to make any representations thereon.

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

(3) On being advised of the decision of the Commission, the authorized officer shall notify the public officer and, if the public officer is to be retired, he shall notify the Pensions Branch of the Treasury.

(4) A public 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.

19. Retirement on grounds of ill health

(1) Where it appears to an authorized officer that a public officer is incapable by reason of any infirmity of mind or body of discharging the functions of his public office, he may (and shall if the public officer so requests) call upon the public 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 public officer is incapable as aforesaid.

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

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

(4) On being advised of the decision of the Commission, the authorized officer shall notify the public officer and, if the public officer is to be retired on the grounds of ill health, he shall notify the Pensions Branch of the Treasury.

20. Retirement on abolition of office or on re-organization of a ministry or department

(1) Where a public officer, who is one of a number of public officers holding similar public

offices, is to be retired, either—

- (a) on the abolition of the office he holds; or
- (b) upon the re-organization of the ministry or department in which he holds an office for better efficiency or economy,

but one or more of the such public officers is to remain in office, the authorized officer shall inform the public officer that his compulsory retirement is under consideration and invite him to make representations thereon, if any.

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

(3) On being advised of the decision of the Commission, the authorized officer shall notify the public officer and, if the public officer is to be retired, he shall prepare and forward the officer's pensions claims to the Pensions Branch of the Treasury.

(4) The provisions of this regulation shall not apply to any public officer who has reached the age at which he can lawfully be required to retire from the public service under the pensions legislation in accordance with regulation 18.

(5) Any public officer dissatisfied with the decision of the Commission under this regulation may, in writing through his authorized officer, seek a review of the decision within forty-two days from the date of receiving the communication of the Commission's decision:

Provided the Commission may entertain a request for a review of the decision out of time if the circumstances warrant it.

21. Special procedure

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 public 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

22. Delegation of powers to authorized officers

(1) With the consent of the President, 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 authorized officers —

- (a) In respect of all public officers —
 - (i) the power to interdict any public officer under regulation 23;
 - (ii) the power to suspend any public officer under regulation 24;
 - (iii) the power to stop, withhold or defer a normal increment of any public officer or to inflict a severe reprimand or a reprimand on him or to stop his pay or salary under regulation 26;
- (b) in respect of all public officers in Job Group "L" or below—
 - (i) the power of dismissal or reduction in rank or seniority in accordance with regulation 34:

Provided that where the public officer, at the time of dismissal proceedings, has qualified for pension, gratuity, annual allowance or other retiring award under the pension legislation, the authorized officer shall not exercise the delegated power to dismiss in accordance with regulation 34 but shall deal with the matter in accordance with regulation 35 (6);

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- (ii) the power to inflict any of the punishments mentioned in paragraph (1) of regulation 25 on a public officer who is convicted in any court of a criminal offence in accordance with regulation 37.

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

23. Interdiction

(1) If in any case an authorized officer is satisfied that the public interest requires that a public officer should cease forthwith to exercise the powers and functions of his public office, he may interdict the public 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 public officer who is interdicted shall receive such salary, not being less than half his salary, as the authorized officer shall think fit.

(3) Where disciplinary or criminal proceedings have been taken or instituted against a public officer under interdiction and such public 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) If any punishment other than dismissal is inflicted, the public officer may be refunded such proportion of the salary withheld as a result of his interdiction, as the Commission shall decide.

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

(6) For the purpose of this regulation and regulation 24, "salary" means basic salary and, where applicable, includes inducement or overseas allowance.

24. Suspension

(1) Where a public officer has been convicted of a serious criminal offence, other than such as are referred to in regulation 37 (3), an authorized officer may suspend the public officer from the exercise of the functions of his public office pending consideration of his case under these Regulations.

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

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

Provided that the authorized officer may, if he thinks fit, direct that any suspended public officer shall be granted an alimentary allowance in such amount and on such terms as he may determine.

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

25. Punishments

(1) The following are the punishments which may be inflicted upon a public 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 the appropriate financial instructions or regulations;
- (b) reprimand (including severe reprimand); and
- (c) deferment of increment;

- (d) withholding of increment;
- (e) stoppage of increment;
- (f) reduction in rank or seniority;
- (g) dismissal.

(2) Nothing in this regulation shall limit the powers conferred by these Regulations to require a public officer to retire from the public service on the grounds of public interest.

(3) No punishment shall be inflicted on any public officer which would be contrary to any law.

26. Authorized officer may inflict punishments

(1) Notwithstanding any other provisions of these Regulations, an authorized officer may, without reference to the Commission—

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

Provided that, if the stoppage or deferment is recommended to be continued beyond one year, the matter shall be referred to the Commission for its decision;

- (b) after investigation and after giving the public officer an opportunity for making his defence (which shall be recorded), inflict on a public officer a severe reprimand or a reprimand; or
- (c) stop from the pay or salary of a public 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) An authorized officer exercising the powers conferred on him by this regulation shall act in accordance with regulation 32.

27. Absence from duty without leave

Where a public officer is absent from duty without leave or reasonable or lawful cause for a period exceeding twenty-four hours and the public 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.

28. Pension rights and privileges lost on dismissal

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

29. Disciplinary procedure

(1) All acts of misconduct by public 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 public officer, the Commission shall, notwithstanding any other provisions of these Regulations, direct the authorized officer to initiate such proceedings.

30. Copies of office orders, minutes, reports etc

An officer shall not be entitled to copies of office orders, minutes, reports or recorded reasons for decisions.

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(1) Subject to section 13 of the Order, an appeal by a public officer shall lie to the Commission, through the authorized officer concerned against an order made in accordance with this Part in relation to that public officer in disciplinary proceedings involving any of the punishments as mentioned in regulations 25 and 26 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 public officer:

Provided that the Commission may entertain an appeal out of time if, in the opinion of the Commission, the circumstances warrant it.

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

(3) A public officer may, within one year of the date upon which any decision of the Commission under this part is addressed to the public 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.

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

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

32 Copies of office orders, minutes, reports etc

Where proceedings have been taken against a public officer under this Part, he shall be informed by the authorized officer—

- (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:

Provided that failure to communicate such right of appeal shall not invalidate the said findings or punishment.

33. Disciplinary proceedings for a public officer in Job Group "M" or above

(1) Where an authorized officer considers it necessary to institute disciplinary proceedings against a public officer to whom this regulation applies on the ground of misconduct which, if proved, would, in his opinion, justify any of the punishments in regulation 25 (1), he shall, after such preliminary investigation and consultation as to the terms of the charge or charges as he considers necessary, forward to the public 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 shall invite the public officer to state in writing, should he so desire, before a day to be specified, any grounds on which he relies to exculpate himself.

(2) If the public officer does not furnish a reply to a charge or charges forwarded under paragraph (1) within the period specified, or if in the opinion of the authorized officer he fails to exculpate himself, the authorized officer shall forward to the Commission copies of the statement of the charge, or charges, the reply, if any, of the public officer and the authorized officer's comments thereon.

(3) If, on consideration of the statement of the charge or charges, the reply, if any, of the public officer, and the comments of the authorized officer, the Commission is of the opinion that no further investigation is necessary, it shall forthwith decide on the punishment, if any, which should be inflicted on the public officer, or whether he should be retired in the public interest.

(4) If the Commission, on consideration of the submissions by the authorized officer, is of the opinion that the matters should be further investigated, it shall direct the authorized officer to conduct such further investigation.

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

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

(7) After conducting the investigation, the authorized officer 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 public 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;

but the report of the investigation shall not make any recommendation regarding the form of punishment to be inflicted on the accused public officer.

(8) 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 authorized officer who shall conduct the investigation for a further report.

(9) The Commission shall decide on the punishment, if any, which should be inflicted on the public officer, or whether he should be retired in the public interest.

(10) The provisions of this regulation shall apply to a public officer in Job Group 'Q' or above.

[L.N. 49/2014, r. 5.]

34. Disciplinary proceedings for a public officer in Job Group L or below and who has not qualified for pensions benefits under the pensions legislation

(1) Where an authorized officer considers it necessary to institute disciplinary proceedings against a public officer to whom this regulation applies on the ground of misconduct which, if proved, in his opinion, justify any of the punishments mentioned in regulation 25 (1), he shall after such preliminary investigation as he considers necessary, forward to the public 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.

(2) If the public officer does not furnish a reply to a charge or charges forwarded under paragraph (1) within the period specified, or, if in the opinion of the authorized officer, he fails to exculpate himself, and the authorized officer is of the opinion that no further investigation is necessary, the authorized officer shall forthwith decide on the punishment, which should be inflicted on the public officer.

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

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

(5) The authorized officer shall decide on the punishment, if any, which should be inflicted on the public officer.

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(6) The provisions of this regulation shall apply to a public officer in Job Group "P" or below, who has not qualified for pensions benefits under the pensions legislation.

[L.N. 49/2014, r. 6.]

35. Disciplinary proceedings for public officer in Job Group P or below and who has qualified for pensions benefits under the pensions legislation

(1) Where an authorized officer considers it necessary to institute disciplinary proceedings against a public officer to whom this regulation applies on the ground of misconduct which, if proved, in his opinion, justify any of the punishments mentioned in regulations 25(1), he shall, after such preliminary investigation as he considers necessary, forward to the public 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.

(2) If the public officer does not furnish a reply to a charge or charges forwarded under paragraph (1) within the period specified, or if in the opinion of the authorized officer he fails to exculpate himself, the authorized officer shall forthwith decide and inflict on the public officer any of the punishments prescribed under regulation 25(1) except, dismissal or reduction in rank or seniority.

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

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

(5) If, in the opinion of the authorized officer, a punishment should be inflicted on the public officer, the authorized officer shall forthwith decide and inflict on the public officer any of the punishments prescribed under regulation 25 (1), except dismissal or reduction in rank or seniority.

(6) Where, in any case under this regulation, it is the opinion of the authorized officer that the punishment to be inflicted is dismissal or reduction in rank or seniority, the authorized officer shall forward to the Commission the record of the disciplinary proceedings together with his comments thereon and the Commission shall decide the punishment, if any, which should be inflicted on the public officer, or whether he should be retired in the public interest:

Provided that if, in the opinion of the Commission, further investigation is necessary before making a decision in the matter, the Commission shall direct the authorized officer to conduct such further investigation and 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.

(7) The provisions of this regulation shall apply to a public officer in Job Group P or below, who has qualified for pensions benefits under the pensions legislation.

[L.N. 49/2014, r. 7.]

36. Retirement on grounds of public interest

(1) If an authorized officer, after having considered every report in his possession made with regard to a public officer, is of the opinion that it is desirable, in the public interest, that the service of the public officer be terminated on grounds which cannot suitably be dealt with under any other provision of these Regulations, he shall notify the public 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 public officer.

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

and the Commission shall decide whether the public officer should be required to retire in the public interest.

(3) Where a public officer is retired in the public interest, the authorized officer shall furnish the Pensions Branch of the Treasury with full details of the case.

37. Officer convicted of criminal offence

(1) If a public officer is convicted of a criminal offence which, in the opinion of the authorized officer, warrants disciplinary proceedings, the authorized officer shall, in the case of a public officer to whom regulation 33 or 35 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 public officer should be dismissed or subjected to any of the other punishments mentioned in regulation 25.

(2) Where the public officer is one to whom regulation 34 applies, the authorized officer, after consideration of such judgement or order, may himself dismiss the public officer or subject him to any of the other punishments mentioned in regulation 25.

(3) For the purposes of this regulation, proceedings for minor offences, such as those under the Traffic Act (Cap. 403) and by-laws, may be disregarded, and disciplinary proceedings shall normally be confined to proceedings under the Penal Code (Cap. 63) and other Acts where a prison sentence may be imposed, other than in default of payment of a fine.

PART V — MISCELLANEOUS

38. Service of notices etc.,

Where under these Regulations—

- (a) it is necessary—
 - (i) to serve any notice, charge or other document upon a public officer: or
 - (ii) to communicate any information to any public officer having absented himself from duty; and
- (b) it is not possible to effect such service upon, or communicate such information to the public 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. Advance copies to the Commission

Nothing in these Regulations shall prevent a public 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 authorized officer.

41. Audit and investigation

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

42. Commission may assign job groups

The Commission may, by notice in the Gazette, assign the Job Groups referred to in these Regulations to public offices in ministries or departments which do not use such Job Groups, for the proper application of these Regulations to those offices.

43. Cases not covered by Regulations

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.

[Subsidiary]

44. Commission may prescribe forms

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

45. Revocation of Regulations. Cap. 185 (Sub-Leg)

The Public Service Commission Regulations are revoked.

**PUBLIC SERVICE COMMISSION (COUNTY GOVERNMENT PUBLIC
SERVICES APPEALS PROCEDURES) REGULATIONS, 2016**

ARRANGEMENT OF REGULATIONS

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-

[Subsidiary]

PUBLIC SERVICE COMMISSION (COUNTY GOVERNMENT PUBLIC SERVICES APPEALS PROCEDURES) REGULATIONS, 2016

[L.N. 70/2016.]

1. Citation

These Regulations may be cited as the Public Service Commission (County Government Public Services Appeals Procedures) Regulations, 2016.

2. Purpose

The purpose of these Regulations is to regulate the hearing of appeals by the Commission that have been filed by public officers or any other person against the decisions of county governments public service.

3. Interpretation

In these Regulations, unless the context otherwise requires—

“**appeal**” means to apply for the re-examination of a decision or process of a county government public service;

“**appellant**” means an individual or an organisation appealing against a county government public service decision or process;

“**applicant**” means an individual or organisation that has applied to the Commission to review the Commission's decision;

“**application**” means an application for review;

“**Chairperson**” means the Chairperson of the Public Service Commission;

“**Committee**” means the County Appeals Committee of the Commission;

“**County Appeals Unit**” means the Appeals Unit within the Commission;

“**county government public service**” includes a county assembly service; and

“**respondent**” means a county government public service whose decision or process has been appealed against.

4. Principles

The Commission shall be guided by the following principles when hearing and determining an appeal or when considering an application for a review of its determination in relation to an appeal—

- (a) the promotion of the purposes, values and principles of the Constitution;
- (b) justice and fairness for all parties appearing before the Commission;
- (c) the application of the rules of natural justice;
- (d) the application of substantive justice that does not rely on undue regard to technicalities of procedure; and
- (e) the avoidance of undue delay.

5. Inherent powers of the Commission

Notwithstanding any other provision in these Regulations, the Commission may, on its own motion or the application of a person, make such orders as are necessary for—

- (a) the fair and expeditious determination of an appeal or application under these Regulations;
- (b) the just conclusion of an appeal or application; or
- (c) the prevention of the abuse of the processes of the Commission.

6. Co-ordination of appeal process

An appeal shall be heard by a Committee and the Chairperson shall be responsible for—

- (a) constituting each Committee;
- (b) assigning appeals and applications for review to Committees; and
- (c) such other functions as are necessary for the hearing and determination of appeals or applications for review.

7. Jurisdiction

(1) A person who is dissatisfied with a decision of the county government public service in its discharge of a human resource function may appeal to the Commission against that decision.

(2) A public officer who makes an appeal in accordance with these Regulations shall appeal after all the appeals and processes of the county government public service have been exhausted.

(3) A State officer in a county government public service shall not appeal against a decision of a county government public service under these Regulations.

8. Appealable matters

The Commission may hear and determine an appeal from a public officer in a county government public service regarding any decision relating to the engagement of the person in the county government, including an appeal in respect of—

- (a) the recruitment, selection, appointment, promotion, re-designation, deployment and qualifications attached to any office;
- (b) the remuneration, and terms and conditions of service;
- (c) disciplinary control including imposition of any punishment including dismissal;
- (d) the national values and principles of governance and the values and principles of public service as provided for in the Constitution;
- (e) retirement;
- (f) other forms of removal from service except on account of dismissal;
- (g) pension benefits, gratuity and other terminal benefits; and
- (h) any other decision that the Commission considers to fall within its constitutional jurisdiction to hear and determine an appeal in that regard.

9. Lodging an appeal

(1) A public officer shall lodge an appeal against a decision of a county government public service with the Commission within ninety days of the making of the decision by the county government public service.

(2) Notwithstanding the requirements of sub-regulation (1), the Commission may allow a public officer to lodge an appeal after the expiry of ninety days, if the Commission is persuaded that the circumstances warrant it.

(3) A person who lodges an appeal under these Regulations shall provide the relevant documents or information to support the appeal, including the documents and information provided by the public officer during the processes undertaken by the county government public service.

10. Commission to notify county government public service of appeal

The Commission shall notify a county government public service, within seven days of the lodging of an appeal, that the appeal has been lodged by a public officer against a decision of that county government public service in accordance with these Regulations and

[Subsidiary]

shall require that county government public service to submit all records in relation to the appeal, including proceedings that led to the decision being appealed against.

11. Processing an appeal

(1) A county government public service that has been notified of an appeal under regulation 10 shall forward to the Commission the relevant records in relation to the appeal, including proceedings, within fourteen days of receiving the notice.

(2) The notice shall be in Form CA1 as set out in the Schedule.

(3) An appeal under these Regulations shall be processed by the County Appeals Unit.

(4) The Committee shall hold a preliminary meeting to review the appeal file within twenty one days of the reply being filed.

(5) At a preliminary meeting, the Committee may—

- (a) require the appellant or the respondent to provide additional information or documents in relation to the appeal;
- (b) re-examine the process or proceedings that led to the appeal and whether or not there is sufficient information in relation to the appeal to make a determination; or
- (c) set down a date when the appellant and the respondent shall appear before the Committee and be examined in relation to the appeal.

(6) Where there is insufficient information to make a determination in relation to an appeal, the Commission may investigate the matter further in order to obtain the required information necessary to make a determination.

(7) The Committee may hold a hearing at which the appellant and the respondent shall be examined by the Committee and given an opportunity to make further submissions in relation to the appeal.

(8) The appellant and the respondent shall be notified of the hearing date by the Committee in the prescribed Form CA2 set out in the Schedule.

(9) The preliminary meeting shall commence despite the absence of one of the parties.

(10) Within twenty one days of the preliminary meeting or within fourteen days of obtaining findings under sub-regulation (6), the Committee shall convene a final meeting to consider all the information and documents in relation to the appeal and shall then make a final determination.

12. Service of notices

(1) Any notice issued under these Regulations may be served through—

- (a) personal service;
- (b) registered mail to the last known postal address of the party;
- (c) the Public Service Commission website; or
- (d) advertisement in at least two daily newspapers with a nationwide circulation.

(2) Where a notice is served by way of the last known postal address of the person being served, the notice shall be deemed to have been received seven days after the notice is dispatched.

(3) The County Appeals Unit shall place a copy of the newspaper advertisement in the appeal file where a notice is served through an advertisement.

(4) Where a notice is served personally, the County Appeals Unit shall make a record in the appeal file stating the time and manner in which the notice was served.

(5) The Commission shall take the necessary steps to ensure that the most cost-effective method of service is employed.

13. Hearings

(1) The Commission shall at least seven days prior to the hearing date, notify in writing the parties to an appeal of the date and place where the hearing shall be held.

(2) An appeal may be heard orally or through written representation.

(3) In exercising the power to hear an appeal through written representation, the Commission shall require the appellant and the respondent to make written submission as follows—

- (a) the appellant shall first lodge written submissions which shall be forwarded to the respondent within seven days of receipt thereof;
- (b) the respondent shall lodge written submissions in response to the appellant's submissions within fourteen days of receipt thereof.

(4) The Committee may hold an oral hearing—

- (a) where it determines that it is necessary to hear the appellant in the matter; or
- (b) where the appellant makes a written request to the Commission, to be heard orally that request shall be considered and allowed at the discretion of the Committee.

(5) Where the appeal is heard orally, both parties shall be given an opportunity to address the Committee and shall, where the Committee finds it necessary, present any witnesses before the Committee.

(6) If the appellant or respondent is absent during the hearing, after having been served with a hearing notice, the Committee may—

- (a) adjourn the hearing to a specific date; or
- (b) hear and determine the appeal.

14. Vacancy in the appeals committee before appeal is determined

Where, before an appeal is fully heard and determined, and a member of the Committee is unable to discharge his or her functions under the Act or these Regulations, the Chairperson shall—

- (a) appoint another member to that Committee; and
- (b) direct that—
 - (i) the appeal be heard afresh; or
 - (ii) the appeal be heard from the point at which the member was unable to discharge his or her duties.

15. Proceedings to be recorded

The proceedings of an appeal where the Committee receives written testimony shall be recorded in the minutes of the meeting of the Committee.

16. Findings and recommendations

The Committee shall deliberate and make its findings and recommendations to the Commission within fourteen days of the final hearing or the final written submissions made in relation to an appeal.

17. Determination of the appeal

The Commission shall consider the recommendations of the Committee and shall make a final decision on the appeal within fourteen days of receiving the recommendations of the Committee.

[Subsidiary]**18. Powers of the Commission on appeal**

The Commission may, in relation to an appeal—

- (a) uphold the decision of the county government public service;
- (b) set aside the decision of the county government public service;
- (c) vary the decision of the county government public service as the Commission considers just; or
- (d) give such directions as the Commission may consider appropriate.

19. Communication of the determination

The decision of the Commission shall be communicated to the appellant and the respondent in writing within seven days from the date the Commission makes the decision.

20. Time

The Commission shall receive, hear and determine an appeal within four months of receiving the appeal.

21. Review

(1) Any person who is dissatisfied or affected by the decision made by the Commission in relation to an appeal may apply for a review of the decision and the Commission may admit and consider the review if—

- (a) the person presents new information that could not be presented at the time the decision was made by the Commission; or
- (b) the Commission has made an apparent error in its decision in relation to the appeal.

(2) An application for review shall be in writing and shall be made within three months from the date of the decision of the Commission.

(3) The Commission may consider an application for review out of time if, in the opinion of the Commission, the circumstance warrants the consideration.

22. Powers of the Commission on review

The Commission may, after considering an application for a review of its decision—

- (a) uphold the decision;
- (b) set aside the decision;
- (c) vary the decision as it considers just; or
- (d) give such directions as it may consider appropriate.

23. Communication of the decision on review

The Commission shall inform in writing a person who has applied for a review of a decision of the Commission within fourteen days of the making of the decision.

24. Delivery of documents to the Commission

(1) A document may be lodged at the Secretariat by—

- (a) delivering it to the Commission registry;
- (b) sending it to the Commission by registered post or by courier service subject to providing proof of delivery; or
- (c) by fax or e-mail.

(2) A document is deemed lodged on the date it is received and stamped by the Commission.

(3) The sender of a document by fax shall produce the original document or the transmission report if directed by the Commission.

25. Powers of the Commission in relation to service of documents

Nothing in these Regulations affects the power of the Commission, if the circumstances so permit and in the interests of justice, to—

- (a) authorise service of a document in a manner that is not expressly provided for in these Regulations; or
- (b) find that a document served in a manner not expressly provided for in these regulations has been properly served.

26. Rights of appellants and applicants

Every appellant, applicant or respondent shall have the right to—

- (a) be heard in person;
- (b) be represented by an advocate of his or her own choice and at their own expense;
- (c) be accompanied by a representative of the relevant trade union or any person of his or her choice;
- (d) be assisted by an Interpreter if he or she does not understand the language being used during the proceedings;
- (e) access information relevant to the appeal; and
- (f) have adequate time to prepare evidence.

27. Commission to keep full records of proceedings

The Commission shall maintain and preserve an accurate record of all its proceedings including handwritten or typed transcripts and, where applicable, audio and video recordings.

SCHEDULE

[Rule 11(2).]

FORM CA 1

PUBLIC SERVICE COMMISSION

COUNTY APPEAL NO. OF 20

BETWEEN

..... APPELLANT

AND

..... RESPONDENT

NOTICE TO SUBMIT DOCUMENTS

To:

.....

WHEREAS the Commission has received an appeal against your decision made on the of 20 against on the issue of

(Copy attached)

Public Service Commission

[Subsidiary]

NOW THIS NOTICE IS TO REQUIRE YOU—

- (a) to file a response to the appeal; and
- (ii) to forward all relevant documents within your possession including the record of the proceedings, minutes and decisions made on the matter.

TAKE NOTICE that you are required to respond to this notice within fourteen days from the date of receipt of this notice.

Dated at on this day of 20

.....
for the Commission.

FORM CA 2

PUBLIC SERVICE COMMISSION

COUNTY APPEAL NO. OF 20

BETWEEN

..... APPELLANT

AND

..... RESPONDENT

HEARING NOTICE

TAKE NOTICE that you are required to appear before the Commission for the hearing of the appeal on the day of 20 at o'clock in the noon.

the hearing shall be held at—

.....

TAKE NOTICE that the Commission may proceed to make such determination or action as it deems just and prudent, your absence notwithstanding.

Dated at on this day of 20

.....
for the Commission.

Made on the 2016.

**PUBLIC SERVICE COMMISSION (REMOVAL OF THE
DIRECTOR OF PUBLIC PROSECUTIONS) REGULATIONS, 2017**

[L.N. 168/2017.]

PART I — PRELIMINARY**1. Citation**

These Regulations may be cited as the Public Service Commission (Removal of the Director of Public Prosecutions) Regulations, 2017.

2. Purpose

The purpose of these Regulations is to give effect to Article 158(2) of the Constitution by providing a procedure for receiving, processing, hearing and determining a petition for the removal of the Director of Public Prosecutions.

3. Interpretation

In these Regulations—

"Act" means the Public Service Commission Act (No. 13 of 2012);

"Board" means the full sitting of the Commission;

"Chairperson" means the chairperson of the Commission;

"Commission" means the Public Service Commission;

"Committee" means an *ad hoc* committee of the Commission constituted to hear a petition;

"Director" means the Director of Public Prosecutions;

"hearing" means an oral or written representation;

"petition" means a complaint referred to the Commission under the provisions of Article 158 of the Constitution;

"petitioner" means a person who has presented a petition to the Commission under the provisions of Article 158 of the Constitution; and

"respondent" means the Director of Public Prosecutions.

4. Guiding principles

The Commission hearing the petition for removal of the Director shall be guided by the following principles—

- (a) respect and promotion of the values and principles prescribed in the Constitution;
- (b) fairness and respect for the rule of law;
- (c) adherence to the rules of natural justice; and
- (d) the application of substantive justice, without undue regard to technicalities of procedure and without undue delay to the decisions of the Commission.

5. Saving of inherent powers of the Commission

Nothing in these Regulations shall limit or otherwise affect the inherent power of the Commission either on its own motion or on the application of a party to make such orders as may be necessary for the fair and expeditious disposal of a petition or to prevent an abuse of its process.

[Subsidiary]**6. Co-ordination of petition Process**

The Chairperson shall—

- (a) with the approval of the Commission, constitute a Committee to hear and determine a petition for removal of the Director;
- (b) assign the petitions for removal of the director to the committees; and
- (c) perform such other functions as are necessary for hearing and determination of a petition for the removal of the Director.

7. Jurisdiction

The Commission shall have the power to receive and hear all the petitions for removal of the Director.

8. Grounds for removal

The Commission shall consider petitions under these Regulations based on the grounds set out in Article 158(1) of the Constitution.

9. Filing a petition

(1) A person desiring the removal of the Director of Public Prosecutions may present a petition to the Public Service Commission which, shall be in writing, setting out the alleged facts constituting the grounds for the removal of the Director.

(2) The petitioner shall, where applicable, attach copies of all material or documentary evidence supporting the petition.

10. Processing the petition

(1) The Commission shall, within fourteen days of receipt of the petition, consider it in the first instance and shall either—

- (a) disallow it summarily for lacking in merit or for failing to disclose any valid ground for removal of the Director;
- (b) require the petitioner to provide further particulars; or
- (c) require the Director to respond to the allegations.

(2) Where the Commission requires the Director to respond to the allegations, the Commission shall forward to the Director, a copy of the petition together with a copy of the affidavit and all other supporting documents.

(3) The Director shall, within fourteen days of the date of the Commission's letter, respond to the petition in writing.

(4) The Committee shall, within fourteen days of receipt of the response by the Director, convene a preliminary meeting to determine whether the Commission shall —

- (a) call for additional documents or information;
- (b) undertake further investigations;
- (c) hear the petitioner and the Director in person; and
- (d) if the Commission decides to hold a hearing, set the hearing date and venue:

Provided that the Committee shall have the power to summarily determine the petition at the preliminary meeting.

(5) Within seven days of the preliminary meeting, the Commission may—

- (a) call for additional documents from the parties;
- (b) facilitate investigations into the allegations made in the petition; or
- (c) issue a hearing notice as determined by the Committee.

(6) The Committee shall convene a hearing of the petition or a meeting to consider the petition within twenty-one days from the date of the preliminary meeting.

11. Form of Notice

When the Committee determines a hearing date, the Commission shall, within seven days issue a hearing notice in Form PDPP 1 set out in the Schedule.

12. Service of notices

(1) Any notices issued under these Regulations shall be served through—

- (a) personal service;
- (b) registered mail to the last known postal address of the petitioner and the Director and shall be deemed to have been received within seven days from the date of postage; the Public Service Commission website; or
- (c) advertising in at least two daily newspapers with nationwide circulation:

Provided that the Commission shall at all times use the most cost efficient mode of service.

(2) Where a notice is served through an advertisement, a copy of the newspaper advertisement shall be filed for record.

(3) Where a notice is served personally the same shall be recorded stating the time and manner in which the notice was served.

13. Hearing the petition

(1) The Commission shall determine the venue and time for hearing of a petition.

(2) A petition may be heard orally or through written submissions.

(3) Where the petition is heard through written submissions, the Commission shall require —

- (a) the petitioner to first file written submissions within fourteen days of the Commission's direction for the same and which shall be forwarded to the Director within seven days of receipt thereof; and
- (b) the Director to file written submissions in response to the petitioner's submissions within fourteen days of receipt thereof.

14. Oral hearing

(1) An oral hearing shall take place—

- (a) where the Committee determines that it is necessary to hear witnesses in the matter; or
- (b) where the petitioner or the Director makes a written request to the Commission.

(2) Where the petition is heard orally, the parties shall be given an opportunity to address the Committee and shall, present any witnesses before the Committee.

15. Absence of the parties

If the petitioner or the Director is absent during the hearing, the Committee may—

- (a) adjourn the hearing; or
- (b) hear and determine the petition in the absence of either party or both parties.

16. Indisposition of a member

If by reason of resignation from the Commission, illness, death, or for any other reason, a member of the Committee is unable to continue sitting in a part-heard petition, the Chairperson shall appoint another member to the Committee and order either the rehearing or continuation of the proceedings.

[Subsidiary]**17. Recordings of proceedings**

- (1) The proceedings of a petition heard orally shall be recorded in verbatim.
- (2) Proceedings of a petition heard through written submissions shall be recorded in the minutes of the meetings of the Committee.

18. Findings and recommendations

- (1) The Committee shall make its recommendations to the Commission within twenty-one days of hearing the petition.
- (2) The Commission shall consider the recommendations of the Committee and shall make a final decision on the petition within seven days of receipt of recommendations of the Committee.

19. Powers of the Commission on receipt of recommendations

- (1) Upon receiving the recommendations from the Committee, the Commission may—
 - (a) uphold the decision;
 - (b) set aside the decision;
 - (c) vary the decision as it considers just; or
 - (d) give such directions as it may consider appropriate in the interest of justice.
- (2) If the Commission finds that the petition discloses sufficient grounds for removal of the Director, the Commission shall, within twenty one days of the finding, forward the decision together with the petition to the President in accordance with the provisions of Article 158(3) of the Constitution.
- (3) The decision of the Commission shall be communicated to the petitioner and the Director in writing within seven days from the date the Commission makes the decision.

20. Delivery of documents of the Commission

- (1) A document may be lodged at the Commission by—
 - (a) delivering it to the Commission registry; or
 - (b) sending it to the Commission by registered post, or by courier service providing proof of delivery;
 - (c) facsimile; or
 - (d) e-mail.
- (2) A document is deemed lodged on the date it is received and stamped by the Commission.
- (3) The sender of a document by facsimile shall produce the original document or the transmission report if directed by the Commission.
- (4) The sender of a document by email shall produce the original document and proof of the date and time of transmission of the email.

21. Powers of the Commission in relation to service of documents

Nothing in these Regulations affects the power of the Commission, if the circumstances so permit and in the interests of justice to —

- (a) authorize service of a document in a manner that is not expressly provided for in these Regulations; or
- (b) find that a document served in a manner not expressly provided for in these Regulations has been duly served.

22. Rights of the parties

The parties have a right to—

- (a) be heard in person subject to the provisions of Regulation 14(1)(b);
- (b) legal representation;

- (c) access information, materials and evidence relevant to the petition;
- (d) have adequate time to prepare evidence;
- (e) request for adjournment of the case where necessary for fair hearing;
- (f) apply for review of the Commission's decision in writing within seven days from the date of receipt of the Commission's decision.

23. Commission to keep full records of proceedings

The Commission shall cause to be made and preserved a full and accurate record of all its proceedings including handwritten or typed transcripts and, where applicable, audio and video recordings.

SCHEDULE

FORM PDPP. I

[Rule 11.]

THE PUBLIC SERVICE COMMISSION

PETITION NO. OF 2

..... PETITIONER

To:

HEARING NOTICE

TAKE NOTICE that you are required to appear before the Commission for hearing of the petition on the day of 20 at O'clock in the noon.

The hearing shall be held at

.....

.....

TAKE NOTICE that the Commission may proceed to make such determination or take any action as it deems just and prudent, your absence notwithstanding.

Dated at this day of, 20

.....
 BY ORDER OF THE COMMISSION

PUBLIC SERVICE COMMISSION REGULATIONS, 2019

[L.N. 65/2019.]

Revoked by LN. 179/2019.

PUBLIC SERVICE COMMISSION (REVOCATION) REGULATIONS, 2019

[L.N. 179/2019.]

1. Citation

These Regulations may be cited as the Public Service Commission (Revocation) Regulations, 2019.

2. Revocation of L.N. No. 65/2019

The Public Service Commission Regulations, 2019, are hereby revoked.
