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THE CONSTITUTION
(P. N. No. 78 of 1961)

Short title. THE JUDICIAL SERVICE COMMISSION REGULATIONS, 1968

P.N. No.
78 of 1961.

In exercise of the powers conferred upon it by section 102 of the Constitution as adapted by the Administration of Sierra Leone (National Reformation Council) Proclamation, 1967, the Judicial Service Commission acting with the consent of the National Reformation Council hereby makes the following Regulations:—

PART I—PRELIMINARY

Interpreta-
tion.

1. In these Regulations unless a contrary intention appears—

“appointment” means—

- (a) the conferment of the office of a judge or of a judicial 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 office to a person recruited and serving on contract terms and service;
- (c) the engagement in a judicial office of a person on contract terms of service for a further period of service on the conclusion of his previous period of engagement on contract terms in the same or other office in the public service;
- (d) the appointment of a public officer to act in any judicial office other than the office, whether judicial or otherwise, to which he is substantively appointed;

“the Chairman” means the Chairman of the Commission;
“the Commission” means the Judicial Service Commission constituted under the provisions of section 85 of the Constitution;

“Committee” means a committee appointed under the provisions of paragraph 2 of Regulation 18.

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

“judicial office” means the offices of Registrar of the Court of Appeal, Master and Registrar of the Supreme Court, Deputy Master and Registrar of the Supreme Court, The Administrator-General, Principal Police Magistrate, Senior Police Magistrate, Police Magistrate, Senior Registrar-General and such other offices connected with any Court as may be prescribed by the National Reformation Council;

“Member” means a Member of the Commission holding office or appointed under section 85 of the Constitution;

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

“promotion” means the conferment upon a person in the public service of a judicial 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 an acting Secretary;

“transfer” means a transfer involving an increase of salary.

PART II—JUDICIAL 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 Regulation 4 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.

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. ^{Record of meetings and decisions.}

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 and decision shall be the view of the majority of Members expressing a view. ^{Decisions by circulation of papers.}

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 that matter except at such meeting;
- (b) where a Member dissents from a view recorded by a majority of Members or 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.

Consulta-
tion with
persons
other than
Members.

5. The Commission may require any public officer to attend and give evidence 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.

6. 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.

Failure to
comply with
request of
Commis-
sion.

7. 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 refer the matter to the Public Service Commission, in the case of a public officer not holding judicial office in order that disciplinary proceedings may be instituted against him, or in the case of a public officer holding a judicial office may give a direction that disciplinary proceedings should be instituted against him.

PART III—APPOINTMENTS (INCLUDING PROMOTIONS AND TRANSFERS)

Advertise-
ment of cer-
tain vacan-
cies.

8. Where vacancies are not to be filled by persons already in the public service, the public shall, unless the Commission otherwise directs, be informed by advertisement of the existence of such vacancies in time to enable candidates to make their applications in accordance with that advertisement.

Vacancies to
be reported
to the Com-
mission.

9. Vacancies in the Supreme Court establishment of Puisne Judges and judicial officers shall be brought as soon as possible to the notice of the Commission by the Chief Justice who may make recommendations.

Departure
from proce-
dure in speci-
al circum-
stances.

10. Where any delay involved in carrying out the procedure prescribed in Regulation 9 is likely to cause serious inconvenience, the Chairman may as a matter of urgency recommend an acting appointment without regard to that procedure.

11. (1) Recommendations for promotions shall state whether the person recommended is the senior officer eligible for promotion and, where this is not the case, detailed reasons shall be given in respect of each person over whom it is proposed that the person recommended should be promoted.

Procedure applicable to selection for promotion and acting appointments.

(2) The procedure for making acting appointments shall be the same as that prescribed for making a promotion.

PART IV—DISCIPLINE

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

Regulations to govern disciplinary procedure.

13. When a preliminary investigation for a disciplinary inquiry discloses that an offence against any Act may have been committed by a judicial officer, the Master and Registrar, unless a prosecution has been or is about to be commenced, shall consult the Attorney-General 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 Attorney-General before the officer is required to answer them.

Ground for criminal procedure.

14. If criminal proceedings are instituted against a judicial officer in any court, proceedings for his dismissal 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.

No disciplinary action while criminal proceedings pending.

15. Where a judicial 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:

Disciplinary action after acquittal of criminal charge.

Provided that where it appears that any of the charges against him raise substantially the same issues as were actually decided in his favour by the court or if the Attorney-General so advises no further disciplinary proceedings shall be taken or continued on those charges.

16. A judicial 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 to 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:

Copies of evidence of inquiries.

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

Interdiction. 17. If in any case the Commission shall consider that the interest of the public service requires that a judicial 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 to the National Reformation Council that such judicial officer be interdicted from the exercise of those powers and functions. The Commission may also make recommendations to the National Reformation Council 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.

Proceedings for dismissal. 18. (1) Whenever it is necessary to institute disciplinary proceedings against a judicial officer other than the Master and Registrar on the ground of misconduct which if proved would justify such judicial officer's dismissal from the public service, the Master and Registrar shall, after such preliminary investigation 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 Master and Registrar shall, after consulting the Attorney-General 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 Master and Registrar 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 Master and Registrar 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 Attorney-General 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 for the time being holds an office of which the initial basic salary is not less than 1,368 leones per annum.

(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 so 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 Master and Registrar 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 framed, the evidence led, the defence, and other proceedings 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 interests 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 reasons for the decision).

19. Whenever the Master and Registrar considers it necessary to institute disciplinary proceedings against a judicial officer but is of the opinion that the misconduct alleged is not serious enough to warrant proceedings under Regulation 18 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 18 it may cause an investigation to be made into the matter in such manner as it thinks proper:

Proceedings for misconduct not warranting dismissal.

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 opinion that misconduct is proved, it shall take such disciplinary action against the accused officer as the justice of the case requires.

20. If a judicial officer is adjudged guilty of a criminal charge in a Court the Master and Registrar shall report the matter to the Secretary. A copy of the charge or charges and of the judgment (and the proceedings of the Court if available)

Criminal conviction.

shall be forwarded to the Secretary. The Commission shall consider the judgment (and the proceedings if available) and if it is of 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 requires.

Punishment. 21. (1) The Commission may impose any of the following punishments as a result of proceedings under this Part—

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

Officer absenting himself from duty.

22. Where any judicial 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 absent without leave, the Master and Registrar shall report the matter to the Secretary; and the Commission shall make such order with respect to the officer as it shall think fit.

PART V—MISCELLANEOUS

Functions to be exercised by the Chief Justice.

23. Where under these Regulations functions are to be exercised by the Master and Registrar, such functions shall in the case of the Master and Registrar be exercised by the Chief Justice:

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.

Withholding increment of an officer for unsatisfactory service amounting to misconduct and restoration thereof.

24. (1) If the Master and Registrar is of the opinion that an annual increment in salary of a judicial officer holding a post in his department should be withheld on the ground of unsatisfactory service during the previous year not amounting to misconduct, the Master and Registrar 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.

(2) If the Master and Registrar is of opinion that an annual increment in salary of a judicial 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 decisions.

25. (1) The Commission may on the application of a judicial officer revise any decision taken by it in 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 a 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 a 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.

MADE this 1st day of June, 1967.

BANJA TEJANSIE,
*Chairman of the Judicial
Service Commission.*

In exercise of the powers conferred upon it by sections 86 and 102 of the Constitution as adapted by the Administration of Sierra Leone (National Reformation Council) Proclamation, 1967, the National Reformation Council hereby consents to the making of the above written Regulations and to the conferment and imposition therein of divers powers and duties upon public officers and likewise approves the delegation conferred upon the Chairman in Regulation 10 thereof.

ISSUED this 16th day of October, 1967.

BRIG. A. T. JUXON-SMITH,
*Chairman,
National Reformation Council.*

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 Service Commission Regulations 1960, which required to be brought into line with the 1961 Constitution and subsequent Legislation.