

## PUBLIC NOTICE NO. 15 OF 1979

*Published 20th September, 1979***THE CONSTITUTION**  
(Act No. 12 of 1978)

Short title. THE JUDICIAL AND LEGAL SERVICE COMMISSION REGULATIONS, 1979

In exercise of the powers conferred upon it by sections 118 and 148 of the Constitution of Sierra Leone, 1978, the Judicial and Legal Service Commission hereby makes the following Regulations:—

**PART I—PRELIMINARY**

Interpretation.

1. In these Regulations unless a contrary intention appears—  
“appointment” means—

- (a) the conferment of a judicial or legal office of emolument in the public service, whether or not subject to subsequent confirmation, upon a person not in the public service;
- (b) the grant of permanent and pensionable terms of service in a judicial or legal office to a person recruited and serving on contract terms and service or in any other non-pensionable office;
- (c) the engagement in a judicial or legal office of a person on contract or any other non-pensionable terms of service for a further period of service on the conclusion of his previous period of engagement in the same or other judicial or legal office in the public service;
- (d) the appointment of a public officer to act in any judicial or legal office other than the office, whether judicial, legal or otherwise, to which he is substantively appointed;

“the Chairman” means the Chairman of the Commission;

“the Commission” means the Judicial and Legal Service Commission constituted under the provisions of section 118 of the Constitution;

“Committee” means a Committee appointed under the provisions of paragraph (2) of regulation 17;

“disciplinary control” includes control in so far as it relates to dismissal;

“judicial office” means the office of the Registrar and Deputy Registrar of the Supreme Court, Registrar and Deputy Registrar of the Court of Appeal, Master and Registrar of the High Court, Deputy Master and Registrar of the High Court, any Registrar of the High Court, Deputy Administrator and Registrar-General, any Magistrate, Under-Sheriff and such other offices connected with any Court as may be prescribed by Parliament;

“legal office” means the office of Principal State Counsel, Senior State Counsel, State Counsel, First Parliamentary Counsel, Customary Law Officers and such other offices connected with the Law Officers’ Department as may be prescribed by Parliament;

“judicial officer” means a person holding a judicial office;

“legal officer” means a person holding a legal office;

“member means a member of the Commission holding office or appointed under section 118 of the Constitution;

“office of emolument” in relation to the definition of judicial or legal officer means any pensionable or non-pensionable post which is shown under a Personal Emoluments sub-head in the Sierra Leone Estimates;

“promotion” means the conferment upon a person in the public service of a judicial or legal 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;

“the Secretary” means the public officer appointed to be the Secretary to the Commission and includes acting Secretary.

## PART II—JUDICIAL AND LEGAL SERVICE COMMISSION

2. (1) At any meeting of the Commission a quorum shall be constituted if three members are present. Quorum and voting.

(2) Save as provided in paragraph (4) of regulation 2 all decisions of the Commission shall be by a majority of the Commission:

Provided that the Chairman shall have a second or casting vote whenever the voting shall be equal.

Record of Meetings and Decisions.

(3) A record shall be kept of the members present and of the business transacted at every meeting of the Commission. Any member who is present at a meeting when a decision is made shall be entitled to dissent therefrom and to have his dissent and his reasons therefor set out in the record of such meeting.

Decisions by circulation of papers.

(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 and in such case the decision shall be the view of the majority of members expressing a view:

Provided that—

(a) if any member requires that a decision on a matter being dealt with by circulation of the relevant papers shall be deferred until the subject matter shall be considered at a meeting of the Commission no decision shall be made on the matter except at such meeting;

(b) where a member dissents from a view recorded by a majority of members on papers circulated for a decision, the decision shall not be implemented until that member has had a reasonable opportunity of recording the reasons for his view.

Consultation with persons other than Members.

3. The Commission may require any public officer to attend and be examined before it concerning any matter which it is required to consider in exercise of its functions under these Regulations and may require the production of any official documents relating to any such matter.

Documents to be made available.

4. Any public officer who submits any matter for consideration of the Commission shall ensure that all relevant documents and papers are made available to the Commission.

Failure to comply with request of Commission.

5. 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 made by the Commission shall be guilty of a breach of discipline and the Commission may refer the matter to the Public Service Commission in the case of a public officer not holding a judicial or legal office in order that disciplinary proceedings may be instituted against him, or in the case of a public officer holding a judicial or legal office may give direction that disciplinary proceedings should be instituted against him.

PART III—APPOINTMENTS (INCLUDING PROMOTIONS AND TRANSFERS)

6. Where vacancies are to be filled, the public shall unless the Commission otherwise directs be informed by advertisement of the existence of such vacancies.

Advertisement of certain vacancies.

7. (1) Vacancies in the establishment of judicial officers shall be brought as soon as possible to the notice of the Commission by the Chief Justice who may make recommendations.

Vacancies to be reported to the Commission.

(2) Vacancies in the establishment of legal officers shall be brought as soon as possible to the notice of the Commission by the Solicitor-General who may make recommendations.

8. Where delay involved in carrying out the procedures prescribed in regulations 6 and 7 is likely to cause serious inconvenience, the Chairman may as a matter of urgency recommend an acting appointment without regard to those procedures.

Departure from procedure in special circumstances.

9. (1) In considering promotions and acting appointments the Commission shall be guided primarily by the principles of merit and ability, and secondly by seniority, experience and official qualifications. In making recommendations for promotions and acting appointments it shall be the duty of the recommending officer to have regard to these principles.

Promotions and Acting Appointments.

(2) A recommending officer shall inform the Commission whether any recommendations would involve the supersession of any officer and shall in every such case give detailed reasons for such supersession.

10. Where a judicial or legal officer is appointed on probation or where a promotion to a post has been made subject to a trial period, the Registrar, Supreme Court, in the case of a judicial officer, or the Solicitor-General in the case of a legal officer, shall, three months before the expiration of any such period of trial or probation consider whether—

Probation and Trial Periods.

- (a) the officer should be confirmed in his appointment or promotion, or
- (b) the officer should be required to undergo a further period of probation or trial, or
- (c) his appointment should be terminated, or
- (d) he should revert to the previous grade as may be appropriate in the case of the officer in question;

and forward his recommendation to the Secretary; and the Commission shall take a decision on the matter as it thinks fit and proper.

#### PART IV—DISCIPLINE

Regulations to govern disciplinary procedure.

11. All acts of alleged misconduct by judicial or legal officers shall be dealt with under this Part.

Procedure where criminal offence is disclosed.

12. When a preliminary investigation for a disciplinary inquiry discloses that a criminal offence may have been committed by a judicial or legal officer, the Registrar, Supreme Court in the case of a judicial officer or the Solicitor-General in the case of a legal officer, unless a prosecution has been or is about to be commenced, shall consult the Director of Public Prosecutions as to whether a prosecution should be instituted and, if the latter does not advise a prosecution, as to whether disciplinary action should be taken or continued. In the latter case the charges framed against the officer shall be approved by the Director of Public Prosecutions before the officer is required to answer them.

No disciplinary action while criminal proceedings pending.

13. If criminal proceedings are instituted against a judicial or legal officer in any Court, disciplinary proceedings upon any grounds involved in the criminal charge shall not be taken until the conclusion of the criminal proceedings and the determination of any appeal therefrom.

Disciplinary action after acquittal of criminal charge.

14. Where a judicial or legal officer has been acquitted of a criminal charge in any court disciplinary proceedings shall be initiated and continued against him in the same manner as if no criminal proceedings had been taken.

Copies of evidence of inquiries.

15. A judicial or legal officer in respect of whom a disciplinary inquiry is to be held shall be entitled to receive free copies of any documentary evidence relied on for the purpose of the inquiry, or be allowed access to it. He may also be given a copy of the evidence (including documents tendered in evidence) after the inquiry is closed, on payment of ten cents for each document tendered in evidence and a charge of five cents for every hundred words after the first hundred words of the record of evidence for a copy of that record.

Provided that no copies of orders, minutes, reports, or recorded reasons for decisions shall be issued to him.

Interdiction

16. If in any case the Commission shall consider that the interest of the Public Service requires that a judicial or legal officer, against whom proceedings for dismissal are being taken or are about to be taken or against whom criminal proceedings are being instituted, shall cease forthwith to exercise the powers and functions of his office the Commission may make recommendations

that such judicial or legal officer be interdicted from the exercise of those powers and functions. The Commission may also make recommendations as to the salary, not being less than half the salary of such officer, it shall consider should be paid to such officer during the period of interdiction.

17. (1) Whenever it is necessary to institute disciplinary Proceedings against a judicial or legal officer other than the Registrar, Supreme Court, on the grounds of misconduct which if proved would justify such judicial or legal officer's dismissal from the public service, the Registrar, Supreme Court in the case of a judicial officer or the Solicitor-General in the case of a legal officer, shall, after such preliminary investigations as he considers necessary, report the case with his recommendations to the Secretary for the directions of the Commission. If the Commission directs that charges should be framed against the accused officer, the Registrar, Supreme Court, or the Solicitor-General, as the case may be, shall after consulting the Director of Public Prosecutions with regard to the terms of the charges forward to the officer a statement of the charge or charges framed against him together with a brief statement of the allegations on which each charge is based in so far as they are not clear from the charges themselves. The Registrar, Supreme Court or the Solicitor-General, as the case may be, shall also call on the accused officer to state in writing before a day to be specified (which shall allow a reasonable interval for the purpose) any grounds upon which he relies to exculpate himself.

(2) The Registrar, Supreme Court, or the Solicitor-General, as the case may be, shall immediately after the specified day, either report to the Secretary the fact that the accused officer has failed to furnish such statement or shall forward such statement to the Secretary with his comments and recommendations, as the case may be, having consulted the Director of Public Prosecutions if he thinks fit. Thereafter the Commission shall appoint a Committee of not less than three persons to inquire into the matter; one member of the Committee shall be a Judge, Magistrate, or public officer with legal qualifications and each of the other members shall be a public officer who is not a judicial or legal officer.

(3) The Committee shall inform the accused officer that on a specified day the charges made against him will be investigated by them and that he will be allowed or, if the Committee shall determine, will be required, to appear before it to defend himself.

(4) If witnesses are examined by the Committee the accused officer shall be given an opportunity of being present and of putting questions on his own behalf to the witnesses, and no

documentary evidence shall be used against him unless he has previously been supplied with a copy thereof or given access thereto.

(5) The Committee shall in their discretion permit the prosecuting party or the accused officer to be represented by a public officer or a legal practitioner:

Provided that where the Committee permit the prosecuting party to be so represented they shall permit the accused officer to be represented in the same manner.

(6) If during the course of the inquiry grounds for the framing of additional charges against the accused officer are disclosed, the Committee shall inform the Secretary of the same and, if the Commission thinks fit to proceed against the accused officer upon such ground the same procedure shall be followed by the Registrar, Supreme Court or the Solicitor-General as the case may be, in framing additional charges as was adopted in framing the original charges.

(7) The Committee, having inquired into the matter, shall forward their report thereon to the Secretary, accompanied by the record of the charges relevant to the inquiry.

(8) The Commission, after consideration of the report of the Committee may, if it is of opinion that the report should be amplified in any way or that further investigation is desirable refer the matter back to the Committee for further investigation and report but shall not itself hear evidence unless it considers that it is necessary to do so in the interest of justice. The Commission shall, after considering the report or amplified report of the Committee as the case may be, take such disciplinary action against the accused officer as the justice of the case may require. The decision on each charge preferred against the accused officer shall be communicated to him (but not the reason for the decision).

Proceedings  
for mis-  
conduct  
not warrant-  
ing dismissal.

18. Whenever the Registrar, Supreme Court or the Solicitor-General considers it necessary to institute disciplinary proceedings against a judicial or legal officer as the case may be, but is of the opinion that the misconduct alleged is not serious enough to warrant proceedings under regulation 17 he shall report the case with his recommendations to the Secretary for the directions of the Commission and if the Commission is of opinion that the misconduct alleged is not sufficiently serious to warrant proceedings under regulation 17 it may cause an investigation to be made into the matter in such manner as it thinks fit:

Provided that the accused officer shall be entitled to know the whole case against him and shall have an adequate opportunity throughout of making his defence. If as a result of such investigations and after considering anything the accused officer may desire to urge on his behalf, the Commission is of the opinion that misconduct is proved it shall take such disciplinary action against the accused officer as the justice of the case requires.

19. If a judicial or legal officer is adjudged guilty of a criminal charge in a Court the Registrar, Supreme Court or the Solicitor-General as the case may be, shall report the charge to the Secretary. A copy of the charge or charges and of the judgment (and the proceedings of the Court if available) shall be forwarded to the Secretary. The Commission shall consider the judgment (and the proceedings if available) and if it is of the opinion that the officer should be dismissed or subjected to some lesser disciplinary penalty on account of the conviction for the offence of which he has been adjudged guilty, the Commission shall take such disciplinary action against the convicted officer as the justice of the case may require. Criminal Conviction.

20. The Commission may impose any of the following punishment as a result of proceedings under this part— Punishment

- (a) dismissal;
- (b) termination of service;
- (c) reduction in rank or seniority;
- (d) reduction in salary;
- (e) deferment of increment;
- (f) stoppage of increment;
- (g) reprimand.

21. Where any judicial or legal officer is absent from duty without leave or reasonable cause for a period exceeding ten days and the officer cannot be traced within a reasonable time or if traced he does not reply to a charge of absence without leave, the Registrar Supreme Court or the Solicitor-General as the case may be, shall report the matter to the Secretary and the Commission shall make such order with respect to the officer as it shall think fit. Officer absenting himself from duty.

#### PART V—MISCELLANEOUS

22. Where under these Regulations functions are to be exercised by the Registrar, Supreme Court, such functions shall in the case of the Registrar, Supreme Court be exercised by the Chief Justice: Functions to be exercised

Provided that the Chief Justice shall not be required to report matters to the Secretary, but shall bring the matter to the notice of the Commission in writing.

With-holding  
increment of  
an officer for  
unsatisfactory ser-  
vice not  
amounting to  
misconduct  
and restora-  
tion thereof.

23. (1) If the Registrar, Supreme Court, or the Registrar Court of Appeal or the Master and Registrar or the Solicitor-General, or the Administrator and Registrar-General is of the opinion that an annual increment in salary of a judicial or legal officer holding a post in his Division should be with-held on the ground of unsatisfactory service during the previous year not amounting to misconduct, he, as the case may be, shall report the matter to the Secretary with his recommendation; and the Commission shall take such action as the justice of the case shall require.

(2) If the Registrar, Supreme Court or the Registrar, Court of Appeal or the Master and Registrar or the Solicitor-General or the Administrator and Registrar-General is of the opinion that an annual increment in salary of a judicial or legal officer which has been withheld should be restored, he shall report the matter to the Secretary with his recommendations; and the Commission shall take such action as the justice of the case shall require.

Revision of  
decision.

24. (1) The Commission may on the application of a judicial or legal officer revise any decision taken by it in the discharge of its functions.

(2) Before any such application is considered the applicant shall satisfy the Commission that all the following conditions are fulfilled—

(a) evidence of new facts has come to light which is both creditable and reasonable and of such nature that had it been available at the time it might have altered the decision sought to be revised;

(b) a revision is necessary to prevent miscarriage of justice or the continuance of an obviously undesirable state of affairs;

(c) the application could not reasonably have been made at an earlier date.

(3) Where the decision, revision of which is sought, was made in disciplinary proceedings, it shall not, in principle, be disturbed unless it is reasonably clear from unequivocal documentary or oral evidence that the decision was wrong.

(4) Where the Commission has given a decision on any application made under paragraph (1) it shall not entertain a second application in the same case until a year has elapsed from the date of such application and in no case shall it entertain a third application in the same case.

P.N. 15

25. The Judicial Commission Regulations, 1976 are hereby  
 revoked: Revocation  
and saving  
P.N. No. 12  
of 1977.

Provided that all proceedings commenced or any act  
 done in accordance with those Regulations may be continued in  
 accordance with these Regulations.

MADE this 1st day of May, 1979.

HON. MR. JUSTICE E. LIVESEY LUKE, O.R.S.L.  
 (Acting Chief Justice)  
 Chairman of the Judicial and Legal Service Commission

HON. MR. JUSTICE S. BECCLES-DAVIES,  
 Justice of Appeal—Member.

HON. MR. JUSTICE E. C. THOMPSON-DAVIES,  
 High Court Judge—Member.

P. P. C. BOSTON ESQ.  
 Solicitor-General—Member.

M. R. O. GARBER ESQ., O.R.  
 Legal Practitioner—Member

E. J. GABBIDON ESQ., J.P.  
 Chairman Public Service Commission—Member

In exercise of the powers conferred upon me by Section 148 of the  
 Constitution of Sierra Leone, 1978 (Act No. 12 of 1978), I hereby consent  
 to the making of these Regulations.

SIAKA STEVENS,  
 President.

24th May, 1979.

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### EXPLANATORY NOTE

(This note is not part of the Regulations but is intended to indicate their  
 general purport)

The object of the Regulations is to replace the Judicial Commission  
 Regulations, 1976 (P.N. No. 12 of 1977) which is required to be brought into  
 line with the Constitution of Sierra Leone, 1978.