

GOVERNMENT OF ZAMBIA

STATUTORY INSTRUMENT NO. 102 of 2020

The Service Commissions Act, 2016

(Act No. 10 of 2016)

**The Service Commissions (Civil Service Commission)
Regulations, 2020**

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IN EXERCISE of the powers contained in sections 8 and 41 of the Service Commissions Act, 2016, the following Regulations are made:

PART I

PRELIMINARY PROVISIONS

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|---|----------------|
| 1. These Regulations may be cited as the Service Commissions (Civil Service Commission) Regulations, 2020. | Title |
| 2. In these Regulations unless the context otherwise requires— | Interpretation |
| “associate” has the meaning assigned to the word in the Act; | |
| “Civil Service” means the Civil Service established by the Constitution; | Cap. 1 |
| “Commission” means the Civil Service Commission established by the Constitution; | Cap. 1 |
| “committee” has the meaning assigned to the word in the Act; | |
| “court” means a court of competent jurisdiction; | |
| “Government institution” has the meaning assigned to the words in the Act; | |
| “head of department” means a supervising officer heading a department or section of a Government institution; | |
| “officer” means a public officer serving in the Civil Service; | |
| “public officer” has the meaning assigned to the words in the Constitution; | Cap. 1 |
| “public service” has the meaning assigned to the words in the Constitution; | Cap. 1 |
| “relative” has the meaning assigned to the word in the Act; | |
| “responsible officer” has the meaning assigned to the words in the Act; | |
| “salary” means a pay, remuneration or earnings, however designated or calculated, capable of being expressed in terms of money and fixed by a contract of employment which are payable to an officer for work done or to be done, or for services rendered or to be rendered; and | |
| “supervising officer” means an officer in a ministry, institution, province, department or district to whom an officer is responsible and reports and from whom the officer receives instructions relating to day to day work. | |

Functions of
Commission

3. The functions of the Commission are to—
- (a) second, regrade, transfer and separate employees in the Civil Service;
 - (b) facilitate the transfer of employees across the Service Commissions;
 - (c) transfer employees from one Government institution to another Government institution within the Civil Service;
 - (d) authorise the withholding, reduction, deferment or suspension of salary of employees in the Civil Service;
 - (e) hear and determine complaints and appeals from employees whose cases have been determined by Government institutions within the Civil Service;
 - (f) set and promote a code of ethics and human resource management principles and values for the Civil Service, in accordance with the values and principles set out in the Act;
 - (g) establish standards and guidelines on human resource management for the Civil Service;
 - (h) monitor and evaluate compliance with the code of ethics, human resource management principles and values and any other standards and guidelines on human resource management for the Civil Service in the execution of delegated powers and functions by the Government institutions within the Civil Service;
 - (i) impose appropriate sanctions, including withdrawal of delegated human resource management functions, on erring Government institutions within the Civil Service; and
 - (j) perform such other functions as are necessary or incidental to the regulation of human resource management in the Civil Service.

Delegation
of functions

4. (1) The appointment, confirmation of appointment, promotion, regrading, transfer, secondment, discipline or separation of employment of an officer by the Commission in a Government institution is delegated to a responsible officer in accordance with these Regulations.

(2) The appointment, confirmation of appointment, promotion, regrading, transfer, secondment, discipline or separation of employment of an officer under subregulation (1) shall be done on the recommendation of a committee.

(3) Despite subregulation (1), the Commission may, in writing, reserve the function of appointment of a particular officer.

PART II

ADMINISTRATION OF HUMAN RESOURCE MANAGEMENT COMMITTEE

5. (1) The Commission shall appoint the Chairperson and ViceChairperson of the committee from among the committee members.

Appointment
of
Chairperson
and Vice-
Chairperson

(2) Where the responsible officer is the head of a Government institution, the responsible officer shall not be appointed as Chairperson of the committee.

6. (1) Subject to the other provisions of these Regulations, the committee may regulate its own procedure.

Proceedings
of committee

(2) A committee shall meet for the transaction of its business at least once every month at a place and time that the Chairperson may determine.

(3) The Chairperson may call a meeting of a committee, on giving notice of not less than seven days, if at least three members so request, in writing, except that if the urgency of the matter does not permit the giving of that notice, a special meeting of the committee may be called.

(4) The quorum at a meeting of a committee shall be twothirds of the members.

(5) The quorum at any meeting of the committee shall include at least one external member appointed under section 33(2)(b) or (c) of the Act.

(6) There shall preside at a meeting of a committee—

(a) the Chairperson;

(b) in the absence of the Chairperson, the ViceChairperson;
and

(c) in the absence of both the Chairperson and ViceChairperson, a member that the members present shall elect for the purpose of that meeting.

(7) A decision of a committee shall be made by the majority of the members present and voting at the meeting and where there is an equality of votes, the Chairperson shall have a casting vote, in addition to a deliberative vote.

(8) A committee may invite a person whose presence is in its opinion desirable to attend and participate in the deliberations of a meeting of the committee, but that person shall have no vote.

Disclosure of interest

7. (1) A person who is present at a meeting of a committee at which any matter is the subject of consideration, and in which matter the person or that person's relative or associate is directly or indirectly interested in a private capacity shall, as soon as is practicable after the commencement of the meeting, disclose the interest and shall not, unless the committee otherwise directs, take part in any consideration or discussion of, or vote on, any question relating to that matter.

(2) A disclosure of interest made under this section shall be recorded in the minutes of the meeting at which it is made.

Prohibition of publication or disclosure of information to unauthorised persons

8. (1) A person shall not, without the consent in writing given by, or on behalf of, a committee publish or disclose to any person, otherwise than in the course of discharging that person's duties, the contents of any document, communication or information which relates to, or which has come to the knowledge of that person in the course of discharging that person's duties under these Regulations.

(2) A person who contravenes subregulation (1) commits an offence and is liable, on conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

(3) A person who, having any information which to the knowledge of that person has been published or disclosed in contravention of subregulation (1), unlawfully publishes or communicates the information to any other person, commits an offence and is liable, on conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

Report of committee privileged

9. A report, statement or other communication or record of a meeting, inquiry or proceeding of a committee or a report, statement or other communication or record made by a member for the purposes of the committee in the course of duty, and any application form, report or other communication dispatched to the committee in connection with the performance of its functions, and in the possession of the committee, is privileged and shall not be produced in any legal proceeding unless the Chairperson so directs or a court so orders.

PART III

APPOINTMENT, CONFIRMATION OF APPOINTMENT, PROMOTION, TRANSFER, RE GRADING AND SECONDMENT

Appointment and promotion

10. A responsible officer shall, where there is a vacancy in the Civil Service and prior to the making of an appointment or promotion, ensure that—

- (a) the process of identifying a suitable candidate for an office includes a human resource department or a person responsible for human resource management in a Government institution; and
- (b) the filling of a vacancy for an office is conducted within twentyone days of the date of recommendation by a committee.

11. (1) Where a vacancy occurs in the Civil Service, a head of department in a Government institution shall report the vacancy to a human resource department or a person responsible for human resource management in that Government institution who shall submit a report of the vacancy to a committee.

Filling of
vacancy

(2) The committee shall, on receipt of the report under subregulation (1)—

- (a) recommend the appointment or promotion of an officer to a responsible officer; or
- (b) request a responsible officer to authorise the advertisement of the vacancy.

(3) A committee shall, on receipt of the applications following the advertisement of the vacancy under subregulation (2)(b), recommend a suitable candidate to the responsible officer for appointment or promotion.

(4) A committee shall, before making a recommendation to a responsible officer for an appointment or the promotion of an officer, determine the suitability of a candidate or officer based on qualifications, competence and experience set out in the job description.

12. (1) Subject to regulation 11, an officer appointed to the Civil Service may be appointed on probation for three months before confirmation of the appointment.

Probationary
appointment

(2) A responsible officer shall, one month before the expiry of the probationary period under subregulation (1), consider whether—

- (a) the appointment of an officer should be confirmed on the expiry of the probationary period;
- (b) a further period not exceeding three months of probationary service is required prior to the confirmation of the appointment of an officer to give the officer an opportunity to improve;
- (c) the officer should remain in the Civil Service; or
- (d) to terminate the officer's probationary appointment.

(3) A responsible officer shall, where that responsible officer extends an officer's probationary service under subregulation (2), notify that officer in writing.

(4) Subject to subregulation (2), a responsible officer shall confirm the appointment of an officer if the responsible officer is of the opinion, based on the work and conduct of an officer and on the recommendation of the committee, that the appointment of an officer should be confirmed before the expiry of the period specified under subregulation (1) or (2)(b).

Acting
appointment
for
administrative
convenience

13. A responsible officer may appoint an officer, in writing, to act for administrative convenience in a position higher than that officer's substantive position for a period not exceeding three months.

Acting
appointment
with view to
substantive
promotion

14. A responsible officer may appoint an officer, in writing, to act for a period not exceeding six months in a position higher than that officer's substantive position with a view to promotion and shall inform the Commission accordingly.

Transfer,
regrading or
secondment

15. A responsible officer may transfer, regrade or second an officer to an equivalent vacant position within the Civil Service.

PART IV

DISCIPLINARY PROCEDURES

Suspension
on
allegations
warranting
disciplinary
action

16. (1) Where it is alleged that an officer has committed an offence likely to warrant disciplinary action and it comes to the knowledge of a committee, the committee shall, within seven days of receipt of that information, inform a responsible officer.

(2) A responsible officer may, on receipt of the information under subregulation (1), suspend an officer for a specified period from exercising the powers and functions of the office held by that officer in accordance with the Disciplinary Code.

(3) A responsible officer may suspend an officer under subregulation (2) if the responsible officer is of the opinion that the officer has committed an offence.

(4) A responsible officer shall, where the responsible officer suspends an officer under subregulation (2), notify the officer, in writing, stating the reasons for the suspension.

(5) An officer who is suspended under subregulation (2) shall, during the period of the suspension, continue to receive a full salary.

(6) A responsible officer may, where the responsible officer considers it necessary, at any time during the period of suspension, abridge or extend the period of suspension by a further notice, in writing, and shall state the reasons for the abridgement or extension.

(7) A head of department or a person responsible for human resource management in a Government institution shall inform the responsible officer where—

(a) it has been established after investigations by a police officer or an authorised officer that the suspended officer's case does not warrant prosecution; or

(b) criminal proceedings reveal that the suspended officer has no case to answer.

(8) The responsible officer shall, on receipt of information under subregulation (7), lift the officer's suspension.

17. (1) Where criminal proceedings are instituted against an officer, disciplinary proceedings on the same grounds shall not be instituted against the officer while criminal proceedings are subsisting against the officer.

Suspension of disciplinary proceedings during criminal proceedings

(2) Disciplinary proceedings instituted against an officer shall be suspended where criminal proceedings are instituted on the same grounds.

18. (1) A responsible officer shall, where an officer is convicted of an offence, obtain the following documents and submit them to a committee:

Procedure following criminal conviction

(a) a copy of the charge;

(b) a copy of the judgment of the court that convicted the officer; and

(c) in the case of an appeal, a copy of the judgment of the appellate court.

(2) A responsible officer shall, where as a result of criminal proceedings an officer is convicted of an offence warranting disciplinary action, request a committee to make an appropriate recommendation to be acted on by the responsible officer, unless there is an appeal against the conviction.

(3) The responsible officer shall, where the conviction is upheld by an appellate court and the offence committed warrants disciplinary action, request a committee to make an appropriate recommendation to be acted on by the responsible officer.

19. An officer acquitted of a criminal charge in any court shall not be dismissed or otherwise punished for a charge on which that officer has been acquitted.

Prohibition of sanction on acquittal

- Disciplinary procedure
20. (1) Subject to these Regulations, where an officer is charged with misconduct, a committee may, on its own motion or on direction given by a responsible officer, initiate disciplinary proceedings against the officer.
- (2) A committee shall, during the disciplinary proceedings, give an officer an opportunity to be heard.
- (3) A committee shall, on determination of the matter, recommend disciplinary action of an officer to a responsible officer.
- (4) A committee shall cause to be kept a record of the disciplinary proceedings.
- Punishment to be imposed by responsible officer
21. A responsible officer may, on recommendation of disciplinary action by a committee under regulation 20, impose the following punishments:
- (a) dismissal;
 - (b) reduction in rank;
 - (c) reduction in salary;
 - (d) deferment of increment in salary;
 - (e) withholding of increment in salary;
 - (f) first warning;
 - (g) final warning; or
 - (h) surcharge.
- Submission of disciplinary proceedings to Commission
22. (1) A committee shall submit a report to the Commission of all disciplinary proceedings instituted and determined together with a copy of the relevant charge, a copy of the relevant exculpatory statement, if any, and any other document required by the Commission.
- (2) The Commission shall review the disciplinary proceedings submitted under subregulation (1) within seven days of receipt of the report.
- (3) The Commission shall, where it reviews the disciplinary proceedings and determines that the responsible officer's action was incorrect—
- (a) revoke the decision of the responsible officer;
 - (b) cause the institution of disciplinary action against the responsible officer; or
 - (c) recommend to the Secretary to the Treasury that a responsible officer be surcharged under the Public Finance Management Act, 2018, where, through wilful default or gross negligence of duty by that responsible officer, the action results in loss of public funds.
- Act No. 1 of 2018

23. (1) An officer may, within thirty days of a decision by a responsible officer under this Part, appeal to the Commission, except where the sanction imposed is a first or final warning. Appeal to Commission

(2) An appeal made by an officer under subregulation (1) shall be in writing addressed to the Commission and copied to the responsible officer clearly setting out the grounds of the appeal.

(3) The Commission shall, within thirty days of receipt of the appeal, hear and determine the appeal and notify the officer and the responsible officer of the decision of the Commission.

(4) A person aggrieved by the decision of the Commission may appeal to the High Court.

PART V SEPARATION

24. (1) A responsible officer may discharge an officer in the Civil Service on medical grounds. Discharge on medical grounds

(2) A committee may recommend to a responsible officer the discharge of an officer on medical grounds where the officer does not recover from that officer's illness or injury after six months of the date of the officer's illness or injury, in accordance with the Employment Code Act, 2019. Act No. 3 of 2019

25. (1) A responsible officer may retire an officer who has attained the age of fifty-five on receipt of twelve months' notice from an eligible officer. Early retirement

(2) The responsible officer shall notify, the Commission, in writing, of the officer's intention under subregulation (1) and the Commission shall approve or reject the officer's application for early retirement.

(3) The Commission shall, where it rejects the officer's application for early retirement, inform the officer and state the reasons for the decision.

26. A responsible officer may and subject to the approval of the Commission retire an officer who has attained the age of sixty. Normal retirement

27. (1) Despite regulation 26, an officer may, in writing, notify a responsible officer twelve months before attaining the age of sixty that the officer desires to retire at the age of sixtyfive years. Late retirement

(2) The responsible officer shall notify, the Commission, in writing, of the officer's intention under subregulation (1) and the Commission shall approve or reject the officer's application for late retirement.

(3) The Commission shall, where it rejects the officer's application for late retirement, inform the officer and state the reasons for the decision.

(4) The Commission shall, where it approves the officer's application for late retirement, inform the responsible officer accordingly.

(5) A responsible officer shall, on receipt of the Commission's approval under subregulation (4), notify the officer and retire the officer at the age of sixtyfive.

Retirement in public interest

28. A responsible officer may recommend to the Commission that an officer be retired in the public interest following a disciplinary procedure arising from—

- (a) failure to perform that officer's duties;
- (b) incompetence; and
- (c) any other offence under the disciplinary code.

Retirement in national interest

29. The Commission may retire an officer in national interest to take up another appointment outside the civil service or for any other reason relating to Government policy.

Separation by redundancy Act No. 3 of 2019

30. A responsible officer may, in accordance with the Employment Code Act, 2019, discharge an officer by reason of redundancy stating the reasons for the redundancy.

Resignation

31. (1) An officer who intends to resign may resign on giving three month's notice or pay one month's salary in lieu of notice.

(2) An officer may rescind the resignation within three months of the officer's notice of resignation.

PART VI

GENERAL PROVISIONS

Reports

32. A committee shall submit to the Commission quarterly and annual reports containing—

- (a) the number of appointments, confirmation of appointments, transfers, secondments and separations made;
- (b) disciplinary cases handled, decisions taken and reasons for the decisions taken;
- (c) promotions and demotions made;
- (d) human resources management decisions taken and any omissions; and
- (e) any other information that may be requested by the Commission.

Disciplinary action against responsible officer

33. (1) A responsible officer who acts contrary to these Regulations shall be dealt with as prescribed in the terms and conditions of service of that responsible officer.

(2) Where disciplinary action is taken against a responsible officer in accordance with subregulation (1), the Commission may recommend to the appropriate disciplinary authority the following sanctions on the responsible officer:

(a) termination of the contract of employment of that responsible officer;

(b) surcharge under the Public Finance Management Act, 2018, where through

wilful or gross negligence of duty, a decision made by the responsible officer results in loss of public funds; or

(c) both sanctions under paragraphs (a) and (b).

Act No. 1 of
2018

34. Where a responsible officer's contract of employment is terminated, delegated powers under these Regulations shall be withdrawn and exercised by the Commission pending the appointment of another responsible officer in a Government institution.

Withdrawal
of delegated
powers

35. A Government institution shall maintain staff records and produce the staff records when required by the Commission.

Staff record

36. (1) Any information, notice, charge or other document required to be served or delivered on an officer under these Regulations shall be served or delivered personally on an officer.

Service of
documents

(2) Where personal service cannot be effected in accordance with subregulation (1), any information, notice, charge or other document to be served or delivered on an officer may be sent by post to an officer's last known address.

37. The Civil Service Commission (Delegation) Directions, 1984, are revoked.

Revocation
of S.I. No.
70 of 1984

D. K. CHASAYA,
Chairperson

H. CHIPANGO,
Vice-Chairperson

R. M. Wandi,
Member

M. R. C. KUNKUTA,
Member

A. SAMPA,
Member

J. M. Malitoli,
Member

Lusaka

10th December, 2020

[co.101/11/79]

