

SUPPLEMENT to the Solomon Islands Gazette

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[Legal Notice No. 36]

JUDICIAL & LEGAL SERVICE COMMISSION
REGULATIONS 1982

IN accordance with the powers vested in it by section 137(1) of the Constitution the Judicial & Legal Service Commission hereby makes the following Regulations:

1. These Regulations may be cited as the Judicial and Legal Service Commission Regulations 1982, and shall come into force on 19th May 1982.

2. In these Regulations, unless the context otherwise requires - Interpre-
tation.

“Commission” means the Judicial and Legal Service Commission for Solomon Islands established in accordance with section 117 of the Constitution;

“Commission post” means an office to which section 118 of the Constitution applies or in relation to which power to appoint is vested in the Commission;

“member” means any member of the Commission and includes the chairman;

“officer” means a person holding a Commission post and office shall be construed accordingly;

“Responsible Officer” in relation to a Commission post shall be the officer specified in Regulation 9.

Officers and Meetings of the Commission

3. There shall be a Secretary to the Commission who shall be a Public Officer assigned to that duty by the Secretary for the Public Service. Meetings of the Commission shall be held at such times and places as the Secretary shall specify on the direction of the Chairman. Secretary
to the
Commission
and meet-
ings.

Decision
by cir-
culation
of papers.

4. (1) Subject to paragraphs (2) and (3), where it is so agreed by a majority of members of the Commission that any business of the Commission may be despatched by circulation of papers, the Secretary shall circulate papers to all the members of the Commission who may signify their decision in writing addressed to the Secretary.
- (2) If a member requests, in writing addressed to the Secretary, a meeting to discuss any business so circulated the decision of the Commission shall not be reached until such a meeting has been held.
- (3) A decision may be reached as a result of circulation of papers notwithstanding that a member does not respond if a majority of the members concur in the decision.

Quorum.

5. A quorum for a meeting of the Commission shall be a majority of the members unless one or more members signifies in writing that he is prepared for a meeting to take place in his absence and to concur in the decisions thereof generally or to concur in a specified decision in which case the quorum shall be two members at the meeting or in respect of the specified decision as the case maybe.

Persons
presiding
at meet-
ings.

6. The Chairman shall preside at a meeting of the Commission or, if the Chairman is absent from Solomon Islands or otherwise unable to attend a meeting or to take part in any decision, the Chairman of the Public Service Commission or in his absence such other person as the meeting shall decide shall preside as Chairman of the meeting and shall, in relation to the calling of the meeting and giving, if necessary, a casting vote, perform the functions of the Chairman.

Matters
concerning
members.

7. For the avoidance of doubt it is hereby declared that no member shall take part in the discussion or decision on any matter concerning him personally although, if invited to do so by the other members, such member may remain in the meeting during such discussion.

Minutes
and action
on minutes.

8. The Secretary shall record the minutes of the meeting including, when a request is so made, the dissent of any member and the reasons for such dissent and shall forward the decisions of the Commission to the Secretary for the Public Service for the necessary action.

Submissions to the Commission

9. (1) Where any matter, other than a disciplinary proceeding or a matter concerning a member of the Commission, is before the Commission, the Commission shall invite a submission from the Responsible Officer. Submissions
by Responsi-
ble Officers.
- (2) The Responsible Officer shall be;
- (a) in the case of judicial posts (including quasi-judicial posts), the Registrar of the High Court;
 - (b) in the case of posts in the Attorney-General's Chambers, the Solicitor-General;
 - (c) in the case of posts in the Public Solicitor's Office, the Public Solicitor;
 - (d) in the case of posts in the Director of Public Prosecution's Office, the Director of Public Prosecution;
 - (e) in the case of other Commission posts, the Solicitor-General.
- (3) All submissions made under this Regulation shall before consideration by the Commission be passed to the Secretary for the Public Service for his comments if any.
- (4) Where any matter relating to a member of the Commission is before the Commission the member concerned may, should he wish to do so, make the submission for the purposes of paragraph (1) himself which submission shall be processed in accordance with paragraph (3) or may invite the Secretary for the Public Service to make the submission.

Disciplinary Proceedings

10. Where any complaint is made to the Commission against any holder of any Commission post the Commission shall: Complaints
made to
the Com-
mission.
- (a) require that the complaint be reduced to writing and forwarded to the Secretary;

- (b) invite the Secretary for the Public Service to comment upon the complaint unless the complaint is made by him; and
- (c) consider the complaint to decide if a *prima facie* case appears from the complaint for the exercise by the Commission of its power to remove or exercise disciplinary control.

Suspension
of Officer.

11. If a *prima facie* case appears to exist or if an officer is charged with an offence against the criminal law the Commission may suspend the officer from duty either with or without pay or on such part of his pay as the Commission shall prescribe.

Action
upon
Complaint.

12. (1) If the Commission decides that a *prima facie* case appears from the complaint, the Secretary shall serve upon the officer against whom the complaint is made the written complaint and a notice requiring the officer within fourteen days of the date of service of the complaint on him to inform the Commission whether he accepts the substance of the complaint and where service is by post the officer shall, unless the contrary is proved, be deemed to have been served at the time at which the notice would be delivered in the ordinary course of post.

(2) If the officer states that he accepts the substance of the complaint or fails to answer in accordance with the requirement made in the notice served under paragraph (1) the Commission shall proceed to consider the complaint and determine whether or not to exercise its powers.

Oral
Hearing.

13. Where either:-

- (a) the substance of the complaint is denied; or
- (b) the officer requests an opportunity to be heard; or
- (c) the Commission so decides;

the Commission shall hold an oral hearing.

Procedure
at oral
hearing.

14. At an oral hearing:-

- (a) the complainant and the officer shall be entitled to be heard and to call evidence;

- (b) evidence may be given on oath and the complainant and the officer may cross-examine any witness who gives evidence;
- (c) the complainant and the officer may be represented by a barrister or solicitor or, in the case of the officer, by a representative from a professional association or trade union.
15. (1) If the Commission finds the complaint proved or the complaint is admitted the Commission may either:- Action on proved or admitted complaint.
- (a) take no action on the complaint;
 - (b) where the officer holds an appointment on probation, direct that the appointment be not confirmed or terminated forthwith;
 - (c) reprimand the officer;
 - (d) severely reprimand the officer;
 - (e) order that the officer pay a fine not exceeding two weeks salary to be deducted from his salary;
 - (f) suspend the officer from duty without salary or on such part of the salary as the Commission shall prescribe for a period not exceeding six months;
 - (g) order reduction in rank or reduction in salary;
 - (h) order suspension or deferment of increment;
 - (i) remove the officer from his appointment; or
 - (j) dismiss the officer from the Public Service.
- (2) Notwithstanding paragraph (1), should the Commission so decide, it may recommend to the Governor-General that the officer be required to retire in the public interest or in the case of a contract officer, that he should be given notice to terminate the contract.

Premature Retirement on Medical Grounds

Medical
Examina-
tion.

16. (1) Where the Secretary for the Public Service is of the opinion that an officer is unlikely, because of his health, to continue to perform satisfactorily the functions of his office the Secretary for the Public Service may require the officer to undergo a medical examination by a medical officer appointed by him.
- (2) If the officer fails to attend the medical examination the Commission may suspend the officer on full pay or without pay or with such part of his pay as the Commission shall determine until he undergoes such medical examination.

Consideration
of sub-
mission.

17. (1) If after receipt of the medical report the Secretary for the Public Service is of the opinion that there is a case for the Commission to consider to order premature retirement on medical grounds he shall submit the matter to the Commission.
- (2) The Commission after giving the officer an opportunity to make representations shall consider the submission and representations and shall decide whether or not the officer should be required to retire on medical grounds.

Miscellaneous

Attempts
to influence
the Com-
mission.

18. (1) No person who is not a member of the Commission shall influence or attempt to influence the Commission or any member in favour of or against any course of action to be taken by the Commission other than by a submission duly made through the responsible officer under these Regulations or at an oral hearing.
- (2) Where it is established to the satisfaction of the Commission that an applicant for any Commission post or a candidate for any promotion to such a post has attempted to influence the Commission or a member of the Commission or has been party to such an attempt, the Commission shall refuse to consider that person as an applicant or a candidate and his name shall be withdrawn from the Commission deliberations.

19. The Judicial and Legal Service Commission Regulations 1977 (Legal Notice 116 of 1977) are hereby repealed. Repeal of
earlier
Regulations.

F.L. Daly
Chairman

F. Osifelo
Member

H.J. Broughton
Member

M. Pitakaka
Member