

THE CIVIL SERVICE BOARD (GENERAL) REGULATIONS

Date of commencement: 20th May, 1963

Arrangement of Regulations

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PART 1

PRELIMINARY

Citation.

- 1. These regulations may be cited as the Civil Service Board (General) Regulations,1963.**

Interpretation.

- 2. In these regulations, unless the context otherwise requires-
“appointment” means-**
 - (a) the conferment of an office upon the person not ready in the service on probation or contract, or temporary engagement;**
 - (b) the conferment of an office on permanent and pensionable terms on probation or otherwise, upon a person already in the service serving on contract,temporary engagement, or in an unestablished capacity;**
 - (c) the conferment upon a person of the same or other office on contract or temporary engagement on the expiration of the specified period of that person’s present contract or temporary engagement by way of renewal or extension thereof for a further specified period;**
 - (d) the conferment of an acting allowance upon an officer in respect of the discharge of the duties of an office other than the office to which he is substantively appointed;**

“Board” means the Civil Service Board established under section 3 of the Civil Service Board Order, No. 16 of 1973; “chairman” means the person appointed under section 3 of the Civil Service Board Order No. 16 of 1973 as chairman of the Board and includes any temporary chairman appointed such section to act during the absence or incapacity of the chairman;

“disciplinary control”, means the application of formal disciplinary proceedings as provided for in Part V of these regulations;

“dismissal” means the removal from the service, by order of the appropriate competent authority, of an officer, resulting in the loss of salary subsequent to removal and the forfeiture of all claims to pension or gratuity;

“head of department” means the person holding any of the offices listed in the Schedule to these regulations;

“local candidate” means the person, of whatever race, applying for employment in the service who-

- (a) was born in Swaziland; or
- (b) has been accepted into the Swazi community by the process of “Khontaing” and who is able to produce a certificate of the Ngwenyama in Council to that effect; or
- (c) is a child, under the age of twenty-one years, of a person defined in paragraph (a) or (b); (Amended L . N. 44/1965)

“member” means any person appointed under the Order as chairman or member of the Board;

“Minister” means the Prime Minister and includes any assistant Minister to whom he has delegated any duties or functions under the Civil Service Order, No. 16 of 1973;

“office” means any public office as defined in the Order;

“officer” means any public officer as defined in the Order;

“office of emolument” means any pensionable or non-pensionable office which is shown under a personal emoluments sub-head in a current Swaziland Estimates of Revenue and Expenditure;

“official document” means any document or paper prepared by any officer in the course of his employment or any document or paper which comes into the custody of any officer in the course of his employment;

“Order” means the Civil Service Order No. 16 of 1973;

“promotion” means the conferment upon an officer of an office to which is attached a higher salary or salary scale than that attached to the office to which he was last substantively appointed; and includes a transfer on promotion;

“salary” means basic salary;

“salary scale” means a salary scale as from time to time set out in the Swaziland Estimates of Revenue and Expenditure;

“scheme of service” means the scheme which may prescribe the following conditions of service in respect of all offices in a department of particular offices common to more than one department the official qualifications, duties, salary scales or salary; the normal methods for filling vacant offices, either by the selection of candidates for appointment or of officers for promotion, or by either means; the prospects of and the qualifications for promotions in the service; the field of officers eligible to be considered for promotion to any office, or the award of scholarships or training courses intended to enhance prospects of promotion;

“scholarship” means the grant of financial assistance to a person outside or in the service for a course of study at a University or other post-secondary institution intended to qualify that person for appointment in an office or for promotion;

“seniority” means the relative order of precedence of officers, as determined by the regulations in force, in which they are eligible to be considered for promotions or paid acting appointments;

“service” means the public service as defined in the Order;

“termination of appointment” means the termination of the appointment in an office of an officer serving on probation, contract or temporary engagement decided upon on grounds of unsuitability or as a result of disciplinary proceedings, the termination of an appointment on contract or on temporary engagement on grounds of redundancy; the termination of a permanent and pensionable appointment by retirement on abolition of office, or by compulsory retirement in the public interest or by compulsory retirement after attaining the age of forty-five years;

“training course” means a pre-service training course intended to qualify

candidates for appointment to the service or an in-service training course intended to qualify officers for promotion and not to enhance efficiency in the present grade;

“transfer” means the conferment, permanently or otherwise upon a person in the service of some office other than that to which he was last substantively appointed, which does not involve promotion, but does not include the posting of an officer between one office and another in the same grade or cadre, or the posting of an officer holding a legal appointment to the judicial department or vice versa (Amended L .N. 44/1965).

PART II

CIVIL SERVICE BOARD

[As Regulations 3 to 8 inclusive are no longer part of the law, they have not been reprinted]

Delegation of powers.

- 9. The Board may by resolution delegate to the chairman or other member or members any of the powers and duties of the Board except the tendering of advice on the following matters –**
- (a) appointments (excluding acting appointments);**
 - (b) transfer of officers from one post to another not involving promotion;**
 - (c) promotions (including promotion and efficiency bars);**
 - (d) extension of probationary appointments other than solely on the grounds of failure to pass an examination, and termination of probationary appointments;**
 - (e) discipline;**
 - (f) termination of appointment; and**
 - (g) retirement (before the normal age of retirement) in all cases requiring the approval of the Prime Minister under the Pensions Act, No. 3 of 1968.**

Quorum and voting.

- 10. (1) Every meeting of the Board shall be presided over by the chairman, and the chairman and one member shall constitute a quorum for a meeting.**
- (2) All decisions of the Board shall be by a majority of votes of the members Present and voting provided that the chairman shall have a second or casting vote whenever the voting shall be equal.**

Record of meeting and decisions.

- 11. (1) The secretary of the Board shall keep a record of the members present and of the business transacted at every meeting of the Board.**
- (2) Any member who is present when a decision is made shall be entitled to dissent therefrom and have his dissent and his reasons therefor set out in writing.**

Other decisions.

- 12. Decisions may be made by the Board without a meeting by circulation of the relevant papers among the members and the expression of their views in writing but any members shall be entitled to require that any such decision shall be deferred until the subject matter is considered at a meeting of the Board.**

Submission of record to the Prime Minister.

- 13. As soon as practicable after the conclusion of each meeting of the Board or after a decision has been reached in accordance with the procedure in regulation 12, the record of the meeting or of the decision, as the case may be, signed by the chairman and other members, who were present at the meeting or were parties to the decision, shall be submitted to the Minister.**

Privilege from disclosure in legal proceedings.

- 14. Any report, statement or other communication or record of any meeting, enquiry or proceeding which the Board may make in the exercise of its functions or any member may make in performance of his duties, or in discharge of any duty of the Minister or to any officer, shall be privileged in that its production may not be compelled in any legal proceedings if the Minister certifies that such a production is not in the public interest.**

Protection of members from legal proceedings.

- 15. The chairman and any member shall each have such and the like protection and privilege in case of any action or suit brought against him any act done or omitted to be done in the execution of his duties under these regulations as is by law given to the acts done or words spoken by a judge of the High Court in the exercise of his judicial office.**

Consultations with persons other than members.

- 16. The Board may require any 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 document relating to any such matter.**

Documents to be made available.

- 17. Any officer who submits any matter for the consideration of the Board shall ensure that relevant documents and papers are made available to the Board.**

Failure to comply with the request of the Board.

- 18. Any officer who without reasonable excuse fails to appear before the Board when notified to do so, or who fails to comply with any request lawfully and properly made by the Board shall be guilty of a breach of discipline and may be dealt with accordingly.**

Improper influence.

- 19. Any person who otherwise than in the course of his duty directly or indirectly by himself or by any other person in any manner whatsoever influences or attempts to influence any decision of the Board or of the chairman or of any member shall be guilty of an offence and upon summary conviction liable to a fine not exceeding one hundred emalangeni or to imprisonment not exceeding six months or to both:**

Provided that nothing in this regulation shall prohibit any person who may properly do so from giving a certificate or testimonial to any applicant or candidate for any office or from supplying any information or assistance upon formal request by the Board.

Penalty for supplying false information to Board.

- 20. Any person who in connection with any application by any person for employment or promotion in the service or with any matter upon which it is the duty of the Board to advise wilfully gives to the Board or any member thereof, or to any person or body of persons appointed by any regulation or by any competent authority to assist the Board in the exercise of its functions or the discharge of its duties, any information which he knows to be false by reason of the omission of any material particular, shall be guilty of an offence and upon summary conviction liable to a fine not exceeding two hundred emalangeni or to imprisonment not exceeding one year or to both.**

Unauthorised disclosure or use of information.

- 21. (1) Neither the chairman nor any member nor any other person shall, without the written permission of the Prime Minister, publish or disclose to any person, otherwise than in the exercise of his functions under these regulations, the contents of any document, communication or information whatsoever which has come to his notice in the course of his duties under these regulations in respect of any matter referred**

to the Board, and any person who knowingly acts in contravention of this regulation shall be guilty of an offence and upon summary conviction liable to a fine not exceeding two hundred emalangeneni or to imprisonment not exceeding one year or to both.

- (2) If any person having possession of any information which to his knowledge has been published or disclosed in contravention of paragraph (1) publishes or communicates to any other person, otherwise than for the purpose of any prosecution or proceedings under these regulations, and such information, he shall be liable to a fine not exceeding two hundred emalangeneni or to imprisonment not exceeding one year or to imprisonment not exceeding one year or both.

Functions of the Board.

22. (1) The Board shall advise on any question relating to the appointment (including promotion or transfer) or termination of appointment or to the dismissal or other disciplinary control of officers of any officer.

- (2) The Board shall advise on the following other matters –
- (a) The localisation of the service, which the Board shall keep under review and report on the progress thereof to the Minister when required, and at the least annually.
 - (b) Recruitment procedure.
 - (c) The selection of candidates for scholarships or training courses related to the service.
 - (d) Examinations held to select candidates for appointment to or promotion within the service.
 - (e) Confirmation in permanent and pensionable offices.
 - (f) Promotion and efficiency bars, and the withholding and restoration of increments.
 - (g) Maintenance of a system of annual confidential reports.

- (h) Appeals relating to appointments (including promotions or transfers), disciplinary control, and termination of appointments, and dismissals.
 - (i) The extension of an officer's pensionable service beyond the normal age of retirement.
- (3) The Board shall annually submit a report to the Minister in respect of the discharge of all its functions during that year.

Board's consultation with heads of departments.

23. If the Board proposes to tender advice which in the opinion of the Board is substantially at variance with the recommendations made to the Board by a head of department, the Board shall so inform the head of department who may, if he so wishes, be heard by the Board.

PART III

APPOINTMENTS, PROMOTIONS AND TRANSFERS PRINCIPLES AND PROCEDURE

A. PRINCIPLES

Local candidates.

24. (1) In making recommendations for appointments to the service, the Board shall be guided by the principle that no consideration shall be given to the appointment of a candidate other than a local candidate unless and until, after a review of the claims of all local candidates who have applied, the Board is satisfied that no qualified and suitable local candidate is available.
- (2) If no suitable local candidate is available the Board shall advise whether the office shall be filled by a non-local candidate on contract terms.

- (3) In giving its advice the Board shall have regard to the information available as to the probability of further vacancies occurring in the same grade of office, and to the need to attract the best available candidate.**
- (4) The Board may in its discretion advertise vacant offices with a view to the selection of suitably qualified candidates.**
- (5) The Board shall advise on acting paid appointments in offices which attract acting allowance when recommended in the following circumstances; when the office is substantially vacant or it is known it is due to be substantively vacated by the substantive holder for any reason; or when the officer substantively holding that office is temporarily absent from it for any reason, and the officer recommended to act therein is not the one next senior to the holder.**
- (6) In considering the claims of officers for acting paid appointments the Board shall be guided by the relevant principles relating to promotions.**

Principles relating to promotions.

- 25. (1) The Board shall advise on the claims for promotion of officers serving in Swaziland to vacant offices in Swaziland. (Amended L .N. 44/1965.)**
- (2) The Board may consider the claims for promotion of all those officers eligible to be considered on the basis of official qualifications, merit , experience and seniority.**
 - (3) If an advertised vacant office is to be filled on promotion or by appointment to the service, the claims of suitably qualified officers shall be first considered and shall generally take precedence over those persons not in the service.**
 - (4) The Board may advertise a vacant office if, after reviewing the claims for promotion of all eligible officers, the Board has been unable to advise that any serving officer in Swaziland is qualified for promotion. (Amended L .N. 44/1965.)**

Principles relating to transfers.

- 26. The Board shall not normally consider any application for a transfer made by an officer unless it is made in response to a published advertisement.**

B. PROCEDURE

Procedure relating to appointments.

- 27. (1) As soon as a head of department knows that a vacant office exists or will exist in his department he shall report it to the secretary of the Board with his recommendations recorded in the PSC Form 1 in accordance with the requirements of such form (Appendix 1 of these regulations).**
- (2) If an office has been advertised the Board shall consider all the applications made on PSC Form 2 (Appendix 2 of these regulations), and may consult the head of department concerned on any or all of those applications.**
- (3) If an officer has made an application, the Board shall in the first instance consult his head of department on the merits of it.**
- (4) The Board after considering the applications may decide to refer them to a departmental selection board, and may decide upon the composition of that board, and the form in which it will report to the Board.**
- (5) The Board may in its discretion interview any of the applicants, in the presence or not of a head of department or other officer.**
- (6) If vacant offices are to be filled as the result of pre-service training courses or scholarships the Board shall consider the reported performance of the candidates while on the training courses or scholarships and shall advise on the suitability of candidates for appointment to the service.**
- (7) If vacant offices are to be filled as a result of an open competitive examination the Board shall consider the results of the examination and advise on the suitability of the candidates for appointments to the service**

- (8) As soon as a head of department knows that an office in his department which attracts acting allowance is or will become vacant, either substantively or temporarily during the absence of the holder, and he considers that it should be filled in an acting paid capacity he shall make a report to the Secretary of the Board on his recommendation on PSC Form 3 (Appendix 3 to these regulations), with his recommendation.**
- (9) If a recommendation is made for an acting paid appointment of an officer in an office with the possibility of his subsequent promotion to that same office being recommended, the acting paid appointments shall be considered by the Board on the basis of the principles applicable to promotions.**
- (10) If a recommendation is made that an officer who is not the senior eligible officer , should be appointed to act in a temporary vacant office, the Board shall consider it on the basis of the principles applicable to promotions.**
- (11) If for reasons of urgency it is not in the public interest for the normal acting paid appointments procedure in these regulations to be followed, the chairman may recommend such an appointment be made without regard to that procedure, but the matter shall be reported to the Board by its Secretary as soon as possible.**

Procedure for promotions.

- 27. (1) As soon as a head of department is aware that a vacant office exists or will exists in his department which is due to be filled on promotion in accordance with a scheme of service, he shall report it to the Secretary of the Board with his recommendations for filling it, on PSC Form 4 (Appendix 4 to these regulations.**
- (2) A recommendation for promotion shall state whether the officer recommended is the senior eligible officer, and if that officer is not the**

senior, detailed reasons shall be given in support of the supersession of all officers senior to the officer recommended. (Amended L .N. 44/1965)

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PART IV

TERMINATION OF APPOINTMENT

Procedure: General.

29. (1) Notwithstanding the procedure prescribed in this Part, the Board may as a result of disciplinary proceedings undertaken under Part advise on the termination of the appointment of an officer serving on probation, contract or temporary engagement as a lesser punishment than dismissal; and likewise the Board may advise on the retirement of an officer in the public interest where it is the opinion that an officer does not deserve to be dismissed.

(2) Regulation 30 of these regulations deal jointly with the related matters of the confirmation of an officer and with the extension or termination of probationary appointments.

Probationary appointments.

30. (1) If an officer holds a probationary appointment, the head of department shall, three months before the expiry of the period of that probationary appointment consider –

- (a) whether that officer should on that expiry be confirmed in a pensionable officer; or**
- (b) whether a further period of probationary service is necessary to determine whether that officer should be so confirmed; or**

- (c) whether that officer should not remain in the service.
- (2) If after consideration of the matters referred to in paragraph (1), the head of department is of the opinion that an officer in a probationary appointment should be confirmed in a pensionable office and if the officer has passed such examinations as may be required as a condition for confirmation in his appointment, the head of department, not later than three months before the expiry of the period of probationary appointment shall forward to the Board his recommendations, that the officer should be so confirmed.
- (3) The Board shall advise whether the officer should be so confirmed.
- (4) If after consideration of the matters referred to in paragraph (1), the head of department is of the opinion that the work or conduct of an officer in a probationary appointment have been of a standard to justify confirmation in a pensionable office, but the officer has not completed examinations required for his confirmation, the head of department, not later than three months before the expiry of the officer's probationary appointment shall forward a full report to the Board together with his recommendations as to the period of further probationary service which the officer should be allowed in order to pass the required examinations.
- (5) The Board shall advise whether a further period of probationary service should be allowed in order that the officer may pass these examinations and, if so, for what period.
- (6) If after consideration of the matters referred to in paragraph (1) the head of department is of the opinion that the work or conduct of an officer in a probationary appointment has not been in all respects

satisfactory, he shall in writing so inform that officer and inform him whether he proposes to recommend –

- (a) an extension of his probationary service to show whether he can overcome the defects noted; or
 - (b) that his probationary appointment should be terminated. (Amended L .N. 44/1965.)
- (7) The head of department shall, at the same time inform that officer that he is entitled to make representations, within a period to be fixed by the head of department, on the recommendations proposed.
- (8) On the expiry of the period allowed to the officer to make representations the head of department shall forward to the Secretary of the Board a report on the officer, together with a copy of the letter to the officer and of the latter's representations, if any, with a recommendation whether the period of probationary service should be extended or that the officer should not remain in the service.
- (9) The Board shall advise the Minister whether the probationary appointment should be extended and, if so, for what period, or whether it should be terminated.
- (10) If an officer holds a probationary appointment and the head of department at any time during the period of that probationary appointment is of the opinion that the appointment should be terminated forthwith, the procedure in paragraphs (6), (7), (8) and (9) shall be followed (Amended L .N. 44/1965).

Termination of contract appointment.

31. (1) If a head of department considers that an officer serving on contract should not remain in the service until the normal expiry of his contract on grounds which cannot suitably be dealt with under the disciplinary proceedings in Part V the head of department shall inform the officer in writing that he proposes to

recommend the termination of his contract, and invite his representations in the matter in writing.

- (2) The head of department may then recommend to the Board the termination of the officer's contract in accordance with such notice as may be provided in the contract, with a copy of any representations he has made.

Termination of temporary engagements.

57. The procedure in regulation 31 shall be followed where applicable if the head of department decides to recommend the termination of an appointment of an officer serving on temporary engagement, subject to the officer being given a calendar month's notice or one month's salary in lieu, unless the letter of appointment of that engagement provides otherwise.

Termination of appointment on abolition of office.

33. If an office which is one of a number of such offices, is to be or has been abolished but one or more of such offices are to remain, the head of department shall recommend to the Board with his reasons as to which of the officers holding such offices shall have his appointment terminated.

Termination of appointment on grounds of redundancy.

58. If a number of officers are serving on unexpired contracts in the same grade, and a head of department considers that any of those offices should be vacated on ground of redundancy he shall recommend to the Board with his reasons as to which officers or officer should have his or their contracts terminated.

Compulsory retirement of an officer at 45 years of age.

- 35 (1) If it appears to a head of department that there is reason why an officer in his department, who has attained the age of forty-five years and who holds

a pensionable office, should be called upon to retire from the service, the head of department shall report the matter together with a full statement of his reasons to the Board.

- (2) If the Board considers that a prima facie case for such retirement exists, it shall so inform the head of department who shall advise such officer that his compulsory retirement from the service is under consideration together with reasons for it, and ask if he wishes to make any representations in the matter.**
- (3) The head of department shall forward such representations, if any, to the Board, and the Board shall advise the Minister whether the officer should be called upon to retire.**

Compulsory retirement in the public interest.

36. (1) If a head of department considers that an officer should be required to retire from the service on grounds which cannot be suitably dealt with under the disciplinary proceedings prescribed in Part V he shall make a full report to the Board, and the Board shall call for a full report from the heads of any other departments in which the officer may have served.

- (2) On consideration of the report the Board shall give the officer an opportunity of submitting a reply to the complaints by reason of which his retirement is contemplated.**
- (3) The Board on further consideration of the report and of the officer's representations shall advise whether he should be called upon to retire from the service, and upon the award to him of a pension, gratuity or other allowance.**

PART V**DISCIPLINARY CONTROL AND PROCEEDINGS****A. GENERAL**

Principles relating to disciplinary control.

- 37. (1) All acts of misconduct by officers shall be dealt with under these regulations as soon as possible.**
- (2) The Board shall apply a procedure in these regulations to all officers concerned in the same way irrespective of seniority or salary.**
 - (3) The Board itself may conduct a formal enquiry into alleged misconduct in any case where it considers the holding of a formal inquiry to be necessary, or may otherwise arrange for the holding of a formal inquiry by a committee of officers.**
 - (4) The disciplinary punishments which may be recommended as a result of disciplinary proceedings taken under this part include the following –**
 - (a) Dismissal,**
 - (b) termination of appointment,**
 - (c) retirement in the public interest,**
 - (d) reduction in rank,**
 - (e) reduction in salary,**
 - (f) fine,**
 - (g) withholding of contract gratuity,**
 - (h) stoppage of increment,**
 - (i) withholding of increment,**
 - (j) reprimand.**

- (5) **The surcharging of any officer for any loss of, or damage to, public funds, stores or property, shall not be regarded as a disciplinary punishment for the purpose of these regulations and the Board shall not advise on surcharging.**
- (6) **The Board shall, however, advise in any case where a head of department recommends that any other disciplinary punishment should be imposed upon any officer on grounds of his misconduct in addition to a surcharge.**

Criminal matters.

38. (1) If a preliminary investigation or a disciplinary inquiry discloses that an offence against any law may have been committed by an officer, the head of department, unless action taken by the Police has been or is about to be taken, shall consult the Director of Public Prosecutions as to whether a prosecution should be instituted; and if the Director of Public Prosecutions does not advise a prosecution, whether disciplinary action should be taken or continued.

- (2) **In the latter case the charges against the officer shall be framed after consultation with the Deputy Attorney-General before the officer is required to answer them or before the inquiry proceeds.**
- (3) **If criminal proceedings are instituted against an officer in any court, disciplinary proceedings upon any grounds involved in the criminal charge shall not be taken pending the result of criminal proceedings.**
- (4) **An officer convicted of a criminal charge shall not receive any emoluments from the date of conviction pending a decision on his case by the competent authority who, after referring it to the Board for advice, may dismiss him or subject him to some lesser penalty:**

Provided that no final decision shall be taken pending the determination of any appeal from the conviction.

- (5) **The Board shall in order to advise on the case obtain as soon as possible a copy of the criminal court proceedings, and the**

recommendation of the head of department as to whether the officer should be further subjected to disciplinary proceedings.

- (6) No officer acquitted of a criminal charge shall be dismissed or otherwise punished on any charge upon which he has been acquitted, but nothing in this paragraph shall prevent the officer being dismissed or otherwise punished on any other charge arising out of his conduct in the matter, unless the charges raise substantially the same issues as those on which he has been acquitted.

Interdiction.

39. (1) If the Minister considers that the interest of the service require that an officer should cease forthwith to exercise the powers and functions of his office, he may interdict him from the exercise of those powers and functions, if disciplinary proceedings are being taken or about to be taken or if criminal proceedings are being instituted against him.

- (2) The head of department shall inform the Board as soon as any officer in his department has been interdicted.
- (3) An officer who is interdicted shall, subject to regulation 38 (4) ; 38 (5) receive such emoluments, not being less than one half of his normal emoluments as the Minister thinks fit.
- (4) If the disciplinary proceedings do not result in the officer's dismissal or other punishment he shall be entitled to the full amount of the emoluments which he would have received if he had not been interdicted.
- (5) If the punishment is other than dismissal he may be refunded such proportion of the emoluments withheld from him as a result of interdiction as the Minister may think fit in the light of the Board's advice.
- (6) An officer who is under interdiction may not leave his station without the permission of the Minister.

Copies of documents at inquiries.

40. (1) An officer in respect of whom a disciplinary inquiry is to be held shall be entitled to receive a free copy of any documentary evidence which will be relied on for the purpose of the inquiry or be allowed access to it.

(2) Such officer may also be given a copy of the evidence (including documents tendered in evidence) after the inquiry is closed, on payment of ten cents for each document tendered in evidence, and a charge of five cents for every hundred words after the first hundred words of the record of evidence for a copy of that record:

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

B. DISCIPLINARY PROCEEDINGS

Procedure. - Departmental preliminary investigation.

41. If a head of department receives a report alleging the misconduct of an officer he shall cause a departmental preliminary investigation to be made in order to establish the facts of the matter so that he may decide whether he should prefer formal charges of misconduct against the officer.

Formal charges.

42. (1) If the head of department considers formal charges of misconduct should be preferred against an officer he shall in consultation with the Deputy Attorney-General prepare such charges setting out the misconduct alleged.

(2) The head of department shall transmit the formal charges to the officer, and call upon him to state in writing within a reasonable specified time any grounds upon which he wishes to rely to exculpate himself.

- (3) The officer shall be warned by the head of department that anything he states in writing may be used as evidence in subsequent disciplinary proceedings.

Reporting of case to the Board.

43. (1) If the officer does not furnish such a statement within the time specified, or if he fails to exculpate himself to the satisfaction of the head of department the latter shall report the matter to the Secretary of the Board.
- (2) The record shall contain a copy –
 - (a) of any record made of the departmental preliminary investigation;
 - (b) a copy of the charges preferred against the officer;
 - (c) a copy of any written statement he has made in reply; and
 - (d) the head of department's views as to the seriousness of the misconduct which the officer is alleged to have committed.

Formal inquiry.

44. (1) If the Board on considering the head of department's report decides that a formal inquiry should be conducted by itself or by a committee of officers into the alleged misconduct of the officer, it shall inform him that he should appear before the Board or committee on a certain date.
- (2) If during the course of the inquiry the Board is of the opinion that further grounds for formulating charges of misconduct have been disclosed, the Board shall furnish the officer with a written statement of them, and call upon him to exculpate himself in writing as soon as possible.
- (3) If the committee is of that opinion it shall report to the Board for further directions.

Witnesses.

45. (1) If witnesses are examined by the Board or the committee the officer shall be given an opportunity of being present throughout and of putting questions to the witnesses on his own behalf.

(2) No documentary evidence shall be used against the officer unless he has been first supplied with a copy thereof, or has been given access thereto.

Representation of Government and officer.

46. The Board or committee may permit the Government or the officer to be represented by an officer or in exceptional cases by a legal practitioner admitted to practice in Swaziland and may at any time withdraw such permission:

Provided that where the Board or committee permits the Government to be represented they shall not refuse the officer leave to be similarly represented.

(Amended L .N. 44/1965)

Board's advice.

47. On the conclusion of the inquiry the Board shall record its findings and advise what punishment, if any, should be imposed on the officer.

Retirement in the public interest.

48. If upon consideration of the Board's advice it is thought by the appropriate authority that the officer does not deserve to be dismissed, but that the proceedings disclose grounds for requiring him to retire in the public interest he may be required to retire accordingly.

Proceedings without formal inquiry.

49. (1) If the Board, on considering a head of department's report made under regulation 43 is of the opinion that the officer has failed to exculpate himself of the charges preferred, it may in its discretion decide not to institute a formal inquiry on the ground that his misconduct is not serious enough to warrant such an inquiry.

- (2) If the Board decides not to institute a formal inquiry it shall cause the officer to be so informed and that in its opinion he has failed to exculpate himself; and he shall have the opportunity to submit in writing to the Secretary of the Board through his head of department for his comments any representations he may wish to make to the Board further to any written statement he may have made in reply to the charges preferred against him.**
- (3) The Board shall advise on the matter in the light of the head of department's original report and of any further representations made by the accused with the head of department's comments upon them.**

Disciplinary matters not otherwise provided for.

50. (1) Any case not covered by these regulations shall be reported to the Secretary of the Board and the Board may issue directions as to how the case shall be dealt with, and the case shall be dealt with accordingly.

- (2) In any case which comes to the attention of the Board, the Board if it is of the opinion that disciplinary proceedings should be instituted against an officer it may notwithstanding the provisions of these regulations, direct his head of department to initiate such proceedings:**

Provided that before giving such a direction in a case in which it appears that an offence against any law may have been committed, the Secretary of the Board shall refer the case to the Director of Public Prosecutions, who shall inform the Secretary of the Board whether the case is such that a prosecution should be instituted; and if the Director of Public Prosecutions advises that a prosecution should be instituted the Board shall not give such a direction before the conclusion of the case.

PART VI

MISCELLANEOUS MATTERS

Selection of candidates for scholarships or training courses.

51. (1) The Board shall advise the Minister on the award to persons outside the service or to officers of scholarships or of training courses which are intended to qualify such persons for appointment to the service or to qualify officers for promotion in the service.

(2) The selection of officers for scholarships or training courses shall be made in accordance with the principles applicable to promotion.

(3) The Board will advertise when it is intended to proceed to a selection of candidates for scholarship, and may in its discretion interview any candidates.

Departmental pre-service training courses.

52. (1) If a head of department wishes a selection of candidates to be made to attend a departmental pre-service training course he shall report the matter to the Secretary of the Board on PSC Form 5 (Appendix 5 to these regulations), with a draft advertisement, and the Board shall advertise.

(2) The Board shall consider all the applications, and may consult the head of department concerned upon any or all of the applications, or may constitute a departmental selection board to assist the Board, before advising the Minister on the selection of candidates.

(3) The Board may in its discretion interview any candidate.

Examinations.

53. (1) The Board shall advertise when competitive examinations are to be held to select candidates for appointment to the service or officers for promotion.

- (2) The Board shall arrange for the holding of such examinations, and shall advise the Minister on the selection of candidates or officers in the light of the examinations.
- (3) The Board may in its discretion interview candidates or officers.

Promotion and efficiency bars.

54. (1) Not later than two months before an officer is due to pass a promotion or efficiency bar as prescribed in a scheme of service, a recommendation as to his suitability or otherwise will be forwarded by the head of department to the Board.

- (2) If the recommendation is in favour of the officer passing the promotion or efficiency bar a certificate shall be given in the approved form that the officer has passed the language, departmental or other examinations required, details of which shall be given.
- (3) If the head of department considers that the officer is not qualified to pass the promotion or efficiency bar he shall so inform that officer, indicating the reasons, and ask that officer if he has any representations to make within a specified period.
- (4) At the expiry of that period the head of department shall forward to the Board a full statement of the reasons for recommending that the officer should not be permitted to pass the promotion or efficiency bar together with the representations made by the officer, if any, and an indication whether the lack of qualification is temporary and likely to be remedied by the officer or otherwise.
- (5) The Board shall advise the Minister whether the officer should be held at the promotion or efficiency bar, and if so for what period, or not so held.
- (6) If a head of department is of the opinion that an officer should not receive a normal increment of salary when it is due for a reason other than one justifying disciplinary proceedings he shall make a report to the Secretary of the Board, and the Board shall advise the Minister on the withholding of the increment.

- (7) If a head of department is of opinion that an increment which has been withheld should be restored he shall make a recommendation to the Board accordingly, and as to whether the restored increment should be treated as stopped or deferred, and the Board shall advise the Minister.

Representations by individuals.

55. The Board shall not consider representations made by individuals (including serving officers) except when required to do so by the Minister to whom all representations shall be sent, who either may require the Board to advise on representations made by a person in respect of his candidature for appointment to the service or for selection for a scholarship or training course, and on any representations made in respect of any matter which it is considered may be appropriately referred to the Board, or in respect of a decision made by a head of department in the exercise of any delegated powers of appointment or disciplinary control.

Extension of pensionable service beyond normal age of retirement.

56. (1) If a head of department recommends that a pensionable officer should be retained in the service on pensionable terms beyond the normal age of retirement, or if such an officer applies for such an extension of his service, the Board shall advise in the matter.
- (2) The Board shall consider whether the continued employment of the officer is in the interests of the service and whether the office cannot suitably be filled by another serving officer or by normal recruitment.

Note: Most of the regulations here set out were formerly published under High Commissioner's Notice No. 34 of 1963 and were re-instated by the Civil Service Order No. 16 of 1973.)

SCHEDULE

Heads of Department –

Attorney-General

Chief Justice

Secretary to the Council

Commissioner of Taxes

Commissioner of Police

Government Buyer

Permanent Secretary for Agriculture

Auditor-General

Permanent Secretary for Education

Commissioner of Mines

Permanent Secretary for Health

Director of Posts and Telegraphs

Commissioner of Prisons

Permanent Secretary for Works, Power and Communications

Registrar of the High Court

Permanent Secretary for Foreign Affairs

Permanent Secretary for Finance and Economic Planning

Permanent Secretary for Local Administration

Permanent Secretary for Industry, Mines and Tourism

Permanent Secretary for Commerce and Co-Operatives

Permanent Secretary for Justice

Director of Geological Survey

Permanent Secretary for Establishment and Training

(Amended L .N. 44/1965.)

