



FOREIGN AND COMMONWEALTH OFFICE

COLONIAL REGULATIONS

PART I. PUBLIC OFFICERS



**South Georgia and the
South Sandwich Islands**

LONDON

HER MAJESTY'S STATIONERY OFFICE

70p net

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COLONIAL REGULATIONS

PART I. PUBLIC OFFICERS

CHAPTER 1

APPLICATION OF THE REGULATIONS

1. These Regulations are Directions to Governors for general guidance given by the Crown through the Secretary of State for Foreign and Commonwealth Affairs. This part of the Regulations applies so far as consistent with the constitution or any other law of the Territory to public officers serving in the following territories and their dependencies where they exist:

- Anguilla*
- Belize
- Bermuda
- British Antarctic Territory
- British Indian Ocean Territory
- British Virgin Islands
- Cayman Islands
- Falkland Islands and Dependencies
(South Georgia and South Sandwich Islands)
- Gibraltar
- Gilbert Islands
- Hong Kong
- Montserrat
- New Hebrides
- Pitcairn Islands Group
- St. Helena and Dependencies
(Ascension and Tristan da Cunha)
- Solomon Islands
- Turks and Caicos Islands
- Tuvalu

Note (1). The main conditions of employment of a contract officer are covered by his contract, but the contract usually provides that the officer is subject to Colonial Regulations and local General Orders in force for the time being so far as these are applicable.

Note (2). Regulations 54 to 66 do not apply to Hong Kong, where an adaptation of these Regulations, approved by the Secretary of State, is in force. *See Appendix II.*

* "Anguilla is formally a part of the Associated State of St. Kitts-Nevis-Anguilla but has a separate Constitution and Ministerial form of government under HM Commissioner as provided for in the Anguilla (Constitution) Order 1976 (SI 1976 No. 50). So long as this Constitution is in force, the provisions of these Regulations shall apply to Anguilla."

Note (3). In these Regulations the term "The Secretary of State" means the Secretary of State for Foreign and Commonwealth Affairs. To the extent that the functions of the Secretary of State under any Regulation are for the time being delegated to the Minister for Overseas Development, references in that Regulation shall be construed as including references to that Minister.

2. In these Regulations the term "Territory" includes any territory in which the Regulations are applied and the term "Governor" includes all officers appointed to administer Governments, however styled.

CHAPTER II. GOVERNORS

A. Appointments

3. A Governor holds office during Her Majesty's pleasure, but his tenure of office is normally confined to a period of five years from his assumption of the administration or such lesser period as may be governed by political and constitutional developments in the territory.

B. Salary and Leave

4. When the office of Governor becomes vacant, or when the Governor is on leave, the person succeeding to the administration of the Government shall receive remuneration as approved by the Secretary of State.

5. The grant of leave to a Governor is in the discretion of the Secretary of State. The amount of leave to be taken will not normally exceed that provided for senior public officers by the local leave regulations. In some cases, the amount of leave is regulated by special rules of local application.

6. A Governor on appointment will normally receive half salary from the date of embarkation for the Territory. An officer succeeding to the administration of a Government shall be entitled to be paid in respect of the day on which he assumes the administration.

C. Passages

7. Passage allowances, based on the cost of travel to and from the United Kingdom, will be granted to Governors on first appointment and on the expiration of their terms of office at rates to be determined from time to time by the Secretary of State.

8. A Governor is not entitled to any passage allowance from United Kingdom funds when proceeding on, or returning from, leave of absence but, in the absence of any local provision to the contrary, he will receive the same leave passage privileges, paid from the funds of the Territory, as senior officers in the public service.

9. A Governor who is relieved at his own request before the expiration of his term of office must provide his own passage.

10. A Governor transferred to another appointment before the expiration of his term of office shall receive such passage allowance as may be determined by the Secretary of State and the Lords Commissioners of the Treasury to be appropriate in the particular circumstances of the case.

11. A Governor who is transferred while in the United Kingdom on leave, other than final leave at the expiration of his term of office, and who does not return to his old Territory, shall receive the authorised passage allowance from the United Kingdom to his new Territory. If the usual route from his old to his new Territory is via the United Kingdom he may also be granted, at the discretion of the Secretary of State, a proportion not exceeding one-half of the homeward passage allowance from his old Territory to the United Kingdom.

D. Passages in Her Majesty's Ships

12. No passage in Her Majesty's ships shall be given to Governors or other public officers at the public expense except on the application of the Governor to the Secretary of State or to the senior naval officer where one is stationed in the Territory. The expense for the entertainment of such passengers will not be paid from public funds, unless the Secretary of State approves.

13. The expense for the entertainment on board Her Majesty's ships of a Governor or other public officer must be paid to the paymaster of the ship at the end of the voyage, and, if possible, before leaving the ship.

14. The scale of allowance for entertainment on Her Majesty's ships is as provided in the Queen's Regulations and Defence Council (Navy) Instructions.

CHAPTER III. OFFICERS

A. Appointments

15. The Regulations as to appointment to public offices do not constitute a contract between the Crown and its servants.

16. Appointments to public offices are made by authority of Her Majesty, and such offices are held during Her Majesty's pleasure.

17. Judges are usually appointed in Her Majesty's name by Letters Patent. Other appointments to public offices are made either (a) by letter signed by the Governor or written by his direction, or (b) by a formal agreement between the officer and the Territorial Government or its appointed agent.

18. Except as provided in the two following Regulations, the Governor may select suitably qualified local candidates for appointment or promotion to vacant offices in the Public Service. In making his selection the Governor shall take account of any advice tendered by the Public Service Commission, if such a Commission has been established in the Territory. The claims of meritorious officers in the Public Service will generally take precedence over those of persons not already in the Public Service. For the purpose of this Regulation the term "local candidates" means persons resident or serving in the Territory and includes persons resident in any other part of the Commonwealth who are recruited by the Territorial Government under arrangements approved by the Secretary of State.

19. The selection of a candidate for any appointment to any office or grade prescribed by the Secretary of State in respect of any particular territory, shall be subject to the approval of the Secretary of State. When a vacancy occurs in such a post the Governor shall report it to the Secretary of State. The Governor may recommend a candidate to fill the vacancy, but it shall be clearly understood that the Secretary of State may select another candidate.

20. If the Governor is of the opinion that there is no suitable local candidate for any vacant office the initial basic salary of which is less than the figure prescribed by the Secretary of State or that it is in the public interest that persons other than local candidates should be considered for such vacancy, he may either request the Secretary of State to select a candidate or instruct the Crown Agents for Oversea Governments and Administrations to recruit a suitable person.

21. In reporting vacancies to the Secretary of State, the Governor shall furnish in duplicate full particulars of the office(s) to be filled; a suggested form for this purpose appears in Appendix I.

22. The appointment to a public office of a person who has been connected with the Governor as a private secretary, aide-de-camp, or otherwise, is open to objection and must not be made without previous reference to the Secretary of State.

23. Unless otherwise provided in the conditions of employment, the appointment of an officer not already in the Service shall be subject to a period of probation in accordance with regulations approved by the Secretary of State. The Governor shall have power to terminate an officer's probationary appointment, without assigning any reason, during the period of probation. At the end of the period of probation the officer shall, unless his probationary appointment is terminated or extended, be confirmed in his appointment. The termination or extension of the probationary appointment of an officer selected by the Secretary of State shall be subject to his approval.

24. The claims of officers for promotion will be considered on the basis of official qualifications, experience, and merit.

25. The Governor shall, save as otherwise directed by the Secretary of State, furnish annually a confidential report in the prescribed form on every officer falling within the following categories:

(a) Officers who have been selected for permanent appointment by the Secretary of State from the time when they are confirmed in their appointments.

(b) Other officers who desire to be considered for transfer and are recommended by the Governor.

B. Acting Appointments

26. During the absence on full-pay leave of the substantive holder of an office, the arrangements made for the discharge of the duties of the office shall not involve any extra cost to public funds except:

(a) where the Secretary of State has approved local regulations governing the grant of special remuneration in such cases, or

(b) in very special circumstances with the approval of the Secretary of State.

27. When an office is vacant in a Territory for any reason other than the absence on full-pay leave of the holder, the person appointed to act in that office, provided that he acts for at least 7 days, shall, except where otherwise provided by local regulations made with the approval of the Secretary of State, be remunerated as follows:

(1) When the person appointed is not in the public service he shall be remunerated at such a rate as the Governor may decide, but not exceeding the initial emoluments of the office in which he is acting.

(2) When he is the holder of another office, but is not required to discharge the duties of that office while acting:

(a) If his substantive emoluments are not less than the minimum emoluments of the office in which he is acting, he shall continue to receive the former;

(b) Otherwise he shall receive half the initial salary of the office in which he is acting and half the initial salary of his substantive office, and all the increments which he has earned in his substantive office, and any personal allowance to which he may be entitled, provided that he shall not receive in all more than the minimum emoluments of the office in which he is acting.

(3) When he is the holder of another office and is required to discharge the duties of that office in addition:

(a) If the offices are distinct and separate offices in different departments or do not stand to one another in any immediate

relation of superiority or subordination, he shall receive half the initial emoluments of the office in which he is acting and the whole of his emoluments in his substantive office;

(b) Otherwise he shall be remunerated as though his case fell under paragraph (2) of this Regulation.

For the purpose of this Regulation :

(1) *An officer's emoluments* comprise the whole of his receipts from public funds other than fees and allowances for out-of-pocket expenses.

(2) *The emoluments of the office* are the emoluments paid in virtue of occupation of the office and do not include any allowances of a personal nature.

28. House allowance, if any, payable in respect of the office in which an officer is acting shall be paid to him if it is at a higher rate than the house allowance payable in respect of his substantive office; the latter shall in that event lapse, or accrue to the person, if any, appointed to act in the office. In no case may a person receive house allowance in respect of more than one office.

29. The fees, if any, of the vacant office shall be dealt with by local regulation.

C. Seniority

30. Except where otherwise provided, seniority as between persons selected for appointment from outside the Territory shall be determined by the date of arrival in the Territory. Where, however, two or more persons selected from outside the Service arrive on the same date seniority *inter se* shall be determined by the date of the letter issued on behalf of the Secretary of State confirming the selection, or, in the case of officers engaged on agreement, by the date of the agreement. Seniority in any department shall be determined by the date of an officer's appointment to the particular class or grade in which he is serving.

In the case of transfer on promotion, seniority will be determined by the effective date of the promotion, which will normally be the date on which an officer proceeds to take up his duties.

D. Salaries and Allowances

31. On appointment to an office of a person not within the Territory, as a general rule half salary shall be paid as from the date of embarkation, and full salary from the date of arrival in the Territory, provided that the officer proceeds direct to the Territory to which he is appointed; otherwise he shall be paid half salary for such time only as is ordinarily required to perform the journey between the port of embarkation and that of arrival in the Territory.

32. If the appointment of an officer who is acting in a vacant office is confirmed, he shall receive the full salary of that office, if available, from the date on which he entered on the duties, but from the date from which he receives such full salary he shall not be entitled to salary on account of any other office which he may have held at the same time.

33. An officer who is promoted in the ordinary course in the Territory in which he is serving shall be eligible to receive the salary of his new scale, grade, or office, if it be available, as from the date when the vacancy occurred, even if he is on leave of absence at the date in question.

34. When the salary of an office is on an incremental scale, the holder shall not be entitled to draw any increment as of right, but only by sanction of the Governor, or other officer authorised by the Governor for the purpose. No formal increment certificate will be required; but it will be the responsibility of the head of department or other authorised officer to review all increments as they become due; to make an appropriate record as to whether or not an increment has been allowed, and to notify the paying authority at least one month before the increment is due in cases where it is proposed that the increment should be deferred, withheld or suspended.

35. Except as otherwise provided an officer's incremental date shall be the date on which he takes up his appointment in the Territory.

In the case of transfer on promotion, the day on which the officer proceeds to take up his new duties will normally be his incremental date.

36. Except in a case of promotion from a non-pensionable to a pensionable office, the following rules shall apply when an officer is promoted in the ordinary course in the Territory in which he is serving to an office carrying salary on an incremental scale:

(i) If immediately prior to his promotion the salary of the officer was less than the minimum of the new office, he shall receive the minimum; but if he was qualifying for increment in his former office and had already earned such an amount of increment as would bring his salary up to the minimum of the scale of his new office, then any balance of the increment in his former scale shall, subject to rule (iv), be taken into account in fixing the date of his first increment in his new scale.

(ii) If his salary was not less than the minimum of the new office he shall, subject to rules (iii) and (iv), continue to receive his existing salary until by length of service at his new incremental rate he has earned such an amount of increment as will bring him to the next higher incremental step in his new scale. But, if he was qualifying for increment in his former office the date of increment in his new scale shall, subject to rule (iv), be advanced proportionately even though

it may mean the immediate grant of one increment and the advancement of the normal date for a further increment.

(iii) If the maximum (or fixed) salary of his former office was not less than the minimum of his new office and he has at the date of his promotion served at that salary for a period exceeding one year, then one-half of such excess period shall, subject to rule (iv), count towards an increment in his new scale, but in no case shall he be given more than one increment on this account.

(iv) If his former office was one to which no duty, seniority, or similar non-pensionable allowance was attached, and he is promoted to an office carrying such allowance, he shall serve for a full incremental period in the new office before becoming eligible for an increment.

The term "salary" in this Regulation shall include any personal or other allowance which is payable in money and which ranks as a pensionable emolument.

37. When an officer receives, in addition to the salary of his office, an allowance granted to himself personally, and not permanently attached to his office, he may when absent on half-pay leave receive only half of such personal allowance, the remaining moiety being left undrawn and lapsing to the Territorial Treasury.

38. When an officer on leave is entitled only to half pay no private arrangement is to be made with the object of securing to him more than half pay.

39. An officer on leave shall not be eligible for any transport, travelling, or house allowance, or any fees.

40. An officer may, during periods of resident service, remit through the Crown Agents for Oversea Governments and Administrations in single equal monthly instalments, a portion of his salary for payments to any bank, firm, or person he may name. Such payments shall not, as a rule, exceed half his salary, exclusive of duty pay and local allowances, but in exceptional cases the Governor may authorise remittances in excess of half salary. Requests for such payments may be made to the Crown Agents direct, before the departure of the officer from the United Kingdom, and will then remain operative until (1) altered or cancelled by the Territorial Government concerned through which all subsequent communications on the subject shall be sent, or (2) the officer comes on leave or his leave certificate reaches the Crown Agents.

E. Conduct and Discipline

(a) General provisions

(N.B. Further Regulations concerning the conduct of officers in connection with the receipt, custody, and disbursement of public funds and

the custody of Government stores, etc., will be found in Part II, Chapter VIII, of the Regulations.)

41. Officers are required to discharge the usual duties of the office to which they are appointed and any other suitable duties which the Governor may call upon them to perform.

42. An officer who is absent from the Territory without permission shall be liable to summary dismissal.

43. An officer whose remuneration is fixed on the assumption that his whole time is at the disposal of the Government is prohibited from engaging in trade, or employing himself in any commercial or agricultural undertaking.

44. (1) An officer, whether or not his whole time is at the disposal of the Government, shall on appointment to the service of any Territory disclose to the Governor particulars of any investment or shareholding which he may possess in any company carrying on business in the Territory, or any other direct or indirect interest in such company, or in any local occupation or undertaking. If the Governor shall decide that by reason of the facts disclosed the officer's private affairs might be brought into real or apparent conflict with his public duties or in any way influence him in the discharge of his duties, the officer shall to such extent as the Governor may direct divest himself of such investments or interests.

(2) An officer shall not directly or indirectly acquire investments or interests of the nature mentioned in this Regulation without the express permission of the Governor.

45. Serious pecuniary embarrassment, from whatever cause, will be regarded as necessarily impairing the efficiency of an officer and rendering him liable to disciplinary proceedings at the discretion of the Governor.

46. An officer on leave of absence (including leave preparatory to retirement) shall not accept any paid employment without previously obtaining the express sanction required by the local regulations of the territory in which he is employed. If local regulations are silent on the point, the approval of the Secretary of State must be obtained if the leave is spent outside the territory, and the approval of the Governor if the leave is spent inside the territory.

47. An officer shall not undertake any private agency in any matter connected with the exercise of his public duties.

48. An officer shall not, without the express permission of the Secretary of State or of the Governor:

(a) act as the editor of any newspaper or take part directly or indirectly in the management thereof, or contribute anonymously thereto; nor

(b) publish, either orally or in writing, anything which may be reasonably regarded as of a political or administrative nature; publication for this purpose includes making a speech or taking part in a radio broadcast or television programme.

49. An officer, whether on duty or on leave of absence, shall not allow himself to be interviewed on questions of public policy or on matters affecting the defence or military resources of any part of the Commonwealth.

50. (a) Governors and all other officers are prohibited from receiving valuable presents (other than the ordinary gifts of personal friends), whether in the shape of money, goods, free passages, or other personal benefits, and from giving such presents.

(b) This Regulation applies not only to the officers themselves but also to their families, and officers will be held responsible for its observance by their families. It does not apply to cases of remuneration for special services rendered and paid for with the consent of the Government.

(c) This Regulation may be relaxed on the occasion of an officer's retirement from the public service, but only if the special permission of the Governor, or in the case of a Governor, the Secretary of State, has been previously obtained.

51. Presents from persons of distinction or others which cannot be refused without giving offence shall be handed over to the Government.

When presents are received on behalf of the Territorial Government on ceremonial occasions they shall be handed over to the Government, and any return presents shall be given at the Government expense.

52. Money which has been subscribed with a view to marking public approbation of an officer's conduct may be dedicated to objects of public purpose and connected with the name of the person who has merited such a proof of the general esteem.

53. The Governor shall not, without special permission, accept or forward any articles for presentation to Her Majesty.

(b) Disciplinary procedure*

54. Regulations 55, 56 and 59 to 67 apply to a Judge of a Supreme Court or High Court subject to the following modifications:

(i) The question of his dismissal, or of inflicting any other penalty upon him or of his retirement under Regulation 67 will be referred by the Secretary of State to the Judicial Committee of the Privy Council, unless the Judge requests that it shall not be so referred.

* Regulations 54 to 66 do not apply to Hong Kong. See Regulation 1, Note 2 and Appendix 11.

(ii) Accordingly, no penalty shall be inflicted by the Governor without the approval of the Secretary of State.

(iii) In place of the Committee referred to in paragraph (ii) of Regulation 59, the Governor shall appoint a Judicial Commission consisting of such person or persons as he may think fit, due regard being had to the desirability of appointing a Commission consisting of or including a Judge or Judges.

55. An officer holds office subject to the pleasure of the Crown, and the pleasure of the Crown that he should no longer hold it may be signified through the Secretary of State, in which case no special formalities are required.

56. If it is represented to the Governor that an officer has been guilty of misconduct, and the Governor is of opinion that the misconduct alleged is not serious enough to warrant proceedings under Regulations 57 and 59, with a view to dismissal, he may cause an investigation to be made into the matter in such manner as he shall think proper, and the officer shall be entitled to know the whole case made against him, and shall have an adequate opportunity throughout of making his defence.

If as a result the Governor is of opinion that the allegation is proved, he may inflict such punishment upon the officer by way of fine or reduction in rank, or otherwise, as may seem to him just.

In the case of an officer holding an office, the appointment to which is subject to the approval of the Secretary of State, or an officer who, though not holding such an office, was selected for appointment by the Secretary of State, the punishment proposed, if other than a reprimand, shall be immediately reported to the Secretary of State and the report shall be accompanied by a statement of the offence, the evidence in support, and such observations as the officer has made or desires to make. The Secretary of State may approve, vary or remit the punishment.

This Regulation is without prejudice to any local law or regulation providing for the punishment of officers by the Governor or the head of a department.

57. For the purpose of this and the next succeeding Regulation, the term "officer" means an officer who neither holds an office appointment to which is subject to the approval of the Secretary of State, nor was selected for appointment by the Secretary of State. Such an officer may, subject to the provisions of paragraph (vi) of this Regulation, be dismissed by the Governor only in accordance with the rules contained in paragraphs (i) to (v) of this Regulation, unless the method of dismissal is otherwise provided for in these Regulations, or by local law or regulations:

(i) The officer shall be notified in writing of the grounds upon which it is intended to dismiss him; and he shall be given a full opportunity of exculpating himself.

(ii) The matter shall be investigated by the Governor with the aid of the Head of the officer's Department or such other officer or officers as the Governor may appoint, provided that in the case of an officer whose pensionable emoluments exceed £1,000 per annum or such other figure as may be laid down from time to time by the Secretary of State, the procedure laid down in Regulations 59 (i) to (vii) shall be followed.

(iii) If any witnesses are called to give evidence the officer shall be entitled to be present and to put questions to the witnesses.

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

(v) In lieu of dismissal the Governor may at his discretion impose some lesser penalty, for example reduction in rank, stoppage of increment, fine or reprimand. Alternatively, if the proceedings disclose grounds for so doing, he may without further proceedings require the officer to retire in accordance with Regulation 58.

(vi) If the officer is convicted on a criminal charge, the Governor may, upon a consideration of the proceedings of the court, dismiss the officer or subject him to some lesser penalty. Alternatively, if the proceedings disclose grounds for so doing he may without further proceedings require the officer to retire in accordance with Regulation 58. Action may be taken under this Regulation if an officer is charged with a criminal offence and the Court finds the charge proved but exercises its powers under the legislation of certain Territories and, on grounds of leniency, does not enter a conviction. Such a finding may be regarded as a conviction for the purpose of this Regulation.

58. Notwithstanding the above provisions, if the Governor considers that it is desirable in the public interest that any officer should be required to retire from the Service on grounds which cannot suitably be dealt with by the procedure laid down in Regulation 57, he shall call for a full report from the heads of the departments in which the officer has served; and if, after considering that report and giving the officer an opportunity of submitting a reply to the complaints by reason of which his retirement is contemplated, he is satisfied, having regard to the conditions of the Service, the usefulness of the officer thereto and all the other circumstances of the case, that it is desirable in the public interest so to do, he may require the officer to retire, and the officer's service shall accordingly terminate on such date as the Governor shall specify. In every such case the question of pension will be dealt with under the laws or regulations of the Territory.

59. An officer holding an office appointment to which is subject to the approval of the Secretary of State, or who, though not holding such an office, was selected for appointment by the Secretary of State, may be dismissed by the Governor only in accordance with the following rules unless the method of dismissal is otherwise provided for in these Regulations, by the Constitution of a Territory, or by local law or regulations:

(i) The officer shall by direction of the Governor be notified in writing of the grounds on which it is proposed to dismiss him and he shall be called upon to state in writing before a day to be specified (which day must allow a reasonable interval for the purpose) any grounds upon which he relies to exculpate himself.

(ii) If the officer does not furnish such statement within the time fixed by the Governor, or if he fails to exculpate himself to the satisfaction of the Governor, the Governor shall appoint a Committee to inquire into the matter. The Committee shall consist of not less than three persons. The Chairman shall be a Judge, Magistrate or Legal Officer, or, with the approval of the Secretary of State, some other person possessing legal qualifications. The members of the Committee shall be selected with due regard to the standing of the officer concerned, and to the nature and quality of the complaints which are the subject of the inquiry. The head of the officer's department shall not be a member of the Committee.

(iii) The officer shall be informed that on a specified day the question of his dismissal will be brought before the Committee and that he will be allowed and, if the Committee shall so determine, required to appear before the Committee and defend himself.

(iv) If witnesses are examined by the Committee, the officer shall be given an opportunity of being present and of putting questions to the witnesses on his own behalf, and no documentary evidence shall be used against him unless he has previously been supplied with a copy thereof or given access thereto.

(v) The Committee may in its discretion permit the Government or the officer, to be represented by an officer in the public service or, in exceptional cases, by solicitor or counsel, and may at any time, subject to such adjournment as in the circumstances may be required, withdraw such permission; provided that where the Committee permit the Government to be represented they shall not refuse the officer permission to be similarly represented.

(vi) If during the course of the inquiry further grounds of dismissal are disclosed, and the Governor thinks fit to proceed against the officer upon such grounds, the officer shall by the Governor's direction be furnished with a written statement thereof and the same steps shall be taken as are above prescribed in respect of the original grounds.

(vii) The Committee having inquired into the matter shall make a report to the Governor, who shall consider the same in Executive Council. If the Council are of opinion that the report should be amplified in any respect or that further inquiry is desirable, they may refer any matter back to the Committee for further inquiry or report accordingly. The Council shall not itself hear witnesses save in exceptional circumstances and at the request of the Governor.

(viii) If upon considering the report of the Committee the Governor is of opinion that the officer should be dismissed he shall forthwith suspend him from the exercise of his office and from the enjoyment of his salary and shall without loss of time report the matter to the Secretary of State, transmitting the minutes of the Council, the report of the Committee, a copy of the evidence and of all material documents relating to the case, together with a recommendation that the officer should be dismissed.

(ix) In Territories where there is a Public Service Commission the functions of the Governor and the Executive Council as set out in subparagraphs (vii) and (viii) of this Regulation shall be modified in accordance with the Constitution of the Territory.

(x) If the Secretary of State approves the recommendation for dismissal, the Governor shall dismiss the officer and the dismissal shall take effect from the date upon which he was suspended by the Governor and he shall not be entitled to any salary subsequent to such date.

(xi) If the Secretary of State does not approve the officer's dismissal, and does not consider that any penalty should be inflicted, the officer shall be forthwith reinstated and shall be entitled to the full amount of salary which he would have received if he had not been suspended.

(xii) If the Secretary of State considers that the officer deserves some punishment, but not dismissal, he will direct the Governor accordingly.

(xiii) If upon considering the report of the Committee the Governor is of opinion that the officer does not deserve to be dismissed, but deserves some lesser punishment, he shall deal with the matter as provided in Regulation 56.

(xiv) If upon considering the report of the Committee the Governor is of the opinion that the officer does not deserve to be dismissed but that the proceedings disclose grounds for requiring him to retire in accordance with Regulation 67, he may recommend accordingly.

(xv) An officer who has been suspended may, pending the decision of the Secretary of State thereon, be granted an alimentary allowance if the Governor shall consider him to be in need of such assistance.

(xvi) If the officer concerned is a Magistrate or Judge of a Court subordinate to the Supreme Court or High Court, then in place of the Committee referred to in paragraph (ii) of this Regulation, there shall be a Judicial Commission appointed by the Chief Justice and normally consisting of one or more Judges of the Supreme Court or High Court; and in any such case, the expression "the Committee" wherever it occurs in other paragraphs of this Regulation shall be construed as meaning the Judicial Commission. If the officer is the holder of some other office in addition to that of Magistrate or Judge of a subordinate Court, and if the grounds upon which it is proposed to dismiss him are not related to his functions as Magistrate or Judge, this paragraph shall not apply, unless the Governor shall otherwise direct.

60. If in any case the Governor considers that the public interest requires that an officer should cease to exercise the powers and functions of his office instantly, he may interdict the officer from the exercise of the powers and functions of his office provided that proceedings for his dismissal are being taken or are about to be taken, or that criminal proceedings are being instituted against him. Subject to Regulation 63 an officer who has been interdicted shall, unless and until he is suspended, be allowed to receive such portion of the emoluments of his office, not being less than one-half, as the Governor shall think fit. If the proceedings against any such officer do not result in the dismissal or other punishment of the officer, he shall be entitled to the full amount of the emoluments which he would have received if he had not been interdicted. If the punishment is other than dismissal he may be refunded such proportion of the emoluments withheld as a result of his interdiction as the Governor shall think fit.

61. If criminal proceedings are instituted against an officer, proceedings for his dismissal upon any grounds involved in the criminal charge shall not be taken pending the criminal proceedings and the determination of any appeal arising therefrom.

62. If an officer to whom the provisions of Regulation 59 may apply is convicted on a criminal charge, the Governor may cause the proceedings of the criminal court on such charge to be considered in Executive Council or by the Public Service Commission in Territories where the Commission is empowered to advise him on discipline, and if, following such consideration, he is of opinion that the officer should be dismissed or subjected to some lesser penalty on account of the offence for which he has been convicted the officer may, subject to the prior approval of the Secretary of State, be dismissed or otherwise punished without any of the proceedings prescribed in Regulation 59 being taken. Alternatively, if the proceedings disclose grounds for so doing the Governor may without further proceedings recommend to the Secretary of State that the officer be required to retire in accordance with Regulation 67. Action may be taken under this Regulation if an officer is charged with a criminal offence and the court finds the charge proved, but in the exercise of powers which exist under the legislation of certain Territories, does not (on grounds of leniency) enter a conviction.

Such a finding may be regarded as a conviction for the purposes of this Regulation.

63. An officer convicted on a criminal charge serious enough to warrant his dismissal from the Service shall not receive any emoluments from the date of conviction, pending consideration of his case by the Governor.

64. An officer acquitted of a criminal charge shall not be dismissed on any charge upon which he has been acquitted, but nothing in this Regulation shall prevent his being dismissed or otherwise punished on any other charges arising out of his conduct in the matter, provided that they do not raise substantially the same issues as those on which he has been acquitted; and if the Governor thinks fit the usual proceedings may be taken for the purpose.

65. An officer who is dismissed forfeits all claim to a retiring allowance.

66. An officer who is under interdiction or suspension may not, without the permission of the Governor, leave the Territory during the interval before he is reinstated or dismissed.

67. Notwithstanding the above provisions, if the Governor considers that an officer holding an office appointment to which is subject to the approval of the Secretary of State, or who, though not holding such an office, was selected for appointment by the Secretary of State, should be required to retire from the Service on grounds which cannot suitably be dealt with by specific charges under the foregoing Regulations, he shall submit a full report upon the case to the Secretary of State, forwarding statements from the heads of the departments in which the officer has served and the officer's reply to the complaints by reason of which his retirement is contemplated; and if the Secretary of State is satisfied having regard to the conditions of the Service, the usefulness of the officer thereto and all other circumstances of the case, that the officer's retirement is desirable in the public interest, the Secretary of State may require him to retire, and his service shall accordingly terminate on such date as the Secretary of State shall specify. In every such case the question of pension will be dealt with under the laws or regulations of the Territory.

(c) Memorials and Petitions

68. Every officer who has any representations of a public or private nature to make to the Government should address them to the Governor. The duty of the Governor is to consider and act upon each representation as public expediency and justice to the individual may appear to require, with the assistance in certain cases of his Executive Council; and if he doubts what steps to take thereupon, or if public advantage may appear to require it, he shall refer the matter to the Secretary of State.

69. Any officer in a Territory has the right to address the Secretary of State, if he thinks proper; in which case he must transmit such communication, unsealed and in triplicate, to the Governor, requesting him to forward it in due course to the Secretary of State. Every letter, memorial or other document which may be received by the Secretary of State from a Territory otherwise than through the Governor will be referred back to the Governor for his report or returned to the writer. The rule requiring transmission of communications to the Secretary of State through the Governor is based on the strongest grounds of public convenience, in order that all communications may be duly verified, as well as reported on, before they reach the Secretary of State. It extends, therefore, to communications relating to public affairs as well as to the concerns of the writer.

70. Petitions addressed to The Queen or The Queen in Council and memorials to officers or to departments of Her Majesty's Government in the United Kingdom must be in like manner sent to the Governor for transmission to the Secretary of State.

71. The Governor shall transmit to the Secretary of State with all reasonable despatch every communication received by him in accordance with Regulations 69 and 70 accompanied by such report as its contents may appear to him to require.

F. Passages

72. (a) A person not already in the public service who is selected for appointment to a public office shall receive a free passage to the Territory, and he shall sign an agreement to refund the cost of the passage in certain contingencies.

(b) The question whether free or assisted passages to the Territory may be provided for an officer's wife and family on the occasion of his appointment, and the question of passage assistance when he proceeds on leave, shall be governed by local regulations made with the approval of the Secretary of State.

G. Leave

73. The leave of absence of officers shall be governed by rules of local application as directed by the Secretary of State.

74. The Governor shall report to the Secretary of State each case in which leave of absence from the Territory has been granted. If any part of the leave is to be spent in Europe he shall transmit a leave certificate in the approved form. The officer proceeding on leave shall be furnished with a duplicate of the certificate to enable him to draw his salary. A third copy of the certificate shall be sent direct to the Crown Agents for Oversea Governments and Administrations, whether his salary is to be paid by the Crown Agents or not.

75. On arrival in Europe the officer shall report his arrival and address to the Foreign and Commonwealth Office, and to the Crown Agents for Oversea Governments and Administrations, and he shall notify any subsequent change of address.

76. An officer seeking an extension of leave must, in the absence of exceptional circumstances, apply to the Secretary of State in sufficient time to allow of reference to the Territory by mail.

77. Leave may be extended by the Secretary of State if the officer is required or permitted to remain in the United Kingdom on public grounds.

78. Officers may be required by the Secretary of State to discharge any duty or to go through any course of instruction which he may think necessary during their leave of absence, and will not be entitled to any additional remuneration in consideration of such employment. Allowances may, however, be granted to cover necessary out-of-pocket expenses, and extensions of leave may be granted in appropriate cases.

H. Medical Examinations

79. Every person selected for appointment shall be required to present himself for examination to an approved medical practitioner with a view to its being ascertained whether he is physically fit for service. Unless otherwise provided in the offer of appointment, the fee for such examination shall be paid by the Government of the Territory concerned. If the candidate is not finally passed as physically fit for service, his appointment shall not be proceeded with.

80. Officers going on leave outside the Territory should be medically examined before departure. Leave medical certificates should be furnished to the Foreign and Commonwealth Office in respect of officers domiciled in the United Kingdom who are required to be examined by one of the Consulting Physicians to that Office, and in respect of all officers returning to the Home Service after a period of temporary transfer or secondment.

81. If an officer is required to be examined by one of the Consulting Physicians, the Governor shall transmit full information regarding the officer's health record during his last tour of service and a medical report of his state of health before proceeding on leave. The officer shall be furnished in writing with medical advice as to any precautions which he should take during the voyage and his subsequent leave.

82. Any officer who falls ill so as to require medical attendance while proceeding on leave of absence to the United Kingdom, or during such leave, and remains ill for a week, must report the fact to the Foreign and Commonwealth Office and he shall, if required, send periodical reports from his medical attendant as long as he remains under medical care.

83. The Governor may at any time (and shall, if the officer so requests) call upon an officer to present himself for examination to an approved medical practitioner, or to a duly constituted medical board, with a view to its being ascertained whether the officer is physically capable of performing the duties of his appointment or of any appointment to which it may be proposed to transfer him.

84. An officer on leave of absence may be required, or at his own request, may be permitted, by the Secretary of State, to present himself for examination to an approved medical practitioner, with a view to obtaining a report as to the officer's physical fitness to return to his duties or to take up a fresh appointment.

85. In the case of examinations under either of the two preceding regulations,

(a) any fees in respect of the examination shall, in the absence of any special regulations or arrangement to the contrary, be paid by the Government.

(b) the person or persons appointed to conduct the examination shall have discretion to call a specialist into consultation, and any fee due to the specialist for assistance in rendering a report to the Governor or to the Secretary of State shall be paid by the Government;

(c) the report of the examination shall be furnished to the Governor or to the Secretary of State as the case may be, and shall not be communicated to the officer concerned.

(d) the officer shall, however, be informed at the earliest possible date of the decision reached upon his case by the Governor or by the Secretary of State after consideration of the report; and if the officer is dissatisfied with that decision, he shall be at liberty to make representations to this effect, in which event the Governor or the Secretary of State shall decide, at his discretion, whether any further medical evidence shall be called for.

I. Transfer Arrangements

86. (i) In these Regulations—

“children” means the children of an officer who are below the age of eighteen years, unmarried, and dependent upon him;

“free passage” means a passage provided at the expense of the transferring or receiving Territory as the case may be;

“ passage ” means a passage by a route approved as a normal route, the grade of accommodation being the grade which is prescribed for the officer when travelling on vacation leave or which would be provided for him when travelling on duty, and includes railway journeys necessarily undertaken in any process of transhipment;

“ receiving Territory ” means the Territory to which the officer is being transferred;

“ transferring Territory ” means the Territory from which the officer is being transferred;

“ vacation leave ” means leave with full salary as ordinarily granted in respect of resident service under the regulations applicable to the officer concerned in the transferring Territory.

(ii) Except in the case of passages granted under Regulation 87 (i) (f) and the last sentence of Regulation 88 (ii) no passage shall be granted under these Regulations for an officer's wife or children unless they accompany him or follow him within twelve months and are permanently giving up residence in the transferring Territory.

(iii) When an officer is transferred, the date of transfer shall be the date on which he begins to draw salary from the receiving Territory.

(iv) An officer who is transferred from one Territory to another is eligible for any vacation leave for which he may be qualified at the date of departure from the transferring Territory. If he is not qualified for vacation leave on account of his not having completed the prescribed minimum term of resident service, he shall, nevertheless, be deemed to have earned a period of leave with full salary from the transferring Territory bearing the same proportion to the period of vacation leave for which he would have been qualified if he had completed the prescribed minimum term of resident service as his actual period of resident service bears to the prescribed minimum term.

(v) An officer who is transferred from one Territory to another will normally be required to proceed to the receiving Territory by the cheapest and most direct route. If this route is not via the United Kingdom, he may, nevertheless, be permitted, subject to the approval of the Secretary of State, to proceed via the United Kingdom and to take some or all of any leave for which he may be eligible before his transfer takes effect.

87. (i) An officer who is transferred from one Territory to another shall, if he proceeds via the United Kingdom, receive

(a) such vacation leave as may be available under Regulation 86 (iv);

(b) leave with full salary at the expense of the transferring Territory for the period of the voyage to the United Kingdom if not included in (a);

(c) full salary at the expense of the receiving Territory for the period of the voyage from the United Kingdom;

(d) free passages for himself from the transferring Territory to the United Kingdom and from the United Kingdom to the receiving Territory;

(e) free passages, not exceeding four in all, for his wife and children from the transferring Territory to the United Kingdom;

(f) such privileges in respect of passages for his wife and children from the United Kingdom to the receiving Territory as may be prescribed for officers on first appointment to that Territory.

(ii) If the officer proceeds to the receiving Territory via the United Kingdom but his wife and/or his children proceed by some other route, he will be granted in respect of the passages for his wife and/or children—

(a) if the cheapest and most direct route is via the United Kingdom, a contribution from public funds towards the cost of the passages for his wife and/or each child not exceeding in each case the cost which would have been payable from public funds if they had proceeded from the transferring to the receiving Territory via the United Kingdom.

(b) if the cheapest and most direct route is not via the United Kingdom, free passages not exceeding four in all for his wife and/or children by the cheapest and most direct route.

(iii) If the vacation leave or leave with full salary granted to an officer on transfer who proceeds via the United Kingdom in respect of service in the transferring Territory is not exhausted by the date of his transfer, the balance, if it amounts to not less than seven days, may be deferred.

(iv) If the officer is not eligible under Regulation 86 (iv) for any leave with full salary from the transferring Territory on the conclusion of the voyage to the United Kingdom, or if it is not possible for him to leave the United Kingdom before the expiration of such leave, his leave will be extended with full salary from the transferring Territory from the date of arrival in the United Kingdom or from the date of expiration of the leave with full pay granted to him provided that he leaves the United Kingdom by the first reasonable opportunity. In such a case the receiving Territory will refund to the transferring Territory the salary paid in respect of such extension of leave.

88. The following conditions shall apply to an officer who is transferred from one Territory to another if he proceeds otherwise than via the United Kingdom :

(i) He shall receive full salary from the receiving Territory for the period of the journey to that Territory provided that he proceeds by the cheapest and most direct route.

(ii) Free passages shall be provided by the cheapest and most direct route from the transferring to the receiving Territory for himself, and for his wife and children up to a total of four passages besides his own. Alternatively, if his wife and/or children proceed to the United Kingdom, free passages not exceeding four in all to the United Kingdom will be provided for them. In this event the question whether he should receive any assistance towards the cost of passages for them from the United Kingdom to the receiving Territory shall be governed by the regulations of that Territory.

(iii) The officer shall remain eligible for any vacation leave which he has earned in respect of his service in the transferring Territory, in accordance with Regulation 86 (iv), but such leave shall be deferred.

89. An officer who is transferred from one Territory to another shall also be granted a reasonable allowance for the transport of his heavy baggage (*i.e.*, ordinary household effects other than furniture).

90. Leave deferred under these Regulations shall be granted to the officer at the first convenient opportunity by the Government of the receiving Territory with full salary at the rate which the officer is drawing at the time. Where the Leave Regulations of the receiving Territory limit the amount of leave that can be accumulated, the amount of deferred leave will be so limited and any excess foregone.

91. The expense falling upon public funds in respect of the passages of an officer, his wife and his children under these Regulations shall fall upon the receiving Territory, provided that if the officer and/or his wife proceed via the United Kingdom the Government of the transferring Territory shall contribute towards the cost of the passages for him and/or his wife a sum bearing in each case the same proportion to the full cost of a passage to the United Kingdom as the number of months of resident service which the officer has completed during the tour preceding his transfer from the transferring Territory bears to the minimum term of resident service necessary to qualify him for vacation leave. The allowance for the transport of baggage as provided in Regulation 89 will be borne by the receiving Territory.

J. Retirement

92. In the case of an officer selected for appointment by the Secretary of State, the final decision relating to retirement on medical grounds shall rest with the Secretary of State.

APPENDIX I

Regulation 21

Particulars of the Office of now vacant in

1. Duties of Office, and qualifications required for their performance.
2. Emoluments of Office
 - (a) Pensionable
 - (b) Non-pensionable.
3. Allowances, quarters, and other circumstances affecting the value of the office, including grant of free or assisted passages to the officer and his family on first appointment and on leave.
4. Nature, number, and amount of securities required, and mode of giving them, if applicable.
5. Acts, laws, or ordinances, making provision respecting any of the above matters with reference to the sections in which such provision is made.
6. Whether house accommodation is available or readily procurable, whether furniture, etc., should be taken, and any other particulars of a like nature likely to be useful for the information of candidates.
7. Whether free medical attendance and medicines are provided.
8. Whether and, if so, what rates and taxes are payable.
9. Note of any special physical requirements of the post, including vision and hearing.

APPENDIX II

Regulations applied to the public officers in Hong Kong in lieu of of Regulations 54-66

“54. (1) Regulations 54 to 66 shall apply only to officers confirmed to the pensionable establishment.

(2) Disciplinary procedure in relation to other officers shall be carried out in accordance with the regulations made by the Governor.

(3) For the purposes of regulations 56 to 66, punishment includes dismissal, compulsory retirement with pension, gratuity or other allowances, without such benefits or with reduced benefits, fine, reduction in rank, severe reprimand, reprimand, stoppage or deferment of increments and reduction in salary, but not retirement in the public interest under regulation 59.

(4) Regulations 55 to 66 are without prejudice to any law providing for the punishment of officers by the Governor or any other officer or authority.

(5) The Governor may delegate to any public officer any of the powers or duties conferred or imposed upon him by regulations 56 to 66, save that he shall not delegate the power to make regulations, nor, save with the approval of the Secretary of State, the power to dismiss an officer or to require him to retire under regulation 59.

(6) Regulations 54 to 66 shall not apply to a judge of the Supreme Court or the District Court.

55. An officer holds office subject to the pleasure of the Crown, and the pleasure of the Crown that he should no longer hold it may be signified through the Secretary of State, in which case no special formalities are required.

56. (1) If it is represented to the Governor that an officer has been guilty of misconduct, and the Governor is of the opinion that the misconduct alleged is not serious enough to warrant proceedings under regulation 57, he may cause an investigation to be made into the officer's conduct in such manner as may be prescribed by regulations made by the Governor and approved by the Secretary of State.

(2) If after such investigation the Governor is of the opinion that the officer has been guilty of misconduct, he may inflict such punishment, other than dismissal or compulsory retirement, upon the officer as may seem to him to be just.

57. (1) If it is represented to the Governor that an officer has been guilty of misconduct, and the Governor is of opinion that the misconduct alleged may be serious enough to warrant the dismissal or compulsory retirement of the officer, he may cause an investigation to be made into the officer's conduct in such manner as may be prescribed by regulations made by the Governor and approved by the Secretary of State.

(2) If after such investigation the Governor is of opinion that the officer has been guilty of misconduct, he may inflict such punishment upon the officer as may seem to him to be just.

58. (1) If an officer has been convicted on a criminal charge the Governor may, upon a consideration of the proceedings of the Court on such charge, inflict such punishment upon the officer as may seem to him to be just, without any further proceedings.

(2) Action may be taken under this regulation if an Officer is charged with a criminal offence and the court finds the charge proved but exercises its power not to enter a conviction. Such a finding may be regarded as a conviction for the purpose of this regulation.

59. (1) The Governor may at any time if it is represented to him that the retirement of an officer is desirable in the public interest, call for a report from the head of any department in which the officer has served. The officer shall be informed of the grounds on which his retirement is contemplated under this regulation and be given an opportunity to make representations.

(2) The Governor may, upon a consideration of the report and of any representations submitted under paragraph (1) of this regulation, require the officer to retire from the service, if he is of the opinion that, having regard to conditions of the public service, the usefulness of the officer thereto and all other circumstances of the case, the termination of the officer's service is desirable in the public interest and his service shall accordingly terminate on such date as the Governor may specify.

(3) If upon consideration of

(a) an investigation into the conduct of an officer under regulation 56 or 57; or

(b) the proceedings of a court by which an officer has been convicted of a criminal charge.

the Governor is of the opinion that the officer does not deserve to be punished but that the investigation or proceedings disclose grounds for requiring

him to retire in the public interest, the Governor may require the officer to retire from the service under this regulation, and in such a case it shall not be necessary for the Governor to comply with the procedure prescribed in paragraphs (1) and (2) of this regulation.

(3A) Action may be taken under this regulation if an officer is charged with a criminal offence and the court finds the charge proved but exercises its power not to enter a conviction. Such a finding may be regarded as a conviction for the purpose of this regulation.

(4) Where an officer is required to retire under this regulation, he may be granted a pension, gratuity or other allowance in accordance with any pensions law for the time being in force in the Territory.

60. (1) The Governor may interdict an officer from the exercise of powers and functions of his office if

(a) proceedings have been, or are to be, taken against him under regulation 57; or

(b) criminal proceedings have been, or are likely to be, instituted against him;

(c) Investigation of his conduct is being undertaken and it is contrary to the public interest for him to continue to exercise the powers and functions of his office.

(2) An officer who has been interdicted under:

(a) paragraph (1)(a) shall be allowed to receive such portion of the emoluments of his office, not being less than one-half, as the Governor shall think fit; or

(b) Paragraph (1)(b) shall be allowed to receive such portion of the emoluments of his office, not being less than one-half as the Governor shall think fit until such time as he may be convicted on a criminal charge serious enough to warrant his dismissal from the service whereupon he shall not receive any such emoluments pending the consideration of his case by the Governor; or

(c) Paragraph (1)(c) shall be allowed to receive the full amount of the emoluments of his office.

(3) If the proceedings against any such officer do not result in any punishment of the officer, he shall be entitled to the full amount of the emoluments which he would have received if he had not been interdicted.

(4) If a punishment other than dismissal is inflicted, he may be paid such proportion of the emoluments withheld as a result of his interdiction as the Governor shall think fit.

61. If criminal proceedings are instituted against an officer, disciplinary proceedings based upon any grounds involved in the criminal charge shall not be taken pending the determination of the criminal proceedings.
62. An officer acquitted of a criminal charge shall not be punished in respect of any charges upon which he has been acquitted, but he may nevertheless be punished on any other charges arising out of his conduct in the matter which do not raise substantially the same issues as those on which he has been acquitted and the appropriate proceedings may be taken for the purpose.
63. An officer who is dismissed forfeits all claim to any pension, gratuity or other like benefits and to any other benefits or advantages of an officer.
64. An officer who is under interdiction may not, without the permission of the Governor, leave the Territory during the interval before he is reinstated or dismissed.
65. Except as may be provided by regulations made by the Governor and approved by the Secretary of State and except in the case of an officer who is one of the officers designated in Section 6(2) of the Public Services Commission Ordinance, the Governor shall not inflict any punishment upon an officer under regulation 56, 57 or 58 or require an officer to retire under regulation 59 without first consulting the Public Services Commission.
66. (1) This regulation shall apply to any officer
- (a) holding an office appointment to which is subject to the approval of the Secretary of State;
 - (b) who was selected for appointment by the Secretary of State; or
 - (c) whose pensionable emoluments are on or above point 38 on the Master Pay Scale or on a point nearest thereto on any other salary scale.
- (2) In the case of an officer to whom this regulation applies
- (a) no punishment shall be inflicted on the officer under regulation 56, 57 or 58; and
 - (b) the officer shall not be required to retire under regulation 59, save with the prior approval of the Secretary of State.

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