

SUBSIDIARY LEGISLATION CONST.03

**DISCIPLINARY PROCEDURE IN THE PUBLIC SERVICE
COMMISSION REGULATIONS**

1st February, 2000

*LEGAL NOTICE 186 of 1999, as amended by Legal Notices 67 of 2006, 345 of 2009 and
247 of 2012.*

ARRANGEMENT OF REGULATIONS

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SCHEDULE OF OFFENCES AND PENALTIES

PRELIMINARY

- Title.** 1. The title of these regulations is Disciplinary Procedure in the Public Service Commission Regulations.
- Interpretation.** 2. In these regulations, unless the context otherwise requires -
Amended by:
L.N. 345 of 2009.
Substituted by:
L.N. 247 of 2012.
- "the 1977 Regulations" means the Public Service Commission (Disciplinary Procedure) Regulations, 1977;
- "Attorney General" means the Attorney General appointed under article 91 of the Constitution, or a legal officer authorised by him;
- "the Board" means a Disciplinary Board appointed as provided for in regulation 21(3);
- "the Commission" means the Public Service Commission as constituted under article 109 of the Constitution;
- "the Constitution" means the Constitution of Malta as enacted by the Malta Independence Order, 1964;
- "definite suspension" means suspension without pay as a penalty following disciplinary proceedings, and "suspend for a definite period" shall be understood accordingly;
- "Executive Secretary" means the Executive Secretary of the Public Service Commission;
- Cap. 497.** "Head of Department" means the head of any department of Government that is listed in the Second Schedule to the Public Administration Act, but for the purpose of these regulations also includes:
- (a) Permanent Secretaries and Directors General and Directors other than Heads of Department;
 - (b) any other public officer or authority, not being a Head of Department, to whom power to exercise disciplinary control has been delegated in accordance with article 110 of the Constitution;
- and "department of Government" and "department" shall be understood accordingly;
- Cap. 497.** "Head of the Public Service" means the public officer holding or acting in the office of Principal Permanent Secretary in terms of article 14 of the Public Administration Act;
- "Permanent Secretary" means a public officer appointed as Permanent Secretary in terms of article 92(3) of the Constitution;
- "public officer" or "officer" means a public officer as defined by article 124(1) of the Constitution;
- "public service" or "service" means the public service as defined by article 124 of the Constitution;
- "salary" means basic salary or, as the case may require, basic wage;
- S.L. 217.04** "Schengen area" means the states which are parties to the Schengen Agreement, as defined in regulation 2 of the Immigration

Regulations:

"Standing Disciplinary Panel" means a panel established in terms of regulation 21(1):

"summary suspension" means suspension on half salary by the Head of Department as an interim measure in terms of regulation 11(1), 12(3) or 14(3), and "summarily suspend" shall be understood accordingly:

"temporary suspension" means suspension on not less than half salary by the Commission in terms of regulation 12 or 14 pending the conclusion of disciplinary or criminal proceedings, and "temporarily suspend" shall be understood accordingly.

3. (1) The Commission may, at its discretion, enquire into the exercise of disciplinary control by any Head of Department.

Powers of the
Commission.
Amended by:
L.N. 247 of 2012.

(2) Notwithstanding anything in these regulations, the Commission shall have power to take or to refrain from taking such action as it may deem appropriate to take or not to take in the circumstances, and any request or directive by the Commission to any public officer, Board or other authority, other than the Prime Minister, performing functions under these regulations or otherwise under the authority or on behalf of the Commission shall be complied with by any such public officer, Board or authority.

(3) Where the Commission considers that a Head of Department has abused or misused his delegated authority or has failed to exercise proper disciplinary control in his department, it shall conduct such enquires as it may consider necessary in order to establish whether the delegated authority has actually been abused or misused or disciplinary control has been properly exercised and may recommend to the Prime Minister that the instrument of delegation in respect of that Head of Department be withdrawn or amended and, where appropriate, that disciplinary action be taken in terms of these Regulations.

(4) Where the Commission is satisfied that a public officer, Board or other authority, other than the Prime Minister, performing functions under these regulations has failed to comply with any request made or directive given by the Commission for the purposes of sub-regulation (2) of this regulation, or has failed to observe any of these Regulations, or has failed to perform satisfactorily the functions required of him under these regulations, or has failed to comply with any requirement thereof or any prohibition contained therein, it may recommend to the Prime Minister that disciplinary action be taken in respect of the defaulting officer, Board or other authority in terms of these Regulations.

(5) Nothing in these regulations shall prevent the Commission, with the consent of the Prime Minister, from issuing directives and guidelines to Permanent Secretaries, Heads of Department and other officers concerning the interpretation and operation of these regulations and the exercise of any functions assigned to them by or under these regulations or delegated to them under article 110 of the Constitution.

Official conduct
and liability to
disciplinary
proceedings.

4. An officer shall become liable to proceedings under these regulations for conduct that brings the public service into disrepute, or for misconduct, or for any breach of discipline or code of ethics, or for unsatisfactory work and, without prejudice to the generality of the foregoing:

- (a) for any breach of, or failure to comply with, any laws, rules, regulations or codes governing from time to time the public service, or the conduct of public officers, or the transaction of government business; or
- (b) for any breach of, or failure to comply with, any lawful order, direction or instruction, whether written or verbal, that may properly be given by a superior officer or authority.

Offences to be
reported without
delay.
Amended by:
L.N. 67 of 2006.

5. (1) An officer shall report to the Head of Department any misconduct or breach of discipline committed by an officer of whom he is in charge immediately the offence becomes known to him, and in no case later than five working days after he becomes aware of the offence, unless he has taken action in terms of regulation 18.

(2) An officer against whom a serious offence under these regulations has been committed (the victim) shall be entitled to file a formal complaint in writing with his Head of Department not later than six months from the date when the alleged offence is committed. The Head of Department shall decide whether or not to initiate disciplinary proceedings in terms of these regulations against the officer against whom the complaint is made, after carrying out a preliminary investigation which is to be concluded not later than fifteen working days from when the Head of Department receives the written complaint:

Provided that, in cases where the victim and the offender do not fall under the responsibility of the same Head of Department, the two Heads of Department concerned shall consult each other before any further action in terms of the regulations is taken by the Head of Department of the alleged offender.

Rights of an officer
answering
disciplinary
charges.
Amended by:
L.N. 67 of 2006;
L.N. 345 of 2009;
L.N. 247 of 2012.

6. (1) Prior to the commencement of the hearing of the case, an officer charged with offences indicated in regulation 4 shall be entitled to know the whole case against him, shall have adequate opportunity of making his defence and shall have access to all documentary evidence. Any documentary evidence produced after the commencement of the hearing of the case shall not be used against the officer unless the officer has been previously supplied with a copy thereof or given access thereto and given reasonable time to consider and reply thereto.

(2) An officer answering disciplinary charges shall be entitled to the assistance of a person of his choice in the preparation and presentation of his case and at every stage of any hearing before a Disciplinary Board or before the Commission, including any hearing on appeal.

(3) An officer answering disciplinary charges shall be entitled,

as soon as possible but not later than twenty working days from the date when the Head of Department or the Commission, as the case may be, takes the final decision about the guilt or otherwise of the officer concerned, to know the decision on any report or charge and the penalty, if any, imposed upon him. Such information shall be communicated in writing by the Head of Department or the Executive Secretary to the Commission, as the case may be.

- (4) (a) Where an officer answering disciplinary charges is entitled to be notified of any matter or given any information under these regulations, such entitlement shall, unless these regulations prescribe otherwise, be held to have been discharged if the notification is delivered to the address most recently reported by the officer to his department as his home address, and if proof of delivery is retained.
- (b) Nothing in the foregoing shall be taken as precluding the discharge of the said entitlement through the delivery of the notification or information directly to the officer answering charges, provided that proof of such delivery is retained.

7. A Head of Department preferring charges of misconduct or breach of discipline against an officer shall be entitled to be represented by any person of his choice, at every stage of any hearing before a Disciplinary Board or before the Commission, including any hearing on appeal.

Department
representatives in
disciplinary
hearings, etc.

8. (1) Whenever the public officer against whom disciplinary proceedings are to be taken happens to be a Head of Department, or a Director General or a Director to whom powers to exercise disciplinary action has been delegated, the Head of the Public Service shall take such action as a Head of Department is empowered to take under these regulations.

Proceedings by
Head of the Public
Service and
Permanent
Secretaries.
*Amended by:
L.N. 247 of 2012.*

(2) Where the Permanent Secretary of the relevant Ministry considers that there exist justifiable reasons or circumstances which make it inadvisable for a Head of Department to involve himself in disciplinary action relating to a particular officer under his charge, the Permanent Secretary of the relevant Ministry shall take such action as that Head of Department is empowered to take under these regulations.

9. Whenever the public officer against whom disciplinary proceedings are to be taken happens to be serving in an office or establishment which does not form part of any department of Government, the Head of the Public Service shall take such action as a Head of Department is empowered to take under these regulations:

Proceedings
against a public
officer not serving
in a department of
government.

Provided that the Prime Minister acting on the recommendation of the Public Service Commission may delegate such power to a senior officer of such office or establishment under such conditions as may be specified in the instrument of delegation.

10. Nothing in these Regulations shall be deemed to detract

General powers of
supervision.

from the power and duty of any officer to draw the attention of any officer under his charge as to his conduct, the observance of regulations and instructions and the proper manner of carrying out his duties.

*Substituted by:
L.N. 247 of 2012.*

PART I – SUMMARY AND TEMPORARY SUSPENSION

*Summary
suspension.
Amended by:
L.N. 247 of 2012.*

11. (1) Whenever a Head of Department considers it necessary that an officer should be summarily suspended on grounds of alleged misconduct or breach of discipline or for disobeying lawful orders, whether written or verbal, or for the purpose of properly carrying out investigations into an alleged offence, he may summarily suspend the officer for two working days which may be extended up to five working days.

(2) An officer under summary suspension shall have the right to report back to work immediately the period of summary suspension in terms of sub-regulation (1) expires and if the Head of Department fails to initiate disciplinary proceedings against the officer in accordance with regulations 20 or 28, the officer shall receive the full amount of salary withheld during the period of summary suspension. No record of the summary suspension shall be entered in the officer's record of service.

(3) Where disciplinary action has been taken against a summarily suspended officer under these regulations and the officer is subsequently found guilty of the charge, the period of summary suspension shall be taken into account in determining the penalty to be imposed and adjustments to his salary shall be made, as and where appropriate. Where, however, an officer is acquitted, he shall receive the full amount of salary withheld during the period of summary suspension.

*Summary and
temporary
suspension during
disciplinary
proceedings.
Amended by:
L.N. 247 of 2012.*

12. (1) Where, in the case of an alleged serious offence, the Head of Department considers it necessary in the public interest that the officer should be temporarily suspended from the exercise of the powers and functions of his office, he shall, concurrently with action taken under regulations 20 or 28, make a recommendation to the Commission for the temporary suspension of the officer, giving reasons in justification of his opinion.

(2) The Commission shall consider the opinion of the Head of Department and shall recommend to the Prime Minister whether or not the officer should be temporarily suspended.

(3) The Head of Department may summarily suspend the officer from the exercise of the powers and functions of his office pending the decision of the Prime Minister acting on the recommendation of the Commission.

(4) In the event that the request for temporary suspension is not authorised, the officer under summary suspension shall be immediately recalled for duty and shall be refunded any salary withheld during the period of summary suspension.

(5) Any decision ordering the summary suspension of an officer shall be communicated forthwith to the officer concerned by

the Head of Department and any decision authorising the temporary suspension of an officer shall be communicated forthwith to the Head of Department who shall immediately inform the officer concerned.

(6) A public officer who is temporarily suspended shall receive half salary unless the Prime Minister, after consulting the Commission, approves that he receives a higher proportion of the salary.

(7) If the disciplinary proceedings do not result in the dismissal or other punishment of the officer, he shall be entitled to the full amount of salary which he would have received if he had not been temporarily suspended. If the punishment is other than dismissal, he may be refunded such proportion of the salary withheld as a result of his temporary suspension as the Prime Minister acting on the recommendation of the Commission may think fit. If the punishment is dismissal, the officer shall forfeit the salary withheld as a result of his temporary suspension.

(8) Where an officer against whom disciplinary or criminal action has been taken and is pending, retires or resigns from the service before the conclusion of such action, any salary withheld as a result of his temporary suspension shall not be refunded unless he is acquitted of the charges brought against him. If the officer dies when proceedings are still pending, any salary withheld as a result of his temporary suspension is refunded to his heirs.

(9) An officer who is under temporary suspension shall not have access to any official premises and shall not remove, destroy or add to, or cause to be removed, destroyed or added to, any official document, instrument or matter.

(10) An officer who is temporarily suspended due to criminal proceedings instituted against him shall seek the permission of the Permanent Secretary of the relevant Ministry if he wishes to travel outside the Schengen area. Prior to granting such permission the Permanent Secretary of the relevant Ministry shall consult the Commissioner of Police. Any such officer who leaves Malta without the required permission shall be liable to disciplinary action, which action may be one leading to dismissal.

(11) Notwithstanding the provisions of sub-regulations (6) and (7) of this regulation, if an officer is in prison under preventive custody or serving a court sentence, no salary shall be due to the officer during the period of imprisonment whether such officer is subsequently found guilty of the offence with which he is charged or otherwise.

PART II – CRIMINAL OFFENCES

13. When it comes to the notice of a Head of Department that a criminal offence likely also to warrant disciplinary proceedings may have been committed by a public officer, the Head of Department shall consult the Attorney General as to whether a prosecution should be instituted or, if the latter does not advise a prosecution, as to whether disciplinary action should be taken under these regulations. In the latter case, the charges framed

Head of
Department to
consult Attorney
General whether
prosecution or
disciplinary action
should be taken.

against the officer shall be approved by the Attorney General before the officer is required to answer them or before any disciplinary proceedings are instituted.

Action pending
criminal
proceedings.
Amended by:
L.N. 247 of 2012.

14. (1) When it comes to the notice of the Head of Department that an officer under his charge is being investigated or has been arrested by the police in connection with a criminal investigation, the Head of Department may direct the officer to avail himself of vacation leave for a single period up to a maximum of five working days, and the officer shall comply.

(2) A public officer availing himself of vacation leave for a period up to a maximum of five working days in accordance with sub-regulation (1) shall have the right to report back to work immediately on the expiry of the said period of vacation leave. If the investigation carried out by the police does not result in the arraignment of the public officer, the officer's vacation leave entitlement for that year shall be augmented by the equivalent of the leave taken in accordance with sub-regulation (1).

(3) If criminal proceedings are instituted against a public officer in any court, the officer shall so inform his Head of Department within three working days from the date of the commencement of such proceedings. The Commissioner of Police shall also report to the Head of Department that criminal proceedings are being instituted against the said public officer:

Provided that neither the officer nor the Commissioner of Police shall be obliged to inform the Head of Department about criminal proceedings instituted solely in connection with a contravention, unless that contravention is alleged to have occurred at the officer's place of work or is related to his duties.

(4) If the Head of Department considers that any criminal proceedings which have been instituted against a public officer in any Court are of a nature likely to warrant disciplinary action, he shall forthwith report the facts to the Commission with a recommendation giving reasons as to whether the officer should or should not be temporarily suspended from the exercise of his powers and functions. No disciplinary proceedings against such an officer upon any grounds involved in the criminal charge shall be taken until the conclusion of the criminal proceedings and the determination of any appeal. The report referred to the Commission by the Head of Department shall be copied to the officer undergoing criminal proceedings.

(5) Where the Head of Department has recommended to the Commission that the officer should be temporarily suspended, he may summarily suspend the officer from the exercise of the powers and functions of his office pending the decision of the Prime Minister acting on the recommendation of the Commission.

(6) The provisions of regulation 12(4) and (5) shall also apply in the case of summary and temporary suspension made in connection with a criminal offence dealt with under this regulation.

15. (1) No action should be taken against an officer in connection with a criminal case before it is ensured that there is no pending appeal before the courts.

Disciplinary action after acquittal of criminal charge.

(2) A public officer acquitted of a criminal charge in any Court shall not be dismissed or otherwise punished on any charge upon which he has been acquitted, but nothing in this regulation shall prevent his being dismissed or otherwise punished on any other charge arising out of his conduct in the matter, unless the charge raises substantially the same issues as those on which he has been acquitted. If the Head of Department proposes to take disciplinary action against such officer, before the officer is required to answer any charges or before any disciplinary proceedings are instituted, the charges formulated against the officer shall be approved by the Attorney General.

(3) Where a public officer has been acquitted of a criminal charge, the Head of Department shall inform the Commission of the outcome of the criminal proceedings and whether he proposes to take or not to take disciplinary action against the officer in accordance with the preceding sub-regulation.

16. (1) If a public officer has been found guilty of a criminal charge, the findings of the Court on such charge shall be referred by the Head of Department to the Commission.

Disciplinary action after conviction on criminal charge.
Amended by:
L.N. 247 of 2012.

(2) The Commission, after considering the findings of the Court, and of the Court of Appeal, if any, the nature of the misconduct and whether such misconduct has a direct or indirect relation to the duties of the officer concerned, shall make a recommendation to the Prime Minister as to the penalty, if any, to be imposed:

Provided that if the Commission considers that the appropriate penalty following conviction on a criminal charge shall be dismissal or a warning of dismissal or the forfeiture of any salary, in whole or in part, withheld during any period of summary or temporary suspension, it shall inform the officer of his right to make written representations to the Commission within a period of ten working days from such notification and the Commission shall consider such representations and may give the officer the opportunity of an oral hearing before making a recommendation to the Prime Minister.

PART III – DISCIPLINARY PROCEEDINGS UNDER DELEGATED AUTHORITY

17. The provisions of this Part of the regulations shall only apply where the exercise of disciplinary powers and control have been delegated to a Head of Department or other officer or authority by the Prime Minister in accordance with article 110 of the Constitution, and shall only so apply to the extent specified.

Application where disciplinary powers have been delegated.

18. (1) An officer shall have the power to admonish another officer of whom he is in charge for minor misconduct or breach of discipline or unsatisfactory work, after giving the officer the opportunity to exculpate himself. A record of any such admonition shall be retained by the officer administering it, but shall be

Admonition.

cancelled at the expiration of six months from the date it is administered.

(2) An officer shall report to the Head of Department whenever another officer of whom he is in charge has been admonished for minor misconduct or unsatisfactory work on three occasions in any period of six months.

Summary
discipline.
Amended by:
L.N. 67 of 2006.

19. (1) When in the opinion of a Head of Department the penalty appropriate to minor misconduct or breach of discipline or of unsatisfactory work by an officer in his department is no more than a warning, he may communicate to such officer in writing his intention to administer a warning, stating the grounds therefor and giving the officer an opportunity to reply. If the officer fails to reply within ten working days from the date the Head of Department communicates his intention to administer a warning or if in his reply the officer admits the facts, or if the officer does not admit the charge and the Head of Department does not consider that the officer has exculpated himself, the Head of Department shall administer the warning.

(2) Every warning administered under this regulation shall be entered in the record of service of an officer and the officer shall be informed accordingly: but this warning shall be cancelled at the expiration of twelve months from the date that it is administered.

(3) Whenever a second case of minor misconduct or breach of discipline or unsatisfactory work by an officer takes place within twenty-four months from the commission of a previous minor disciplinary offence treated under regulation 20, the latter case shall not be treated summarily under this regulation, but shall be treated under regulation 20.

Commencement of
disciplinary
proceedings.
Amended by:
L.N. 67 of 2006;
L.N. 247 of 2012.

20. (1) Where it appears to a Head of Department that a criminal offence may have been committed by an officer under his jurisdiction, the procedure under regulations 13 to 16 shall be adopted.

(2) Whenever it comes to the notice of a Head of Department that an officer in his department may be guilty of misconduct or breach of discipline the following provisions shall apply -

(a) The Head of Department shall, as expeditiously as practicable and in no case later than thirty working days from the date when the alleged offence comes to his notice, or not later than ninety working days from the date of the signing of a report made in terms of the Inquires Act, prepare a written statement of charges against the officer concerned, setting out particulars of the evidence relied upon to support the charge or charges. The Head of Department shall also inform the officer whether in his opinion the charge or charges constitute a minor or a serious offence and whether the offence could lead to dismissal.

(b) This statement shall be delivered in accordance with regulation 6(4). The officer shall reply in writing to the

Cap. 273.

- charge or charges made against him, stating any grounds on which he relies to exculpate himself, before the lapse of ten working days from the date on which the statement is delivered to him.
- (c) If after considering the officer's reply, the Head of Department is satisfied that the officer has exculpated himself, he shall so inform the officer. All the documents related to the case shall be destroyed after two months.
 - (d) If the officer admits the charge or charges, the Head of Department shall communicate to the officer charged his decision on the charge or charges and the penalty, if any.
 - (e) If the officer does not furnish a reply within the period specified, or does not in the opinion of the Head of Department exculpate himself, the Head of Department shall so inform the officer. Within twenty working days from the receipt of a reply or from the date on which such a reply was due, the Head of Department shall refer the case to a Disciplinary Board appointed under regulation 21.
- (3) Notwithstanding the provisions of subregulation (2) -
- (a) no action shall be taken in respect of a minor offence which has occurred earlier than twelve months from the time when the alleged minor offence comes to the notice of the Head of Department;
 - (b) irrespective of whether or not the case had already been investigated by a Disciplinary Board, a Head of Department may, for sufficient justifiable reasons, change his original decision and issue a written warning in terms of regulation 19 instead of proceeding in terms of this regulation:

Provided that, where the Head of Department had given notice to the officer charged that the charges, if proved, could lead to dismissal, the implementation of any such change of decision shall require the approval of the Commission.

21. (1) The Permanent Secretary of each Ministry shall, subject to the approval of the Commission, establish a Standing Disciplinary Panel consisting of suitable and competent former public officers.

(2) Members of the Standing Disciplinary Panel of a ministry shall serve thereon for a period of twenty-four months with the possibility of renewal, subject to the Commission's approval, for further terms of twelve months:

Provided that any previous or concurrent service with the Standing Disciplinary Panel of a particular ministry shall not be taken into consideration for the purpose of this sub-regulation in the event that a person is nominated to the Standing Disciplinary Panel of another ministry:

Standing
Disciplinary Panels
and Disciplinary
Boards.
Substituted by:
L.N. 247 of 2012

Provided further that a member of the Panel of any ministry may be removed by the Commission, at its discretion, at any time.

(3) A Disciplinary Board for the purpose of regulation 20(2)(e) shall be appointed by the Head of Department from amongst suitable and competent public officers, and, or persons listed in the Standing Disciplinary Panel of the relevant Ministry:

Provided that if a serving public officer is appointed to a Disciplinary Board, he shall be an officer of the department and not in the same grade as the officer charged, and moreover:

- (a) if appointed to chair the Board, the officer shall be not less than two salary scales above the officer charged and not below salary scale 10; or
- (b) if appointed as a member of the Board, the officer shall be at least one salary scale above the officer charged:

Provided further that where the Head of Department has informed the officer that the alleged offence could lead to dismissal, the chairperson of the Disciplinary Board shall, if a public officer, be at least at Assistant Director level or analogous grade.

(4) The Chairperson and Members serving on the Board shall not be connected with the case of discipline and they shall not be related up to the third degree to the officer charged. Where any member of the Board is connected with the case of discipline, he shall accordingly inform the Head of Department, who shall nominate a substitute in keeping with sub-regulation (3).

(5) Where serious objections are raised by the officer charged or by his representative that the Chairperson and, or any of the Members of the Board are in some way prejudiced against him, the officer charged may accordingly petition the Permanent Secretary of the relevant Ministry. Pending the decision of the Permanent Secretary of the relevant Ministry, the disciplinary proceedings shall be suspended.

(6) If the Permanent Secretary accepts a petition under sub-regulation (5), he shall direct the Head of Department to appoint a fresh Board or make appropriate changes to the Board in keeping with sub-regulation (3). The petitioning officer shall be informed accordingly.

Functions and powers of Disciplinary Boards.

22. (1) Every Disciplinary Board appointed under regulation 21 to investigate the case, shall establish the facts and communicate its findings to the Head of Department and to the officer charged as early as practicable and in no case later than thirty working days from the date on which the case is referred to it.

(2) The Board shall have the power to seek expert advice whenever it considers such advice to be necessary or expedient, and to summon any person to appear before it and give evidence or to produce any document.

(3) The Board may direct that any evidence given before it be confirmed by an affidavit.

(4) The period of thirty working days specified in sub-regulation (1) of this regulation may on good cause being shown, be extended by the Head of Department up to a maximum of another thirty working days.

(5) Where serious and justifiable reasons exist which, in the opinion of the Head of Department, preclude the Board from making a report of its findings earlier than the prescribed period of thirty days and any extension thereof, the Head of Department shall refer the matter to the Commission for its direction.

23. (1) In exercising its functions under these regulations, a Disciplinary Board shall afford a fair opportunity to both sides to present their case, but shall dispense with all undue formalities and ensure that justice is done expeditiously and according to the substantive merits of the case.

Procedure at
Disciplinary
Hearings.
Amended by:
L.N. 247 of 2012.

(2) Notice of not less than ten working days shall be given of the time and place of the hearing to the Head of Department and to the officer charged. Every notice shall be signed by the chairperson and delivered in accordance with regulation 6(4).

(3) If the Board is satisfied that notice of the hearing has been given, it may proceed with the case notwithstanding the absence of the officer charged if, taking all circumstances into account, including the requirements of regulation 22, the Board is of the opinion that it ought so to proceed with the case.

(4) The following procedure shall apply to the hearing by a Board -

- (a) the hearing shall be held in private;
- (b) the officer summoned to appear at the hearing shall be given full opportunity to defend himself and to produce witnesses;
- (c) the officer or his representative may cross-examine the witnesses called in support of the case against him.

(5) Subject to this regulation the Board may regulate its own procedure at the hearing.

(6) The Board may seek the opinion of, or a directive by, the Commission on questions of procedure.

24. (1) Where a Disciplinary Board hearing evidence against an officer is of the opinion that such evidence discloses other *prima facie* misconduct or breach of discipline, the following procedure shall apply -

Disclosure of
prima facie
grounds for
additional charges.

- (a) the Disciplinary Board shall report the matter to the Head of Department and to the officer charged, and shall thereupon suspend its proceedings;
- (b) if the Head of Department thinks fit to proceed against the officer charged on the additional grounds disclosed, the Head of Department shall furnish the officer with fresh charges and the procedure described in regulation 20(2)(a), (b), (c), (d) and (e) shall apply.

(2) The provisions of the preceding sub-regulation shall not be invoked when the additional grounds constitute a minor offence that would have lapsed after twelve months.

Communication of findings.

25. (1) At the conclusion of its investigation, the Board shall communicate its findings to the Head of Department and to the officer charged.

(2) A report on the findings shall comprise -

- (a) a summary of such parts of the evidence as the Board considers relevant;
- (b) the findings of the investigation on material questions of fact;
- (c) a statement whether in the Board's opinion the accused officer has or has not committed the offence or offences charged and a brief statement of the reasons for that opinion;
- (d) details of any matters which alleviate or aggravate the gravity of the case.

(3) The report of the Board shall not include any recommendation regarding the penalty that may be imposed.

Decisions and representations on findings of Disciplinary Board.
*Amended by:
L.N. 67 of 2006.*

26. (1) After the findings of the Board are communicated to the Head of Department and to the officer charged, the following procedure shall apply in all cases, except where the Head of Department had given notice to the officer charged that the charges, if proved, could lead to dismissal:

- (a) the officer charged may make written representations or ask for an appointment to make oral representations to the Head of Department, within ten working days from the date on which the findings of the Board are communicated to him, and such representations shall clearly state the grounds on which they are based;
- (b) the Head of Department shall consider any representations made to him by the officer charged and shall, as soon as practicable, communicate to the officer his decision on the charge or charges, including, in minor cases, on whether he accepts the Board's finding of guilt, and on the penalty, if any, that he has imposed:

Provided that if an officer charged with a minor offence is found not guilty by a Board and the Head of Department subsequently disagrees with the Board's findings, the Head of Department shall immediately inform the officer of his intention to change the findings of the Board, giving specific reasons why he disagrees with the Board's findings. The officer is also to be informed of his right to make written or oral representations which are to be made to the Head of Department within ten working days from the date of receipt of the letter from his Head of Department

- informing the officer of his intention to change the Board's conclusions;
- (c) whenever it results from the findings of the Board that the offence, contrary to what was originally stated by the Head of Department, was not of a serious nature the Head of Department may award a lesser penalty than that applicable for serious offences, provided that in such cases the Head of Department shall enter a note in the records of the case specifying the reasons why he accepted the findings of the Board and consequently awarded a penalty applicable to a minor offence;
- (d) whenever an officer admits a charge or fails to make any representations to the Head of Department within the period specified in paragraph (a), the Head of Department shall communicate, as soon as practicable, to the officer charged his decision on the charge or charges and the penalty, if any, that the Head of Department has imposed.
- (2) In the case of an offence where the Head of Department had given notice to the officer charged that the charges, if proved, could lead to dismissal, the following procedure shall apply -
- (a) upon receipt of the Board's report, the Head of Department shall, as soon as practicable, send a copy of the report to the Commission;
- (b) in giving consideration to the Board's findings, the Commission shall give an opportunity to the officer charged and to the Head of Department to make oral representations;
- (c) after considering the findings of the Board and the representations made to it, the Commission shall make its recommendation to the Prime Minister both as to the guilt or otherwise of the officer charged and as to the penalty, if any.
27. (1) The record of any disciplinary proceedings shall include the following -
- (a) any written report made against an officer, or a written record of any verbal report;
- (b) any statement of charge;
- (c) any written representations made by the officer charged by way of reply to the charge or charges or otherwise in the course of proceedings;
- (d) copies of all documents, papers and files received by the Disciplinary Board from any party in connection with the proceedings;
- (e) notes of evidence taken by the Disciplinary Board;
- (f) any decision taken or any recommendation made by a Head of Department regarding the guilt or otherwise of an officer, and the penalty or penalties, if any,

Records of
proceedings.

awarded:

- (g) any written representations made by the officer charged in regard to the findings of a Disciplinary Board, or in regard to any penalty awarded.

(2) Any attempt to tamper with or to destroy the record of proceedings shall be considered as a serious offence.

(3) A Head of Department shall comply with any instructions that may be issued by the Head of the Public Service, with the concurrence of the Commission, with regard to the custody of the records relating to disciplinary proceedings.

PART IV – DISCIPLINARY PROCEEDINGS WHEN DISCIPLINARY POWERS HAVE NOT BEEN DELEGATED

Disciplinary proceedings when disciplinary powers have not been delegated.

28. Where disciplinary control has not been delegated to a Head of Department or another officer or authority in accordance with article 110 of the Constitution, the following provisions and procedures shall apply -

- (a) Whenever it comes to the knowledge of a Head of Department that an officer in his department may be guilty of misconduct or breach of discipline, the provisions of regulation 20(2)(a) and (b) shall apply.
- (b) If the officer admits the charge or charges, the Head of Department shall refer a copy of the charge or charges and of the officer's reply to the Commission and the Commission shall make its recommendation to the Prime Minister as to the penalty, if any, to be imposed on the officer.
- (c) If the officer charged does not admit the charge or charges or does not furnish a reply within the period specified, the Head of Department shall, within twenty working days from the receipt of the reply or from the date on which such a reply was due, refer the case to a Disciplinary Board appointed in terms of regulation 21.
- (d) The Board appointed under the preceding paragraph shall communicate its findings to the Head of Department, to the officer charged and to the Commission, and the Head of Department and the officer charged may, within ten working days from the date on which the findings of the Board are communicated to him, make representations in writing to the Commission in respect to such findings or ask for an appointment to make oral representations. A copy of any representations so made shall be communicated to the other side by the Commission.
- (e) After considering the findings of the Board and any representations made to it, the Commission shall make its recommendation to the Prime Minister both as to the guilt or otherwise of the officer charged and as to the penalty, if any.

PART V – OFFENCES AND PENALTIES

29. A broad categorisation of offences and of corresponding penalties that may be imposed by the Prime Minister acting on the recommendation of the Commission, or by a Head of Department to whom disciplinary control has been delegated in accordance with article 110 of the Constitution, are listed in the Schedule to these regulations:

Categorisation of offences and penalties.

Provided that with regard to Police officers, the penalties applicable shall be those set out in article 20 of the Malta Police Ordinance.

Cap. 164.

PART VI

APPEALS FROM DISCIPLINARY DECISIONS AND REVIEW OF PAST RECOMMENDATIONS OF THE COMMISSION

30. (1) A public officer shall have a right of appeal to the Commission in accordance with this regulation against a finding of guilt and any corresponding penalty imposed by the Head of Department in any of the following circumstances -

Appeals from disciplinary decisions.
Amended by:
L.N. 345 of 2009.

- (a) when the charge or charges of which the officer has been found guilty had been considered as a serious offence in terms of regulation 20(2)(a);
- (b) where the penalty imposed by the Head of Department is or includes a "Warning of Dismissal";
- (c) where the officer can prove that there has been a gross disregard of the procedures laid down in these regulations and such disregard had prejudiced the interests of the officer.

(2) Notice of appeal under sub-regulation (1) of this regulation, setting out the grounds of the appeal, shall be forwarded to the Executive Secretary of the Commission in writing by registered post or delivered to him by hand not later than ten working days from the date on which the decision was notified to the officer concerned. A copy of the notice of appeal shall concurrently be sent by the officer to the Head of Department.

(3) On receiving a copy of a notice of appeal, the Head of Department shall immediately transmit to the Commission the full documentation relating to the case, including the Board's findings and report.

(4) The Executive Secretary of the Commission shall acknowledge the receipt of the notice of appeal made under this regulation and any appeal received after ten working days from the date on which the decision of the Head of Department was communicated to the officer concerned, shall not be considered by the Commission.

(5) When an appeal is lodged, the Commission shall deal with the matter in its absolute discretion as if no delegation of authority was in force in respect of that matter.

(6) Without prejudice to any other powers which it may have

under the Constitution and under these regulations, the Commission, in giving consideration to an appeal, shall give an opportunity to the Head of Department and to the appellant to make oral representations.

(7) The Commission, after considering the grounds for appeal, the record of the proceedings, and any oral representations shall proceed to recommend to the Prime Minister either that he should confirm the decision of the Head of Department as to the guilt of the appellant and/or the penalty imposed, or that he should amend or revoke it.

(8) If the matter is not referred back to the Commission within two months or action is not taken within the same period, the Commission shall inform the appellant of the recommendation it had made to the Prime Minister.

(9) Nothing in this regulation shall prevent the Commission, either before the hearing or at any time during the hearing of an appeal, from summarily dismissing or disallowing an appeal without hearing it or without hearing it any further as the case may be, on the grounds that an appeal is frivolous or vexatious or one that should not otherwise have been brought or made.

Suspension of
penalty pending
appeal.

31. A penalty imposed by a Head of Department acting under a delegated authority shall not be put into effect before the lapse of at least ten working days from the date on which the officer was notified of the penalty by the Head of Department and, if an appeal has been lodged, the penalty shall not be put into effect pending a decision by the Prime Minister acting on the recommendation of the Commission.

Representations by
Head of
Department who is
dissatisfied with
findings of
Disciplinary
Board.
Amended by:
L.N. 345 of 2009;
L.N. 247 of 2012.

32. (1) A Head of Department who is dissatisfied with the proceedings or findings of a Disciplinary Board appointed under regulation 21 may make representations to the Commission, provided that the proceedings or findings of the Board relate to -

- (a) a disciplinary charge which the Head of Department had considered to be a serious offence in terms of regulation 20(2)(a);
- (b) a case which the Head of Department had considered to warrant a warning of dismissal;
- (c) a case where the Head of Department can prove that there has been a gross disregard of the procedures laid down in these regulations and such disregard had prejudiced the case.

(2) Any representations under sub-regulation (1) of this regulation shall be made in writing to the Executive Secretary of the Commission not later than ten working days from the date on which the findings of the Board were notified to the officer concerned. A copy of such representations shall concurrently be sent to the officer by the Head of Department.

(3) Without prejudice to any other powers which it may have under the Constitution and under these regulations, the Commission, in giving consideration to representations made by a

Head of Department under sub-regulation (1) of this regulation, shall give an opportunity to the Head of Department and to the officer concerned to make oral representations.

(4) The Commission, after considering the representations made, may at its discretion -

- (a) refer the findings of the Board back to the Head of Department for appropriate action in terms of these Regulations;
- (b) refer the findings back to the Board for further investigations and to report back to the Commission;
- (c) annul the findings of the Board and direct the Permanent Secretary supervising the department to appoint a fresh Board in keeping with regulation 21(3) to hear the case again and report its findings to the Head of Department;
- (d) remove any defaulting members of the original Board from the Standing Disciplinary Panel in accordance with regulation 21(2), and in the case of public officers recommend disciplinary action against them in accordance with regulation 3(4).

(5) Where a Disciplinary Board is appointed by the Commission under paragraph (4)(c) of this regulation, the following provisions shall apply -

- (a) the Board shall have the same powers and shall follow the same procedures as a Disciplinary Board appointed by a Head of Department under regulation 21, *mutatis mutandis*;
- (b) the Board shall communicate its findings to the Head of Department, to the officer charged and to the Commission;
- (c) the officer charged may, within ten working days from the date on which the findings of the Board are communicated to him, make representations in writing to the Commission in respect of such findings or ask for an appointment to make oral representations;
- (d) after considering the findings of the Board and any representations made to it, the Commission shall make its recommendation to the Prime Minister both as to the guilt or otherwise of the officer charged and as to the penalty, if any.

33. (1) Any person who is or has been a public officer and who had been penalized under these regulations or under the 1977 Regulations may petition the Commission to review his case for the purpose of revoking or amending the recommendation which the Commission had tendered against him.

Review of past
recommendations
of the
Commission
Amended by:
L.N. 345 of 2009.

(2) The petition shall be made in writing and addressed to the Executive Secretary of the Commission who shall acknowledge the receipt of the petition.

(3) The Commission shall thereupon send a copy of the petition to the Prime Minister for any comments he may wish to make within one month from the receipt of that copy. On the expiration of that time, the Commission shall thereupon proceed to examine the petition.

(4) The Commission may allow a review of the case if, in its discretion, it is satisfied that there was a *prima facie* case of gross disregard of the disciplinary regulations or a serious miscarriage of justice resulting in a violation of natural justice or fundamental rights:

Provided that the Commission shall not consider a petition for a review of its past recommendation if the petitioner had already made a similar request which had been rejected on the merits of the case.

(5) The Commission shall not allow any new evidence to be produced whenever it is reviewing its past recommendation unless it is satisfied that such evidence was unknown to or could not be produced by the petitioner when his case was first heard.

(6) The Commission, after hearing the oral representations of the petitioner and of the Head of the Department concerned, or their respective representatives or assistants, shall proceed to recommend to the Prime Minister either that he should confirm its original recommendation or that he should amend or revoke it.

(7) If the matter is not referred back to the Commission within two months or action on the recommendation of the Commission is not taken within the same period, the Commission shall inform the petitioner of the recommendation it had made to the Prime Minister.

PART VII – REMOVAL FROM OFFICE

Grounds for
removal from
office.

34. The appointment of an officer may be terminated for the following reasons -

- (a) in the public interest; or
- (b) for absence without leave; or
- (c) on dismissal or removal in consequence of criminal or disciplinary proceedings:

Provided that nothing in these regulations shall restrict the power of the Prime Minister acting on the recommendation of the Public Service Commission to -

- (a) terminate an officer's probationary appointment during the period of probation; or
- (b) terminate the services of an officer on a temporary appointment; or
- (c) terminate any contract or agreement in accordance with a term or condition contained therein.

Retirement on
grounds of public
interest.

35. (1) Notwithstanding any other provision of these Regulations, if a Head of Department considers that an officer

should be retired from the service in the public interest he shall report the fact to the Head of the Public Service who shall -

- (a) obtain from the Heads of the Departments in which the officer has served during the previous twelve years, or since the date of first appointment, whichever is less, reports as to his work and conduct;
- (b) allow the officer an opportunity of considering all reports and other documentation that shall be used by the Head of the Public Service in justification of the officer's retirement, in order to allow the officer to show cause why he should not be retired from the service.

(2) If the Head of the Public Service, after considering the reports and the officer's statement and having regard to all the circumstances of the case, is of the opinion that the officer should be retired from the service in the public interest, he shall forward to the Commission the reports of the Heads of Department and the statement of the officer together with his own recommendation, which shall be copied to the officer's Head of Department and to the officer concerned.

(3) Notwithstanding any other provision of these Regulations, if the Head of the Public Service, on information which has come to his knowledge in any manner, is of the opinion that an officer should be retired from the service in the public interest, he shall observe the procedure prescribed in sub-regulations (1)(a), (1)(b) and (2) of this regulation.

(4) The Commission shall give the officer against whom proceedings are being taken, and his representative every opportunity to make oral representations before the Commission.

(5) The Commission, after making such further enquiry as it deems necessary, shall then recommend to the Prime Minister the action, if any, that it considers should be taken against the officer.

36. (1) Whenever a Head of Department is satisfied that a public officer has absented himself without leave for a period of not less than ten consecutive working days, the Head of Department shall notify the officer that unless justifiable reasons are given within ten working days from the date of such notification, the officer shall be considered as having resigned from the public service with effect from the eleventh working day of unauthorised absence.

Absence without
leave.

(2) If an officer who has absented himself without leave as stated in sub-regulation (1) of this regulation reports for duty before the date of notification by the Head of Department, or before the expiration of the ten working days referred to in sub-regulation (1), he is to be allowed to resume duties without prejudice to any disciplinary action which the Head of Department may take in accordance with these regulations.

PART VIII - MISCELLANEOUS

Procedure followed when officer leaves the service while disciplinary proceedings are still pending.
Substituted by L.N. 247 of 2012.

37. (1) When an officer who is facing disciplinary proceedings resigns or retires from the public service or otherwise ceases to be a public officer before such proceedings are concluded, the Head of Department shall ask the officer charged to state, within ten working days, whether he wishes that the disciplinary proceedings be continued in order that he may have the opportunity to exculpate himself, or whether he wishes that the disciplinary proceedings be suspended.

(2) If the officer opts to continue with the proceedings and he is eventually found guilty, no penalty shall be imposed, but a record of the findings of the Disciplinary Board shall be entered in the officer's record of service.

(3) If the officer opts to have the case suspended, he shall confirm this in writing and a record shall be entered in his record of service stating that at the time of his leaving the service, the officer had a pending disciplinary case.

(4) If the officer does not, within the stipulated time, state what his preferred option is, the case shall be suspended and a note entered in his record of service stating that at the time of his leaving the service, the officer had a pending disciplinary case.

(5) Should a person who had been found guilty in accordance with sub-regulation (2) rejoin the public service, whether in the same or in a different capacity, the Head of Department now responsible for the officer shall, within six months of the officer rejoining the service, make a recommendation to the Commission as to whether or not disciplinary proceedings should be resumed with a view to the imposition of the appropriate disciplinary penalty; and if the Commission directs that proceedings should be resumed, the Head of Department shall proceed in accordance with regulation 26 or such other provision of these regulations as may apply.

(6) Should a person who has a suspended disciplinary case in terms of sub-regulations (3) or (4) subsequently rejoin the service, whether in the same or a different capacity, the Head of Department now responsible for the officer shall, within six months of the officer rejoining the service, make a recommendation to the Commission as to whether or not disciplinary proceedings should be resumed; and if the Commission so directs, the Head of Department shall resume proceedings from the stage they had reached prior to their being discontinued, save that -

- (a) any applicable timeframes shall be deemed to start from the date that the Head of Department is informed by the Commission that proceedings should be resumed, or any later date as may apply; and
- (b) unless the Disciplinary Board had presented its report in the original proceedings, the Head of Department shall appoint the same or a fresh Disciplinary Board to hear the case according to the charges laid against the officer in the original proceedings.

38. When an officer against whom criminal proceedings are pending, ceases to be a public officer upon resignation, retirement or otherwise, before such proceedings are concluded, no related disciplinary action in terms of these Regulations may be taken or penalty imposed. However, the Head of Department shall follow the case so that a record of the court decision is entered in the officer's record of service.

Procedure followed when officer leaves the service while criminal proceedings are still pending.

39. Subject to the provisions of article 114 of the Constitution and of any other law, a public officer who is dismissed from the service shall forfeit all rights and claims to a pension, gratuity or other retirement award. A public officer who is dismissed shall also forfeit any rights or claims he enjoys in regard to leave at the public expense.

Forfeiture of pension, etc., after dismissal.

40. No member of the Commission, nor the Executive Secretary, nor any member of the staff of the Commission, nor any public officer, Board or Authority, charged with powers and functions under these regulations, nor any other person shall, without the written permission of the Prime Minister, publish or disclose to any person, otherwise than in exercise of his official function, the contents of any document, communication or information whatsoever relating to any action taken under these regulations which has come to his notice or knowledge.

Secrecy.
Amended by:
L.N. 345 of 2009.

Failure to comply with the provisions of this regulation shall, in the case of a public officer, constitute misconduct and, or a breach of discipline.

41. The periods specified in these regulations may, on good cause being shown, be extended by the Commission provided the request is made before the expiration of the period in question.

Time limits.

42. (1) The Head of the Public Service and every Head of Department to whom disciplinary control is delegated shall submit reports on disciplinary matters to the Commission with such frequency, and in such form and covering such matters as the Commission may from time to time direct. Moreover, Heads of Department shall ensure that a separate list is given in the report for each category of offence (serious, minor, summary, criminal).

Annual reports, etc.
Amended by:
L.N. 67 of 2006.

(2) The Commission may, at its discretion, publish annual disciplinary reports as well as reports of inquiries into the exercise of disciplinary control, together with its remarks on any matter connected therewith or incidental thereto.

43. Where disciplinary proceedings or petitions for a review of a past recommendation of the Commission have been commenced under and in accordance with the 1977 Regulations (repealed under these regulations), such proceedings or review shall be continued and completed under and in accordance with the regulations aforesaid as if the 1977 Regulations had not been repealed:

Saving.
Substituted by:
L.N. 247 of 2012.

Provided that the provisions on disciplinary penalties which shall apply in the case of such proceedings or review shall be whichever of those in the 1977 Regulations or the current regulations are most favourable to the accused officer.

*Amended by:
L.N. 67 of 2006;
L.N. 247 of 2012.*

SCHEDULE OF OFFENCES AND PENALTIES**(Regulation 29)**

1. The list of offences specified under minor and serious offences in paragraph 3 of this Schedule shall be considered as only illustrative and indicative and is not exhaustive.

2. The specific circumstances surrounding an offence shall be taken into account in determining whether an offence shall be categorised as a minor or serious offence, and it shall be at the discretion of the Head of Department as provided in regulation 20(2)(b) to determine how a particular offence shall be treated for the purpose of applying the penalties specified in this Schedule:

Provided that where a directive issued under the Public Administration Act specifies that breaches of the said directive are to be considered as a serious offence, the Head of Department shall be precluded from exercising the aforementioned discretion and shall regard any such breach of the said directive as a serious offence.

3. Categorisation of Offences.

3.1 Minor Offences (without serious consequences) -

- (a) habitual late attendance;
- (b) absence from office or work area without leave or permission;
- (c) idling at place of work;
- (d) disobeying superior instructions or insubordination;
- (e) disregard of or failure to obey rules and regulations;
- (f) fighting or causing a disturbance at place of work;
- (g) concealing one's defective work;
- (h) being on duty while under the influence of drink or drugs;
- (i) negligence in the performance of duties or shoddy or defective work or work output below standard;
- (j) use of foul language;
- (k) giving wrong information;
- (l) malingering.

3.2 Serious Offences (when no criminal proceedings are instituted):

- (a) conduct which discredits the department or, more generally, brings the public service into disrepute;
- (b) arrogant, abusive or violent behaviour towards the public or other public officers;
- (c) failure to exercise proper supervisory functions;
- (d) disobeying superior instructions or insubordination with serious consequences;
- (e) serious neglect or dereliction of duties;
- (f) violent or threatening behaviour or use of offensive or foul language towards a superior;
- (g) damage to government property;

- (h) immoral, indecent or disgraceful conduct at place of work;
- (i) misuse of government funds, property or equipment;
- (j) gross negligence at work;
- (k) tampering with or misuse of attendance sheets and records (including punch cards\clocks);
- (l) falsification or misuse of or tampering with official documents;
- (m) divulging of secret or confidential information;
- (n) unauthorised absence of more than one day\shift;
- (o) sexual harassment;
- (p) misuse of electronic equipment;
- (q) victimization of witness or an officer\person lodging a report or doing his duty under the regulations;
- (r) disregard of or failure to obey with regards to directives issued under Public Administration Act;
- (s) other offences indicated under "Minor Offences" but having serious consequences.

3.3 Where a single or continuous act can be classified under both paragraphs 3.1 and 3.2, such offence shall be classified under paragraph 3.2.

4. Penalties -

The penalties that may be imposed following disciplinary action taken in accordance with these regulations shall be as follows -

4.1 Penalties for Minor Offences -

	PENALTY
(a) First Disciplinary Case	Written Warning
(b) Second Disciplinary Case	Suspension without pay for a definite period up to three (3) working days
(c) Third Disciplinary Case	Suspension without pay for a definite period up to five (5) working days and a "Warning of Dismissal"
(d) Fourth Disciplinary Case	Dismissal:

Provided that in determining whether the disciplinary charge is a first, second, third or fourth minor case not being instituted under regulation 19, no account shall be taken of offences which occurred prior to twenty-four months from the date of the offence under investigation:

Provided further that a written warning will lapse after twelve months from the date the written warning is issued if no other offence is committed within that period.

4.2 Penalties for Serious Offences (including criminal conviction) -

- (a) Suspension without pay for a definite period not exceeding five (5) working days, or
- (b) Suspension without pay for a definite period not exceeding five (5) working days and a "Warning of Dismissal", or
- (c) Dismissal:

Provided that the penalty in paragraph (a) hereof, that is, "suspension without pay for a definite period not exceeding five days" may not be awarded in respect of more than two serious disciplinary cases:

Provided also that in the case of an officer who had been temporarily suspended, the provisions of regulation 12(7) shall also apply:

Provided also that in the case of a public officer found guilty of a criminal charge in any Court, the Commission may, where appropriate, at its discretion recommend to the Prime Minister other penalties in addition to or instead of those listed in paragraph 4.2 of this Schedule:

Provided also that where the Commission recommends the imposition of a warning of dismissal, the Commission may also, at its discretion, recommend that the said warning should expire at the end of a period specified by the Commission.
