

GOVERNMENT OF ZAMBIA

STATUTORY INSTRUMENT No. 76 of 2021

The Service Commissions Act, 2016
(Act No. 10 of 2016)

**The Service Commission (Zambia Correctional Service
Commission) Regulations, 2021**

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IN EXERCISE of the powers contained in section 12 and 41 of the Service Commissions Act, the following Regulations are made:

PART I

PRELIMINARY PROVISIONS

1. These Regulations may be cited as the Service Commission (Zambia Correctional Service Commission) Regulations, 2021. Title
2. In these Regulations, unless the context otherwise requires— Interpretation
 - “associate” has the meaning assigned to the word in the Act;
 - “Chairperson” means the Chairperson of a committee appointed under regulation 5;
 - “Commission” means the Zambia Correctional 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;
 - “disciplinary authority” means the responsible officer, supervising officer or a committee mandated to deal with disciplinary matters;
 - “employee” has the meaning assigned to the word in the Employment Code Act, 2019; Act No. 3 of 2019
 - “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 an officer serving in the Zambia Correctional Service, excluding a civil servant;
 - “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;

“Secretary” means the Secretary of the Commission;

“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; and

“Zambia Correctional Service” means the Zambia Correctional Service established by the Constitution.

Functions of
Commission

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

4. (1) The appointment, confirmation of appointment, promotion, re grading, 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.

Delegation of functions

(2) The appointment, confirmation of appointment, promotion, re grading, 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 Vice Chairperson 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 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, on giving notice of not less than seven days, call a meeting of a committee on the written request of at least three members.

(4) The Chairperson may, if the urgency of the matter does not permit the giving of the notice required under subregulation (3), call a special meeting of the committee on giving shorter notice.

(5) The quorum at a meeting of a committee shall be two thirds of the members.

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

(a) the Chairperson;

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

(c) in the absence of both the Chairperson and Vice Chairperson, a member as 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 in the event of 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 regulation 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 thousand five hundred 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 thousand five hundred 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, TRANSFER, RE-GRADING AND SECONDMENT

10. A responsible officer shall, where there is a vacancy in the Zambia Correctional Service and prior to the making of an appointment or promotion, ensure that the—
- Appointment and promotion
- (a) 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) filling of a vacancy for an office is conducted within twenty one days of the date of recommendation by a committee.
11. (1) Where a vacancy occurs in the Zambia Correctional Service, a head of department or supervising officer in a Government institution shall report the vacancy to a human resource department or a person responsible for human resource management 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 Zambia Correctional 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 Zambia Correctional 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 stating the reasons.

(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) and (2)(a).

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 of six months in a position higher than that officer's substantive position with a view to promotion and shall inform the Commission accordingly.

Transfers,
regrading or
secondment

15. A responsible officer may transfer, re grade or second an officer to an equivalent vacant position within the Zambia Correctional 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) The 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 Zambia Correctional Service Act and the Disciplinary Code of Conduct.

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of 2021

(3) The responsible officer may suspend an officer under subregulation (2) if the responsible officer is of the opinion that the offence is of a grave nature.

(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 of a human resource 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 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) Where as a result of criminal proceedings, an officer is convicted, the responsible officer, shall 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; and

(c) in the case of an appeal, a copy of the judgement 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, direct 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, direct a committee to make an appropriate recommendation to be acted on by the responsible officer.
- Prohibition of sanction on acquittal
19. An officer acquitted of a criminal charge shall not be dismissed or otherwise punished for a charge on which an officer has been so acquitted.
- Submission of disciplinary proceedings to Commission
20. (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 provisions of 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
- Appeals to Commission
21. (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 second warning.
- (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 an appeal, hear and determine the appeal and notify the appellant and the responsible officer of the Commission's decision.
- (4) A person aggrieved with the decision of the Commission may appeal to the High Court.

PART V
SEPARATION

22. (1) A responsible officer may discharge an officer in the Zambia Correctional Service on medical grounds on recommendation of a committee. Discharge on medical grounds
- (2) A committee may recommend for a discharge of an officer to a responsible officer where the officer does not recover from that officer's illness or injury after six months of the date of that officer's illness or injury, in accordance with the Commissioner-General's Standing Orders.
23. A responsible officer may retire an officer who has attained the age of fifty-five on receipt of a twelve month's notice from the eligible officer. Early retirement
24. A responsible officer may and subject to the approval of the Commission, retire an officer who has attained the age of sixty. Normal retirement
25. (1) Despite regulation 24, 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 sixty-five 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 accordingly 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) The responsible officer shall, on receipt of the Commission's approval under subregulation (4), notify the officer and retire the officer at the age of sixty-five.
26. A responsible officer may recommend to the Commission to retire an officer in public interest after a disciplinary procedure arising from any of the following: Retirement in public interest
- (a) failure to perform that officer's duties;
- (b) incompetence;
- (c) misconduct; and
- (d) any other offence under the disciplinary code.
27. The Commission may retire an officer in national interest to take up another appointment outside the public service or for other reasons of Government policy. Retirement in national interest

- Resignation 28. (1) An officer who intends to resign may resign by giving three months' 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.
- Dismissal 29. A responsible officer shall, based on the recommendation of a committee, dismiss an officer following a disciplinary procedure.

PART VI

GENERAL PROVISIONS

- Reports 30. A committee shall submit to the Commission quarterly and annual reports containing—
- (a) the number of appointments, confirmation of appointments, transfer, secondment 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 31. (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 the responsible officer;
- (b) surcharge under the provisions of 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
- Withdrawal of delegated powers 32. 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 by a Government institution.

33. (1) The Commission shall issue and cause to be circulated standards and guidelines on human resources management to be followed by committees in the exercise of the committees' functions under these Regulations. Standards and guidelines
- (2) The Commission shall, from time to time, inspect the Zambia Correctional Service to assess and ensure compliance with these Regulations, standards and guidelines issued.
34. All correspondence for the Commission from responsible officer and other persons shall be addressed to the Secretary unless otherwise provided in these Regulations. Correspondence
35. (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.
36. A responsible officer for Emoluments Division shall give instruction relating to the manner in which salaries, allowances, gratuity and pension contributions may be effected. Salaries, allowances and pension contributions

BRIG. GEN. (RTD) DR. F. S. KAZEMBE,

Chairperson

M. MILOMO,

Vice-Chairperson

B. MAPILI,

Member

E. MBAWO,

Member

A. MULEMGA,

Member

LUSAKA

22nd September, 2021

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