

LEGAL NOTICE NO. 28

REPUBLIC OF TRINIDAD AND TOBAGO

THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO, CHAP. 1:01

REGULATIONS

MADE BY THE PUBLIC SERVICE COMMISSION WITH THE CONSENT OF THE PRIME MINISTER PURSUANT TO SECTION 129 OF THE CONSTITUTION

THE PUBLIC SERVICE COMMISSION (AMENDMENT) REGULATIONS, 1990

1. These Regulations may be cited as the Public Service Commission Citation (Amendment) Regulations, 1990.

2. The Public Service Commission Regulations are amended as follows:

(a) in regulation 2, by deleting from the definition of "acting appointment" the words "whether on promotion or otherwise to a higher office" and substituting the words "to a higher office or otherwise";

Amendment of Regulations Chap. 1:01

(b) by revoking Chapter VII;

(c) by inserting after regulation 84, the following new regulations:

"Definition

84A. For the purposes of this Chapter, "Head of Department" includes the person occupying or performing the duties of the office of Chief Fire Officer being a public office established by the Fire Service Act, or Commissioner of Prisons being a public office established by the Prison Service Act. Chap. 35:50 Chap. 13:02

Commission to exercise disciplinary control on Permanent Secretary or Head of Department

84B. (1) Where the Commission becomes aware of an allegation of indiscipline or misconduct of an officer being a Permanent Secretary or Head of Department, the Commission shall appoint an officer to investigate such allegation.

(2) Regulations 90(3) to 90(6) inclusive, shall apply in respect of such investigation.";

(d) by revoking regulation 85 and substituting the following regulation:

“Permanent Secretary to report misconduct or indiscipline

85. (1) Where an officer is alleged to have committed an act of misconduct or indiscipline which is a breach of a regulation that is the subject of a delegation to the Permanent Secretary or Head of Department, such act of misconduct or indiscipline shall be referred to an officer senior in office to the officer against whom the report or allegation has been made.

(2) The senior officer referred to in subregulation (1) may charge the officer against whom the report or allegation has been made and refer the charge to the Permanent Secretary or Head of Department.

(3) Where a charge is referred to the Permanent Secretary or Head of Department under subregulation (2), the Permanent Secretary or Head of Department shall act as a disciplinary tribunal, or appoint, in writing as a disciplinary tribunal an officer in his Ministry or Department, as the Commission directs holding or performing the duties of a senior officer who is senior in office to the person charged.

(4) The disciplinary tribunal referred to in subregulation (3) comprising—

- (a) the Permanent Secretary or Head of Department may impose in respect of a charge any of the penalties prescribed in regulation 110(1)(c) to (g); or
- (b) an officer appointed as such under subregulation (3) may impose in respect of a charge any of the penalties prescribed in regulation 110(1)(f) or (g).

(5) A fine imposed by a disciplinary tribunal, other than the Permanent Secretary or Head of Department, under subregulation (4) shall not exceed an amount calculated on four days pay to be deducted from the salary of the officer in no more than two instalments.

(6) Where a disciplinary tribunal, other than a Permanent Secretary or Head of Department, finds the officer guilty and is of the opinion that, owing to the special circumstances of the case (including the previous record of the offender), the penalty that could be imposed by it is inadequate it may so certify and refer the matter to the Permanent Secretary or Head of Department.

(7) The Permanent Secretary or Head of Department on receipt of a certificate made under subregulation (6) may impose a penalty prescribed in regulation 110(1)(c) to (g) inclusive.

(8) A fine imposed by the Permanent Secretary or Head of Department under subregulation (4) shall not exceed an amount calculated on four days pay per month to a maximum of three months.

(9) Where the Permanent Secretary or Head of Department is the person making the allegation or report he shall not exercise any power as a disciplinary tribunal but refer it to the Commission to determine as if it were a matter to which regulation 90 applies.

(10) Where a disciplinary tribunal during the course of hearing a matter to which this Regulation refers is of the opinion that the matter is such that the officer has been inadequately charged with an offence to which subregulation (1) applies, it may so certify and refer the matter to the Permanent Secretary or Head of Department.

(11) The Permanent Secretary or Head of Department shall, no later than 3 days after receipt of a certificate referred to him in accordance with subregulation (10), refer the matter to an investigating officer to deal with under regulation 90 as if it were a report or allegation of indiscipline or misconduct to which regulation 90 applies.

(12) Regulations 94, 96, 97, 98, 99, 100(1) and 106(2) and (3) apply *mutatis mutandis* in respect of the hearing of a charge to which this Regulation applies.”;

- (e) in regulation 89, by deleting subregulation (5);
- (f) in regulation 90, in subregulation (1), by substituting for the words "from which it appears that an officer may have committed an offence, the Permanent Secretary or Head of Department shall, in addition to making a report as required by regulation 85," the words "other than a report or allegation of indiscipline or misconduct to which regulation 85 applies, the Permanent Secretary or Head of Department shall report the matter to the Director for the information of the Commission and";
- (g) in regulation 101—
 - (i) in subregulation (1), by substituting for the word "criminal" the word "civil"; and
 - (ii) by deleting subregulation (4) and substituting the following subregulation:

“(4) Any explanation given by an officer under regulation 90(3) shall be admissible at any hearing.”;
- * (h) in regulation 102, by deleting subregulation (3);
- (j) in regulation 106—
 - (i) in subregulation (2) by substituting for the words "a review and of the time specified in regulation 115 for making such application", the words "an appeal to the Public Service Appeal Board and of the time specified in the Public Service Appeal Board Regulations for making such an application";
 - (ii) in subregulation (3)—
 - (A) in paragraph (i), by substituting for the words "a review within the time specified in regulation 115, the penalty shall not take effect pending determination by the Review Board" the words "an appeal to the Public Service Appeal Board within the time specified in the Public Service Appeal Board Regulations, the penalty shall not take effect pending the determination of the appeal by the Public Service Appeal Board"; and
 - (B) in paragraph (ii), by substituting for the words "review, the penalty shall take effect at the expiration of time specified in regulation 115 for making such application", the words "an appeal to the Public Service Appeal Board,

the penalty shall take effect at the expiry of the time specified in the Public Service Appeal Board Regulations for making such application”;

(k) in regulation 107—

(i) in subregulation (2), by substituting for the words “a review and of the time specified in regulation 115 for making such application”, the words “an appeal to the Public Service Appeal Board and of the time specified in the Public Service Appeal Board Regulations for making such application”;

(ii) in subregulation (3)—

(A) in paragraph (i), by substituting for the words “review within the time specified in regulation 115, the penalty shall not take effect pending the determination by the Review Board” the words “an appeal to the Public Service Appeal Board within the time specified in the Public Service Appeal Board Regulations, the penalty shall not take effect pending the determination of the appeal by the Public Service Appeal Board”; and

(B) in paragraph (ii), by substituting for the words “make an application for review” the word “appeal”; and

(iii) in subregulation (4) by substituting for the words “in regulation 115” the words “in the Public Service Appeal Board Regulations”;

(l) in regulation 150—

(i) in subregulation (1), by deleting paragraphs (b) and (c) and substituting the following paragraphs:

“(b) the Chief Fire Officer or a Deputy Chief Fire Officer ;and

(c) a Divisional Officer nominated by the Chief Fire Officer.”; and

(ii) by deleting subregulations (2), (3), (4) and (5) and substituting the following subregulations:

“(2) The Promotions Advisory Board shall interview a fire officer who has qualified for pro-

motion to an office in the Second Division as specified in the Third Schedule to the Act and the office of Assistant Divisional Fire Officer as specified in the Second Schedule to the Act.

(3) An officer being considered by the Promotions Advisory Board for promotion to an office shall be rated according to the criteria specified in regulation 154 and be placed according to that rating on a list to be known as an Order of Merit List.

(4) Notwithstanding subregulation (2), the Commission may interview an officer for promotion to, and within, the First or Second Division.”;

(m) in regulation 168—

(i) in subregulation (1), by deleting paragraphs (b) and (c) and substituting the following paragraphs:

“(b) the Commissioner or the Deputy Commissioner of Prisons;

(c) a Senior Superintendent of Prisons nominated by the Commissioner.”; and

(ii) by deleting subregulations (2), (3), (4) and (5) and substituting the following subregulations:

“(2) The Promotions Advisory Board shall interview a prison officer who has qualified for promotion to an office up to Range 53F (Assistant Superintendent of Prisons) as specified in the First Schedule to the Act.

(3) An officer being considered for promotion to an office by the Promotions Advisory Board shall be rated according to the criteria specified in regulation 172 and be placed in accordance with that rating on a list to be known as an Order of Merit List.

(4) Notwithstanding subregulation (2), the Commission may interview an officer for promotion to a higher office.”; and

(n) by revoking regulations 111, 112, 113, 115 to 122 inclusive, 156, 157, 158, 162, 163, 174, 175, 176, 180 and 181.

Dated this 27th day of November, 1990.

K. LALLA
*Chairman of the
Public Service Commission*

J. HERRERA
*Deputy Chairman of the
Public Service Commission*

R. PERSAD
*Member of the
Public Service Commission*

E. LENNARD
*Member of the
Public Service Commission*

E. MATTHEWS
*Member of the
Public Service Commission*

Consented.

Dated this 27th day of November, 1990.

A. N. R. ROBINSON
Prime Minister