

THE UNITED REPUBLIC OF TANZANIA

Supplement No. 25

24th June, 2022

SUBSIDIARY LEGISLATION

To The Gazette of the United Republic of Tanzania No. 25 Vol. 103 Dated 24th June, 2022
Printed by The Government Printer, Dodoma by Order of Government

GOVERNMENT NOTICE NO. 444 published on 24/6/2022

THE PUBLIC SERVICE ACT,
(CAP. 298)

REGULATIONS

(Made under regulation 35(1))

THE PUBLIC SERVICE REGULATIONS, 2022

ARRANGEMENT OF REGULATIONS

Regulation Title

PART I
PRELIMINARY REGULATIONS

1. Citation.
2. Application.
3. Interpretation.

GN. No. 444 (contd.)

PART II

APPOINTMENTS, CONFIRMATION OF APPOINTMENTS AND PROMOTIONS

4. Powers of appointment and confirmation.
5. Powers of President to make appointments.
6. Powers of other appointing authorities.
7. Notification of vacancies where appointing authority is President.
8. Notification of vacancies where appointing authority is Minister responsible for local government.
9. Notification of vacancies where appointing authority is Chief Executive Officer.
10. Notification of vacancies which appointing authority is Director of Local Government Authority.
11. Advertisement.
12. Selection of candidates.
13. Transport and subsistence allowance on first appointment.
14. Probationary appointments.
15. Promotion on merits.
16. Promotion on trial.
17. Certain persons not to be appointed.
18. Terms of service.
19. Further engagement on contract.
20. Remunerations.
21. Special procedures.

PART III

PERFORMANCE CONTRACT

22. Performance contracts system.
23. Institutional performance contracts.
24. Institutional performance assessment.
25. Individual performance contracts.
26. Individual staff performance contracts implementation reports.
27. Performance assessment of public servants.
28. Termination of appointment.

GN. No. 444 (contd.)

PART IV

TERMINATION OF APPOINTMENT ON NON-DISCIPLINARY GROUNDS

29. Removal in public interest.
30. Retirement on medical grounds.
31. Retirement on abolition of office or re-organization of department.
32. Termination by age of retirement.
33. Termination of appointment of non-pensionable public servants.
34. Termination upon contesting constitutional leadership or elective political post.

PART V

DISCIPLINE

(a) General

35. Disciplinary authorities and powers.
36. Preliminary investigations.
37. Suspect may be relieved of his duties administratively.
38. Interdiction.
39. Suspension of public servant convicted of criminal offence.
40. Loss of privileges on dismissal.

(b) Disciplinary Proceedings

41. Types of disciplinary proceedings.
42. Circumstances of formal proceedings.
43. Circumstances of summary proceedings.
44. Commencement of formal proceedings.
45. Inquiry into disciplinary charge.
46. Inquiry committee.
47. Procedure on inquiry in formal proceedings.
48. Procedure on the conclusion of inquiry.
49. Procedure on summary proceedings.

GN. No. 444 (contd.)

*(c) Where Criminal Proceedings Against a Public Servant
are Pending or Concluded*

- 50. Rules where disciplinary offence amounts to criminal offence.
- 51. Rules where criminal proceedings have been commenced and concluded.
- 52. Punishments.
- 53. Loss occasioned by public servant may be recovered from him independently of these Regulations.
- 54. Withholding of increments.
- 55. Suspension of increments.
- 56. Reprimands and warning.
- 57. Absent without leave.
- 58. Absent on account of illness.
- 59. Disciplinary proceedings for public servants in operational service.

PART VI
APPEALS

- 60. Appeals.
- 61. Time for appeals.
- 62. Appeals procedure.
- 63. Entitlement to copy of decision.
- 64. Decision of appellate authority.

PART VII
CODE OF ETHICS AND CONDUCT FOR THE PUBLIC SERVICE

- 65. Code of ethics and conduct.
- 66. Public servants awareness of code.
- 67. Effect of breach of code.

PART VIII
PUBLIC SERVICE COMMISSION

- 68. Composition of Public Service Commission.
- 69. Tenure of office.
- 70. Vacation of office.
- 71. Appointment of Secretary and other staff.
- 72. Oath of Chairman and members of Commission.
- 73. Delegation of powers and functions.
- 74. Decision of Commission.
- 75. Quorum at Commission's meetings.
- 76. Commission may co-opt members.
- 77. Records of Commission's meetings.
- 78. Correspondence.
- 79. Communications of Commission to be privileged.
- 80. Protection of members.
- 81. Commission may require attendance.
- 82. Offence to influence or attempt to influence Commission.
- 83. Offence of false information to Commission.
- 84. Interpretation of "Commission" in regulation 82 and 83.

PART IX
RETIREMENT BENEFITS

- 85. Protection of pension rights and other terminal benefits.
- 86. Benefits payable to public servants engaged on permanent and pensionable terms.
- 87. Benefits payable to public servants engaged on contract terms.
- 88. Duty to keep records.

PART X
MISCELLANEOUS
(a) General

- 89. Role of Minister in public service.
- 90. Communication from Ministry to Ministry and to Head of

GN. No. 444 (contd.)

- Independent Departments.
- 91. Powers of Chief Secretary.
- 92. Communication from Head of Independent Department, Executive Agency and Regional Secretariat to Ministries and other Organisations.
- 93. Communication from local government authorities.
- 94. Communication with foreign governments and agencies.
- 95. Communication with Office of Attorney General.
- 96. Annual leave.
- 97. Maternity and paternity leave.
- 98. Leave without pay.
- 99. Sick leave and convalescent leave.
- 100. Sabbatical leave.
- 101. Leave pending retirement.
- 102. Training and staff development.
- 103. Provision of housing.
- 104. Medical services.
- 105. Employers duty to protect health of public servants.
- 106. Transfers.
- 107. Workers' councils and negotiating machinery.
- 108. Application of Standing Orders and Circulars.
- 109. Compensation for injuries or death.

(b) Local Government Service

- 110. Establishment of employment boards of local government authorities.
- 111. Appointments of public servants in local government authorities.
- 112. Oath of Chairman and members of employment boards.
- 113. Tenure of office for members of Board.
- 114. Meetings of Board.
- 115. Quorum at meeting of Board
- 116. Co-option of members.
- 117. Procedures of Board.
- 118. Decisions of Board.
- 119. Vacancies not to invalidate proceedings of Board.
- 120. Signing of documents.

GN. No. 444 (contd.)

- 121. Functions of Board.
- 122. Expenses of Board.
- 123. Appointment procedure of public servant in local government authorities.
- 124. Interviews.
- 125. Selection of candidates.
- 126. Employment by local government authorities.
- 127. Letters of appointment for public servants in local government authorities.
- 128. Probationary period for public servants in local government authorities.
- 129. Terms of service.
- 130. Terms of service for non-citizens employed in local government authorities.
- 131. Disciplinary proceedings for public servants in local government authorities.

(c) Health Service

- 132. Public servants in health service.
- 133. Effects of professional registration.
- 134. Disciplinary proceedings where offence amounts to breach of professional code of conduct.

(d) Scope of the Regulations

- 135. Scope of Regulations.
- 136. Revocation.

SCHEDULE

GN. No. 444 (contd.)

THE PUBLIC SERVICE ACT,
(CAP. 298)

REGULATIONS

(Made under section 35(1))

THE PUBLIC SERVICE REGULATIONS, 2022

PART I
PRELIMINARY PROVISIONS

- | | |
|----------------|--|
| Citation | 1. These Regulations may be cited as the Public Service Regulations, 2022. |
| Application | 2. These Regulations shall apply to all public servants in the following services:
(a) the Civil Service;
(b) the Local Government Service;
(c) the Teachers Service;
(d) the Health Service;
(e) the Executive Agencies Service and the Public Institutions Service;
(f) the Judicial Service; and
(g) the Parliamentary Service. |
| Interpretation | 3. In these Regulations, unless the context otherwise requires- |
| Cap. 298 | “Act” means the Public Service Act;
“ad hoc committee” means a committee appointed by the Chief Executive Officer to facilitate appointment of public servants below the officer grade;
“after consultation with” means after seeking or after obtaining the advice, or recommendations or the comments or the suggestions on any matter in question;
“appellate authority” means a body or organ or a person |

- authorised by these Regulations to decide upon an appeal of a public servant or disciplinary authority;
- “appointment” includes-
- (a) appointment on contract;
 - (b) temporary appointment;
 - (c) part time appointment;
 - (d) acting appointment;
 - (e) permanent appointment; and
 - (f) appointment on promotion;
- “appointing authority” means a person or authority exercising powers of making appointment to any public service office;
- “approved establishment” means the establishment of posts in the public service and there is a provision in the approved budget for the establishment;
- “authorised public servant” means a public servant who is authorised in writing by his organisation either generally or specifically to act on matters of any specified kind or to perform any duty or any responsibility;
- “Chairman” in relation to the Commission, means the Chairman of the Commission and includes a person acting in that office; in relation to the Committee, means the Chairman of that Committee; and in relation to the Board, means the Chairman of the Board;
- “Chief Executive Officer of the Service” means the Chief Secretary;
- “Chief Executive Officer” means the Permanent Secretary, Head of Independent Department, Regional Administrative Secretary, Director of Local Government Authority, Clerk of the National Assembly, Deputy Permanent Secretary, Chief Court Administrator or any other appointed head of the Public Organisation, Institution or Executive Agencies;
- “Chief Secretary” means a public servant appointed under section 4 of the Act to assist the President

GN. No. 444 (contd.)

- in the Administration of the Public Service;
- “child” means a child of a public servant as defined in the Standing Orders for the Public Service;
- “Code of Ethics and Conduct” means the Code of Ethics and Conduct for the Public Service, and shall include the Professional Codes of Ethics and Conduct and the Public Service Leadership Code of Ethics and Conduct;
- “Commission” means the Public Service Commission established under section 9 of the Act;
- “Committee” when used in relation to an inquiry, means an inquiry committee in the disciplinary proceedings;
- Caps. 20, 16 and 200 “criminal offence” means an offence chargeable in the criminal court as defined under the Criminal Procedures Act, Penal Code and Economic and Organised Crime Control Act, and any other laws;
- “Department” means an identified entity within the organisational structure for management purposes;
- “dependant” means a member of the family of a public servant who is wholly or partially dependent upon the earnings of the public servant;
- “Director of a Local Government Authority” means the Chief Executive Officer of a local government authority;
- “disciplinary authority” means any person or authority vested with powers under these Regulations to take disciplinary measures against any public servant and includes any person to whom those powers have been delegated;
- “disciplinary offence” means any act or omission or misconduct or failure to take reasonable care or failure to meet set targets or to discharge duties in a reasonable or satisfactory manner by or on the part of a public servant which warrants disciplinary proceedings under these Regulations being taken against that public servant, and includes-

GN. No. 444 (contd.)

Cap. 398

- (a) contravention of any of the requirements of the Code of Ethics and Conduct for the Public Service and the Professional Codes of Ethics and Conduct for various services, and in case of a public servant who is a leader, the Public Leadership Code of Ethics Act;
- (b) contravention of any of the requirements of the e-Government Act; and
- (c) any of the offence specified in the First Schedule to these Regulations;

“employee” for the purpose of these Regulations, means any person termed by the Act as a public servant;

“employer” means a person or organisation, in the public service, with whom a public servant entered into a contract of service and who is responsible for the payment of salaries of such a public servant;

“Employment Board” means the Board established in the local government authorities under these Regulations to facilitate appointments of public servants in the local government authorities;

“independent department” means a department of the Government that is not under the direct control of the Ministry;

“interdiction” means a temporary removal of a public servant from exercising the duties of his office;

“investigating agencies” means any agency involved in investigation;

“local government authority” has the meaning ascribed to it by the Local Government (District Authorities) Act or the Local Government (Urban Authorities) Act;

Caps. 287 and 288

“leave” shall include, annual leave, maternity leave, paternity leave sabbatical leave, sick leave, leave pending retirement, leave without pay and convalescent leave;

“Medical Board” means a Board established under these Regulations;

Cap. 152

“medical practitioner” has a meaning ascribed to it under the Medical, Dental and Allied Health Professionals Act;

GN. No. 444 (contd.)

“member” means in relation to a Commission, a member of the Commission and includes the Chairman, and in relation to a Committee, a member of the Committee and includes a Chairman of a Committee, and in relation to a Board, a member of a Board and includes a Chairman of a Board;

“Minister” means the Minister responsible for public service matters;

“operational service” means the cadre of supporting staff not employed in the executive or officer grade;

“promotion” means the raising or appointment of a public servant to a higher grade or managerial position with an immediate or potential increase in salary;

“public service” means the system or organisation entrusted with the responsibility of overseeing the provision or directly providing the general public with what they need from their Government or any other institution on behalf of the Government as permissible by laws; and includes the service in the civil service; the teachers service; the local government service; the health service; the executive agencies and the public institutions service and the operational service;

“public service office” has the meaning ascribed to it under the Act;

“public servant” means a person holding or acting in the public service office;

Cap. 371

“retirement age” has a meaning ascribed to it under the Public Service Social Security Fund Act;

“Recruitment Secretariat” has a meaning ascribed to it under the Act;

“removal in public interest” means termination of appointment other than on disciplinary grounds for the purpose of facilitating improvement in the organisation of the department to which one belongs by which greater efficiency or economy may be effective;

“secondment” means a temporary transfer to another employment or to another position within or

GN. No. 444 (contd.)

outside the public service having different terminal benefits scheme;

“seniority” between public servants in a particular post or grade shall be determined by the date of their first appointment or by the order of the effective dates of their confirmation or by the dates of promotion;

“sick period” means the period the length of which is three years from the date of first appointment, new “Sick period” commencing thereafter, however, where a public servant’s sick leave extends from one “sick period” to another, his fresh “sick period” shall commence on his return to duty on completion of such sick leave;

“sick leave” means the approved absence of a public servant from duty on account of illness;

“suspension” means a temporary removal of a public servant from exercising the duties of his office after he has been convicted of a criminal offence until such time when the result of disciplinary proceedings against him is known;

“tenure of office” means a specified length period of holding office;

“transfer” means posting of a public servant from one working station, Ministry, region, independent department, executive agency, local government authority, parastatals, corporations and institutions to another; and

“the Service” means the public service of the United Republic of Tanzania.

PART II

APPOINTMENTS, CONFIRMATION OF APPOINTMENTS AND PROMOTIONS

Powers of
appointment and
confirmation

4. This Part shall apply in relation to powers of appointing authorities or employers to-

- (a) make appointment of public servants;
- (b) confirm the appointment of a public servant appointed on probation; and
- (c) extend the probationary period of any public

GN. No. 444 (contd.)

servant appointed on probation.

Powers of
President to
make
appointments
Cap. 2

5.-(1) Subject to the Constitution of United Republic of Tanzania, the Act and other written laws, the President shall appoint the Chief Secretary, Permanent Secretaries, Heads of Independent Departments, Heads of Executive Agencies, Heads of Public Institutions, Deputy Permanent Secretaries, Regional Administrative Secretaries, Clerk to the National Assembly, Directors of City Councils, Ambassadors, Director of Local Government Authorities and such other public servants as the President may, from time to time, determine.

(2) The powers of the President to make appointments shall be facilitated by the Chief Secretary who shall receive recommendations for appointments from the Permanent Secretary (Establishments);

Provided that, the Permanent Secretary (Establishments) shall consult the Minister before forwarding the recommendations to the Chief Secretary.

(3) The Chief Secretary shall be responsible for confirmation of public servants appointed by the President.

Powers of other
appointing
authorities

6. Subject to the procedures laid down in these Regulations, powers of appointments, confirmation of appointments and promotion of public servants other than those appointed by the President shall be the-

- (a) Permanent Secretary in respect of each Ministry in consultation with respective Minister;
- (b) head of independent department, executive agencies and public institutions in respect of such department, agency or institution;
- (c) Regional Administrative Secretary in respect of each region;
- (d) Minister responsible for local government after consultation with the local government authority concerned in respect of Directors of local government authorities other than Directors of City Council;

GN. No. 444 (contd.)

- (e) local government authority in the respective local government authority; and
- (f) Teachers' Service Commission in respect of teachers.

Notification of vacancies where appointing authority is President

7.-(1) Where a vacancy occurs or is likely to occur in a post of Permanent Secretary and Deputy Permanent Secretary, the Permanent Secretary (Establishments) shall, after consultation with the respective Minister, notify the Chief Secretary who shall notify the President with recommendations of possible candidates to fill the post.

(2) Where a vacancy occurs or is likely to occur in a post other than a post of the Permanent Secretary and Deputy Permanent Secretary, the Permanent Secretary of the Ministry concerned shall, after consultation with the Minister responsible for the Ministry, in relation to which the vacancy has occurred or is likely to occur, notify the Chief Secretary through the Permanent Secretary (Establishments) who shall consult the Minister.

(3) The Permanent Secretary (Establishment) shall, after consultation with the Minister in accordance with subregulation (2), subsequently forward recommendations to the Chief Secretary as to whether the vacancy should be filled -

- (a) by promotion of a public servant serving in the Ministry, Local Government Authority, Independent Department, Executive Agencies, Public Institutions or Regional Administrative Secretariat in which the vacancy exist; or
- (b) by transfer if it is likely that a suitable candidate will be found in some other Ministries, Local Government Authority, Independent Departments, Executive Agencies, Public Institutions or Regional Administrative Secretariat.

GN. No. 444 (contd.)

Notification of vacancies where appointing authority is Minister responsible for local government

8.-(1) Where a vacancy occurs or is likely to occur in a post of Director of a Local Government Authority, the Permanent Secretary responsible for local government shall, after consultation with the Minister responsible for local government, notify the Public Service Commission and the Permanent Secretary (Establishments).

(2) After notification, the Commission shall, *mutatis mutandis*, apply the procedures provided for under regulations 11 and 12.

(3) The Commission shall forward the findings to the Permanent Secretary responsible for local government who shall, after consultation with the Permanent Secretary (Establishments), forward the findings with recommendations to the Minister responsible for local government regarding the appointment.

(4) Notwithstanding the provisions of subregulation (3), the Minister responsible for local government shall make appointment after consultation with the respective local government authority.

Notification of vacancies where appointing authority is Chief Executive Officer

9.-(1) Where a vacancy occurs in a post with respect to which the appointing authority is a Chief Executive Officer, the Chief Executive Officer concerned shall notify the Recruitment Secretariat and the Permanent Secretary (Establishments) specifying the necessary requirements for such post.

(2) Where a vacancy occurs or is likely to occur in a post of below the officer grade, the Chief Executive Officer concerned shall follow the procedures laid down under these Regulations to fill that vacancy.

(3) In order to ensure that selection of candidates in the posts under subregulation (2) is based on merit through open competition, the Chief Executive Officer shall appoint *ad hoc* committee to interview the candidates whereby members of the Committee shall be from within the organisation and shall consist of both women and men.

GN. No. 444 (contd.)

Notification of vacancies where appointing authority is Director of Local Government Authority

10. Where a vacancy occurs or it is known that a vacancy will occur in a post, which the appointing authority is a Director of a Local Government Authority, the procedures provided for under Sub-Part (b) of Part X shall apply to fill that vacancy.

Advertisement

11.-(1) Subject to the preceding provisions in this Part, applications for appointment to vacant posts other than those which appointing authority is the President shall be invited by public advertisement in the United Republic in such manner as may be determined by the Public Service Recruitment Secretariat in consultation with the appointing authority, provided that such advertisement is not discriminative based on gender and disability.

(2) The procedure under this regulation shall apply where the vacant post need to be filled by promotion, transfer or re-engagement of a public servant serving in a Ministry, Independent Department, Executive Agencies, Local Government Authorities, Public Institutions or Regional Administrative Secretariat in which the vacancy exists.

Selection of candidates

12.-(1) Selection of candidates in different posts in the public service shall be based on merits through an open competition by conducting interviews.

(2) The Public Service Recruitment Secretariat shall prepare and issue guidelines to be followed in conducting interviews, and shall conduct interviews for appointments in the public service, so as to ensure objectivity, consistency and to attain the right qualities of the applicants.

(3) In selecting candidates for appointment, including appointments on promotion or transfer, the appointing authority shall have regard primarily to the efficiency of the Service.

(4) The selected candidate shall, before being appointed in the public service, undergo medical examination.

GN. No. 444 (contd.)

Transport and
subsistence
allowance on
first
appointment

13. The public servant shall, on first appointment, be entitled to the following:

- (a) free transport and subsistence allowance for seven days at the rate to be determined from time to time by the Permanent Secretary (Establishments);
- (b) if the public servant has a family he will be entitled to-
 - (i) free transport for himself, spouse and not more than four children and two dependants from his home to the working station; and
 - (ii) subsistence allowance at rates and days to be determined from time to time by the Permanent Secretary (Establishments).

Probationary
appointments

14.-(1) Where any person is first appointed to an office in the public service on pensionable terms, he shall serve a probationary period of minimum nine months which shall not exceed twelve months.

(2) Where a public servant after appointment has to undergo an instruction course of six month or more in duration, his confirmation shall be considered after the completion of the course and the period of his probation shall be extended to cover the period of the course.

(3) Immediate supervisor or an authorised public servant shall, not later than three months before the expiration of any probationary period, consider whether the-

- (a) public servant should be confirmed in his office;
 - (b) probationary period should be extended to afford the public servant an opportunity of improving in any respect in which his work or conduct have been adversely reported on; or
 - (c) the appointment of the public servant should be terminated.
- (4) Where the immediate supervisor or an

GN. No. 444 (contd.)

authorised public servant is of the opinion that the probationary period should be extended or an appointment be terminated under paragraph (b) or (c) of subregulation (3) he shall, before extending such period or terminating such appointment, inform the public servant in writing of his intention.

(5) The public servant shall be informed of his rights to make representations thereon within a period to be specified in the letter of information and shall be required to acknowledge receipt of the letter, in writing within that period.

(6) Notwithstanding the provisions of subregulation (2) but subject to the provisions of subregulation (3), the immediate supervisor or authorised public servant may terminate a probationary appointment at any time.

(7) The immediate supervisor or authorised public servant may reduce a probationary period if the public servant concerned has fulfilled all the requirements necessary to be fulfilled before he is confirmed in his appointment and if, either-

- (a) he has previously served in that office or in a similar office on non-pensionable terms;
or
- (b) the reduction of the probationary period is necessary for administrative reasons;

Provided that, no probationary period shall be reduced under this regulation by a period exceeding the period which the public servant concerned has served in such office or a similar office on pensionable terms or a period of six months whichever the less.

(8) The immediate supervisor or the authorised public servant shall, where he is of the opinion that a public servant has successfully completed a probationary period, confirm such a public servant to the appointment with effect from the date of his probationary appointment.

Promotion on
merit

15. Promotion of a public servant shall be based on merit, effective and efficient performance,

GN. No. 444 (contd.)

qualification, skills and personal qualities, integrity and capacity of the Government or employer to pay the new salary.

Promotion on trial

16.-(1) Where a public servant is promoted to any post in the Public Service, that public servant shall, for the period of six months, exclusive of any period of leave, from the date upon which the promotion became effective, be deemed to be on trial and the immediate supervisor shall, where he is of the opinion that the public servant has failed to perform satisfactorily all the duties of the post to which he was promoted, give the public servant a notice in writing calling upon him to show cause, in writing, why his promotion shall not be withdrawn.

(2) Where a notice is given to a public servant under subregulation (1), the immediate supervisor shall-

- (a) if the public servant has made any representations in writing pursuant to the notice, forward such representations together with his own report upon the public servant's conduct, ability, diligence, aptitude and any other relevant factor to the appointing authority; and
- (b) if the public servant fails to make any representation, report such failure to the appointing authority and also furnish the appointing authority with a report on the public servant's conduct, ability, diligence, aptitude and any other relevant factor.

(3) The appointing authority may, after considering the report and representations, if any, direct that-

- (a) the promotion of the public servant shall not be interfered with;
- (b) a decision in the matter be deferred for such further period as the appointing authority may direct so as to allow the public servant further opportunity to prove his suitability for the post to which he was promoted; or

GN. No. 444 (contd.)

(c) the promotion of the public servant be withdrawn.

(4) Where no notice has been given under subregulation (1) within the period of six months, exclusive of any period of leave, the public servant shall be deemed to have completed his trial period satisfactorily and he shall be served with a letter of confirmation within one month after expiration of the trial period.

(5) Subject to the provisions of subregulation (4), where a public servant is not confirmed within the prescribed period, he shall have the right to enquire on his confirmation status.

(6) Where a public servant who is appointed to superlative substantive post or duty post is removed from that post for any reason, he shall be referred to the bar in his scheme of service.

Certain persons
not to be
appointed

17.-(1) A person who has been convicted of a criminal offence involving moral turpitude or who has been dismissed from the public service previously, may not be appointed to any public service post without the prior sanction of the Chief Secretary.

(2) Offences involving moral turpitude shall include-

- (a) an act or behaviour that gravely violates the moral sentiment or accepted moral standard of the community; or
- (b) the immorally culpable quality held to be inherent in some criminal offences as distinguished from others.

(3) A person who has been removed or retired from the Service in public interest or by retrenchment or redundancy shall not be appointed in the Service without prior sanction of the Chief Secretary;

Provided that, any person who is retired by retrenchment or redundancy from the public service shall, after the sanction of the Chief Secretary, be reappointed to the service on contractual terms.

GN. No. 444 (contd.)

(4) Where a person has been appointed in contravention of subregulation (1) or (3), it shall be lawful for the appointing authority to dismiss such person at any time, and every such dismissal shall have the same effect as dismissal following disciplinary proceedings.

(5) A person shall not be appointed, promoted or transferred to any public service post unless he holds such qualifications as may from time to time be specified as qualifications necessary for an appointment to the post in any approved scheme of service;

Provided that, the minimum entry qualifications into the Service shall be National Form Four Certificate plus training into the relevant field.

(6) A person who is of unsound mind shall be appointed in the public service.

(7) Person who is not a citizen of the United Republic shall be appointed otherwise than on transfer or promotion on pensionable terms to any public service post without prior approval of the Chief Secretary.

(8) Subject to the provisions of subregulation (7), a person who is not a citizen of the United Republic shall not be appointed to any public service post unless the appointing authority is satisfied that no citizen of the United Republic who is qualified and suitable for appointment is available and the Minister responsible for that Service certifies that it will be against the public interest for the post to remain vacant.

(9) Where the appointing authority specified under subregulation (8) is the Minister responsible for local government, the Minister responsible for public service shall certify whether it will be against the public interest for the post to remain vacant.

(10) Whenever a need arises to employ a person who is not a citizen of the United Republic to a public service post, the appointing authority concerned shall, after consultation with the respective Minister, notify in writing the Permanent Secretary (Establishments) who shall forward to the Chief Secretary for approval.

GN. No. 444 (contd.)

Terms of service

18. The terms and conditions of service of all public servants shall be determined by the Chief Secretary provided that, these powers may be exercised by the Permanent Secretary (Establishments) under directives of the Chief Secretary.

Further
engagement on
contract

19.-(1) A public servant shall not be permitted to continue in the service on contract after attaining the retirement age, save that the Chief Secretary may approve the re-engagement of a public servant if he is satisfied that it is in the public interest so to do.

(2) Under special circumstances the following persons may be engaged in the public service to serve on contract terms:

- (a) a non-citizen who is engaged for some projects or on expatriate requirements;
- (b) a citizen from outside the public service who is engaged to the Service under expatriate or consultancy requirements;
- (c) a retired public servant who has been re-engaged in the Service; and
- (d) a citizen who is first appointed to the public service after he has attained the age of forty five years.

(3) The appointing authority shall, where he is of the opinion that a public servant be re-engaged on further terms of contract, notify the Permanent Secretary (Establishments) who shall forward recommendations to the Chief Secretary;

Provided that, the public servant may not be re-engaged into the Service after he has attained the retirement age.

Remunerations

20.-(1) The Permanent Secretary (Establishments) shall, after consultation with the Minister, determine remunerations of public servants.

(2) In determining salaries and salary scales for the public servants, the Permanent Secretary (Establishments) shall have regard to any other relevant laws, the National Pay Policy and directives given from

GN. No. 444 (contd.)

Special
procedures

time to time by the Chief Secretary.

21. The appointing authority or authorised public servant shall, where is satisfied that it is in the public interest that any matter relating to the appointment, including appointment on promotion or transfer or confirmation, of a public servant, be dealt with otherwise than in accordance with the procedures laid down in this Part, refer the matter to the Chief Secretary through the Permanent Secretary (Establishments) and shall deal with the matter in accordance with such directions as may be given by the Chief Secretary.

PART III

PERFORMANCE CONTRACT

Performance
contracts system

22.-(1) For the purposes of this Part, there shall be performance contract system as Government performance management system tools aimed at facilitating performance planning, strategy execution, performance monitoring, performance reviews, performance assessment and performance feedback during implementation of annual objectives and targets at institutional and individual public servants levels.

(2) Every organisation within the public service shall operate performance contract systems including institutional performance contracts and individual performance contracts as follows:

- (a) every Chief Executive Officer shall sign institutional performance contract with his respective supervisor through the institutional performance contract system; and
- (b) every public servant other than Chief Executive Officer shall enter into performance contract with their immediate supervisors through open performance review and appraisal system.

(3) The annual objectives and targets for public institutions and individual public servants shall be derived from functions, organization structures, strategic

GN. No. 444 (contd.)

plans, medium term expenditure frameworks, operational plans, business plans, actions plans, job lists and job descriptions.

Institutional
performance
contracts

23.-(1) The following Chief Executive Officers shall sign annual institutional performance contract with the Government:

- (a) the Minister and Permanent Secretary;
- (b) the Chairperson and Head of Independent Department;
- (c) the Chairperson of the Board and Head of Executive Agencies;
- (d) the Chairperson of the Board and Head of Public Institutions or Statutory Corporation;
- (e) the Regional Commissioner and the Regional Administrative Secretary; and
- (f) the Mayor or Chairperson and the Director of a Local Government Authority.

(2) Notwithstanding the provisions of subregulation (1), every Chief Executive Officer shall communicate to all staff the annual institutional priorities, objectives and targets prior to implementation.

(3) Supervisors other than the Chief Executive Officers shall also be obliged to fully clarify to subordinates all details embedded in the individual staff performance contracts whenever such needs arise.

Institutional
performance
assessment

24.-(1) Every public institution shall-

- (a) conduct an annual internal performance assessment; and
- (b) be assessed annually by an external panel appointed by Permanent Secretary (Establishment).

(2) The annual internal and external assessments on implementation of the institutional performance contracts shall include the assessment of the level of implementation of annual objectives and targets using pre-determined performance metrics, determined issues, challenges and success stories and measures to be taken to address the shortcomings;

GN. No. 444 (contd.)

Provided that, where there is disagreement on the performance assessment process and subsequent results thereof, the public institution shall appeal to the Permanent Secretary (Establishment).

(4) Upon receipt of the appeal, the Permanent Secretary (Establishment) shall, within three months, appoint an independent panel of not more than three members to review and advise on the merit of appeal lodged by the public institution.

(5) The Permanent Secretary (Establishment) shall, upon receipt of the advice from the independent panel under subregulation (4), make a decision on the appeal.

(6) Where there is further disagreement on the performance assessment process and subsequent results thereof under subregulation (5), the public institution shall appeal to Chief Secretary and the decision of the Chief Secretary shall be final.

Individual
performance
contracts

25.-(1) Every public servant in public service other than Chief Executive Officers shall sign individual staff performance contract with their respective supervisors every year through Open Performance Review and Appraisal System in the following manner:

- (a) the head of Division or Directorate or Unit in Ministries, independent departments, executive agencies, regional secretariats, local government authorities, public and statutory corporations shall sign an individual staff performance contract with their immediate supervisors;
- (b) the head of Section in Ministries, independent departments, executive agencies, regional secretariats, local government authorities, public and statutory corporations shall sign individual staff performance contracts with their immediate supervisors;
- (c) officers in the Ministries, independent departments, executive agencies, regional secretariats, local government authorities,

GN. No. 444 (contd.)

public and statutory corporations shall sign an individual staff performance contract with their immediate supervisors; and

- (d) supporting staff in Ministries, independent departments, executive agencies, regional secretariats, local government authorities, public and statutory corporations shall sign individual staff performance contract with their immediate supervisors.

(2) Every chief executive officer shall ensure that the individual staffs performance contracts are supported by skills development programmes for enhancement of public servants competences in performance of their jobs.

(3) Every public servant shall be given feedback by their immediate supervisors on continuous basis on the progress of their performance against the objectives and targets and shall be given advice and support to improve their performance.

(4) Every public institution shall establish qualitative and quantitative performance benchmarks and service delivery standards that shall inform the annual objectives, targets and performance metrics contained in the individual staff performance contract.

Individual staff
performance
contracts
implementation

26.-(1) Every public institution shall submit open performance review and appraisal implementation reports-

- (a) at the beginning of the year after staff and their respective supervisors have signed the individual performance contracts;
- (b) at the mid-year after staff and their respective supervisors have conducted mid-year review on implementation of the staff individual performance contracts; and
- (c) at the end of the year after staff and their respective supervisors have conducted annual performance assessment of the staff individual performance contract.

GN. No. 444 (contd.)

(2) Every public institutions at the end of year shall submit completed open performance review and appraisal forms for an individual staff performance contracts to the relevant authorities in the following manner:

- (a) for Principal Officers and above to the Permanent Secretary (Establishment); and
- (b) for Senior Officers and below to the respective parent Ministries.

Performance
assessment of
public servants

27.-(1) Every chief executive officer shall ensure that individual performance contracts of all public servants are signed at the beginning of a year and assessed at the end of the year.

(2) Notwithstanding subregulation (1), the chief executive officer shall ensure that appraisees are given adequate time to prepare for the annual assessment of their performance.

(3) The appraisees and the supervisors have the right to make use of observers who are vested members within the public institution to witness that performance discussions during the annual assessment are conducted fairly, openly, frankly and constructively and performance scores reflect a true and fair performance of the appraisee.

(4) The assessment interview shall-

- (a) provide an opportunity to the supervisor and the appraisee to discuss progress made in performance of annual objectives and targets;
- (b) recognise good performance;
- (c) examine the reasons where performance has not matched with the required performance standards and benchmarks; and
- (d) finally agree on remedial action and when to be taken.

(5) The written performance assessments shall be completed in every year using the open performance review and appraisal form after discussions between the appraisee and the supervisor.

(6) Every public servant shall be given annual

GN. No. 444 (contd.)

performance feedback after annual assessment by their immediate supervisors on the strengths and weaknesses demonstrated during the year and given advice on the areas of improvement in the ensuing period.

(7) The written performance assessment information documented in the open performance review and appraisal form of the appraisee shall be used in-

- (a) informing training programmes;
- (b) planning for job rotation;
- (c) awarding best performing staff;
- (d) making appointments to higher posts; or
- (e) withholding performance awards and increments, in demotions and termination of appointment to a particular post.

(8) Where there is disagreement during the performance assessment process and subsequent results, the supervisor shall advise the appraisee to initiate the appeal process by submitting in writing the appeal to the immediate supervisor of the supervisor.

(9) Subject to subregulation (7), where the performance of a public servant is adjudged unsatisfactory and there is a need to withhold performance awards and increments, making demotions or terminate the appointment in the interest of the employer, the employer or any authorised public servant shall notify the public servant concerned in writing, the area or areas in which the performance is deficient and provide an opportunity to improve performance within a period to be determined by the employer or such authorised public servant.

(10) If after expiring of the period determined to afford the public servant an opportunity to improve performance, the public servant's performance shows no improvement, the employer or the authorised public servant shall decide on the matter-

- (a) in the case of public servant appointed by the President, after consultation with the Minister of that Ministry, submit his recommendations to withhold performance based awards or demote or terminate the appointment for

GN. No. 444 (contd.)

satisfactory performance; and

- (b) in the case of other public servants withhold performance based awards or demote or terminate appointment on grounds of unsatisfactory performance.

Termination of
appointment

28. The termination of appointment under regulation 27(10) shall be considered as a disciplinary action against the public servant, and shall follow the procedure provided for under Part V.

PART IV

TERMINATION OF APPOINTMENT ON NON-DISCIPLINARY GROUNDS

Removal in
public interest

29.-(1) Where the appointing authority is of the opinion that the President should be invited in the exercise of the powers conferred upon him under the Act, the appointing authority shall, after consultation with the respective Minister, furnish to the Chief Secretary through the Permanent Secretary (Establishments) particulars of the grounds warranting the exercise of powers of the President.

(2) On receipt of particulars and reasons from the appointing authority, the Permanent Secretary (Establishments) shall, after consultation with the Minister, forward them to the Chief Secretary together with his recommendations.

(3) The Chief Secretary may, on receipt of particulars and reasons together with the recommendations of the Permanent Secretary (Establishments), submit the same to the President with his recommendations.

(4) The Chief Secretary shall, if he is of the opinion that removal of the public servant should be dealt with otherwise than by involving the powers of the President, refer the matter back to the Permanent Secretary (Establishments) with his directives who shall also refer the matter back to the respective appointing authority for implementation.

GN. No. 444 (contd.)

Retirement on
medical grounds

30.-(1) The appointing authority may, where he is of the opinion that a public servant is incapable of satisfactorily discharging the functions of his office by reason of infirmity of mind or body or if that public servant so requests, call upon such public servant to present himself before a medical practitioner approved by the Chief Medical Officer or a Medical Board appointed in that behalf by the Chief Medical Officer, to ascertain whether or not such public servant is incapable by reason of that infirmity of mind or body.

(2) The Chief Medical Officer shall, after the public servant has been examined by the medical practitioner or the Board, forward the report of the examination together with his recommendations to the appointing authority for his decision.

(3) The appointing authority shall, upon receipt of the report and recommendations under subregulation (2), give his decision and submit a copy of his decision to the Permanent Secretary (Establishments).

(4) The functions of the appointing authority under this regulation may be exercised by the senior public servant of the relevant Ministry, independent department or region, and, the functions of the Chief Medical Officer in a Region may be exercised by the public servant of the Ministry of Health who holds the senior most rank in the medical profession in the Region.

Retirement on
abolition of
office or re-
organization of
department

31. Where the appointing authority decides to require a public servant to retire from the public service in consequence of the abolition of his office or for facilitating improvements in the organization of the office to which he belongs, by which greater efficiency or economy may be effective, the appointing authority shall forward his recommendations to the Permanent Secretary (Establishments) who shall, after consultation with the Minister, decide whether or not such public servant shall be called upon to retire.

GN. No. 444 (contd.)

Termination by
age of
retirement

Cap. 371

32.-(1) A public servant may retire voluntarily from the service upon attaining the age of fifty five years and compulsory after attaining the age of sixty years as provided for by the Act and the Public Service Social Security Fund Act.

(2) Notwithstanding subregulation (1), a professor or a senior lecturer working in a public university or a medical specialist working in a public service may retire from the service upon attaining the age of sixty years and compulsory upon attaining the age of sixty five years.

(3) Appointing authorities shall be required to review the records of all public servants under their control from time to time, in order to ensure that public servants are aware that they shall cease from duty on attaining the age of retirement.

(4) Notwithstanding the provisions of subregulation (2), a public servant who attains the age of voluntary or compulsory retirement shall give notice of his impending retirement in writing to his appointing authority at least six months before the date of cessation of duty.

(5) The appointing authority may, where he is of the opinion that there is a reason for a public servant serving on pensionable terms and who has attained the age of voluntary retirement to be called upon to retire, require the public servant to show cause why he should not be compulsorily retired.

(6) The appointing authority shall forward any representation made by the public servant pursuant to notice given to him under this regulation together with his own recommendations to the Chief Secretary through the Permanent Secretary (Establishments).

(7) The Chief Secretary shall decide whether or not such public servant should be called upon to retire.

(8) Where the public servant serving on pensionable terms and who has attained the age of voluntary retirement with the option to retire is barred by any reason to do so, he may apply to the Chief Secretary through the Permanent Secretary (Establishments).

GN. No. 444 (contd.)

(9) The Chief Secretary may approve the application if he is satisfied that it is in the public interest that the applicant should retire.

Termination of appointment of non-pensionable public servants

33. The appointing authority may, where he is of the opinion that it is desirable that the appointment of any public servant serving on non-pensionable terms be terminated in accordance with the terms of the appointment other than dismissal or medical grounds, notify the Permanent Secretary (Establishments).

Termination upon contesting constitutional leadership or elective political post

34. The appointment of a public servant may be terminated upon contesting any constitutional leadership post or any elective political post provided for under the Constitution of the United Republic of Tanzania or of any Political Party except where the Chief Secretary directs otherwise and in that case he shall be vetted.

PART V
DISCIPLINE
(a) *General*

Disciplinary authorities and powers

35.-(1) The disciplinary authority of the Chief Secretary shall be the President.

(2) Subject to the provisions of this Part, the disciplinary authorities shall be-

- (a) in the case of the Permanent Secretary, Head of Independent Department, Deputy Permanent Secretary, Regional Administrative Secretary, Clerk to the National Assembly, Chief Court Administrator, Director of Local Government Authorities, and other public servants appointed by the President, the Chief Secretary;
- (b) in the case of public servants other than those appointed by the President, the Minister responsible for local government, Permanent Secretary, Head of Independent

GN. No. 444 (contd.)

Department, Regional Administrative Secretary and the Director of a Local Government Authority;

- (c) in the case of public servants in the operational service, the Heads of Departments or Divisions.

(3) The disciplinary powers of the Chief Secretary in relation to the Chief Executive Officers other than a Permanent Secretary, Chief Court Administrator, a Clerk of the National Assembly and a Deputy Permanent Secretary shall be carried out through the Permanent Secretary (Establishments) who shall, in relation therewith, consult the Minister.

(4) Notwithstanding the provisions of this regulation the Chief Secretary shall, in relation to any public servant, be the highest-ranking disciplinary authority in the Service and may exercise all or any of the powers delegated to a disciplinary authority by these Regulations.

Preliminary investigations

36. Where it is necessary to institute disciplinary proceedings against a public servant, the disciplinary authority shall conduct preliminary investigations before instituting disciplinary proceedings.

Suspect may be relieved of his duties administratively

37.-(1) The disciplinary authority may, where he considers that permitting the suspect to continue with his duties and functions, or any particular duty or function with which he is normally charged amounts to commission of the offence or is not in the public interest, immediately relieve him of his duties and functions or that particular duty or function pending the outcome of the investigation by investigative organs or the disciplinary authority;

Provided that, the disciplinary action under this regulation shall be taken administratively without resorting to interdiction and will not affect the suspect's pay.

(2) The relieve of duty shall not exceed the period of three months and where there is a need for further

GN. No. 444 (contd.)

investigation upon expiration of three months, the disciplinary authority shall apply for extension of time from the Permanent Secretary (Establishments);

Provided that, where the disciplinary authority is the Permanent Secretary (Establishments), he shall apply for extension of time to the Chief Secretary.

(3) The extension of time to relieve a public servant from his duties administratively shall not be granted for a period exceeding two months.

(4) Failure to comply with the requirements of this regulation the public servant shall resume his duties or functions.

(5) The Chief Secretary shall, when exercising his power as the disciplinary authority, grant extension of time as required under this regulation and when the need arises for further investigation, the extended period shall not exceed two months.

(6) Where preliminary investigation has established enough allegations, the relieve of duties administratively shall cease immediately upon commencement of disciplinary proceedings against employee even before the expire of three months.

(7) Where investigating organs or the employer want to conduct more investigation they shall get permission from the Chief Secretary and the extended period shall not exceed six months.

Interdiction

38.-(1) The disciplinary authority or any delegated disciplinary authority may, where he considers that it is in the public interest that a public servant should cease forthwith to perform the duties and functions of his office, interdict the public servant from performing those duties and functions and he shall cause the charges against the public servant to be served upon him.

(2) Notwithstanding subregulation (1), a disciplinary authority may interdict a public servant charged with criminal offence pending final determination of criminal proceedings by a court.

(3) Where the public servant is interdicted under this regulation, such public servant shall be informed in

GN. No. 444 (contd.)

writing of the reasons for such interdiction.

(4) Where the charges served against a public servant are defective, the disciplinary authority shall be allowed to substitute them with the proper charges not later than thirty days from the date when the former charges were served.

(5) A public servant who is interdicted shall receive full salary until the proceedings are concluded.

(6) Where any disciplinary or criminal proceedings have been instituted and concluded against a public servant under interdiction and such public servant is not dismissed or otherwise punished, the whole of any salary withheld shall be restored to him upon the termination of proceedings.

(7) Notwithstanding the provisions of this regulation, where the public servant is punished otherwise than by dismissal, half of his salary withheld shall be restored to him upon the termination of such proceedings.

(8) A public servant under interdiction may not leave his duty station without the prior written permission of the disciplinary authority.

Suspension of
public servant
convicted of
criminal offence

39.-(1) Where a public servant has been convicted of a criminal offence the disciplinary authority may suspend that public servant from performing his duties and functions pending consideration of the case on disciplinary grounds under the provisions of these Regulations.

(2) A public servant under suspension shall not be entitled to any salary with effect from the date of suspension, but shall be paid by the appointing authority an alimentary allowance equivalent to one third of his gross salary.

Loss of
privileges on
dismissal

40.-(1) Subject to the provisions of any written law, a public servant who is dismissed from the public service shall, if prior to his dismissal he qualifies for pension or gratuity under the provision of any Pension Scheme, be paid a lump sum pension, and be granted

GN. No. 444 (contd.)

passages but he shall not be paid a monthly pension.

(2) Notwithstanding the provisions of subregulation (1) any public servant who is convicted of criminal offence which involves corruption or embezzlement of the public funds shall be forfeited all his rights or claims.

(3) The forfeiture under subregulation (2) shall not involve monthly statutory deductions contributed by public servants to Public Service Social Security Fund.

(b) Disciplinary Proceedings

Types of
disciplinary
proceedings

41. Disciplinary proceedings undertaken under these Regulations may be formal or summary.

Circumstances
of formal
proceedings

42.-(1) Formal proceedings shall be instituted where, in the opinion of the disciplinary authority, the disciplinary offence which a public servant is alleged to have committed is of gravity nature as to warrant his-

- (a) dismissal;
- (b) reduction in rank and salary; or
- (c) reduction in salary equivalent to fifteen percent of the gross salary served for three years.

(2) The disciplinary authority shall, in determining the gravity of disciplinary offences under subregulation (1), have regard to the list of disciplinary offences under Part A of the First Schedule to these Regulations.

(3) Notwithstanding the provisions of subregulation (1)(b), the public servant who is sanctioned by reducing his rank and salary shall be deemed to enter the new rank and be considered for subsequent promotion.

Circumstances
of summary
proceedings

43.-(1) Summary proceedings shall be instituted where, in the opinion of the disciplinary authority, the offence that the public servant is alleged to have committed is not of gravity nature as to warrant, in the event of him being found guilty thereof, his dismissal,

GN. No. 444 (contd.)

reduction in rank and salary or reduction in salary equivalent to fifteen percent of the gross salary or basic salary served for three years.

(2) Notwithstanding the provisions of subregulation (1), in determining the gravity of a disciplinary offence alleged to have been committed by a public servant, the disciplinary authority shall have regard to the list of disciplinary offences under Part B of the First Schedule to these Regulations.

Commencement
of formal
proceedings

44.-(1) A formal proceedings for a disciplinary offence shall not be instituted against a public servant unless he has been served with a charge or charges stating the nature of the offence which he is alleged to have committed.

(2) The charge shall be prepared by the disciplinary authority after undertaking preliminary investigations as he may consider necessary.

(3) The disciplinary charges may be in the form set out under Part A of the Second Schedule to these Regulations, and shall state briefly the nature of the offence which the public servant is alleged to have committed, together with a statement of the allegations on which each charge is based.

(4) The disciplinary authority may consult the Attorney General on the formulation of the disciplinary charges where it is considered necessary.

(5) Where the disciplinary charges have been drawn up, the disciplinary authority shall ensure that the charges are served upon the public servant.

(6) The charges shall be accompanied by notice which may be in the form specified under Part B of the Second Schedule to these Regulations and the notice shall be addressed to the accused public servant inviting him to state in writing, within fourteen days, the grounds upon which he relies to exculpate himself.

(7) A formal proceedings instituted under this regulation shall not be invalid by reason of any irregularity in the charges provided such irregularity may be corrected pursuant to the provisions of regulation

GN. No. 444 (contd.)

8(3).

Inquiry into
disciplinary
charge

45.-(1) Subject to the provisions of regulation 47(10), the disciplinary authority shall, where the accused public servant has failed to defend himself within a specified period, or in the opinion of the disciplinary authority his defence is insufficient, appoint two or more public servants to conduct an inquiry into the charges.

(2) The inquiry conducted under subregulation (1) shall comply with the procedures prescribed under these Regulations.

(3) Where upon being satisfied that the representations made by the accused public servant amounts to a complete admission of the charges against him, the disciplinary authority shall not hold an inquiry or investigation on the charges, but shall record a finding of guilty and the proceedings shall proceed as if the accused officer had been found guilty after an inquiry.

Inquiry
committee

46.-(1) A public servant shall not be appointed a member of an inquiry committee unless he is-

- (a) in the Senior rank or above; and
- (b) in a rank equivalent and above the rank of the accused public servant.

(2) The chairperson of the committee shall be appointed from other public institutions.

(3) Notwithstanding the provisions of subregulation (1) where the appointing authority of the accused public servant is the President, no person shall be appointed a member of an inquiry committee for conducting an inquiry into the charges against such public servant unless he is a Judge, a Permanent Secretary, a Head of Independent Department, a Regional Administrative Secretary, a Senior or a Principal Resident Magistrate.

(4) The inquiry committee appointed under the provisions of this regulation shall consist of not more than four and not less than two members.

GN. No. 444 (contd.)

(5) In appointing members of the inquiry committee, the respective disciplinary authority shall ensure that the committee consists of both men and women.

(6) Where the Committee is of the opinion that it will be desirable for them to be assisted in the conduct of the inquiry by persons who may be more conversant with any professional or technical matter likely to arise in the course of proceedings, they may request the disciplinary authority to assign not more than two public servants with the necessary qualifications or experience to assist them, and the disciplinary authority shall comply with any such requests.

Procedure on
inquiry in formal
proceedings

47.-(1) The Committee conducting the inquiry shall give a notice of at least seven days before the hearing to the accused public servant notify him of the date, time and place at which the inquiry shall be held.

(2) Notice issued under subregulation (1) shall be served by leaving it at the place where such public servant is known to reside, work or last known address.

(3) Service in accordance with the provisions of this regulation shall be deemed to be good service of the notice for the purpose of disciplinary proceedings being proceeded with in accordance with these Regulations.

(4) Disciplinary measures shall be taken if the public servant refuses to attend the inquiry.

(5) The public servant shall have a right to be present, examine witness and be heard at the inquiry unless he shows reasonable cause for his failure to be present or to send a representative at the inquiry.

(6) Failure by the accused public servant to be present or represented at the inquiry shall not vitiate the proceedings unless the accused public servant shows reasonable cause for his failure to be presented or represented.

(7) The accused public servant and the disciplinary authority may be represented by any public servant or advocate or a representative of a trade union who is not a witness to the inquiry.

GN. No. 444 (contd.)

(8) Failure by the witness to attend to the inquiry shall not vitiate the proceedings unless the witness shows reasonable cause for his failure to attend.

(9) The accused public servant or his representative shall have a right to-

- (a) cross-examine any witness examined by the committee conducting the inquiry or by the disciplinary authority or his representative;
- (b) examine and be provided with copies of any document produced as evidence against him; and
- (c) call witnesses on his behalf and produce any document relevant to the inquiry.

(10) The committee conducting the inquiry shall take into consideration any evidence, which they consider relevant to the subject matter of the inquiry.

(11) The Committee conducting the inquiry shall record the gist of the evidence adduced before it.

(12) Any inquiry under this regulation shall be conducted in camera.

(13) Where, during the course of the inquiry, it appears that the evidence adduced discloses grounds for an additional charge or charges, the disciplinary authority or his representative may cause the additional charge or charges to be formulated and shall give a copy to the accused public servant and afford him the opportunity to make his representation within fourteen days.

(14) Where any additional charge or charges are formulated in accordance with the provisions of this regulation, the committee conducting the inquiry shall proceed to inquire into the charge or charges and may recall any witness for further examination or cross-examination.

(15) The inquiry shall commence not later than sixty days from the day the accused public servant was served with the charges.

(16) Subject to the provisions of this regulation, a Committee conducting the inquiry may regulate the procedure at the inquiry in the manner it thinks fit.

GN. No. 444 (contd.)

(17) The inquiry shall be concluded within a period of sixty days from its commencement;

Provided that, where under certain circumstances the inquiry committee fails to complete the inquiry within the prescribed period, it may apply for extension of time to the disciplinary authority.

(18) The disciplinary authority may extend the time of inquiry for a period not exceeding thirty days unless approved by the Permanent Secretary (Establishments).

Procedure on
conclusion of
inquiry

48.-(1) Upon the conclusion of inquiry the Committee conducting the inquiry shall forward the record of proceedings together with its report on the inquiry to the disciplinary authority.

(2) The report under subregulation (1) shall-

- (a) state whether in the opinion of the Committee, the charges against the accused public servant have been proved or not and state reasons for that opinion;
- (b) state any fact which, in the opinion of the Committee, aggravates or mitigates the gravity of the act or omission which was the subject matter of any charge; and
- (c) state any other fact which, in the opinion of the Committee is relevant.

(3) The report made under subregulation (1) shall contain recommendations stating the form or nature of the punishment to be awarded as stipulated under the law.

(4) The disciplinary authority may, where upon receipt of the record of proceedings and the report of the Committee he is of the opinion that further investigations into the case is necessary, refer the matter back to the Committee with such directions as he may consider necessary.

(5) The Committee shall, upon receipt of reference and directions given under subregulation (4), re-open the inquiry and proceedings in accordance with regulation 47.

GN. No. 444 (contd.)

(6) The disciplinary authority shall, upon receipt of the record of proceedings and the report and after considering the evidence and such report of the Committee, make and record findings whether or not the accused public servant is guilty of the disciplinary offence, and shall inform the accused public servant of the decision within a period of thirty days from the date of receipt of record of proceedings and the report.

(7) Upon conclusion of inquiry and on request, the disciplinary authority shall serve the accused person with the record of the proceedings of the inquiry.

(8) Where the finding of the disciplinary authority on the disciplinary matter is different from the opinion of the inquiry committee contained in the report, the disciplinary authority shall record his reasons for the findings.

(9) The disciplinary authority shall, where he finds the accused public servant guilty, proceed to award punishment.

(10) Where the public servant is punished by dismissal, his dismissal shall take effect from the date upon which the disciplinary authority found the public servant guilty.

(11) Failure to comply with the requirements of subregulation (6) shall be considered that the accused public servant is not guilty of the offence.

Procedure on
summary
proceedings

49.-(1) Where the disciplinary authority decides to institute summary proceedings against the accused public servant, he shall cause charges to be prepared and served upon the accused public servant.

(2) The charge shall specify the period within which the accused public servant is required to make his defence.

(3) Where the disciplinary authority is of the opinion that investigation has to be conducted, the accused public servant shall have a right to be present at the investigation and make his defence.

(4) The disciplinary authority shall, where the accused public servant has failed to defend himself

GN. No. 444 (contd.)

within a specified period, or in the opinion of the disciplinary authority his defence is insufficient, record a finding of guilty, and proceed to award appropriate punishment corresponding to the offence as provided for in Part B of the First Schedule to these Regulations.

(5) The disciplinary authority may authorise any public servant who is senior to the rank held by the accused public servant, to exercise all or any of the powers under subregulations (1), (2) and (3).

(6) The disciplinary authority may, at any time before imposing punishment, institute formal proceedings against the accused public servant if he is of the opinion that, the representations adduced by the accused public servant discloses facts which add to the gravity of the offence or which show that the accused public servant has or may have committed other disciplinary offences warranting formal proceedings.

*(a) Where Criminal Proceedings Against a Public
Servant
are Pending or Concluded*

Rules where
disciplinary
offence amounts
to criminal
offence

50. Where a public servant is alleged to have committed a disciplinary offence and the act or omission constituting such offence also constitutes a criminal offence under any written law, the following rules shall apply:

- (a) where no disciplinary proceedings under these Regulations have been commenced in respect of the disciplinary offence, but proceedings for the criminal offence have been instituted against the accused public servant in any court of law, no disciplinary proceedings shall be commenced until after the conclusion of the criminal proceedings;

Provided that, the accused public servant may be interdicted in accordance with provisions of regulation 38(1);

- (b) where disciplinary proceedings have been commenced and during the pendency of such

proceedings, criminal proceedings for the criminal offence are instituted, the disciplinary proceedings shall be stayed and no further step shall be taken in respect of that disciplinary proceedings until after the conclusion of the criminal proceedings;

- (c) where criminal proceedings have been commenced and concluded against the accused public servant and the public servant is acquitted of the criminal charge on a legal technicality, the acquittal shall not be a bar to disciplinary proceedings against the accused public servant on the same facts. Disciplinary proceedings may be instituted or continued against the public servant and the public servant may be punished for that disciplinary offence as if no criminal proceedings had been instituted and concluded against him;
- (d) where criminal proceedings have been commenced and concluded against the accused public servant and the public servant is convicted of the criminal offence, the disciplinary authority may suspend the public servant from the exercise of the powers and functions of his office pending consideration of the case under the provisions of these Regulations;
- (e) where the public servant has been convicted of a criminal offence, he shall be deemed to have been found guilty under the provisions of these Regulations of a disciplinary offence based upon the same charges or the same facts which formed the grounds of the criminal charges of which he was convicted, and the disciplinary authority shall find him guilty, without instituting or continuing any disciplinary proceedings;
- (f) no public servant shall be punished under this regulation until he has been served with

a notice specifying the disciplinary offence which he is deemed to have been found guilty, the punishment which the disciplinary authority proposes to impose and the time within which such public servant may make such plea in mitigation as he may consider fit without the disciplinary authority having taken into consideration any plea made by the public servant within the time specified in the notice;

- (g) subject to the provision of paragraphs (e) and (f), the disciplinary authority may proceed to award an appropriate punishment;
- (h) where a notice under paragraph (f) is given to the public servant, the disciplinary authority shall not be bound to impose the same punishment as specified in the notice, he may impose any lesser punishment;
- (i) where the accused public servant has been convicted of the criminal offence, such a proof shall be conclusive evidence of the fact that he has committed the disciplinary offence based on the same facts;
- (j) where a public servant has been convicted of a criminal offence and prior to the commencement of the criminal proceedings he was found guilty by the disciplinary authority of a disciplinary offence based on the facts upon which the subsequent criminal charges was based, it shall be lawful for the disciplinary authority, upon the conclusion of the criminal proceedings, to substitute for the disciplinary punishment imposed upon the accused public servant in respect of the disciplinary offence, any other disciplinary punishment which in the opinion of the disciplinary authority is warranted in view of the conviction of the public servant of the criminal offence or in view of any evidence adduced at the criminal proceedings.

GN. No. 444 (contd.)

Rules where
criminal
proceedings
have been
commenced and
concluded

51.-(1) For the purpose of this regulation, criminal proceedings shall be deemed to have been concluded:

- (a) where there has been no appeal against conviction or acquittal upon the expiry of the time allowed for such appeal by or under any written law;
- (b) where there has been an appeal against the conviction or acquittal upon the expiry of time allowed by or under any written law for any further appeal.

(2) Where there has been an appeal or a further appeal against any conviction or acquittal, the judgement of appellate court shall be taken into consideration in determining whether the public servant has been convicted or acquitted.

(3) Nothing in the provisions of regulation 50(e) shall be construed as precluding the disciplinary authority from instituting disciplinary proceedings against the public servant convicted of a criminal offence independent of his conviction of such criminal offence.

(4) Where a disciplinary authority has instituted the disciplinary proceedings against a public servant independent of his conviction of a criminal offence, in the event of an appeal or further appeal against such conviction, the provisions of regulation 50(a), (b) and (c) shall apply.

(5) Where consequent upon his conviction on a criminal charge involving fraud or dishonesty on his part, the accused public servant is, pursuant to the provisions of regulation 52, punished by dismissal from the service for a similar disciplinary offence or for a disciplinary offence based on the same facts after formal proceedings have been taken against him, his dismissal shall take effect from the date upon which he was convicted of the criminal offence.

Punishments

52. Any public servant who commits a disciplinary offence, or a disciplinary offence which amounts to a criminal offence, under this Part shall be

GN. No. 444 (contd.)

awarded appropriate punishment corresponding to the offence as provided for in the First Schedule to these Regulations.

Loss occasioned
by public
servant may be
recovered from
him
independently of
these
Regulations

53.-(1) Where a public servant by his act or omission or by his negligence or misconduct or by reason of his failure to take reasonable care or to discharge his duties in a reasonable manner, causes the Government to suffer any loss or causes damage to any property of the Government, the amount of such loss or the value of the property damaged or an amount equal to the cost of repairing such property or such portion of such amount or value, as the appropriate authority may determine, may be recovered from such public servant under the provisions of the Public Officers (Recovery of Debts) Act, independently from these Regulations.

Cap. 76

(2) Where steps have been taken to recover any of the amount or value in accordance with the provisions of the Public Officers (Recovery of Debts) Act, it shall be lawful for disciplinary proceedings for the act or omission, or by his negligence or failure to take reasonable care or failure to discharge a duty in a reasonable manner, be instituted under these Regulations;

Cap. 76

Provided that, where such proceedings are instituted, the punishment specified in the First Schedule to these Regulations shall not be awarded, save to the extent of the difference between the actual amount of the loss incurred by the Government or, as the case may be, the actual value of the property or the actual cost of repairing such property, and the amount authorised to be recovered under the Public Officers (Recovery of Debts) Act.

Cap. 76

(3) Where a public servant has been held liable to pay any amount to the Government by reason of his negligence or misconduct or failure to take care to discharge his duties in a reasonable manner or other act or omission and has been convicted under the provisions of the Penal Code for those offences giving rise to such liability, and if the court has ordered such public servant

Cap. 16

GN. No. 444 (contd.)

Cap. 76 to pay to the Government compensation, any amount ordered to be recovered from a public servant by a disciplinary authority or appropriate authority under the provisions of the Public Officers (Recovery of Debts) Act, the order of the disciplinary authority or, as the case may be, of the appropriate authority shall-

Cap. 16 (a) if the amount ordered to be recovered by the disciplinary authority or the appropriate authority exceeds the amount of the compensation ordered under the provisions of the Penal Code, the amount shall be effective only to the extent of the difference between the two amounts;

Cap. 16 (b) if the amount ordered to be recovered by the disciplinary authority or the appropriate authority is less than the amount of the compensation ordered under the provisions of the Penal Code, the amount shall cease to have effect.

(4) Notwithstanding the provisions of subregulation (3), where disciplinary proceedings are instituted or a public servant is punished under these Regulations after his conviction under the provisions of the Penal Code, it shall be lawful for the disciplinary authority to order that an amount equal to the difference between the actual amount of the loss or the value of the property or the cost of repair and-

Cap. 16 (a) the amount of the compensation awarded under the provisions of the Penal Code;

Cap. 76 (b) where steps have also been taken to recover any amount from the public servant under the Public Officers (Recovery of Debts) Act;

the aggregate of the amount which may, subject to the provisions of subregulation (3) be recovered under that Act and the amount of compensation awarded under the provisions of the Penal Code, be recovered from the public servant by way of punishment.

Cap. 76 (5) For the purposes of this regulation the term “appropriate authority” shall have the meaning ascribed to it under the Public Officers (Recovery of Debts) Act.

GN. No. 444 (contd.)

Withholding of
increments

54.-(1) Notwithstanding any other provisions in this Part, where a disciplinary authority is satisfied that the increment of a public servant should be withheld on the grounds-

- (a) of unsatisfactory performance not amounting to misconduct; or
- (b) that the public servant has failed to pass any examination, the passing of which is a pre-requisite to the grant of an increment,

he may withhold that increment.

(2) The disciplinary authority shall, where upon being satisfied that an increment withheld under subregulation (1) should be restored, inform the public servant concerned that his increment shall be restored with effect from such date as he may specify.

(3) Where an increment is restored under subregulation (2), any further increments which may be granted to the public servant concerned shall, subject to any other proceedings which may be taken under this Part, take effect from such public servant's normal incremental date.

Suspension of
increments

55.-(1) Notwithstanding any other provisions in this Part, the disciplinary authority may suspend the payment of an increment which is due to be granted to a public servant where-

- (a) the disciplinary or criminal proceedings have been instituted against the public servant; or
- (b) a disciplinary authority has reason to believe that grounds exist for withholding the increment under regulation 54.

(2) Where an increment, the payment of which has been suspended under this regulation, is not withheld under regulation 54 or otherwise, it shall be restored with effect from the date upon which it would have been granted had it not been suspended.

Reprimand and
warning

56. Nothing in these Regulations shall prohibit any disciplinary authority from issuing reprimand for, or a warning for unsatisfactory work or conduct to a public

GN. No. 444 (contd.)

servant or any authorised public servant from issuing that reprimand or warning to any public servant directly subordinate to him.

Absent without
leave

57.-(1) Where a public servant is absent from duty without leave or reasonable cause for a period exceeding five days consecutively, that public servant may be charged with the disciplinary offence of being absent without leave and punished by dismissal.

(2) If the whereabouts of the public servant charged under subregulation (1) is not known, a copy of the charge shall be served by leaving it at the place where such public servant is known to have resided prior to the absence or by sending it to the public servant's last known address.

(3) Service in accordance with the provisions of subregulation (2) shall be deemed to be good service of the charge for the purpose of disciplinary proceedings being proceeded with in accordance with these Regulations.

Absent on
account of
illness

58. Absence from duty on account of illness shall be reported by the public servant concerned or his relative in case of illness which does not warrant a public servant to do so to his employer and shall be supported by a document certified by a Government medical practitioner or a private practitioner.

Disciplinary
proceedings for
public servants
in operational
service
Cap. 366

59. The procedures in the disciplinary proceedings for the public servants in the Operational Service shall be as laid down in Employment and Labour Relations Act, the Act and these Regulations.

PART VI APPEALS

Appeals

60.-(1) Where the Chief Secretary exercises disciplinary authority in accordance with Part V, in respect of a public servant who is an appointee of the President, that public servant may appeal to the President

GN. No. 444 (contd.)

against the decision of the disciplinary authority and the President shall consider the appeal and may confirm, vary or rescind the decision of that disciplinary authority.

(2) Where the Minister responsible for Local Government, a Permanent Secretary, Head of Independent Department, Regional Administrative Secretary or the Local Government Authority exercises disciplinary authority in accordance with the provisions of Part V, that public servant may appeal to the Commission against the decision of the disciplinary authority and the Commission may confirm, vary or rescind the decision of that disciplinary authority.

(3) Where the head of department makes a decision even before time and exercises his disciplinary powers in accordance with the provisions of Part V against any public servant in the operational service, that public servant may appeal in accordance with the procedures under these Regulations.

(4) Where a public servant or the disciplinary authority is aggrieved with the decision given in accordance with subregulations (2) or (3), he shall appeal to the President whose decision shall be final.

(5) Where the President or the Commission varies or rescinds any decision of dismissing any public servant from the public service and substitutes any other decision other than dismissal, the variation or rescission shall have effect from the date of the original decision and the public servant shall, unless sooner have ceased to be a public servant for any other cause, be deemed to have remained a public servant notwithstanding the original decision.

Time for appeals

61.-(1) Where a public servant or disciplinary authority desires to appeal against any decision given in accordance with section 25 of the Act or regulation 60 of these Regulations, he shall, within forty five days of the receipt of the decision, appeal to the appellate authority in writing, copied to the disciplinary authority, and the public servant or appellate authority that made a decision, as the case may be.

GN. No. 444 (contd.)

(2) The appellate authority shall, upon being satisfied that the disciplinary authority or a public servant is not in possession of a copy of the appeal, serve a copy upon the disciplinary authority or a public servant, and in case the appellate authority is the president, a copy of that appeal shall be served to the Commission.

(3) Upon receipt of a copy of the appeal, whether from the public servant or from the appellate authority, the disciplinary authority shall, within fourteen days of the receipt, submit to the appellate authority its representations in writing with a copy to the public servant concerned.

(4) Failure of the disciplinary authority to submit its representation shall not vitiate the decision of the Commission unless the disciplinary authority shows reasonable cause for its failure.

(5) Where the appellate authority is the President, the Commission shall, within fourteen days from the date of receipt of a copy of appeal, submit to the appellate authority its representations in writing and relevant copies of proceedings of appeal.

(6) The appellate authority may accept an appeal made by the public servant or disciplinary authority out of time where it is satisfied that special circumstances precluded the submission of the appeal within the prescribed time.

Appeals
procedure

62.-(1) The appellate authority may, on appeal under section 25 of the Act, or under Regulation 60, allow both the appellant and the disciplinary authority whose decision is being appealed against or either of them, an opportunity to be heard by presenting himself or in writing in support of, or against the appeal, as the case may be.

(2) Notwithstanding the provisions of this regulation, the appellate authority may determine the appeal in the absence of the appellant and in any case, unless exceptional circumstances exist.

(3) The appellate authority shall ensure that every appeal is concluded within ninety days from the date of

GN. No. 444 (contd.)

receipt of representations.

(4) No findings made or punishment imposed by a disciplinary authority under the provisions of these Regulations shall be reversed or set aside on the grounds only of any irregularity in the appointment of the inquiry committee or the conduct of the disciplinary proceedings, but in any case where there is a reversal, and the appellate authority is of the opinion that irregularity has occasioned injustice, the appellate authority may direct that the disciplinary proceedings commence *de novo*.

Entitlement to
copy of decision

63. In every appeal when the decision is served to the appellant, the other party shall be entitled to a copy of that decision.

Decision of
appellate
authority

64.-(1) Any person who refuses or fails or neglects to comply with a decision of the President or Commission on appeal to which he is a party may be charged with the disciplinary offence of failure to perform a duty imposed upon him;

Provided that, no person shall be charged for an offence against this regulation in respect of decision of the Commission during a period in which he may appeal from that decision to the President.

(2) Where the President or the Commission varies or rescinds any decision of dismissing any public servant from the public service and substitutes any other decision other than of dismissing that public servant, the variation or rescission shall have effect from the date of the original decision and the public servant shall, unless sooner has ceased to be a public servant for any other cause, be deemed to have remained a public servant notwithstanding the original decision.

PART VII

CODE OF ETHICS AND CONDUCT FOR THE PUBLIC SERVICE

Code of Ethics
and Conduct

65.-(1) There shall be a Code of Ethics and Conduct for the Public Service as prescribed in the Third Schedule to these Regulations.

(2) Notwithstanding the provisions of

GN. No. 444 (contd.)

subregulation (1), where necessary, there shall be formulated Professional Codes of Ethics and Conducts by the Professional Boards for professions governed by the Act;

Provided that, such Professional Codes of Ethics and Conduct do not contradict with the Code of Ethics and Conduct for the Public Service or the Public Leadership Code of Ethics in any way.

Public servants
awareness of
Code

66.-(1) Where any person is first appointed to a public service he shall be provided with a copy of the Code of Ethics and Conduct for the Public Service.

(2) Every public servant shall be required to sign a declaration of compliance with the Code.

Effect of breach
of Code

67. A breach of the Code of Ethics and Conduct for the Public Servant by a public servant shall have serious consequences including disciplinary action or criminal prosecution.

PART VIII

PUBLIC SERVICE COMMISSION

Composition of
Public Service
Commission

68.-(1) The Commission shall consist of the Chairman and not more than six other members who shall be appointed by the President pursuant to the provisions of section 9(1) of the Act.

(2) In appointing members of the Commission, the President shall ensure that it consists of both men and women appointed only on grounds of merit.

(3) A person appointed to be a member of the Commission shall be a person respected in the community in which he belongs, who is serving or has served in any profession with experience at a senior management level in a public sector organisation and is of a proved or provable personal probity and integrity of the highest standard;

Provided that, such person does not hold a political office, or is not a member of any employing authority and is not a Regional or a District

GN. No. 444 (contd.)

Commissioner.

(4) If the office of Chairman is vacant or if the person holding it is for any reason unable to discharge the functions of the office, then until a person is appointed and assumes the functions of the office or until the person holding the office resumes discharge of those functions, those functions may be performed by an Acting Chairman who shall be appointed by the Chief Secretary from amongst the members.

Tenure of office

69.-(1) A person appointed to be a Chairman or to be a member of the Commission shall hold office on part time basis for a period not exceeding three years.

(2) On the termination of appointment, the Chairman or any other member shall be eligible for re-appointment for one more term.

Vacation of office

70.-(1) A Chairman or a member of the Commission may at any time resign from his office.

(2) The office of a Chairman or a member of the Commission shall become vacant-

- (a) if he dies;
- (b) if he resigns;
- (c) if he is removed from the office by the President upon being satisfied that he is unable to perform the functions of his office due to illness or misbehaviour, inconsistent with ethics of office or any lawful concerning ethics of public leaders or any other reason.

Appointment of Secretary and other staff

71.-(1) The President shall appoint the Secretary of the Commission who shall be the Chief Executive and the Accounting Officer of the Commission.

(2) The Secretary to the Commission shall attend all meetings of the Commission but shall not vote in its deliberations.

(3) The managerial staff of the Commission shall be employed by the Commission on such terms of service as the Commission shall determine after the

GN. No. 444 (contd.)

approval of the Permanent Secretary (Establishments).

(4) The Secretary to the Commission shall, in accordance with the provisions of the Act, be responsible for the appointment, confirmation, recategorisation and promotion of the staff of the Commission.

(5) The Secretary to the Commission shall be the disciplinary authority of the staff of the Commission.

Oath of
Chairman and
members of
Commission

72.-(1) Chairman and members of the Commission shall, on first appointment take an oath in the form set out in the Fifth Schedule to these Regulations.

(2) The Secretary to the Commission shall, on first appointment, take an oath in the form set out in the Sixth Schedule to these Regulations.

(3) Other staff of the Commission shall, on the first appointment, take an oath in the form set out in the Seventh Schedule to these Regulations.

(4) Every oath or affirmation taken by a member and Secretary to the Commission shall be administered by the President, and every oath or affirmation taken by any other staff of the Commission shall be administered by the Chairman of the Commission.

Delegation of
powers and
functions

73.-(1) The Commission may delegate its powers and functions to any of its department or any of its staff except the powers and functions of-

(a) tendering of advice to the President on matters of appointments, promotions, termination of appointment and disciplinary action; and

(b) deciding on complaints and appeals.

(2) Notwithstanding the provision of this regulation, the Commission shall handle complaints of the public service in accordance with procedures laid down in the guidelines.

Decision of
Commission

74.-(1) Decisions of the Commission shall be made in a properly convened meeting of the Commission through consensus or three quarters vote of members

GN. No. 444 (contd.)

present.

(2) Without prejudice to the provisions of subregulation (1), where circumstances necessitate, decisions may be made by the Commission without a meeting by circulation of the relevant papers among members and the expression of their views in writing.

(3) Where a decision is made by the Commission without a meeting as provided for in subregulation (2), any member may require that any such decision be deferred until the subject matter is considered at the meeting of the Commission.

(4) Any member has the right to dissent from a decision of the Commission and his dissent and reasons thereof shall be set out in the records of the Commission.

Quorum at
Commission's
meetings

75. The quorum at any meeting shall be five members including the Chairman.

Commission
may co-opt
members

76. The Commission may invite any person who is not a member to participate in the deliberations of the Commission, but such person shall not have the right to vote.

Records of
Commission's
meetings

77. There shall be kept a record of members present and of business transacted at every meeting of the Commission.

Correspondence

78. All correspondence to the Commission shall be addressed to the Secretary.

Communications
of Commission
to be privileged

79. A person shall not, in any legal proceedings, be permitted or compelled to produce or disclose any communication, written or oral, which has taken place between the Commission or any member or a staff and the Government or the President or the Chief Secretary or any officer of the Government, or between any member or a staff of the Commission and the Chairman or in connection with the exercise of the functions of the Commission, unless the Chief Secretary consents in writing to such production or disclosure.

GN. No. 444 (contd.)

Protection of
members

80. Every member of the Commission shall have such and the like protection and privilege in case of any action or suit brought against him for any act done or omitted to be done in the *bona fide* execution of his duties.

Commission
may require
attendance

81.-(1) The Commission may require any person to attend and give information 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 documents relating to any such matter by any person attending before it.

(2) A person who, without lawful cause, refuses or fails to attend before the Commission upon being summoned, or refuses to answer questions after he has been ordered to appear before the Commission, commits an offence and is liable to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding one year or both such fine and imprisonment.

Offence to
influence or
attempt to
influence
Commission

82. Without prejudice to the provisions of any other law, 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 Commission, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

Offence of false
information to
Commission

83. Any person who, in connection with the exercise by the Commission of its functions or duties, wilfully gives to the Commission any information which he knows to be false or does not believe to be true, or which he knows to be false by reason of the omission of any material particulars, shall be guilty of an offence, and on conviction, shall be liable to a fine not exceeding five hundred thousand shillings or to imprisonment for a

GN. No. 444 (contd.)

period not exceeding two years or to both such fine and imprisonment.

Interpretation of
“Commission”
in regulation 82
and 83

84. For the purpose of Regulation 82 and 83, the term “Commission” shall include any member of the Commission, the Secretary, any member of the staff of the Commission, or any person or body of persons appointed to assist the Commission in the exercise of its functions or duties.

PART IX RETIREMENT BENEFITS

Protection of
pension’s rights
and other
terminal benefits

85. A public servant who is terminated on grounds other than disciplinary proceeding shall be granted his retirement benefits in accordance with the law applicable on those benefits for the time being in force.

Benefits payable
to public
servants
engaged on
permanent and
pensionable
terms

86. The benefits payable under these Regulations are any benefits payable under any law providing for the grants of any pension, compensation, gratuities or other allowances to persons in respect of their service as public servants to their widows, widowers, children, dependants or personal representatives of such persons in respect of that service.

Benefits payable
to public
servants
engaged on
contract terms

87. Subject to the provisions of regulation 19, a person who is engaged on contract shall, on termination of his service, be paid a gratuity payable either in accordance with the terms of contract he entered in, or in accordance with the provisions of the laws applicable for retirement benefits in force for the time being.

Duty to keep
records

88.-(1) It shall be the duty of the both employer and employees to keep employment records for the purpose of reference for calculations of the employee terminal benefits.

(2) Employment records kept by both employer and employee shall be regarded as original copies duly

GN. No. 444 (contd.)

signed by authorised person.

(3) Where there is no possibility to get hold of employment records from the employer's end, records in custody of the employee shall be used for any purpose provided that such records are in the original form.

PART X
MISCELLANEOUS

(a) General

Role of Minister
in public service

89.-(1) The Minister shall be a leader and overseer in the implementation of these Regulations and policies governing the public service.

(2) Ministers for each Ministry within the public service shall ensure effective implementation of these Regulations and their respective Ministerial and Sectoral policies governing the Service.

Communication
from Ministry to
Ministry and to
Heads of
Independent
Department

90.-(1) Where ministries communicate with each other, they shall not communicate by passing files.

(2) Communications shall be through letters which should be in simple forms and self-contained.

(3) Where legal advice is required, ministries may pass files to the Office of the Attorney General.

(4) All social networks such as WhatsApp, Facebook, Instagram, Twitter may, subject to the authorisation of the head of respective public institution according to law, be used as the means of communication within public service.

Powers of the
Chief Secretary

91. The Chief Secretary who is the head of Public Service shall exercise his powers provided for in these Regulations through the Permanent Secretary (Establishments).

Communication
from Head of
Independent
Department,
Executive

92. Communication from the Head of Independent Department, Executive Agency and Regional Secretariat shall be made directly to the Ministry or Organisation concerned provided that it is

GN. No. 444 (contd.)

Agency and
Regional
Secretariat to
Ministries
and other
Organisations

copied to the Permanent Secretary of the Ministry to which that Independent Department or Executive Agency is responsible or in case of the Regional Secretariat to the Ministry responsible for regional administration and local government.

Communication
from local
government
authority

93. Communication from the local government authority shall be addressed directly to the organisation concerned provided that a copy of such communication is served to the Regional Administrative Secretary and the Permanent Secretary of the Ministry responsible for Regional Administration and Local Government.

Communication
with Foreign
Government and
Agency

94.-(1) Where a Ministry or a Public Service Organisation communicates with a foreign government or agency, their correspondence shall be routed through the Ministry responsible for foreign affairs.

(2) Where the communication is on establishment matters it shall be addressed or copied to the Permanent Secretary (Establishments).

Communication
with Office of
Attorney
General

95.-(1) Where legal advice is to be sought by any public service office it shall always be sought in writing except where the circumstances of the case dictate otherwise.

(2) The public service office making the request shall ensure that-

- (a) the facts are given to the Attorney General;
- (b) the attention is drawn to any previous legal opinion, which might have a bearing on the case; and
- (c) it sets out in a separate paragraph the specific question or questions of law on which advice is desired.

Annual leave

96.-(1) Every public servant shall be entitled to annual leave, which shall be granted once a year in accordance with the public servant's leave cycle.

(2) The leave cycle shall commence from the date the public servant was first appointed to the Public

GN. No. 444 (contd.)

Service, and shall be earned and calculated at an annual rate of twenty eight days including Saturdays, Sundays and Public Holiday, except those serving on contract terms whose leave shall be earned and calculated as stipulated in their contracts.

(3) Leave shall be respected as a right and when not granted by the employer, a public servant shall be paid a one month gross salary of the public servant in lieu thereof.

(4) A public servant may not be granted leave before completing nine months of service from the date of first appointment.

(5) Every public servant shall be granted, once during the two years leave cycle, free transport in the form of a cash grant calculated on the basis of the prevailing fare rate by available public transport for himself, spouse and up to four children or dependants who are wholly dependent upon that public servant.

Maternity and
paternity leave

97.-(1) A female public servant shall be granted a paid maternity leave of eighty four days once in three years from the date she completed her last maternity leave. Maternity leave shall not be carried forward and shall be exclusive of her annual leave for the calendar year in which maternity leave is taken.

(2) Where a female public servant has availed herself of the whole or part of her maternity leave in relation to any pregnancy and the pregnancy results in abortion or a child dies within 365 days of the delivery, the female public servant shall be entitled to maternity leave in relation to the subsequent pregnancy notwithstanding the restriction referred to in subregulation (1).

(3) A female public servant who has a breast-feeding child shall, within a period not exceeding 186 days after maternity leave, be allowed to leave office two hours before the end of the office hours every day to breast feed her child.

(4) A male public servant shall be entitled to seven days paid paternity leave if-

GN. No. 444 (contd.)

- (a) the leave is taken within seven days of the birth of a child; and
- (b) the male public servant is the father of the child by bringing the Birth Certificate or Birth Notice of the child.

Leave without
pay

98.-(1) The Permanent Secretary (Establishments) may, in consideration of the Government policy, grant leave without pay to a public servant provided he is satisfied that it is in the public interest so to do.

(2) The application for leave without pay shall be made through the employer who shall forward it to the Permanent Secretary (Establishments) with his recommendations.

Sick leave and
convalescent
leave

99.-(1) Subject to the recommendations of the Government medical practitioner or a private practitioner, the appointing authority may grant a sick leave or a convalescent leave provided that such approval shall be copied to the Permanent Secretary (Establishments).

(2) Sick or convalescent leave shall be granted on conditions that it does not exceed 186 days consecutively on full pay and 186 days consecutively on half pay in any sick period, and where a sick public servant does not recover within such period, consideration may be given to the termination of appointment of a public servant on medical grounds in accordance with these Regulations.

Sabbatical leave

100.-(1) A public servant may be eligible for the grant of sabbatical leave where necessary to broaden his experience and increase his potential value to the service if he is confirmed in his appointment.

(2) The sabbatical leave shall be approved by the Permanent Secretary (Establishments) except for the Chief Executive Officers in which case the approval shall be given by the Chief Secretary.

(3) Applications for sabbatical leave shall be submitted to the Permanent Secretary (Establishments)

GN. No. 444 (contd.)

through the appointing authorities who shall forward with recommendations indicating clearly the benefits expected therefrom.

(4) The sabbatical leave shall be limited to 365 days and shall be granted once in every five years.

Leave pending
retirement

101. A public servant shall be granted leave pending retirement which shall be taken before the date of his retirement.

Training and
staff
development

102.-(1) Every employer shall be responsible for training and development of his staff.

(2) In undertaking the responsibility provided for under this regulation, the employer may be facilitated by President's Office Public Service Management and Good Governance subject to such directives as may be given from time to time by the Government.

(3) Every employer shall, on the basis of job descriptions, personnel audit, forecasts in the human resource plans and performance appraisal findings, introduce a staff development programme for the public servants.

(4) Staff development for the purpose of this regulation, shall be aimed at developing individuals in the skills required for the performance of their present duties or future jobs.

(5) Adequate provision in the annual budget for funding training programmes shall be made by every employer.

(6) Employers shall prescribe terms and conditions for the public servants attendance at various long and short term training courses and President's Office Public Service Management and Good Governance shall monitor and coordinate the training of all public servants in order to avoid unwarranted disparities within the Public Service.

Provision of
housing

103.-(1) Provision of housing accommodation shall be restricted to the following categories:

(a) executives whose terms of service include an

GN. No. 444 (contd.)

entitlement to free housing;

(b) tied houses for duty posts.

(2) Notwithstanding the provision of subregulation (1), each employer may facilitate the process for his employees to secure housing accommodation.

Medical services

104. All public servants serving on whatever terms shall be entitled medical services except where such provision is governed by any other scheme.

Employer's duty to protect health of public servants

105.-(1) Every employer shall take all reasonable precautions to ensure occupational safety standards in order to avoid unnecessary causes of health hazards.

(2) Notwithstanding the provisions of subregulation (1) and of regulation 104, every public servant shall take all reasonable precautions in accordance with the modern health practises for proper protection of his health.

Transfers

106.-(1) For the purpose of improving efficiency of the service, public servants may be transferred from one Ministry, Region, Independent Department, Executive Agency, Local Government Authority, Parastatals, Corporation and institution to another where necessary and when it is in the public interest.

(2) Notwithstanding the provision of these Regulations the Chief Secretary shall be the highest authority in matters relating to labour mobility in the Service, in relations to any public servant whatsoever.

(3) Subject to regulation 13(b)(i) where a public servant is transferred, he shall be entitled to free transport for himself, spouse and children or dependants as well as his personal belongings.

(4) Transfer costs shall be met by the receiving employer provided that half of the amount shall be paid by the incumbent employer on reimbursable basis.

(5) Where a public servant is transferred and he did not report to the current working station the previous employer shall take disciplinary action upon him.

GN. No. 444 (contd.)

(6) A public servant who requires to be transferred on his willing may not be entitled to free transport for himself, spouse and children or dependants as well as his personal belongings.

Workers'
councils and
negotiating
machinery
Cap. 105

107. The participation of public servants in discussing and making decisions pertaining to their employment welfare shall be through the councils of workers and negotiating in accordance with the Public Service (Negotiation Machinery) Act.

Application of
Standing Orders
and Circulars

108. The Standing Orders for the Public Service and Circulars shall be applicable to all public servants.

Compensation
for injuries or
death

Cap. 263

109.-(1) Where the injuries or death of the public servant has been caused by an accident or an occupational disease arising out of and in the course of his employment, he shall be compensated for such injuries or death in accordance with the Workers Compensation Act.

(2) Notwithstanding the provisions of this regulation every public servant shall have a duty to protect himself from any health hazards.

(b) Local Government Service

Establishment of
employment
boards of local
government
authorities

110. Every local government authority shall establish a Board which shall be responsible for facilitation of appointment of the public servants of the local government authority concerned in accordance with provisions of these Regulations.

Appointment of
public servants
in local
government
authority

111.-(1) The Public Service Recruitment Secretariat may delegate its powers conferred upon it under the Act to the Employment Board in every local government authority concerned.

(2) Employment Board in every local government authority shall be responsible for facilitation of appointments of all public servants within the local government authority concerned, other than those

GN. No. 444 (contd.)

appointed by the President and the Minister responsible for local government.

(3) Every Employment Board shall be answerable to the local government authority and guided by directives issued to it by the Public Service Recruitment Secretariat and the local government authority concerned;

Provided that, the Public Service Recruitment Secretariat and the local government authority directives does not contravene the provisions of these Regulations.

(4) The Board shall consist of-

- (a) a Chairman who shall be appointed by the local government authority from amongst people who are ordinarily residents in the area of jurisdiction of that local government authority, knowledgeable in personnel management or public administration or law;
- (b) one member to be appointed by the local government authority from amongst its members who shall not, in any case, be the Chairman of the local government authority;
- (c) the District Administrative Secretary or his representative;
- (d) an expert from the relevant Regional Secretariat responsible for local government matters; and
- (e) a representative from the Public Service Recruitment Secretariat.

(5) The head of department responsible for personnel matters in a respective local government authority shall be the Secretary to the Board but shall not be entitled to vote.

Oath of
Chairman and
members of
Employment
Board

112. The Chairman, members and the secretary to the Board shall, before entering upon the exercise of the functions of their office, take and subscribe the appropriate oath prescribed in the Eighth Schedule to these Regulations, to be administered by the Commissioner for Oaths.

GN. No. 444 (contd.)

Tenure of office
for members of
Board

113.-(1) A member of the Board appointed under these Regulations shall, unless his appointment is sooner terminated by the local government authority or otherwise ceases to be a member, hold office for a period not exceeding five years;

Provided that, the Board shall stand dissolved at the end of tenure of office of the local government authority or on the dissolution of the local government authority.

(2) Where any member of the Board ceases to be a member for any reason before the expiration of tenure of office, the local government authority concerned shall appoint another person in his place and the person so appointed shall hold office for the remaining term of office of the Board.

Meetings of
board

114.-(1) The frequency, place and time of the meeting shall be determined by the local government authority concerned.

(2) A meeting of the Board shall be convened by the secretary to the Board and the notice specifying the place, date and time of the meeting shall be sent to the contact address of each member or to the usual place of business or residence not less than fourteen days before the date of such meeting.

Quorum at
meeting of
Board

115. Three members shall form a quorum for any meeting of the Board.

Co-option of
members

116. The Board may invite any person who is not a member to participate in the deliberations of the Board, but such person shall not have the right to vote.

Procedures of
Board

117.-(1) There shall preside at any meeting of the Board-

- (a) the Chairman;
- (b) in the absence of the Chairman, members present shall nominate one amongst them to preside.

(2) At any meeting of the Board a decision of the

GN. No. 444 (contd.)

majority of members present shall be deemed to be a decision of the Board.

(3) In the event of equality of votes the Chairman shall have a casting vote in addition to his vote as a member.

(4) The Board shall have powers to regulate its own proceedings.

Decisions of Board

118.-(1) All decisions of the Board shall be made at a properly convened meeting.

(2) Minutes of each meeting shall be kept and be confirmed by the board at the next meeting and signed by the Chairman and secretary of the meeting.

Vacancies not to invalidate proceedings of Board

119. Subject to the provisions of regulation 130, the Board may act notwithstanding any vacancies in the membership thereof and no act or proceedings of the Board shall be invalid by reason only of some existence of a vacancy in the board or defect in the appointment of a person who propounds to be a member thereof.

Signing of documents

120. All orders, directions, notices, decisions or other documents made or issued by the Board shall be signed by-

- (a) the Chairman; or
- (b) the secretary or any person authorised in writing in that behalf by the secretary.

Function of Board

121.-(1) The function of the Board shall be to conduct merit-based selection of staff and submit proposals to the local government authority concerned as part of the appointment, promotion and confirmation procedures set out under these Regulations.

(2) The Board shall, in discharging the function under subregulation (1)-

- (a) observe the Public Service Management and Employment Policy, Schemes of Service and Guidelines issued by the Public Service Recruitment Secretariat, Public Service Recruitment Code of Good Practice and the

GN. No. 444 (contd.)

- local government authority concerned;
- (b) abide by principles of equality and transparency in staff appointments, and abstain from being influenced by anybody outside the Board; and
- (c) observe principles of equal opportunity to all, including gender equality.

Expenses of
Board

122. Expenses for the operations and management of the affairs of the Board shall be budgeted for and paid by the local government authority concerned.

Appointment
procedure of
public servants
in local
government
authorities

123.-(1) Where there is a vacancy in a post to which the appointing authority is a local government authority, the local government authority concerned shall, through the Public Service Recruitment Secretariat, notify the Board and the Board shall, after consultation with the Public Service Recruitment Secretariat, advertise the vacant post in a newspaper circulating nationally, or in such other manner including advertising the post in public notice boards in and outside the area of jurisdiction of the local government authority concerned, calling upon interested and qualified applicants to apply for the post.

(2) Applicants for the post shall be required to submit their letters of application together with certified copies of certificates, curriculum vitae and other relevant documents to the Director of a local government authority concerned.

(3) The Director shall, after receiving applications in accordance with this regulation, prepare a full list of all the applicants indicating those best qualified to appear before the Board for interview on a specific date, time and place.

Interviews

124.-(1) The Board shall prepare questions and marking schemes to be used for interview so as to ensure objectivity, consistency and to measure the right qualities of the applicants.

GN. No. 444 (contd.)

(2) The applicants who appears before the Board for interview under this regulation shall be required to submit their original transcript, certificates and other relevant documents.

Selection of
candidates

125.-(1) The Board shall, after the interviews, select suitable candidates for the post and submit their names in order of merit to the appointing authority who shall make appointments in accordance with the number required.

(2) Where the Board fails to get suitable candidates, the vacancy shall be re-advertised twice and if still in vein, the authority shall communicate with the Public Service Recruitment Secretariat.

Employment in
local
government
authority

126.-(1) In selecting candidates for appointment, including appointment on promotion, the Employment Board shall have regard to the qualifications and experience of the candidates, and the needs and priorities of the local government authority concerned.

(2) In employing the selected candidates the local government authority shall-

- (a) take into account any technical advice given by the Board; and
- (b) be guided by national policies, standards and professional requirements of the post.

Letter of
appointment for
public servant in
local
government
authority

127. The Director of a local government authority concerned shall, under his hand, issue a letter of appointment to the candidates appointed.

Probationary
period for public
servants in local
government
authorities

128. The probationary period for public servants employed at all professionals in the local government authorities shall be as provided for under regulation 14.

Terms of service

129.-(1) Terms of service for the public servants in the local government authorities shall be as provided for under regulations 18 and 85.

Cap. 298

(2) Subject to section 28 of Public Service Act,

GN. No. 444 (contd.)

the local government authority may, in addition to the terms of service under this regulation, offer to the employee an additional incentive package.

Terms of service
for non-citizens
employed in
local
government
authorities

130. Where the local government authority has employed a non-citizen, the terms of service of such employment shall be governed by the provisions of regulation 19(2).

Disciplinary
proceedings for
public servants
in local
government
authorities

131. A local government authority shall, where he considers it necessary to institute disciplinary proceedings against a public servant under his jurisdiction, conduct disciplinary proceedings in accordance with the procedure provided for in Part V.

(c) Health Service

Public servants
in health service

132.-(1) The service of a public servant in the health service shall be governed by the provisions of these Regulations together with the laws which govern their respective professions as provided for in the Fourth Schedule to these Regulations.

(2) A person shall be appointed as a public servant in the health service only if he is duly registered by the relevant professional council established by the laws governing such profession and, is recognised professionally as legally qualified person to practice his profession.

(3) Notwithstanding the provisions of subregulations (1) and (2), non-professional public servant in the health service shall not be governed by the provisions of this regulation.

Effects of
professional
registration

133.-(1) Registration of public servants by their professional councils shall have effect to confine such public servants in safeguarding and adhering to the Professional Code of Ethics and Conduct governing their professions and to qualify as recognised members of such professions.

GN. No. 444 (contd.)

(2) Subject to the provisions of subregulation (1), a person shall not be appointed as a professional health servant without producing a certificate of registration in his profession.

Disciplinary
proceedings
where offence
amounts to
breach of
Professional
Code of Ethics
and Conduct

134.-(1) Where a registered public servant in the health service commits a disciplinary offence which amounts to the breach of Professional Code of Ethics and Conduct, and when the Professional Council has instituted actions against him, he shall be interdicted and the disciplinary proceedings shall be stayed pending the decision of the Professional Council.

(2) In conducting inquiry on the breach of Professional Code of Ethics and Conduct by a public servant in the health service, the Professional Council shall ensure that the inquiry is concluded within sixty days and the report thereon submitted to the disciplinary authority.

(3) Upon receipt of the report of the Professional Council, the disciplinary authority shall, if he finds it proper, proceed to institute the disciplinary proceedings against a public servant in accordance with the provisions of Part V of these Regulations.

(d) Scope of the Regulations

Scope of
Regulations

135.-(1) These Regulations do not provide for every eventuality and where a solution cannot be found by applying these Regulation, the public servant concerned shall apply his best judgement, and where the matter is of sufficient importance as to require a decision by the chief executive officer, the matter shall be referred to the chief executive officer with an explanation of the inability to resolve it by applying these Regulations and the chief executive officer may consult other relevant Laws or Regulations or Administrative Orders and Instructions which relate to the matter.

(2) Where further guidance is required, the chief executive officer shall consult the Permanent Secretary (Establishments).

GN. No. 444 (contd.)

Revocation of
GN No.
168 of 2003

136. The Public Service Regulations, 2003 are
hereby revoked.

FIRST SCHEDULE

(Made under regulations 42(2), 43(2), 49(4) and 52)

PART A
Offences Warranting Formal Proceedings

1. Act or omission involving moral turpitude e.g. theft, corrupt practices.
2. Act or omission, which tends to bring the Public Service into disrepute.
3. Insubordination.
4. Absence from duty for more than five days without leave or reasonable cause.
5. Using without consent of the prescribed authority, any property or facilities provided for the purpose of the Public Service, for some purposes not connected with official duties.
6. Engaging in any activity outside the official duties, which is likely to lead to taking improper advantage of one's position in the Public Service.
7. Refusal to comply with an order regarding a posting to a station.
8. Failure to perform satisfactorily duties assigned to the public servant.
9. Disclosure of information in contravention of the National Security Act, Cap. 47.
10. Act or omission, which is against public interest.
11. Inability to perform duties efficiently by reason of the use of alcohol or drug abuse.
12. Negligence occasioning loss to the employer.
13. Gross negligence in the performance of duty.
14. Contravention of the Code of Ethics and Conduct for the Public Service, Professional Code of Ethics and Conduct or the Public Leadership Code of Ethics.
15. Any fourth and subsequent commission of the offences provided for under Part B of this Schedule.
16. Act or omission which contravenes the e-Government Act, Cap. 273.
17. Act or omission which contravenes the Economic and Organized Crime Control Act, Cap. 200.
18. Act or omission which contravenes the Cyber Crime Act, Cap. 443.
19. Act or omission which contravenes the Prevention and Combating of Corruption Act, Cap. 329.
20. Act or omission which contravenes the Drug Control and Enforcement Act, Cap. 95.

GN. No. 444 (contd.)

PART B

Offences Warranting Summary Proceedings

NATURE OF OFFENCE	PERMISSIBLE PENALTIES		
	1 st commission of the offence	2 nd commission of the offence	3 rd commission of the offence
Being late for duty without leave or reasonable cause. Late attendance being recorded from one hour after official commencing time for three days consecutively.	Written warning	Reprimand	Stoppage of increment
Absence from work place during working hours without leave. Actual time of absence recorded.	Written warning	Reprimand	Stoppage of increment
Absence from duty without leave. Two days of absence being counted as separate breach.	Written warning	Reprimand	Stoppage of increment
Failure to complete a task. Reckoned relatively on the time or cost for making good or the harm occasioned thereby.	Written warning	Reprimand	Stoppage of increment
Negligence in the performance of duties not endangering the safety of persons or property. Reckoned relatively on the time or cost for making good or the harm occasioned thereby.	Written warning	Reprimand	Stoppage of increment
Failure to comply with instructions not amounting to insubordination. Reckoned relatively on	Written warning	Reprimand	Stoppage of increment

GN. No. 444 (contd.)

the time or cost for making good or the harm occasioned thereby.			
--	--	--	--

NOTE:

1. There shall be opened a register of offence in which there will be recorded the name of the public servant, the offence committed, the time and date of commission;
2. Commission of the offence shall be reckoned at the end of each calendar month and the public servant charged in the following month; and
3. Fourth and subsequent commission of the offences under this part shall warrant formal proceedings.

SECOND SCHEDULE

(Made under regulation 44(3) and (6))

PART A

CHARGE

An example of a charge
(Example where the charge is “absent from duty without leave”)

STATEMENT OF OFFENCE

Absence from duty for more than five (5) days without leave or reasonable cause contrary to regulation 57(1) and paragraph (4) of Part A of the First Schedule of the Public Service Regulations, 2021.

PARTICULARS OF OFFENCE

Mr/Mrs/Miss of P.O. Box
(name of town) being a public servant namely, (Substantive title/duty post), and
at the material time employed at (duty office), on the day of
..... (month), up to day of month (year) was absent from duty
without leave or reasonable cause.

.....
Date Name and Signature of Disciplinary Authority

GN. No. 444 (contd.)

PART B

NOTICE

An example of Notice

Mr/Mrs/Miss of

(insert address). Take notice that I intend to institute disciplinary proceedings against you. A copy of the charge is enclosed herewith.

You are required to state in writing the grounds upon which you rely to exculpate yourself and your representations should reach me within fourteen days from the date you receive this notice.

Take further notice that if your representations do not reach me within the time specified above and having regard to the provisions of regulation 45 of the Public Service Regulations, 2021 will proceed with the disciplinary proceedings without any further notice to you.

Date

Name and Signature of the disciplinary authority

I certify that I have received a copy of this Notice.

.....

Date

.....

Name and Signature of the accused public servant

THIRD SCHEDULE

(Made under regulation 65(1))

CODE OF ETHICS AND CONDUCT FOR THE
PUBLIC SERVICE

I. Respect to Human Rights and being courteous:

- | | |
|-------------------|---|
| Democratic rights | 1. A public servant has the right of being a member of any political party and can vote both for his political party and in general elections. |
| Religion | 2.-(1) A public servant can become a member of any religious sect provided that he does not contravene the existing laws.
(2) For the Government has no religion, religious beliefs shall not be advocated in public service offices. |
| Discrimination | 3. A public servant shall not discriminate or harass a member of the public or a fellow employee on grounds of sex, tribe, religion, nationality, ethnicity, marital status or disability. |
| Courtesy to all | 4.-(1) A public servant shall be courteous to senior and fellow employees as well as to all clients and particularly the clients being served.
(2) Where a public servant is requested to clarify or to provide direction on issues arising from laws, regulations and procedures, he shall do so with clarity and promptness. |
| Respect for all | 5. A public servant shall respect other employees, their rights, as well as their right to privacy especially when handling private and personal information. |
| Sexual harassment | 6.-(1) A public servant shall refrain from having sexual relationships at the work place.
(2) A public servant shall avoid all types of conduct which may constitute sexual harassment which include:
(a) pressure for sexual activity or sexual favors with a fellow employee;
(b) rape, sexual battery and molestation or any sexual assault;
(c) intentional physical conduct which is sexual in nature such as unwelcome touching, pinching, patting, grabbing or brushing against another employee's body, hair or clothes; |

GN. No. 444 (contd.)

- (d) sexual innuendoes, gestures, noises, jokes, comments or remarks to another person about one's sexuality or body;
- (e) offering or receiving preferential treatment, promises or rewards and offering or submitting to sexual favours.

II. Discipline and Diligence

Discipline
and
Diligence

1.-(1) For efficient performance a public servant shall perform his duties diligently and with a high degree of discipline.

(2) A public servant shall use the time, skills and expertise one has so as to attain the expected goals, and is expected to-

- (a) obey the law, decisions should not be biased because of religion, ethnicity, sex, personal interests or any relationship;
- (b) obey and effect lawful directives;
- (c) carry out assigned duties efficiently, and where a public servant considers that he is being asked to act improperly he shall report the matter to his superiors in accordance with the laid down procedures;
- (d) be ready to work at any duty station;
- (e) refrain from any conduct which might impair one's work performance;
- (f) keep punctuality with respect to hours of arrival at work, at all official appointments or engagements and not absent oneself from duty without proper authorisation or reasonable cause;
- (g) avoid the use of rude and abusive language; and
- (h) finish assigned duties within required time and standards.

Attire

2. A public servant shall maintain personal hygiene, dress in respectable attire in accordance with the acceptable norms of the office as stipulated in staff circulars.

Private life

3.-(1) While out of office, public servant shall conduct his personal life in such a manner that it does not affect his services or bring the public service into disrepute.

(2) The public servant shall be required to refrain from becoming drunk, using narcotic drugs and any other unacceptable behaviour.

Secrecy and
confidentiality

4.-(1) A public servant shall not disclose confidential or official information which has been communicated to or has been availed while discharging official duties without due permission.

(2) A public servant shall continue to maintain secrecy and confidentiality of official information even after he has left the public service.

Disclosure of
information

5.-(1) A public servant shall not use any official document or photocopy such as letter or any other document or information obtained in the course of discharging his duties for personal ends.

GN. No. 444 (contd.)

(2) Public servant shall not communicate with the media on issues related to work or official policy without due permission.

(3) Official information shall be released to the media by officials who have been authorised to do so according to the laid down procedures.

III. Team Work

Team work

1.-(1) A public servants shall strive to promote teamwork by offering help to co-employees whenever the need so arises.

(2) Team work shall be achieved by public servants observing the following:

- (a) giving instructions which are clear and undistorted;
- (b) giving due weight and consideration to official views submitted by fellow employees and subordinates;
- (c) ensuring that subordinates clearly understand the scope of their work and encourage them to enhance their competence and skills;
- (d) giving credit to a public servant with outstanding performance and not seeking personal credit at the expense of the public servant;
- (e) avoid malicious actions or words intended to ridicule either subordinates or superiors and
- (f) reporting on his subordinates to be done fairly and without any fear.

IV. Pursuing of Excellence in Service

Excellence in Service

1. Since the public service is geared towards provision of excellent services, public servants shall do the following:

- (a) strive to achieve the highest standards of performance;
- (b) if a member of a professional body (doctors, teachers, pharmacists, engineers or lawyers e.t.c) then adhere to their respective Professional Code of Conduct;
- (c) strive to acquire new knowledge and skills continuously and use them effectively; and
- (d) recognise the need for training and strive to get such training.

V. Exercise Responsibility and Good Stewardship

Exercising responsibilities

1.-(1) A public servant shall act within the boundaries of the authority and the responsibilities delegated.

- (2) Subject to subparagraph (1), the public servant shall-
- (a) make decisions in line with authorised standards and procedures; and
 - (b) discharge duties effectively and be accountable for his own actions.

Public property

2.-(1) A public servant shall safeguard public funds and other properties of the public, entrusted to him and shall ensure that no damage, loss, misappropriation occurs to the funds or public property.

GN. No. 444 (contd.)

(2) A public servant shall use such resources for public use only.

(3) For the purpose of this paragraph, public property includes office suppliers, telephones, computers, copiers, building and other properties purchased with Government funds or donated to the Government, and expenses met by Government or services such as telephone, water and electricity.

VI. Transparency and Accountability

Transparency
and
accountability

1.-(1) A public servant shall adhere to and practice meritocratic principles in appointments, promotions and while delivering any service, he shall be accountable both for actions and inactions through normal tiers of authority.

(2) A public servant shall conduct meetings for the purpose of promoting efficiency and shall not use meetings as a way of avoiding being responsible for the decision he is supposed to have made on his own.

(3) A public servant shall not engage in unofficial activities or projects during official hours or conduct such activities or projects within the office premises or by using public property.

(4) A public servant shall be ready to declare his property or that of his spouse when required to do so.

Loyalty to
Government

2. A public servant shall be loyal to the duly constituted Government of the day and shall implement policies and decisions given by the Minister or any other Government leader.

VII. Discharge Duties with Integrity

Adherence to
laws

1. A public servant shall not fear to abide to laws, regulations and procedures when discharging his duties.

Corruption

2. A public servant shall not solicit, force or accept bribes from a person whom he is serving, has already served or will be serving either by doing so in person or by using another person.

Gifts

3.-(1) A public servant or any member of his family shall not receive presents in form of money, entertainments or any service from a person that may be regarded as geared towards compromising his integrity.

(2) A public servant may accept or give nominal gifts such as pens, calendar and diaries in small amount.

(2) A public servant shall return to the donor any other gift or handle them over to the Government, in which case a receipt shall be issued.

Conflict of
interest

4.-(1) A public servant shall perform his duties honestly and impartially to avoid circumstances that may lead to conflict of interest.

(2) Where conflict of interest arises the public servant shall inform his superiors who shall decide upon the best course of action to

GN. No. 444 (contd.)

resolve it.

Pecuniary
embarrassment 5. A public servant shall not borrow to the extent of not being able to repay the debts as this may discredit the public service as well as affect his ability to make unbiased decisions.

VIII. Political Neutrality

Political
participation 1. A public servant may participate in politics provided that, when so doing he shall observe the following:
(a) shall not conduct or engage oneself with political activities during official hours or at work premises;
(b) shall not take part in political activity, which will compromise or be seen to compromise his loyalty to the Government;
(c) shall not provide services with bias due to his political affiliation; and
(d) shall not pass information or documents availed through his position in the service to his political party.

Political
influence 2. Although public servants have a right to communicate with their political representatives they shall not use such influence-
(a) to intervene on matters affecting him, which are in dispute between the Government and him; and
(b) for furthering personal ends, which are not part of the Government policy.

IX. Conclusion

1. The Code of Ethics and Conduct has been issued pursuant to the Public Service Act. A breach of the Code shall be dealt with under the Public Service Act, National Security Act, Prevention and Combating of Corruption Act or any other relevant law. On its part the Government has the obligations to provide the following:
(a) establish meritocratic principles and procedures to be used in appointments, promotions and in all other service delivery activities;
(b) establish a system which specifies the authority, responsibilities and expected actions of each public servant which can then be assessed after a specific time;
(c) affect an appraisal system which shall enable a public servant to participate in assessing his performance;
(d) ensure that safe working conditions prevail which shall enable the public servant to discharge his duties without undue risk of fear; and
(e) remunerate public servants on the basis of skills, responsibilities and working conditions.

GN. No. 444 (contd.)

2. For efficient, effective and courteous delivery of services to the public, all public servants shall observe this Code.

FOURTH SCHEDULE

(Made under regulation 132(1))

LAWS GOVERNING PROFESSIONAL CODES OF ETHICS
AND CONDUCT

Health Service Professional Codes of Ethics and Conduct

1. The Nurses and Midwives Registration Act, Cap. 325;
2. The Health Laboratory Practitioners Act, Cap. 48;
3. The Pharmacy Act, Cap. 311;
4. The Medical, Dental and Allied Health Professionals Act, Cap. 152; and
5. The Optometry Act, Cap. 23.

FIFTH SCHEDULE

(Made under regulation 72 (1))

OATH OF CHAIRMAN AND MEMBERS OF THE COMMISSION

I having been appointed as Chairman/member of the Public Service Commission, do hereby swear/affirm/declare that I will freely and without fear or favour, affection or ill will, discharge the functions of a Chairman/members, and that I will not directly or indirectly reveal any matters related to such functions to any unauthorised person or otherwise than in the course of duty.

SO HELP ME GOD

SWORN/AFFIRMED/DECLARED before me this day of
...20.....
President

GN. No. 444 (contd.)

SIXTH SCHEDULE

(Made under regulation 72(2))

OATH OF SECRETARY TO THE COMMISSION

I, having been appointed a Secretary to the Public Service Commission, do hereby swear/affirm/declare that I will freely and without fear or favour, affection or ill will, discharge the functions of a Secretary and that I will not directly or indirectly reveal any matters related to such functions to any unauthorised person or otherwise than in the course of duty.

SO HELP ME GOD

SWORN/AFFIRMED this day of 20.....

Before me

.....
President

SEVENTH SCHEDULE

(Made under regulation 72(3))

OATH OF OTHER STAFF OF THE COMMISSION

I, being called upon to exercise the functions of the office of of the Public Service Commission, do solemnly and sincerely swear/affirm/ declare that I will not directly or indirectly, reveal to any unauthorised person or otherwise than in the course of duty the contents or any part of the contents of any documents, communications or information of any kind which may come to my knowledge in the course of my duties as a public servant of the Commission or under the provisions of the Public Service Act, 2002.

GN. No. 444 (contd.)

SO HELP ME GOD

SWORN/AFFIRMED/DECLARED this day of 20.....

Before me

CHAIRMAN
(PUBLIC SERVICE COMMISSION)

EIGHTH SCHEDULE

(Made under regulation 112)

OATH OF CHAIRMAN AND MEMBERS OF THE EMPLOYMENT BOARDS OF THE
LOCAL
GOVERNMENT AUTHORITIES

I,being called upon to exercise the functions of
Chairperson/Member of the (name of the Authority concerned)
Employment Board do swear/affirm/declare that I will faithfully serve, and I will not directly
or indirectly reveal to any un authorized person or otherwise in the cause of my duty of the
contents or any part of the contents of any document communication or information
whatsoever, which may come to my knowledge in the course of my duties as
Chairperson/member of the Board,

SO HELP ME GOD

SWORN/AFFIRMED/DECLARED at

By the said Deponent

This Day of

Before me:

Name:

GN. No. 444 (contd.)

Designation:

Address:

Signature:

COMMISSIONER FOR OATHS

Dodoma,
28th March, 2022

JENISTA J. MHAGAMA,
*Minister of State, President's Office,
Public Service Management and
Good Governance*