



ST. CHRISTOPHER AND NEVIS

CHAPTER 22.09

PUBLIC SERVICE ACT and Subsidiary Legislation

Revised Edition
showing the law as at 31 December 2017

This is a revised edition of the law, prepared by the Law Commission under the authority of the Law Commission Act, Cap. 1.03.

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CHAPTER 22.09
PUBLIC SERVICE ACT

AN ACT TO PROVIDE FOR THE STRUCTURE, ORGANISATION AND MANAGEMENT OF THE PUBLIC SERVICE; FOR MATTERS RELATING TO THE PUBLIC SERVICE COMMISSION; FOR THE APPOINTMENT, DISCIPLINE AND REMOVAL OF PUBLIC OFFICERS; AND FOR RELATED OR INCIDENTAL MATTERS.

PART I
PRELIMINARY MATTERS

Short title.

1. This Act may be cited as the Public Service Act.

Interpretation.

2. (1) In this Act, unless the context otherwise requires—

“Commission” means the Public Service Commission established under section 77 of the Constitution;

“Committee” means the Permanent Secretaries Committee established under section 5 of this Act;

“Head of Department” means the Head of Department of Government referred to in section 79 of the Constitution;

“Head of the Public Service” means the Head of Public Service referred to in section 4 of this Act;

“Minister” means the Minister responsible for the Public Service;

“public officer” has the meaning given to a public officer under the Constitution;

“salary” means basic salary;

“Secretariat” means the Secretariat serving the Commission;

“Secretary” means the Secretary to the Commission.

(2) Except where the office is an office to which section 79 of the Constitution applies, for the purposes of Division 1 of Part IV, Part V and VI, “Governor-General” includes a person to whom the Governor-General has, in accordance with the provisions of section 78(2) of the Constitution, delegated his or her power to appoint, remove and exercise disciplinary control over public officers.

Application of Act.

3. This Act shall not apply—
 - (a) to a member of Saint Christopher and Nevis Defence Force, and any civilian working in the Defence Force pursuant to the provisions of the Saint Christopher and Nevis Defence Force Act, Cap. 19.14; and
 - (b) to a member of the Royal Saint Christopher and Nevis Police Force, other than—

- (i) a Commissioned Police Officer; and
- (ii) a civilian person working in the Police Force in accordance with the provisions of the Police Act.

PART II

MANAGEMENT OF THE PUBLIC SERVICE

Head of the Public Service.

4. (1) There shall be a Head of the Public Service who shall be a public officer appointed by the Governor-General, acting on the recommendation of the Commission.

(2) The Head of the Public Service shall, subject to the general direction and control of the Minister as provided in section 61 of the Constitution, be responsible for the management and organisation of the Public Service.

(3) The Head of the Public Service may—

- (a) request for any information from a Department of Government concerning the activities of that Department;
- (b) in carrying out the functions relating to the Public Service, conduct such inspections or investigations and make or receive such reports as he or she may consider necessary or as the Governor-General, acting on the recommendation of the Commission, may direct.

Permanent Secretaries Committee.

5. (1) There is established a Permanent Secretaries Committee comprising of the Head of the Public Service and Permanent Secretaries.

(2) The Head of the Public Service shall be the Chairperson of the Committee.

(3) The functions of the Committee are to—

- (a) advise the Minister on such areas of the management of the Public Service as the Minister may require, and on the policies necessary to administer and develop the Public Service;
- (b) consider and make recommendations on any specific matter referred to it by the Minister;
- (c) co-ordinate the functions of the Public Service that relate to the management of the Public Service to ensure that there exists the capacity of Government to provide a modern and efficient Public Service;
- (d) expedite the decision-making process particularly in matters that require the involvement of several departments of Government;
- (e) submit to the Minister, not later than three months after the end of each financial year, a report outlining the activities of the Committee; and
- (f) generally create a working environment that is conducive to increased productivity and greater job satisfaction in the Public Service.

(4) The Committee shall meet as often as it deems necessary or expedient for the performance of its functions, but the Committee shall at least meet once in every three months.

(5) The Committee shall regulate its own procedure, including the designation of one of its members as the Secretary to the Committee.

PART III

PUBLIC SERVICE COMMISSION

Advisory committees.

6. (1) The Commission may establish an advisory committee to give advice to the Commission on any matter relating to the Commission's functions.

(2) The Commission may appoint persons as members of an advisory committee who are not members of the Commission, and such persons shall hold office for such period as the Commission may determine.

(3) Decisions taken by an advisory committee appointed under this section are not binding on the Commission, but such decisions may be considered by the Commission in making decisions for the purposes of the discharge of its functions.

Teaching Service Committee.

7. (1) Without prejudice to the generality of the provisions of section 6, the Commission shall establish a Teaching Service Committee to give advice to the Commission on matters relating to the Commission's functions with respect to the appointment, removal and disciplinary control of public officers who are teachers.

(2) The Commission may appoint persons as members of the Teaching Service Committee who are not members of the Commission, and such persons shall hold office for such period as the Commission may determine.

(3) Decisions taken by the Teaching Service Committee appointed under this section are not binding on the Commission, but such decisions may be considered by the Commission in making decisions for the purposes of the discharge of its functions.

Consultation with other persons.

8. (1) The Commission may, in considering any matter or question, consult with any public officer, staff association or other person who is not a member of the Commission as the Commission may consider proper and desirable, and may require that person to attend any meeting of the Commission for the purpose of assisting the Commission in its deliberations and producing any document or providing information relating to the matter or question.

(2) A person required to attend a meeting of the Commission by virtue of the provisions of this section shall not have to vote at that meeting.

Protection from liability.

9. (1) No action or other proceedings shall lie against any member of the Commission for or in respect of an act done or omitted to be done in good faith in the

exercise or purported exercise of any power, duty or function under this Act, except in case of liability for personal injury.

(2) The Commission shall indemnify a member of the Commission for the legal cost of defending an action in respect of an act done or omitted to be done in good faith in the exercise or purported exercise of any power, duty or function under this Act.

Declaration of interest and abstention from voting.

10. (1) A member of the Commission, who is in any way, either directly or indirectly, interested in a matter before the Commission shall declare the nature of his or her interest at the first meeting of the Commission as soon as possible.

(2) The Commission shall, where a member of the Commission declares an interest under subsection (1), determine whether or not the member's interest in the matter is material, and where the Commission determines that a member's interest is material, the member shall leave the meeting upon the matter coming up for discussion.

(3) A declaration and departure of a member from the meeting in accordance with the provisions of subsection (1) shall be noted in the minutes of the meeting.

(4) A member of the Commission shall—

- (a) comply with the provisions of subsection (1);
- (b) not vote in respect of a matter before the Commission in which he or she is materially interested, whether directly or indirectly; or
- (c) not seek to influence the vote of any other member in relation to a matter before the Commission in which he or she is materially interested, whether directly or indirectly.

(5) A member of the Commission who contravenes any provision of subsection (4) commits an offence and shall be liable, on summary conviction, to a fine of not less than twenty thousand dollars or to imprisonment for a term not exceeding two years or both.

Expenses of the Commission.

11. All expenses incurred by the Commission in carrying out its functions under this Act shall be paid out of monies appropriated by the National Assembly.

Financial year, budget and plan of action.

12. (1) The financial year of the Commission shall be the twelve-month period commencing on 1st January of any year and ending on the 31st December of that year.

(2) The Commission shall, not later than 30th September in each year, cause to be prepared a budget, and shall adopt and submit to the Minister the adopted budget with the estimates of its income and expenditure and a plan of action for the Commission in respect of the next financial year.

Accounts.

13. The Commission shall keep a proper record of accounts in accordance with generally accepted international accounting standards and principles, and shall prepare and retain financial statements in respect of each financial year.

Audit.

14. (1) The Commission shall, within four months after each financial year, have its accounts audited annually by an independent auditor appointed by the Commission, after consultation with the Director of Audit, who shall conduct the audit in accordance with generally accepted international auditing standards and submit a report together with the audited financial statements on the same to the Commission.

(2) The Commission, the members of the Commission, the public officer serving the Commission shall grant to the auditor appointed pursuant to subsection (1) access to all books, deeds, contracts, accounts, vouchers, or other documents which the auditor may deem necessary, and the auditor may require the person holding or accountable for such documents to appear and make a signed statement or to provide such information in relation to the documents as the auditor may deem necessary.

(3) A person who fails to comply with the provisions of subsection (2) commits an offence and shall be liable, on summary conviction, to a fine not exceeding fifty thousand dollars or to imprisonment for a term not exceeding three years or both.

Annual Report.

15. (1) Subject to subsection (2), the Commission shall, not later than five months after the end of each financial year, submit to the Minister an annual report on the operations and activities of the Commission for that financial year, and the Minister shall cause the annual report to be laid before the National Assembly not later than one month after the submission of the report by the Commission.

(2) An annual report submitted to the Minister pursuant to the provisions of subsection (1) shall be accompanied by the auditor's report made pursuant to the provisions of section 14 of this Act.

Exemption from taxes.

16. The Commission is exempt from the payment of taxes, levies, and fees on income, property and documents of the Commission.

PART IV**APPOINTMENT OF PUBLIC OFFICERS****Division I***Appointments to offices specified in section 78 of the Constitution***Non-application of Division I.**

17. This Division shall not apply to any office specified in subsection (3) of section 78 of the Constitution, that is to say—

- (a) any office to which section 79 of the Constitution applies;
- (b) the office of Attorney-General;
- (c) the office of Director of Public Prosecutions;
- (d) the office of Director of Audit;

- (e) any office to which section 83 of the Constitution applies;
- (f) any office in the Police Force.

Appointments to offices specified in section 78 of the Constitution.

18. Subject to section 17, appointments to offices specified in section 78 of the Constitution shall be made in accordance with the provisions of that section, this Act, the Public Service Commission Regulations, and the Public Service (Recruitment and Appointment) Code made under this Act.

Notification of vacancy specified in section 18.

19. The Chief Personnel Officer, shall, where a vacancy arises or is expected to arise in the Public Service in an office to which section 18 of this Act applies—

- (a) notify the Commission accordingly by delivering to the Commission a copy of the advertisement of the vacancy and a job description for the public office; and
- (b) constitute a selection panel, in accordance with the Public Service (Recruitment and Appointment) Code made under section 53 of this Act, for the purpose of selecting a suitable candidate to fill the vacant public office, and shall inform the Commission accordingly.

Recommendation of the Commission to the Governor-General to make appointments to offices under section 18.

20. (1) The Chief Personnel Officer, shall, upon the selection of a candidate by the selection panel to fill a vacancy in an office to which section 18 applies, submit to the Commission a copy of the application of the candidate and such other information regarding the candidate as the Commission may think fit for the purpose of the Commission's recommendation to the Governor-General on the proposed appointment of the candidate to fill the vacancy.

(2) Where the Commission, acting in accordance with the provisions of sections 78(5) or 78(6) of the Constitution, recommends the appointment of a candidate to fill a vacancy in the Public Service under this section, the Commission shall inform the Governor-General and the Permanent Secretary, Human Resources, in writing, accordingly.

(3) The Governor-General shall, upon receipt of the Commission's recommendation referred to in subsection (2), unless excepted under section 78(4) of the Constitution, appoint the candidate, and the candidate shall be informed, in writing, of his or her appointment.

(4) Where the Commission, acting in accordance with the provisions of sections 78(5) or 78(6) of the Constitution, recommends against the appointment of a candidate to fill a vacancy in the Public Service under this section—

- (a) the Commission or other person shall inform the Governor-General and the Chief Personnel Officer, in writing, accordingly, giving reasons for not recommending the candidate, and shall submit copies of documents on which it or he or she relies to the Governor-General and the Chief Personnel Officer;
- (b) the candidate shall be informed, in writing, that his or her application was not successful.

(5) Where, under subsection (2), (3) or (4), the term Governor-General refers to a person to whom the Governor-General has delegated his or her powers to appoint a person under section 78(2) of the Constitution, the person exercising the delegated power shall—

- (a) in accordance with section 78(5) of the Constitution, consult the Speaker before exercising the delegated power in relation to the Clerk of the National Assembly or a member of his or her staff;
- (b) in accordance with section 78(6) of the Constitution, consult the Prime Minister before exercising the delegated power to appoint to hold or act in any public office of any person who is in the Public Service of a Government of any other country or territory.

(6) A candidate may make representations to the Commission for a review of the Commission's recommendation referred to in subsection (2) or (4), and the representations shall be made within fourteen days from the date of receipt of the notice under any of those subsections by the candidate or within such longer period as the Commission may allow.

(7) Where a candidate makes representations to the Commission for a review under subsection (6), that candidate is not required to assume the duties of the public office with respect to which he or she has made representation, unless the Governor-General directs otherwise, in writing.

(8) The Commission shall consider all the representations received by it under this section, and shall, in writing, make recommendations to the Governor-General, accordingly.

Division II

Appointments to offices specified in section 79 of the Constitution

Appointments to offices specified in section 79 of the Constitution.

21. (1) Appointments to offices specified in section 79 of the Constitution, that is to say—

- (a) the office of Secretary to the Cabinet;
- (b) the office of Permanent Secretary of a Ministry or Department;
- (c) the office of Head or Deputy Head of a Department;
- (d) any office for the time being designated by the Commission as an office of a chief professional advisor to a Department of Government; and
- (e) any office for the time being designated by the Commission, after consultation with the Prime Minister, as an office the holders of which are required to reside outside Saint Christopher and Nevis or whose functions relate to external affairs,

shall be made in accordance with the provisions of that section and this Act.

(2) The provisions of this section shall not apply to appointments required to be made under the proviso to section 79(2) of the Constitution.

Notification of vacancy specified in section 21.

22 (1) The Head of the Public Service shall, where a vacancy arises or is expected to arise in the Public Service in an office to which section 21 of this Act applies, and subject to the provisions of subsection (2) of this section—

- (a) notify the Commission accordingly by delivering to the Commission a copy of the advertisement of the vacancy and a job description for the public office; and
- (b) constitute a selection panel, in accordance with the Public Service (Recruitment and Appointment) Code made under section 53 of this Act, for the purpose of selecting a suitable candidate to fill the vacant public office, and shall inform the Commission accordingly.

(2) The provisions of this section shall not apply to appointments required to be made under the proviso to subsection (2) of section 79 of the Constitution.

Recommendation of the Commission to the Governor-General to make appointments to offices under section 21.

23. (1) The Head of the Public Service shall, upon the selection of a candidate by the selection panel to fill a vacancy in an office to which section 21 applies, submit to the Commission a copy of the application of the candidate and such other information regarding the candidate as the Commission may think fit for the purpose of the Commission's recommendation to the Governor-General on the proposed appointment of the candidate to fill the vacancy.

(2) Where the Commission recommends the appointment of a candidate to fill a vacancy in the Public Service under this section, the Commission shall inform the Governor-General and the Head of the Public Service, in writing, accordingly, and the Governor-General shall, acting in accordance with the recommendation of the Commission, appoint the candidate, and the candidate shall be informed, in writing, of his or her appointment.

(3) Where the Commission recommends against the appointment of a candidate to fill a vacancy in the Public Service under this section—

- (a) the Commission or other person shall inform the Governor-General and the Head of the Public Service, in writing, accordingly, giving reasons for not recommending the candidate, and shall submit copies of documents on which it relies to the Governor-General and the Head of the Public Service;
- (b) the candidate shall be informed, in writing, that his or her application was not successful.

(4) A candidate may make representations to the Commission for a review of the Commission's recommendation referred to in subsection (2) or (3), and the representations shall be made within fourteen days from the date of receipt of the notice under any of those subsections by the candidate or within such longer period as the Commission may allow.

(5) Where a candidate makes representations to the Commission for a review under subsection (4), that candidate is not required to assume the duties of the public office with respect to which he or she has made representation, unless the Governor-General directs otherwise, in writing.

(6) The Commission shall consider all the representations received by it under this section, and shall, in writing, make recommendations to the Governor-General, accordingly.

(7) The provisions of this section shall not apply to appointments required to be made under the proviso to section 79(2) of the Constitution.

Appointments to offices specified in the proviso to section 79(2) of the Constitution.

24. Appointments to offices specified in the proviso to subsection (2) of section 79 of the Constitution, that is to say—

- (a) where a person is being appointed to hold or act in an office of Permanent Secretary on transfer from another office carrying the same salary;
- (b) any office of Ambassador, High Commissioner or other principal representative of Saint Christopher and Nevis in any other country or accredited to any international organisation,

shall be made in accordance with the provisions of that proviso and this Act.

Notification of vacancy specified in section 24.

25. The Head of the Public Service shall, where a vacancy arises or is expected to arise in the Public Service in an office to which section 24 of this Act applies—

- (a) notify the Prime Minister accordingly; and
- (b) constitute a selection panel, in accordance with the Public Service (Recruitment and Appointment) Code made under section 53 of this Act, for the purpose of selecting a suitable candidate to fill, hold or act in that office, and shall, in writing, inform the Prime Minister accordingly.

Appointments by the Governor-General acting on advice of the Prime Minister.

26. (1) The Head of the Public Service shall, upon the selection of a candidate by the selection panel to fill a vacancy in an office to which section 24 of this Act applies, submit to the Prime Minister the name of the candidate for the purpose of the Prime Minister tendering advice to the Governor-General on the proposed appointment of the candidate to fill the vacancy, and the Governor-General shall, acting on the advice of the Prime Minister, appoint the candidate.

(2) The candidate referred to in subsection (1) shall be given notice, in writing, of his or her appointment.

Division III

Appointments to offices specified in section 83 of the Constitution

Appointments to offices specified in section 83 of the Constitution.

27. Appointments to offices specified in section 83 of the Constitution to which persons are required to hold one or other of the specified qualifications, that is to say—

- (a) the offices of Magistrates;

- (b) Registrar of the High Court;
- (c) the office of Head or Deputy Head of a Department;
- (d) any public office in the Department of the Attorney-General (other than the public office of the Attorney-General) or the Department of the Director of Public Prosecutions (other than the office of Director),

shall be made in accordance with the provisions of that section, this Act, the Public Service Commission Regulations, and the Public Service (Recruitment and Appointment) Code made under this Act.

Notification of vacancy specified in section 27.

28. The Head of the Public Service shall, where a vacancy arises or is expected to arise in the Public Service in an office to which section 27 of this Act applies—

- (a) notify the Commission and the Judicial and Legal Services Commission with a copy of the advertisement of the vacancy; and
- (b) constitute a selection panel, in accordance with the Public Service (Recruitment and Appointment) Code made under section 53 of this Act, for the purpose of selecting a suitable candidate to fill the vacant public office, and shall, in writing, inform the Commission and the Legal and Services Commission, accordingly.

Recommendation of the Commission to the Governor-General to make appointments to offices specified in section 27.

29. (1) The Head of the Public Service shall, upon the selection of a candidate by the selection panel to fill a vacancy in an office to which section 27 of this Act applies, submit to the Commission a copy of the application of the candidate and such other information regarding the candidate as the Commission may think fit for the purpose of the Commission's recommendation to the Governor-General on the proposed appointment of the candidate to fill the vacancy.

(2) Where the Commission, after consultation with the Judicial and Legal Services Commission in accordance with section 83 of the Constitution, recommends the appointment of a candidate to fill a vacancy in the Public Service to which section 83 of the Constitution applies, the Commission shall inform the Governor-General and the Head of the Public Service, in writing, accordingly, and the Governor-General shall, acting in accordance with the recommendation of the Commission, appoint the candidate, and the candidate shall be given notice, in writing, of his or her appointment.

(3) Where the Commission, after consultation with the Judicial and Legal Services Commission in accordance with section 83 of the Constitution, recommends against the appointment of a candidate to fill a vacancy in the Public Service to which section 83 of the Constitution applies, the Commission shall inform the Governor-General and the Head of the Public Service, in writing, accordingly, giving reasons for not recommending the candidate, and shall submit copies of documents on which it relies to the Governor-General and the Head of the Public Service.

(4) A candidate may make representations to the Commission for a review of the Commission's recommendation referred to in subsection (2) or (3), and the representations shall be made within fourteen days from the date of receipt of the notice under any of those subsections by the candidate or within such longer period as the Commission may allow.

(5) Where a candidate makes representations to the Commission for a review under subsection (4), that candidate is not required to assume the duties of the public office with respect to which he or she has made representation, unless the Governor-General directs otherwise, in writing.

(6) The Commission shall consider all the representations received by it under this section, and shall, in writing, make recommendations to the Governor-General, accordingly.

PART V

DISCIPLINING OF PUBLIC OFFICERS

Application of this Part.

30. This Part shall not apply to any person holding or acting in an office specified in section 78(3)(b), (c), (d), (e), and (f) of the Constitution.

Forms of discipline.

31. The Governor-General may, acting in accordance with the recommendation of the Commission, institute disciplinary proceedings against a public officer, and may impose any of the following forms of discipline on a public officer, as may be appropriate, that is to say—

- (a) demotion;
- (b) reduction in salary;
- (c) suspension of increment;
- (d) deferment of increment;
- (e) withholding of increment;
- (f) surcharge for loss to the Government by the public officer's negligence or misconduct.

Interdiction.

32. (1) Where disciplinary or criminal proceedings are or are about to be instituted against a public officer, and the Governor-General, acting in accordance with the recommendation of the Commission, determines that the public officer should, in public interest, immediately cease to perform the functions of his or her office, the Governor-General shall interdict the public officer.

(2) The Commission shall, in making a recommendation to the Governor-General under subsection (1), have regard to the gravity of the case against the public officer and any representations made by the public officer in his or her defence.

(3) Where a public officer is interdicted pursuant to the provisions of this section, the public officer shall be entitled to receive such portion of his or her salary, not being less than one half, as the Governor-General, acting on the recommendation of the Commission, may determine.

Grounds for criminal proceedings.

33. Where, upon an investigation into a disciplinary matter, an offence against any law in force in Saint Christopher and Nevis appears to have been committed by a

public officer, the Commission and the Governor-General shall be informed accordingly by the Head of the Public Service, and unless action has already been taken or is about to be taken, the Governor-General shall, in consultation with the Attorney General and acting in accordance with the recommendation of the Commission, decide whether criminal proceedings should be instituted or not.

No disciplinary action while criminal proceedings pending.

34. (1) Where criminal proceedings are instituted in any Court against a public officer, no disciplinary proceedings upon any ground arising out of the criminal charge shall be taken until after the Court has given its judgment and the time allowed for appeal against the judgment has expired, and where the public officer has, after conviction, appealed, no disciplinary proceedings shall be taken until after the withdrawal or dismissal of the appeal.

(2) Nothing in this section shall prevent a public officer from being interdicted in accordance with the provisions of section 32 of this Act.

Disciplinary action after acquittal of criminal charge.

35. Where a public officer is acquitted of a criminal charge or where an appeal against conviction of a public officer is allowed, the public officer shall not be dismissed from the Public Service or otherwise punished in respect of that charge:

Provided that nothing in this Act shall prevent the dismissal of the public officer or otherwise punishing the public officer in respect of any other charge arising out of his or her conduct in the matter, unless such other charge is substantially the same as that in respect of which the public officer has been acquitted or his or her appeal has been allowed.

Disciplinary action after conviction of criminal charge.

36. Subject to section 47, where a public officer is convicted of a criminal charge in any court the Governor-General may consider the relevant proceedings of that court and if, in respect of the offence of which the public officer has been convicted, the Governor-General, acting in accordance with the recommendation of the Commission, decides that—

- (a) the public officer ought to be dismissed from the Public Service, the procedure set out in section 46 shall apply;
- (b) a form of discipline specified in section 31 ought to be imposed, the Governor-General shall, acting on the recommendation of the Commission, impose the appropriate form of discipline.

Disciplinary proceedings for dismissal.

37. (1) Subject to the provisions of this Act, a public officer shall not be dismissed except in accordance with the following procedure—

- (a) the Governor-General, acting in accordance with the recommendation of the Commission, shall cause the public officer to be notified, in writing, of the charge and to be called upon to state, in writing, before a specified day, which day shall allow reasonable time for the purpose, any grounds upon which the public officer relies on to exculpate himself or herself;
- (b) if the public officer does not furnish a statement within the specified time or if the public officer fails to exculpate himself or herself, the

Governor-General, acting on the recommendation of the Commission, shall constitute a tribunal consisting of not less than three senior retired public officers selected with due regard to the standing of the public officer concerned and the nature of the charges made against the public officer;

- (c) the tribunal shall, if appointed, inform the public officer concerned that on a day specified by the tribunal the tribunal shall inquire into the charges and that the public officer may appear before the tribunal and defend himself or herself either in person or through a representative of his or her choice;
- (d) if the tribunal examines witnesses, the public officer may present and may put any questions to the witnesses, and no documentary evidence may be used against the public officer unless the public officer has, prior to or at the inquiry, been supplied with a copy of or has been given access to the documentary evidence and has been given adequate time or opportunity to respond;
- (e) if, during the course of the inquiry by the tribunal, further grounds for dismissal are disclosed, and the Governor-General, acting in accordance with the recommendation of the Commission, thinks it fit to proceed against the public officer upon the new grounds, the public officer shall be furnished with the written charge and the same steps shall be taken as specified in this section in respect of the original charge;
- (f) if, having heard the evidence in support of the charges, the tribunal is of the opinion that the evidence is insufficient it may report its findings accordingly to the Commission and the Governor-General without calling upon the public officer for his or her defence;
- (g) the tribunal shall furnish to the Commission and the Governor-General a report of its findings together with copies of evidence and all material documents relating to the charge.

(2) If, after consideration of the report and the evidence and documents relating to a charge furnished under subsection (1), the Governor-General, acting on the recommendation of the Commission, determines that—

- (a) the report should be amplified in any respect or that further inquiry is desirable, the Governor-General may refer any matter back to the tribunal for further inquiry or amplification of the report;
- (b) the public officer should be dismissed, the Chief Personnel Officer shall notify the public officer of the decision, in writing, stating the grounds on which the decision is based;
- (c) the public officer deserves some punishment other than dismissal, then the Chief Personnel Officer shall notify the public officer of the decision, in writing, stating the grounds on which the decision is based;
- (d) the public officer does not deserve to be dismissed by reason of the charges alleged, but that the proceedings disclose some other grounds for removing the public officer from the public service in the public interest, then the procedure set out in Part VI of this Act shall apply.

(3) A public officer aggrieved by the recommendation of the Commission under this section may apply to the Commission for a review of the Commission's

recommendation and may make oral or written representations in support of his or her case either in person or through a representative of his or her choice.

(4) The Commission shall consider all the representations and comments received by it under this section, and shall, in writing, advise the public officer and Governor-General, accordingly.

PART VI

REMOVAL OF PUBLIC OFFICERS FROM THE PUBLIC SERVICE

Application of this Part.

38. This Part shall not apply to any person holding or acting in an office specified in section 78(3)(b), (c), (d), (e), and (f) of the Constitution.

Reasons for termination of appointment.

39. (1) The appointment of a public officer shall be terminated only in accordance with the provisions of this Act and the Public Service Code of Discipline made under this Act.

(2) Where a public officer holds a permanent appointment, such officer's appointment shall only be terminated on any one of the following reasons—

- (a) retirement on medical grounds;
- (b) on voluntary retirement;
- (c) on compulsory retirement;
- (d) abandonment;
- (e) on dismissal in consequence of disciplinary proceedings;
- (f) on resignation without benefits payable under any enactment providing for the grant of pensions, gratuities or compensation;
- (g) on abolition of the office.

(3) Where a public officer holds a temporary appointment, such officer's appointment shall only be terminated on any one of the following reasons—

- (a) on the expiry or other termination of an appointment for a specific period;
- (b) when the public office being held is of a temporary nature and is no longer necessary;
- (c) on the termination of the appointment in the case of a public officer on probation;
- (d) on the termination of the appointment in the case of a public officer holding a non-pensionable office with no service in a pensionable office;
- (e) on the termination of the appointment in the public interest;
- (f) on dismissal in consequence of disciplinary proceedings;

(g) for ill health in that the public officer is incapable, by reason of infirmity of mind or body, of discharging the duties of his or her office, and such infirmity is likely to be permanent;

(h) on abandonment of office.

(4) Where a public officer is on contract that officer's service shall be terminated in accordance with the terms of the contract.

Abandonment.

40. (1) Where a public officer is absent from duty without leave for a continuous period of one month such officer shall be deemed to have resigned his or her office, and the office shall become vacant.

(2) The public officer referred to in subsection (1) shall cease to be a public officer, unless declared otherwise by the Governor-General, acting in accordance with the recommendation of the Commission.

Voluntary retirement.

41. (1) A public officer may, at any time such officer has attained the minimum age specified in the Pensions Act, Cap. 22:06 for voluntary retirement, apply to the Governor-General for permission to retire, and shall state in his or her application the grounds on which his or her application is based.

(2) The Governor-General shall, acting in accordance with the recommendation of the Commission, determine whether an application submitted in accordance with the provisions of subsection (1) ought to be granted.

(3) Where it appears to the Head of the Public Service that a public officer at or above the level of Head of Department having attained the minimum age specified in the Pensions Act for voluntary retirement ought to be called upon to retire from the public service, he or she shall inform the public officer and report the matter to the Commission giving reasons why the Commission should recommend to the Governor-General to call upon the officer to retire from the public service voluntarily.

(4) Where it appears to the Permanent Secretary, Human Resources, that a public officer below the level of Head of Department having attained the minimum age specified in the Pensions Act for voluntary retirement ought to be called upon to retire from the public service, he or she shall inform the public officer and report the matter to the Commission giving reasons why the Commission should recommend to the Governor-General to call upon the officer to retire from the public service voluntarily.

(5) A public officer referred to in subsections (3) and (4) shall be afforded an opportunity to submit to the Commission any representations that the public officer may wish to make regarding his or her proposed retirement.

(6) Where the Commission receives a report under subsection (3) or (4) and a representation made by a public officer under subsection (5), the Commission shall make a recommendation to the Governor-General as to whether or not a public officer should be called upon to retire from the public service and the officer shall be informed of the decision accordingly.

Retirement on medical grounds.

42. (1) Where it appears to the Head of the Public Service that a public officer at or above the level of Head of Department is unable to perform the functions of his or her office because of physical or mental incapacity and that such officer ought to be called upon to retire from the public service, the Head of the Public Service shall inform the public officer and report the matter to the Commission giving reasons why the Commission should recommend to the Governor-General to call upon the officer to retire from the public service on medical grounds.

(2) Where it appears to the Chief Personnel Officer that a public officer below the level of Head of Department is unable to perform the functions of his or her office because of physical or mental incapacity and that such officer ought to be called upon to retire from the public service, the Head of the Public Service shall inform the public officer and report the matter to the Commission giving reasons why the Commission should recommend to the Governor-General to call upon the officer to retire from the public service on medical grounds.

(3) A public officer referred to in subsections (1) and (2) shall be afforded an opportunity to submit to the Commission any representations that the public officer may wish to make regarding his or her proposed retirement.

(4) Where the Commission receives a report under subsection (1) or (2) and a representation made by a public officer under subsection (3), the Commission shall make a recommendation to the Governor-General as to whether or not a public officer should be called upon to retire from the public service, and the officer shall be informed of the decision accordingly.

(5) For the purposes of subsection (4), the Commission may require the public officer to undergo medical examination by a Medical Board appointed by the Commission consisting of three members each of whom shall be a qualified medical practitioner.

(6) Retirement of a public officer under this section shall not take effect until the day immediately after the day when the public officer exhausts any sick leave credit to which the officer is entitled before retirement.

(7) This section shall not prevent the award of pension or gratuity or both to the affected public officer where any law relating to pensions makes provision for the payment of the same.

Termination of appointment on abolition of office.

43. (1) Where a post, being one of a number of like posts, has been abolished but one or more than one of such posts remains the Governor-General, acting in accordance with the recommendation of the Commission shall determine which substantive holder of the post should have his or her appointment terminated or whether an offer of a suitable alternative position should be made to the holder of the post being abolished.

(2) The provisions of subsection (1) shall apply in relation to the termination of an appointment for the purpose of facilitating improvement in the organisation of a Ministry or Department in order to give effect to greater efficiency or economy.

Retirement in public interest.

44. (1) Subject to subsection (2), a public officer may be retired in public interest where—

- (a) the Head of the Public Service represents to the Commission that such officer be retired, and the Commission recommends to the Governor-General that such officer be retired; or
- (b) the Governor-General considers it desirable to retire such officer, acting in accordance with the recommendation of the Commission,

on grounds which cannot suitably be dealt with under any provision of this Act.

(2) Before a public officer is retired under the provisions of this section the Commission shall—

- (a) review the performance appraisals of the public officer for the preceding ten years;
- (b) give the public officer an opportunity to submit a reply to the grounds on which his or her retirement is contemplated;
- (c) have regard to the conditions of the public service;
- (d) have regard to the usefulness of the public officer to the public service;
- (e) have regard to all other circumstances of the case.

(3) If, after complying with the provisions of subsection (2), the Commission recommends that it is desirable in the public interest to retire the public officer the Governor-General shall, acting in accordance with the Commission's recommendation, require the public officer to retire from the public service.

Compulsory retirement.

45. (1) Subject to subsection (2), a public officer shall retire from the public service on attaining sixty-two years, unless the Constitution or any other law specifies a different age for retirement in respect of any public office.

(2) In the public interest or exceptional circumstances, a public officer may be permitted to remain in the public service after such officer has attained sixty-two years by the Governor-General, acting in accordance with the recommendation of the Commission.

(3) The provisions of subsections (1) and (2) shall not apply to a public officer who has already been appointed in the public service prior to the coming into force of this Act.

(4) A public officer referred to in subsection (3) who, prior to the coming into force of this Act, is required to retire at the age of fifty-five by virtue of the provisions of the Pensions Act, Cap. 22.06 shall retire in accordance with the provisions of that Act, except that such officer may, within twelve months prior to the officer's retirement, apply to the Governor-General to continue his or her services until sixty years.

(5) Upon receipt of the application referred to in subsection (4), the Governor-General may, on the recommendation of the Commission, permit the officer to continue in service until the officer is sixty years old.

(6) In considering the application referred to in subsection (4), the Governor-General shall have regard to the conditions and exigencies of the public service and all other circumstances as the Governor-General may consider or deem fit.

Procedure for termination.

46. (1) Where—

- (a) the Head of the Public Service represents to the Commission that an officer's appointment be terminated, and the Commission recommends to the Governor-General that such officer's appointment be terminated; or
- (b) the Governor-General considers that the appointment of an officer be terminated, acting in accordance with the recommendation of the Commission,

for any reason specified in section 39, not being dismissal in consequence of disciplinary proceedings, the procedure specified in subsection (2) shall apply.

(2) The procedure referred to in subsection (1) shall be as follows—

- (a) the Head of the Public Service shall notify the public officer, in writing, of the opinion stating the grounds on which the opinion is based;
- (b) a public officer aggrieved by the opinion may apply to the Commission for a review of the opinion and may make oral or written representations in support of his or her case either in person or through a representative of his or her choice;
- (c) irrespective of whether a public officer makes a representation under paragraph (b), the Commission shall consider all the evidence in the case, and shall then make a recommendation to the Governor-General as to whether the appointment of the public officer ought to be terminated, and the Governor-General shall act in accordance with the recommendation of the Commission to terminate or not to terminate the public officer's appointment, and the public officer shall be notified accordingly, in writing.

PART VII

HUMAN RESOURCE DEVELOPMENT AND MANAGEMENT OF TRAINING

Policy of training.

47. (1) The Minister shall, in writing, state the policy of Government with respect to—

- (a) the goals and objectives of training; and
- (b) the management of training and human resource development in the Public Service.

(2) The Minister shall, in stating the policy referred to in subsection (1), give due regard to ensuring that training at all levels of the Public Service is—

- (a) given high priority;
- (b) structured, mandatory, on-going; and
- (c) aimed at enhancing the skills of persons in the Public Service.

(3) The Minister shall also, in stating the policy referred to in subsection (1), give due regard to the changing requirements of the Public Service and of Saint Christopher and Nevis, particularly in the areas of management, technical skills at both national and international levels, and all those as are required to give effect to

the national goals of the Government to ensure that the Public Service is capable of meeting those requirements.

(4) The Minister may, on the advice of the Training Committee, and without prejudice to the provisions of section 53 of this Act, make regulations to give effect to the policy referred to in subsection (1).

Training Committee.

48. (1) There is established a Training Committee which shall be responsible for advising the Minister on training requirements and study leave in the Public Service.

(2) The Training Committee shall—

- (a) advise the Commission in respect of officers to be granted study leave; and
- (b) determine the terms and conditions under which officers shall be granted training and study leave.

Composition and procedure of the Committee.

49. (1) The Training Committee shall consist of the following—

- (a) Head of the Public Service;
- (b) Chief Personnel Officer;
- (c) Training Manager;
- (d) Financial Secretary, Ministry of Finance;
- (e) Permanent Secretary, Ministry responsible for sustainable development; and
- (f) Permanent Secretary, Ministry of Education.

(2) The Head of the Public Service shall be the Chairperson of the Training Committee, and may, at any time, summon a meeting of the Committee.

(3) Four members of the Training Committee shall form a quorum, and, subject to this Act and the regulations made under the Act, the Committee may regulate its procedure.

(4) The Training Committee shall, in the exercise of its functions under this Act or regulations made under this Act, be subject to the policy to be followed pursuant to the provisions of section 47.

Training Fund.

50. (1) There is established a Public Service Training Fund into which shall be paid—

- (a) moneys provided by Parliament for payment into the Training Fund for training purposes;
- (b) moneys that represent the payment of the proceeds of the forfeiture carried out in respect of any bond that secured an award made out of the Training Fund.

(2) The Minister may, subject to such terms and conditions as may be prescribed, award scholarships for training purposes, out of the Training Fund.

(3) The Training Fund shall be under the control and management of the Minister.

Reports.

51. The Minister shall, not later than four months after the end of each financial year, cause to be laid before Parliament a report on the Training Fund showing—

- (a) the number of awards made and in force;
- (b) the amount of each award; and
- (c) the state of the Training Fund.

PART VIII

MISCELLANEOUS PROVISIONS

Appeals by public officers.

52. A public officer in respect of whom a decision is made by the Governor-General in accordance with the provisions of this Act may, if the officer is aggrieved by the decision, appeal against the decision of the Governor-General, and the appeal shall lie to the Public Service Appeals Board in accordance with the provisions of section 87 of the Constitution.

Regulations etc.

53. (1) The Minister may generally make regulations respecting the Public Service in order to give effect to the provisions of this Act, as well as prescribing anything that is required to be prescribed under this Act.

(2) The Minister may generally make Standing Orders for the Public Service, and, without prejudice to the generality of the foregoing, such Standing Orders may make provision for the following matters—

- (a) salaries and acting allowances;
- (b) leave to be granted to public officers;
- (c) advances, subsistence, travelling and other allowances payable to public officers;
- (d) handling and maintenance of Government property.

(3) The Minister may, for the purposes of this Act, make provision for the following—

- (a) codes of recruitment and employment;
 - (b) codes of conduct and ethics for public officers;
 - (c) codes of discipline for public officers; and
 - (d) any other matter relating to the Public Service.
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FIRST SCHEDULE

(Section 53)

PUBLIC SERVICE (RECRUITMENT AND APPOINTMENT) CODE

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SCHEDULE TO THE CODE

PUBLIC SERVICE (RECRUITMENT AND APPOINTMENT) CODE

PART I

PRELIMINARY

Citation.

1. This Code may be cited as the Public Service (Recruitment and Appointment) Code.

Interpretation.

2. (1) In this Code, unless the context otherwise requires—

“Act” means the Public Service Act, Cap. 22.09;

“appointment” means the placing of a person in an established office or position in the public service including appointments on contract;

“Caribbean Community” means the Caribbean Community including the CARICOM Single Market and Economy established by the Revised Treaty of Chaguaramus signed at Nassau, the Bahamas on 5 July 2001;

“CARICOM Member State” means a Member State of the Caribbean Community;

“Chief Personnel Officer” means the Permanent Secretary, Human Resources Department;

“Commission” means the Public Service Commission established under section 77 of the Constitution;

“Department” means a department of the Government referred to in section 61 of the Constitution;

“fairness and transparency” shall be interpreted so as to ensure that any scrutiny of the selection process will not reveal any bias in the assessment of candidates at any time during that process;

“Head of Department” is the public officer who is responsible for the day to day running of a Department for which a Minister is responsible and has direction and control and which is supervised by a Permanent Secretary;

“Head of the Public Service” has the meaning given under the Act;

“office of emolument”, in relation to the definition of “public officer”, means any pensionable post;

“Permanent Secretary” means a permanent secretary whose responsibility is described under section 61 of the Constitution;

“public office” means any office of emolument in the public service;

“public officer” means any person holding or acting in any public office;

“Public Service” means, subject to the provisions of section 119 of the Constitution, the service in a civil capacity of the Crown in right of the Government;

“Service Commission” means the Public Service Commission and the Judicial and Legal Services Commission.

(2) Where the Service Commission is required, pursuant to the provisions of the Constitution, to consult with another person before giving advice to the Governor-General on the appointment or removal of a public officer, a reference in this Code to the recommendation of the Service Commission shall be a reference to the recommendation of the Service Commission after consultation with that person.

(3) In this Code, a reference to the “Governor-General” with regard to an appointment or removal of a public officer to whom section 78 of the Constitution applies is a reference to a person to whom the Governor-General has, pursuant to a direction by instrument in writing, given the power to appoint or remove or exercise disciplinary control over a public officer in accordance with section 78(2) of the Constitution.

(4) For the purposes of this Code, merit is to be interpreted so as to ensure that—

- (a) persons are not appointed to offices unless they are competent to perform the duties of those offices;
- (b) in circumstances where more than one person satisfies the criteria for appointment, the office should be offered to the person who is considered to be best capable of performing the duties.

(5) Any other term used in this Code shall have the meaning assigned to it by the Act.

Purpose of the Code.

3. (1) This Code seeks to—

- (a) govern the methods to be used in the recruitment and promotion of officers in the Public Service;
- (b) supplement the provisions of the—
 - (i) Constitution;
 - (ii) Public Service Act; and
 - (iii) Public Service Commission Regulations;
- (c) ensure that the selection of candidates at each stage is such that it can be demonstrated that there has been absolute fairness without any form of discrimination or the introduction of any irrelevant considerations;
- (d) ensure that where the selection process includes the specific testing of the skills and aptitudes of candidates, then all such tests must have been previously proven to be acceptable on the basis of their reliability as indicators of future performance, provided that no psychological tests shall be administered or interpreted by persons who are not professionally trained;
- (e) ensure that the selection procedure is so ordered that the decision on which candidates should progress from one stage to the next is determined solely by considerations of the individual merits of those candidates;
- (f) ensure that at the conclusion of the selection process all those candidates who are deemed to possess the requisite qualifications, skills and competencies for appointment should be ranked in order of

merit, and appointments shall be offered in accordance with that rank order, unless it is possible to appoint all applicants immediately;

- (g) ensure that the principles set out in this Code are adhered to in all cases except those permitted by the Code itself;
- (h) set a criteria for the purpose of differentiating on a consistent and objective basis between candidates at each stage of the selection process, which criteria shall be relevant to the job.

Recruitment principles.

4. The Code seeks to ensure that recruitment and appointments to the Public Service are made on the basis of merit, impartiality and the highest standards of integrity, and in addition the Code seeks to ensure that consideration is also given to seniority and experience where the nature of work so requires.

Application of the Code.

5. This Code shall apply to all public officers, except in cases where, by virtue of the Constitution or any other law in force in Saint Christopher and Nevis, specific provision is made with respect to a particular public office or category of public office.

Application of existing enactments.

6. The process in respect of appointment on recruitment, promotion or transfer shall be in accordance with this Code in so far as the provisions of the Code are not inconsistent with the provisions of the Constitution, the Act and the Public Service Commission Regulations.

PART II

APPOINTMENT ON RECRUITMENT, PROMOTION, AND TRANSFERS

Application of principles of merit, impartiality and integrity.

7. (1) Subject to subsection (3), the appointment on recruitment or promotion of an individual to a public office shall be made on the basis of the following principles, that is to say—

- (a) the principle of merit (after an open competitive selection process);
- (b) the principle of impartiality; and
- (c) the principle of taking into consideration the highest standards of integrity, seniority, and experience where the nature of work so requires.

(2) The principles referred to in subsection (1) shall apply to appointments to public offices by recruitment or promotion to established offices and to public offices that have not been established under an enactment including where the offices are filled on contract.

(3) The principles referred to in subsection (1) shall not apply in the following circumstances, that is to say—

- (a) when filling short-term vacancies of up to no more than three months, and only when such vacancies are being filled from within the Department; or
- (b) when employing a physically or mentally challenged person.

Notification of vacancies within the Public Service.

8. (1) Vacancies within the Public Service shall first be advertised or published within the Public Service in Saint Christopher and Nevis for a period of two weeks.

(2) After the provisions of subsection (1) are complied with, vacancies may be advertised within the Federation of Saint Christopher and Nevis for a period of two weeks, and thereafter may be advertised outside of Saint Christopher and Nevis.

(3) All relevant information in respect of the vacancy shall be accessible to prospective applicants.

(4) The advertisement or publication referred to in subsections (1) and (2) shall include the following information—

- (a) the statutory qualifications required;
- (b) the duties, functions and responsibilities of the office;
- (c) the major terms and conditions of service applicable to the office;
- (d) a description of the skills, competencies, experience and personal qualities required; and
- (e) the nature of the procedure of the selection process which shall be based on relevant criteria that is applied to all candidates.

Eligibility for appointment to the Public Service.

9. (1) To be eligible for appointment in the Public Service a person shall—

- (a) not, subject to subsection (2), be less than sixteen years or more than fifty-two years;
- (b) possess such educational qualifications as may be prescribed, from time to time;
- (c) be certified by a District Medical Officer to be in sound health and mentally fit for employment;
- (d) produce two recent certificates of good character, of which one, if the candidate—
 - (i) has not previously been in employment, should be from the Head of the School or College he or she last attended;
 - (ii) has been previously employed, from his or her last employer.

(2) Notwithstanding the provisions of subsection (1)(a), a person who is over the age of fifty-two years may be appointed on contract for specialised work.

Appointment on recruitment or promotion.

10. An appointment on recruitment or promotion shall not be made, unless—

- (a) the vacancy in the public service, or a vacancy in an office with the same duties, was advertised in a Public Service Official Circular

within the last year as open to any citizen of Saint Christopher and Nevis or CARICOM Nationals;

- (b) an assessment is made of the relative suitability of the candidates for the duties, after an interview or using another competitive selection process;
- (c) the assessment is based on the relationship between the candidate's work-related qualities and the work-related qualities genuinely required for the duties;
- (d) the assessment focused on the relative capacity of the candidates to perform the duties.

Selection of persons to public offices.

11. (1) Subject to subsection (3), a person to be appointed to an office in the Public Service shall be selected on merit, except that where the nature of work so requires, consideration shall be given to seniority and experience.

(2) The method of selection of candidates shall be governed by objectivity, impartiality and transparency.

(3) For the purposes of section 7 of this Code, the following criteria of work related qualities shall be taken into account in making an assessment—

- (a) skills and abilities;
- (b) qualifications, training and competencies;
- (c) standard of work performance;
- (d) capacity to perform at the level required;
- (e) demonstrated potential for further development;
- (f) ability to contribute to team performance; and
- (g) seniority and experience.

(4) Subsection (3) shall not prevent any other relevant matter to be taken into account.

(5) The Governor-General may, acting in accordance with the recommendation of the Service Commission, by directions in writing, approve the recommendation of the Service Commission, direct that this section may not apply, or may apply with specified changes—

- (a) to the appointment or promotion of a wage earner; or
- (b) to the appointment of a person to be employed on contract or to perform duties temporarily in a Department.

(6) The Commission may recommend the appointment of a person who has a criminal conviction, where such person's criminal records have been expunged from the Police Criminal Records in accordance with the law which makes provision for expunging criminal records.

(7) In this section, vacancy includes a vacancy that has not commenced and a prospective vacancy.

Composition of Selection Panels.

12. The Human Resource Department shall ensure that selection panels established in accordance with the Act shall comprise of persons who are—

- (a) trained in or experienced in the process of interviewing;
- (b) knowledgeable in the area for which the candidate is being considered;
and
- (c) impartial.

Procedure for selection.

13. (1) The procedure to be followed during the selection of a candidate shall be such that the merit of each person is given equal consideration throughout the entire procedure for selection.

(2) The procedure for selection shall be such that there is a consistent application of the relevant criteria specified in section 13(1) of this Code in respect of each candidate.

Techniques in selection.

14. (1) The recommendations made by selection panels in respect to the filling of vacancies, either through recruitment or promotion, shall be allowed in the order of rank.

(2) Where the candidates—

- (a) are not accepted; or
- (b) in respect of whom the order of rank recommended by the selection panel is not accepted by the recruiting authority,

a new selection panel shall be established to make new recommendations.

Dual appointment.

15. If a Permanent Secretary or Head of Department (the first Department) is also appointed as Permanent Secretary or Head of Department of another Department, the Permanent Secretary or Head of Department does not merely, because of the additional appointment, cease to be the Permanent Secretary or Head of Department of the first Department, as the case may be.

Appointment of a person on contract.

16. (1) A person may be appointed on a contract to perform duties in the public service for a fixed period.

(2) A person who has been serving on contract in the public service may, upon application, be appointed to an office in the Public Service on permanent terms.

(3) Notwithstanding the provisions of subsection (2), in computing the benefits of such officers the period served by the officer while on contract shall not be taken into account.

Temporary appointments.

17. (1) A person may be appointed on contract on a month to month basis to perform some duties temporarily in a Department.

(2) A person may be appointed under this section only where the Governor-General, acting in accordance with the recommendation of the Service Commission, is satisfied that—

- (a) the employment is necessary for the efficient operation of the Department, and that assistance in temporarily performing the duties cannot be given by another Department;
- (b) the person should not be appointed to an office in the Public Service because of—
 - (i) physical or mental incapacity; or
 - (ii) a medical condition.

Re-appointment of resigned officer.

18. When an application for appointment is received from a person who had previously resigned from the Public Service within a period of one year after the person had resigned, the Service Commission shall direct that the circumstances which led to the resignation of that person be investigated before a decision is taken on whether to allow the application, and the investigation shall include a reference to the Chief Personnel Officer.

Re-appointment of retired officers.

19. (1) Officers who have retired from the Public Service of Saint Christopher and Nevis may be re-appointed to an office in the Public Service on the recommendation of the Service Commission, and the appointment shall be on temporary terms or on contract.

(2) The appointment shall be made only where—

- (a) the prospects of serving public officers are not prejudiced;
- (b) the vacancy cannot otherwise be readily filled; and
- (c) the retired public officer is medically fit and in all respects suitable for employment.

Appointments to be on probation.

20. (1) The appointment of a person to a public office, in the first instance, shall be an appointment on probation, and the period of probation shall, subject to subsection (5) or (6), be for a period of twelve months.

(2) The period of probation begins on the date of assumption of duty on probation by the public officer.

(3) During the period of probation the public officer shall be—

- (a) given an opportunity to learn his or her work and to test his or her suitability for the work;
- (b) given all possible facilities for acquiring experience of his or her duties; and
- (c) kept under continued observation, and shall be as far as possible posted where such observation is possible.

(4) The Head of Department or Permanent Secretary, as the case may be, shall pay special attention to the training of a public officer on probation.

(5) If, at any time during the period of probation, a public officer exhibits tendencies which render it in anyway doubtful that he or she will be suitable for permanent retention, he or she should at once be warned and given such assistance as may be possible to correct the faults.

(6) A public officer's probationary period may be extended for an additional period not exceeding six months where the public officer has not had proper opportunity either through illness or through other just reason to display fitness for confirmation.

Probation reports.

21. (1) There shall, in respect of a public officer appointed on probation in the Public Service, be submitted to the Commission—

- (a) a report about the public officer's service by the Head of Department or Permanent Secretary six months before the end of the period of probation; and
- (b) another report about the public officer's service by the public officer's Head of Department or Permanent Secretary one month before the end of the period of probation.

(2) The reports referred to in subsection (1) (a) and (b) may include any of the following recommendations—

- (a) that the public officer's appointment be confirmed;
- (b) that the public officer's period of probation be extended for a period not exceeding six months;
- (c) that the public officer's appointment be terminated.

(3) A recommendation specified in subsection (2)(b) or (c) shall not be made about the public officer unless—

- (a) the public officer has been told of the proposed recommendation;
- (b) the public officer has been given a reasonable opportunity to state his or her views about the recommendation; and
- (c) any views stated by the public officer have been considered in making the recommendation.

Termination of probation.

22. The services of a public officer on probation may be terminated at any time during the probationary period if the Governor-General, acting in accordance with the recommendation of the Service Commission, is satisfied that on account of general unsuitability of temperament or personal characteristics, or by reason of misconduct it is undesirable that the public officer should continue to hold office.

Confirmation of appointment to the Public Service.

23. (1) The Service Commission shall, after considering the probation reports made under section 21, decide whether it is satisfied that the public officer's service has been satisfactory.

(2) The Service Commission shall recommend to the Governor-General to confirm the appointment of a public officer on probation if—

- (a) the Service Commission is satisfied that the public officer's service has been satisfactory; and
 - (b) the public officer has passed any prescribed or required examinations.
- (3) Where the Service Commission does not recommend that the appointment of a public officer on probation be confirmed, then the Service Commission may recommend to the Governor-General that—
- (a) the public officer's period of probation be extended for a period not exceeding six months; or
 - (b) the public officer's appointment be terminated.
- (4) The Head of Department or Permanent Secretary shall, one month before the end of any extended period of probation imposed on a public officer under subsection (3), make a report about the public officer's service, which report shall contain a recommendation that either—
- (a) the public officer's appointment be confirmed; or
 - (b) the public officer's appointment be terminated.
- (5) The Service Commission shall, after considering the report made pursuant to the provisions of subsection (4), recommend to the Governor-General that either the public officer's appointment be confirmed or terminated.
- (6) Where a public officer's appointment to the Public Service is confirmed, such confirmation shall be in writing, unless the appointment is automatically confirmed pursuant to the provisions of section 24 of this Code.

Automatic confirmation of appointment.

24. (1) Where the appointment of an individual to the Public Service is not confirmed or terminated within a period of eighteen months from the date of the individual's appointment, the appointment of that individual shall be automatically confirmed at the end of that period.

(2) The provisions of this section shall be effective irrespective of what is contained in sections 21, 22, and 23 of this Code.

Effective date of appointment.

25. (1) Subject to the provisions of this Code, the effective date of appointment is the date on which a public officer assumes the public office to which he or she is appointed.

(2) Where a public officer has been on probation, the date of appointment shall normally be the date on which he or she commenced the probationary period.

Oath or affirmation of office and secrecy.

26. (1) Subject to subsection (2), a public officer shall, whether permanent or temporary, on appointment to an office in the Public Service, be required to make and subscribe to the oath of office and secrecy or affirmation of office and secrecy in the forms set out in Schedule 1 to this Code.

(2) The oath of office and secrecy or affirmation of office and secrecy shall—

- (a) in the case of a public officer below the level of Head of Department, be made and subscribed to before the Permanent Secretary, Human Resources; or

- (b) in the case of a public officer at or above the level of Head of Department, be made and subscribed to before the Head of the Public Service.

Medical reports.

27. (1) A District Medical Officer who certifies a candidate's fitness for appointment as a public officer shall state in the certificate of fitness that he or she has made a complete and thorough medical examination of the candidate and that he or she has inquired into the medical history of the candidate's family.

(2) No fees shall be payable by the public officer for a medical examination under this section.

(3) If the person selected for appointment as a public officer fails to produce a certificate within one month of assumption of duty or a District Medical Officer certifies the person to be unfit for service, the appointment shall be terminated accordingly.

(4) If a public officer has already passed the prescribed medical examination in respect of an earlier appointment immediately preceding his or her appointment to the permanent establishment, a further medical examination may be dispensed with.

Further medical reports.

28. (1) A public officer, whether or not he or she is on leave of absence at the time, may be required by—

- (a) the Chief Personnel Officer, in the case of a public officer below the level of Head of Department; or
- (b) the Head of the Public Service, in the case of a public officer at or above the level of Head of Department,

to present himself or herself for medical examination by a District Medical Officer in order to ascertain whether he or she is physically and mentally capable of performing the duties of his or her office or of any other public office to which his or her appointment is being considered.

(2) No fee is payable by the public officer for a medical examination under this section.

(3) Where a medical examination is required pursuant to the provisions of subsection (1), the District Medical Officer may, in his or her discretion, call a specialist into consultation, and any fees due to the specialist for assistance in rendering a report shall be paid by the Government.

(4) The report of a medical examination made pursuant to the provisions of this section shall not be communicated to the public officer concerned, except that the public officer shall be informed as soon as is practicable of the decision reached with regard to his or her case after the report is considered, and if the public officer is dissatisfied with the decision he or she shall be at liberty to make representations to this effect.

Record of service.

29. The Chief Personnel Officer shall maintain a record of service for all public officers in such form as the Minister may, by Order, prescribe.

Probation of non-pensionable officers appointed as pensionable officers prior to the coming into force of this Code.

30. Where a public officer was appointed to a pensionable office after non-pensionable service in an office in which he or she has been performing the same or similar duties, prior to the coming into force of this Code, the period of his or her probation in the pensionable office may be reduced by the Governor-General, acting in accordance with the recommendation of the Service Commission, by the length of his or her non-pensionable service provided that there is no break between his or her non-pensionable and pensionable service.

Appointments on contract.

31. (1) A person may be employed on a contract to perform duties in the Public Service for a fixed period.

(2) A person who has been serving on contract in the Public Service on contract may, upon application, join the Public Service to serve on permanent terms.

(3) The conditions of service of a public officer appointed on contract are those provided in his or her contract, but the officer shall during the duration of his or her contract, unless it is specifically provided otherwise, be subject to all changes in conditions of service applicable to public officers of equivalent grade who are appointed to permanent and pensionable offices.

Seniority as between posts.

32. (1) The relative seniority of different grades in the same classification of officers in the Public Service shall be determined by the salary scale attached to the grade such that the grade with the higher maximum salary being the senior.

(2) Where the maximum salaries of two grades are the same, then the grades with the higher minimum salary will be the senior.

Seniority as between officers in the same grade.

33. (1) A public officer's seniority shall be determined by the date of his or her appointment to the particular grade in which he or she is serving.

(2) Seniority as between public officers appointed on probation and subsequently confirmed in their appointment shall be determined by the date of confirmation.

(3) The seniority of public officers appointed to the same grade from the same date shall be determined in accordance with the seniority in their former grade and if necessary in each preceding grade.

Seniority of officers re-appointed after resignation.

33. The seniority of a public officer who resigns from the public service and is subsequently re-appointed, shall be determined by the date of his or her re-appointment.

Transfer of public officers.

35. (1) A public officer may be transferred to any post of equivalent grade in the Public Service.

(2) A public officer who wishes to be transferred within the Public Service or who wishes to apply for transfer without promotion to a particular post within the

Public Service shall apply, in writing, through the Permanent Secretary or the Head of the Department, to the Service Commission.

(3) The Service Commission may, with knowledge of the public officer, recommend to the Governor-General that a public officer be transferred to another office in the Public Service within Saint Christopher and Nevis, provided that the public officer is given ten working days notice prior to the transfer.

(4) The Commission may recommend that a public officer be transferred on promotion to any post in the Public Service.

Effective date of promotion.

36. (1) Subject to subsections (2) and (3), the effective date of a promotion of a public officer shall be fixed by the Governor-General, acting in accordance with the recommendation of the Commission, and such date will normally be the date upon which a public officer who is selected for promotion assumes the duty of the higher office which has fallen vacant.

(2) If the public officer who is promoted is on leave at the time the higher office falls vacant and the officer assumes duty of the office immediately on his or her return from leave, the promotion may be made effective from the date on which he or she assumes the duties.

(3) If the public officer who is promoted has been acting continuously (apart from periods of leave) in the higher office or in an office of equivalent grade, prior to his or her selection for promotion to the office, his or her promotion may be effective from a date not earlier than the date on which he or she commenced such continuous acting or the date on which the higher office fell vacant, whichever date is later.

(4) The higher office shall be deemed to have fallen vacant on the date the holder of the office proceeds on pre-retirement leave.

Certificate of service and testimonials.

37. (1) A public officer, other than a Head of Department, a Permanent Secretary or a public officer duly authorised by a Permanent Secretary or Head of Department, shall not give personal testimonial in favour of a public officer subordinate to him or her or to a public officer of another Department for any purpose connected with promotion in the Public Service.

(2) A public officer who leaves the Public Service shall be given a certificate of service issued by the Permanent Secretary, Human Resources showing his or her public office and setting out the period of his or her service and the reason for leaving the Public Service.

(3) The Chief Personnel Officer may, on the advice of a Permanent Secretary or Head of Department, append to the certificate referred to in subsection (2), any recommendation or classification with respect to his or her efficiency and conduct which may be reasonably necessary to append to the certificate.

Overseas appointments and travel arrangements.

38. (1) The provisions of this section shall apply to all persons selected from outside Saint Christopher and Nevis for first appointment to a public office in Saint Christopher and Nevis.

(2) In this section, “children” means the children who are—

(a) dependants of the person appointed;

(b) below eighteen years; and

(c) unmarried and normally resident with the appointed person.

(3) In this section, “passage” means a passage by a route approved by the Ministry responsible for Finance as a normal route in the course of removal.

(4) A person referred to in subsection (1) shall, in the absence of any arrangements to the contrary, be provided with passages at the expense of the Government of Saint Christopher and Nevis by the cheapest and most direct route from the country of recruitment to Saint Christopher and Nevis for himself or herself, his or her spouse and not more than two children if they accompany him or her within twelve months of his or her appointment.

(5) A person who is selected for appointment shall—

(a) be required to execute a passage agreement in such form as the Minister may, by Order, prescribe to refund the cost of the passage in certain contingencies;

(b) be paid in full salary from the date of embarkation for Saint Christopher and Nevis;

(c) be granted the following allowances for the transportation of his or her baggage and personal effects—

(i) ocean freight charges, not exceeding two shipping tons (or 80 cubic feet) exclusive of the free baggage allowance provided on the tickets issued to the public officer and his or her family;

(ii) the cost of transporting baggage and personal effects from his or her house to the place of embarkation and from the place of disembarkation to his or her destination;

(iii) incidental expenses paid in accordance with approved rates for each passage paid by the Government under this section towards the cost of all incidental expenses including the cost of crating, packing and handling;

(iv) if the appointed person travels by air, an additional allowance for accompanied baggage not exceeding 10 kilograms in respect of each full fare air ticket provided.

(6) A public officer shall submit vouchers in support of claims for the payment of the allowances specified in subsection (5)(c)(ii), and the liability of the Government shall be limited to that portion of the baggage falling within the volume limitation set out in subsection (5)(c)(i).

(7) No additional allowances shall be payable for the transportation of items including motor vehicles, cycles, wireless sets, television sets, Compact Disc Player, DVD players or radios, except as provided for in subsection (5).

(8) A person referred to in subsection (1) shall, on arrival in Saint Christopher and Nevis, be offered transportation from the airport to the hotel where such person is to be accommodated until he or she is allocated Government Quarters or he or she finds alternative accommodation at the expense of the Government.

(9) The person referred to in subsection (8), and his dependants, if any, shall, while at the hotel, shall be entitled to free hotel accommodation, inclusive of meals.

(10) The person referred to in subsection (8) shall, while at the hotel, be entitled to free transportation from the hotel to his or her office and back to the hotel until the person moves away from the hotel pursuant to the provisions of subsection (8).

Retention of services of promoted officer in former Department.

39. (1) Where a public officer is promoted to a public office in another Department, arrangements should normally be made whereby he or she assumes his or her new duties on the date of his or her appointment.

(2) Where, a public officer is promoted in accordance with the provisions of subsection (1) and exceptional circumstances necessitate the public officer's retention in his or her former Department beyond the promotion date, he or she shall be considered to be holding his or her new office from the date of his or her appointment to that office and seconded to his or her former Department subject to the approval of the Chief Personnel Officer, in the case of a public officer below the level of Head of Department, or the Head of the Public Service, in the case of a public officer at or above the level of Head of Department.

Acting appointments.

40. (1) Where a public officer is absent from office due to annual leave or short absence due to illness or other cause for a period of less than fifteen days, then generally, no acting appointment may be made to that office.

(2) Notwithstanding subsection (1), where the nature of the duties attached to the office is such as cannot reasonably be expected to be performed by another public officer in the same Department, then an acting appointment may be made to that office regardless of the length of the absence of the substantive holder of the public office.

(3) In special circumstances, owing to the length of the absence or to the fact that by the law in force in Saint Christopher and Nevis certain matters can be dealt with only by the public officer holding the senior post or a public officer acting in that post, an acting appointment may be made.

(4) In making an acting appointment in the temporary absence of the substantive holder of an office the claims of all suitable candidates shall be considered, and while no claim to act as of right will be recognised, consideration shall be given to the record of service and suitability of the public officer next in seniority in the Department in which the acting appointment is to be made.

(5) A Permanent Secretary shall make his or her recommendations for acting appointments to the Service Commission through the Chief Personnel Officer, as far as practicable, one month before the vacancy which it is proposed to fill by the acting appointment, except in cases of emergency.

PART III

RESIGNATION, RETIREMENT, AND TERMINAL BENEFITS ETC.

Resignation.

41. (1) A public officer who is appointed on probation or appointed otherwise than on contract to a post may resign his or her post after giving not less than one month's notice in writing to the Permanent Secretary or the Head of Department.

(2) A public officer who has been confirmed in the Public service and has served a period of twenty five years may resign from the Service after giving one month's notice in writing to the Permanent Secretary or the Head of Department, and where the officer is confirmed but has not served for a period of twenty five years, such officer may resign from the Service after giving three months' notice.

(3) A public officer who is appointed on contract shall resign his or her appointment only in accordance with the terms of his or her contract.

(4) Notwithstanding the provisions of subsection (1) and (2) of this section, a public officer, other than a public officer appointed on contract, may resign his or her appointment at any time after paying to the Government one month's salary *in lieu* of notice.

(5) All resignations shall be reported immediately to the Chief Personnel Officer, the Accountant-General and the Director of Audit.

Reasons for refusal of resignation.

42. The appropriate authority may refuse to accept the request for resignation, if—
- (a) it is conditional;
 - (b) the public officer does not intend to complete a period of service for which he or she is bound;
 - (c) criminal proceedings are pending against the public officer;
 - (d) disciplinary proceedings against the public officer are contemplated or are pending; or
 - (e) the public officer is indebted to the Government.

Retirement pensions and gratuities.

43. All claims to pension, gratuity and other retiring allowances shall be settled in accordance with the provisions of the Pensions Act, Cap. 22:06.

Evidence of age.

44. (1) A public officer's birth certificate shall be furnished as evidence of his or her age.

(2) Where this is not possible a declaration by the public officer himself or herself or any other reliable person may be submitted.

Death of a public officer in the Public Service.

45. (1) In the event of the death of a serving public officer, the Permanent Secretary or Head of Department shall be responsible for ensuring the prompt payment of death benefits and or gratuity, as the case may be, which may be due to the deceased, to his or her legal representatives.

(2) Where the deceased person has not named any beneficiary then payment of benefits due to the deceased shall be made upon presentation of letters of administration of the estate.

Performance review and development system.

46. The Head of the Public Service shall ensure that—

- (a) effective performance review and development instruments for measuring competence, performance and productivity exist to facilitate appointment on merit;
- (b) the Committee of Permanent Secretaries meets with the Service Commissions at least twice a year to provide guidance, strategic direction and support for the development of the Public Service;
- (c) joint meetings of the Service Commissions are held at least once a year to ensure uniformity and strategic direction.

SCHEDULE TO THE CODE

(Section 26(1))

OATH OF OFFICE AND SECRECY

I do solemnly and sincerely swear that I will faithfully and honestly fulfil the duties that devolve upon me by virtue of my employment in the Public Service, and that I will not, without authority in that behalf, in any manner whatsoever, communicate or publish any facts or expressions of opinion based on such facts that come to my knowledge by virtue of such employment.

AFFIRMATION OF OFFICE AND SECRECY

I do solemnly and sincerely affirm and declare that I will faithfully and honestly fulfil the duties that devolve upon me by virtue of my employment in the Public Service, and that I will not, without authority in that behalf, in any manner whatsoever, communicate or publish any facts or expressions of opinion based on such facts that come to my knowledge by virtue of such employment.

SECOND SCHEDULE

(Section 53)

PUBLIC SERVICE (CONDUCT AND ETHICS OF OFFICERS) CODE

ARRANGEMENT OF SECTIONS

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4. Application of the Code
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6. Principles of accountability, legality and the upholding of ethical standards
7. Integrity, impartiality, honesty
8. Mode of dealing with the public and staff
9. Use of public funds
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PUBLIC SERVICE (CONDUCT AND ETHICS OF OFFICERS) CODE**Citation.**

1. This Code may be cited as the Public Service (Conduct and Ethics of Officers) Code.

Interpretation.

2. In this Code, unless the context otherwise requires—

“Act” means the Public Service Act, Cap. 22.09;

“Chief Personnel Officer” means the Permanent Secretary, Human Resources Department;

“Code” means the Public Service (Conduct and Ethics of Officers) Code.

Purpose of the Code.

3. This Code specifies the values that public officers are expected to uphold in the Public Service.

Application of the Code.

4. This Code shall apply to all public officers except in cases where, by virtue of the Constitution or any other law in force in Saint Christopher and Nevis, specific provision is made with respect to a particular public office or category of public offices.

Role of the Public Service.

5. (1) The role of the Public Service shall be to—
 - (a) provide and administer the public services for which the Government is responsible with integrity, honesty, and impartiality;
 - (b) assist with the formulation of the policies of the Government by providing objective, honest, comprehensive, accurate and timely advice;
 - (c) implement policy, programmes and decisions of the Government.
- (2) All officers in the Public Service, while carrying out the role referred to in subsection (1), shall uphold those values that reflect a Service that—
 - (a) is apolitical, impartial and professional;
 - (b) maintains the highest ethical standards;
 - (c) recruits and promotes persons based on merit;
 - (d) is responsive to the Government in implementing the policies and programmes of the Government;
 - (e) provides a workplace that is free from discrimination and promotes the fair treatment of officers;
 - (f) delivers services fairly, effectively, impartially and courteously to the public;
 - (g) has the leadership of the highest quality;

- (h) establishes relations in the workplace that value communication, consultation, co-operation and input from employees on matters that affect their workplace;
- (i) provides conditions which are conducive to the good health, welfare and safety in the workplace;
- (j) focuses on achieving results and managing performance;
- (k) provides a reasonable opportunity to all eligible members of the community to apply for employment in the Public Service;
- (l) is a career-based service to enhance the effectiveness and cohesion of Saint Christopher and Nevis's democratic system of Government;
- (m) provides a fair system of review of decisions taken in respect of persons in the Public Service;
- (n) provides a system of preserving employee privacy.

(3) For the purposes of subsection (2)(c), a decision relating to the engagement or promotion of a person is based on merit where an assessment for that purpose—

- (a) is made of the relative suitability of the candidates for the duties, using a competitive process;
- (b) is based on the relationship between the candidates' work-related qualities and the work-related qualities genuinely required for the duties;
- (c) focuses on the relative capacity of the candidates to achieve outcomes related to the duties; and
- (d) is the primary consideration in making the decision.

(4) The Head of the Public Service may, from time to time, issue directions, in writing, on any of the values set out in subsection (1) for the purpose of—

- (a) ensuring that the Public Service incorporates and upholds those values; and
- (b) determining, where necessary, the scope or application of those values.

Principles of accountability, legality and the upholding of ethical standards.

6. Officers shall serve the Government in accordance with the principles set out in this Code recognising the following—

- (a) the accountability of officers to the officer in charge of their department;
- (b) the duty of all officers to discharge their functions reasonably and in accordance with the law;
- (c) the duty to comply with the law, including international law and treaty obligations, and to uphold the administration of justice; and the ethical standards governing particular professions.

Integrity, impartiality, honesty.

7. Public officers shall—

- (a) conduct themselves with integrity, impartiality and honesty;

- (b) give honest and impartial advice to the Minister, Permanent Secretaries, or Heads of Departments or to the office holder in charge of their department, as the case may be, and make all information that is relevant to a decision available to them; and
- (c) not deceive or knowingly mislead Ministers, Permanent Secretaries, Heads of Departments or the public.

Mode of dealing with the public and staff.

8. Officers shall endeavour to deal with the affairs of the public emphatically, efficiently, promptly and without bias or maladministration, being courteous and respectful in words and demeanour to the public and to members of staff.

Use of public funds.

9. Officers shall endeavour to ensure the proper, effective and efficient use of public funds, and the officers shall be strictly accountable in respect of those funds in accordance with the provisions of the Finance Administration Act, Cap. 20.13 and any regulations made under that Act.

Conflict of interest.

10. Public officers shall not—

- (a) misuse their official position or information acquired in the course of their official duties to further their private interests or those of others; or
- (b) receive benefits of any kind from a third party that might reasonably be seen to compromise their personal judgment or integrity.

Actions to instil confidence.

11. (1) Officers shall conduct themselves in a manner that will ensure the efficient and effective discharge of their duties.

(2) Officers shall comply with the restrictions put on their political activities in accordance with the provisions of this Code.

(3) Officers shall conscientiously perform their duties and obligations and impartially assist, advise and carry out the lawful policies of the Government.

Declining to act on decisions.

12. (1) Subject to this Code, officers shall not frustrate the policies, decisions or actions of the Government by declining to act on decisions by Ministers or the Cabinet, and where an officer disagrees with a Minister on a matter involving a decision by the Minister or Cabinet, the officer shall place on record his or her disagreement with the decision which the officer finds difficult to defend or which the officer regards as being inconsistent with his or her obligation in the normal discharge of his or her duties.

(2) Where a Permanent Secretary disagrees with a Minister on a matter involving a decision by a Minister or by the Cabinet, the Permanent Secretary shall place on record his or her disagreement with any decision or proposed course of action which the Permanent Secretary finds difficult to defend or which he or she regards as inconsistent with his or her obligation to see that the administration of his

or her department is carried out with due regard to the propriety of the proposed course of action, and he or she shall set out the reasons for his or her disagreement.

(3) Where the Minister adheres to his or her decision, the Minister shall communicate that decision in writing to the Permanent Secretary or the officer, who shall carry the decision into effect.

Records and non-disclosure of information.

13. (1) Officers shall not, without authority, disclose official information which is communicated in confidence within the Ministry or Department, or received in confidence from others.

(2) Officers shall maintain records—

- (a) where a failure to do so would amount to grave injustice; or
- (b) as required by the Act, this Code or any other law.

(3) Nothing in this Code shall be taken as overriding existing statutory or common law obligations to keep confidential, or not to disclose, certain information.

(4) Officers shall not seek to frustrate or influence the policies, decisions or actions of Ministers, or of the Government by the unauthorised, improper or premature disclosure outside the Service of any information to which they have had as officers.

(5) Persons who were employed as public officers shall continue to observe their duties of confidentiality after they have left the Public Services.

(6) The publication of official documents or information is governed by the provisions of sections 34 and 35 of this Code.

Confidential and secret correspondence.

14. A public officer shall keep confidential and secret correspondence and documents under lock and key, and separate from open correspondence and material.

Responsibility of Permanent Secretaries and Heads of Departments for the security of classified documents.

15. (1) A Permanent Secretary or Head of Department shall ensure that no member of his or her staff, other than a public officer authorised to do so, is in a position to handle or read confidential or secret documents.

(2) All correspondence marked “Secret”, “Personal”, “Confidential” or “In Confidence” shall be opened by the addressee personally.

(3) A Permanent Secretary or Head of Department shall be responsible for the security of secret and confidential material that comes into his or her hands.

(4) A Permanent Secretary may arrange for one clerk to be appointed in the Department to whom all secret and confidential correspondence will be entrusted.

Handling of classified correspondences.

16. (1) All official correspondence addressed “Secret”, envelopes, one inside the other and the inner envelope must be marked “Secret”, “Confidential” or “In Confidence” as the case may be, but the outer one should be folded in such a way that both will not be opened at the same time.

(2) Care must be exercised that secret and confidential papers are not passed about the office and another, except in sealed covers marked "Secret" "Confidential" or "In Confidence".

Decisions affecting a public officer personally.

17. (1) A decision affecting a public officer personally shall be conveyed to him or her in writing.

(2) A public officer through whose hands correspondence relating to another public officer passes shall not communicate any of the contents to any other person, without written instructions from the Permanent Secretary, Head of Department, the Permanent Secretary, Human Resources or the Head of the Public Service.

Official correspondence.

18. (1) Copies of written communications to or from the Government shall not be conveyed to any person without the authority of a Permanent Secretary or Head of Department and if the orders therein contained are intended to be communicated, they will be embodied in letter addressed to the person concerned.

(2) A public officer shall not take copies of communications or reports referring to himself or herself or any other public officer, and a public officer found in unauthorised possession of communication or reports shall be liable to disciplinary action.

(3) Permanent Secretaries shall correspond directly with each other and with the public.

(4) Important questions of principle or of policy may be referred to the Minister concerned, and proposals which involve reference to other Ministries should be fully discussed between the Permanent Secretary and Head of Department concerned before they are referred to the Minister and the fact that this has been done should be stated in the submission.

(5) Personnel questions, (other than those which are for determination by the Service Commission) and establishment matters that may be resolved within the terms of this Code, as amended from time to time, may be dealt with by Permanent Secretaries and Heads of Departments.

(6) Where there is any doubt about the interpretation of Personnel Matters it shall be referred to the Chief Personnel Officer for advice.

Communications to be answered without delay.

19. (1) All communications, whether from the public or from a Department or between Departments shall be answered within a period of seven days.

(2) Where it is not possible to reply within the period stipulated in subsection (1) of this section, then an interim acknowledgment shall be made, and a reply sent as soon as possible, and in any case, not later than fourteen days from the date of receipt of the communication.

(3) Communications may, as far as possible, be confined to a single subject.

(4) Where it is found to be essential that more than one subject is dealt with in one communication, additional copies, according to the number of subjects, shall be furnished.

(5) The Head of the Public Service may set further standards relating to the way communications may be answered without delay.

Opinion by law officers.

20. An opinion of the Government Law Officer shall not be quoted directly to a private person, and if it is necessary to refer to a legal opinion this should be preceded by the words “The Government is advised that”.

Hours of work.

21. (1) Subject to subsections (2), (3) and (4), the normal hours of work of public officers shall be 40 hours a week from Monday to Friday, except on public or bank holidays, between 8.00 a.m. and 4.00 p.m. excluding the lunch hour.

(2) A Permanent Secretary or Head of Department may require any or all of the staff to work temporarily for longer hours than those prescribed whenever the public interest warrants it.

(3) A public officer may be required by his or her Permanent Secretary or Head of Department to work on any Public Holiday, except that in such cases the public officer shall be compensated by being given time off *in lieu*, unless he or she receives overtime paid for the duty.

(4) Subject to the provisions of subsection (5), the normal hours of work of Government auxiliary workers and their supervisors are forty hours a week on Mondays to Fridays, except on public or bank holidays, between 7.00 a.m. and 4.00 p.m. excluding the lunch hour.

(5) The times of work of the Hospital, Customs, Harbour, Prisons, Teachers and Staff will be as set out by the Permanent Secretary or Head of Department responsible for the supervision of the Department.

Overtime.

22. A public officer who is regularly required by circumstances beyond his or her own control to work outside normal working hours shall be paid overtime at the prescribed rates.

Absence without permission.

23. (1) A public officer shall not absent himself or herself from duty during working hours without the permission of the Permanent Secretary or Head of Department in which he or she works or such other officer as may be authorised to give such permission.

(2) A public officer who absents himself or herself from duty without permission contrary to subsection (1), except in case of illness or other unavoidable circumstances, shall render himself or herself liable to disciplinary action.

(3) Absence as a result of illness or unavoidable circumstances referred to in subsection (1) shall be communicated to the Permanent Secretary or Head of Department as soon as possible on the day on which the officer is absent or expected to be absent.

Absence from Saint Christopher and Nevis.

24. (1) A public officer who is below the level of Head of Department shall not leave Saint Christopher and Nevis, on duty or otherwise, without permission in

writing from the Permanent Secretary or Head of Department provided that such permission shall only be withheld in the public interest.

(2) A public officer who is at or above the level of Head of Department shall notify the Minister in charge of his or her department of any intended absence from Saint Christopher and Nevis whether on duty or otherwise at least twenty four hour before leaving.

(3) A public officer who leaves Saint Christopher and Nevis contrary to subsection (1), except in case of illness or other unavoidable circumstances, shall render himself or herself liable to disciplinary action.

Attendance Register.

25. (1) A public officer shall be regular and punctual in his or her attendance at office.

(2) In each office of a Department an Attendance Register shall be kept in which each public officer shall record daily the hour of his or her arrival at and departure from the office and sign the entry.

(3) The Attendance Register shall be examined at least once a month by a senior officer designated by the Permanent Secretary or Head of Department, and a public officer shall be warned in writing of cases of lateness or irregular attendance.

(4) The working of less hours than the minimum laid down or irregular attendance by a public officer may form the basis of disciplinary action.

(5) A Permanent Secretary or Head of Department may exempt certain officers from the provisions of this section.

Dress.

26. (1) Officers shall, while on duty, be required to dress soberly, neatly, and tidily and in accordance with the requirements of the job, having regard to the desirability of maintaining standards of attire consistent with the dignity of the Public Service.

(2) The suitability of any particular form of dress to the requirements of the office should be determined by the Head of Department in consultation with the Permanent Secretary, Human Resources, but shall not be contrary to the provisions of subsection (1).

Loss of, or damage to, property.

27. (1) Officers shall be accountable for any equipment, tool or other property of the government which is entrusted to them or which may come under their control in the course of duty, and shall report immediately to their Supervisor, or in the absence of the Supervisor, to another senior officer, any malfunction, damage or loss of any equipment so entrusted.

(2) Officers may be liable for any loss or damage of any equipment, tool or other property.

Engaging in private activity or investment.

28. (1) A public officer shall not, at any time, engage in any private activity or investment which may—

(a) bring the public officer or the Government into disrepute;

- (b) conflict with his or her official duties or responsibilities;
- (c) place him or her or give the appearance of placing him or her in a position to use his or her official position for his or her private benefit;
- (d) make him or her unavailable for official duties or official commitments.

(2) A public officer, who is of the opinion that any private activity or investment upon which he or she is engaged or in which he or she has a private pecuniary interest might offend against the provisions of this section, must declare it fully to the Governor-General through the Chief Personnel Officer and must comply with such conditions or restrictions as the Governor-General, acting in accordance with the recommendation of the Commission after due inquiry, may consider necessary.

Officer not to undertake private agency.

29. A public officer shall not undertake any private agency in any matter connected with the exercise of his or her duties as a public officer.

Work for private boards or committees.

30. A public officer shall not undertake paid work for private boards or committees without previously obtaining the approval of the Governor-General acting in accordance with the recommendation of the Commission.

Private employment while on leave.

31. Without prior approval of the Governor-General, acting on the recommendation of the Commission, a public officer shall not, while on leave, engage in trade, accept any paid employment, which will not normally be withheld when a public officer is on leave prior to retirement or resignation.

Officers not to sign public petitions.

32. A public officer shall not sign or procure signatures to any public petition against the declared policies of the Government.

Officers and the press.

33. (1) Subject to subsection (2), a public officer, whether that officer is on duty or leave of absence, shall not—

- (a) act as an editor of any newspaper, magazine or periodical or take part directly or indirectly in the management thereof;
- (b) contribute to, whether anonymous or otherwise, or publish in newspaper, magazine or periodical or otherwise cause to be published in any manner, in Saint Christopher and Nevis or elsewhere, anything which may be reasonably be regarded as of political or administrative nature ;
- (c) allow himself or herself to be interviewed on questions of public policy, or any matter of a political or administrative nature or on matters affecting the administration, defence, military resources or the security of any CARICOM Member State or other State; or
- (d) speak in public or broadcast in any way on matters which may reasonably be regarded as of political or administrative nature.

- (2) Subsection (1), shall not apply—
- (a) to a public officer acting pursuant to his or her official duties and with the prior permission of the Minister; or
 - (b) where a statement for publication of factual and technical information is made by a Permanent Secretary, Head of Department or other senior officer, if authorised by the Minister.

Publication of official documents.

34. (1) Unless authorised by the Minister, in writing, a public officer shall not make public or communicate to the Press or to unauthorised individuals, any documents, papers or information which may come into his or her possession in his or her official capacity or make private copies of any such document or paper.

(2) A public officer shall exercise due care and diligence to prevent unauthorised access to or disclosures of such documents and information.

Publication of books or articles.

35. Nothing in the preceding two sections shall be deemed to prevent a public officer from publishing in his or her own name, by writing, speech or broadcast, matters other than that which may reasonably be regarded as of a political or administrative nature, provided that if the publication is a book, article or other work, the subject of which is connected with the public officer's official duties or those of other public officers, the prior consent of the Head of the Public Service is obtained.

Public meetings.

36. (1) A public officer shall not call a public meeting to consider any action of the Government or speak or otherwise actively take part in such meeting.

(2) Subsection (1) applies to a public officer appearing on the platform at a public meeting which is convened with the object of considering or discussing a matter which involves the Government or the actions of the Government.

(3) Subsection (1) shall not apply to public meetings of a religious nature.

Representation by officers.

37. (1) A public officer shall not seek to influence or directly or indirectly approach any member of the National Assembly as a means of bringing his or her services to official notice especially in connection with appointments, leave, postings, transfers, discipline, promotions or any condition of service, or as a means of furthering his or her interest in the Public Service in any way.

(2) The adoption of any method referred to in subsection (1), shall render a public officer liable to disciplinary proceedings.

(3) A public officer who wishes to make representations regarding promotion, transfer or increase in emoluments shall do so through the Head of Department or Permanent Secretary.

Engaging in political activities.

38. A public officer shall not engage in party political activity at any time, including—

- (a) holding office or taking active part in any political organization;

- (b) engaging in political controversy or publicly criticizing the policy of the Government or departments of Government;
- (c) writing letters to the press, publishing books or articles, circulating leaflets or pamphlets or participating in radio or television broadcast on political matters;
- (d) canvassing in support of political parties or in any way publicly supporting or indicating support for any political party or candidate.

Engaging in trade union activities.

39. (1) Subject to subsection (2), a public officer may be a member of a trade union and shall be entitled to attend private meetings of his or her trade union, and to speak and vote at such meetings.

(2) A holder of an office mentioned under section 79(1) of the Constitution shall not hold a leadership position in a general trade union or an association functioning as a general trade union.

Acceptance of gifts.

40. A public officer shall not solicit or accept gifts for services rendered in his or her official capacity.

Legal proceedings by officers.

41. A public officer shall not institute civil proceedings in any Court in connection with matters arising out of the discharge of his or her public duties, or against a Minister, Permanent Secretary, Head of Department or other public officer, for anything done in the performance of his or her duty, without the approval of the Governor-General, acting on the recommendation of the Commission, except that the Commission shall not make the recommendation without having consulted the Attorney-General.

Legal proceedings against officers.

42. (1) Subject to subsection (2), the Government shall, unless advised otherwise by the Attorney-General in any particular case, accept responsibility for the defence of a public officer against whom legal proceedings are threatened or instituted with respect to acts done or liabilities incurred in the execution of his or her duty.

(2) Subject to subsection (3), where legal proceedings referred to under subsection (1) are threatened or instituted, the fact thereof shall be reported forthwith to the Attorney-General, and no legal or other expenses shall be incurred by the public officer against whom the proceedings have been threatened or instituted, or other steps taken in connection with any such proceedings until the directions of the Attorney-General have been received by the public officer.

(3) Where it is not practicable to obtain the direction of the Attorney-General, interim measures incidental to the proceeding may be taken by the public officer or a Government Law Officer in order to avoid unnecessary expense or judgment by default.

Pecuniary embarrassment.

43. A public officer shall be liable to disciplinary action if the public officer continually subjects himself or herself to serious pecuniary embarrassment resulting from imprudent conduct of private financial affairs.

Bankruptcy.

44. In the event of a public officer filing a petition in bankruptcy, and bankruptcy proceedings are taken against him or her or if the public officer enters into a composition with his or her creditors under the Bankruptcy Act or if the public officer's action results in serious financial embarrassment on his or her part, the public officer shall immediately notify—

- (a) in the case of a public officer below the level of Head of Department, the Permanent Secretary in his or her Department, thereof who will report the fact to the Chief Personnel Officer;
- (b) in the case of a public officer at or above the Head of Department, the Head of the Public Service.

Bankruptcy proceedings to be reported.

45. (1) In every instance of bankruptcy proceedings against a public officer, the public officer shall forthwith report the matter to—

- (a) in the case of a public officer below the level of Head of Department, the Chief Personnel Officer;
- (b) in the case of a public officer at or above the Head of Department, the Head of the Public Service,

giving particulars of the public officer's indebtedness.

(2) On the conclusion of the bankruptcy proceedings referred to in subsection (1)—

- (a) in the case of a public officer below the level of Head of Department, the Chief Personnel Officer;
- (b) in the case of a public officer at or above the Head of Department, the Head of the Public Service,

may take appropriate action relating to the matter.

Judgment summons.

46. A public officer who is sued for debt and against whom after an order of payment has been made, a judgment summons is issued will be regarded, in the absence of a reasonable explanation and his or her failure to pay the debt, as having brought himself or herself within the terms of section 77.

Chief Personnel Officer to obtain copy of judgment.

47. The Chief Personnel Officer, in the case of a public officer below the level of Head of Department or the Head of the Public Service, in the case of a public officer at or above the level of Head of Department, shall obtain a copy of a judgement issued against the public officer from the clerk of court.

Prohibited activities.

48. (1) Officers shall not, while on duty, indulge in activities that would bring themselves or the office which they hold into disrepute.

(2) Activities such as betting, gambling, the possession or use of illegal drugs and the use of profane language shall be considered to be activities referred to in subsection (1).

Misconduct.

49. A public officer shall be liable to disciplinary action for any misconduct including general misconduct to the prejudice of the proper administration of Government business or contravention of specific rules and regulations.

Strikes by officers.

50. (1) A public officer who goes on strike or engages in any other industrial action, except on the direction of a recognised trade union, violates the terms of his or her office and renders himself or herself liable to disciplinary proceedings.

(2) All officers who are on leave at the commencement of a strike must be informed by the Permanent Secretary or Head of Department of the existence of a strike and of the fact that they must report for duty immediately unless that leave is—

- (a) leave for the purpose of study or training; and
- (b) leave of absence outside Saint Christopher and Nevis.

(3) Officers shall not be paid for any day or portion of a day during which they are on strike.

(4) Officers who are not on strike and who report for duty as usual but are unable to work because of the prevailing circumstances shall be paid.

(5) When the Permanent Secretary or Head of Department is satisfied that an officer who is on leave during a strike and who was given notice by the Permanent Secretary or Head of Department of that strike pursuant to subsection (2) fails to report for duty as provided in that subsection, the Permanent Secretary may recommend the withholding of payment of the salary or wages for that officer in respect of the period of the strike during which he or she failed to report.

(6) Notwithstanding subsection (3), salaries and wages may be paid to persons who are absent on the grounds of illness or maternity leave where the entire period of absence is supported by a satisfactory medical certificate.

Criminal conviction.

51. (1) An officer who is convicted of a criminal offence or who is guilty of misconduct of a serious nature while holding public office is liable to be dismissed.

(2) Officers who fail to disclose to the recruiting authority when required to do so any criminal conviction that they incurred prior to employment in the Public Service may be liable to be dismissed.

Sexual harassment.

52. (1) Engaging in any activity that amounts to sexual harassment is a breach of this Code which renders an officer liable to dismissal.

(2) For the purpose of subsection (1), “sexual harassment” includes un welcomed or unwanted sexual advances, requests for sexual favours, or other verbal or physical conduct of a sexual nature in circumstances where—

- (a) submitting to or rejecting such conduct is an explicit or implicit term or condition of employment;
- (b) submitting to or rejecting the conduct is a basis for employment decisions affecting the individual; or

- (c) the conduct unreasonably interferes with an individual's work performance or creates an intimidating, hostile or offensive working environment.

Use of information technology and the internet.

53. Officers are required to use information technology, including the intranet, the internet and other network lawfully and responsibly and in accordance with policies and guidelines of the Public Service stipulated in writing.

Use of official stationery.

54. (1) Official stationery shall not be used for private correspondence or for any purpose not directly connected with the work of a Department.

(2) A Permanent Secretary or Head of Department shall ensure that the strictest economy in the use of stationery is exercised in their offices.

(3) An order for stationery should be scrutinised, before the stationery is issued, by a responsible officer deputed by the Permanent Secretary or the Head of Department for this purpose.

Improper behaviour to be reported.

55. (1) Where an officer believes that he or she is being required to act in a way that—

- (a) is illegal, improper, or unethical;
- (b) is in breach of an accepted convention or a professional code;
- (c) may involve possible maladministration; or
- (d) is otherwise inconsistent with this Code,

that officer shall report the matter in accordance with procedures laid down in the appropriate guidelines or rules of conduct for that officer's Ministry or Department or in accordance with the provisions of the relevant law.

(2) An officer shall report to his or her Head of Department or where the matter involves the Head of Department, the Head of the Public Service—

- (a) evidence of any criminal or unlawful activity by others, in accordance with the relevant procedures; or
- (b) instances of breaches of this Code of which he or she becomes aware.

Reports to be made to the Commission.

56. Where an officer reports a matter referred to in section 55 in accordance with the relevant procedures and believes that the response does not represent a reasonable response to the grounds of his or her concern, the officer may report the matter in writing to the Commission.

Other misconduct not specifically mentioned.

57. Any case of misconduct for which no provision is otherwise made by this Code shall be reported to the Chief Personnel Officer, who shall deal with the misconduct in a manner approved by the Commission.

Grievance handling.

- 58.** (1) Where a public officer is aggrieved by any action or decision of—
- (a) a person appointed by the Commission who has or had supervisory powers of the public officer;
 - (b) a person, other than a person referred to in paragraph (a), who has supervisory powers in relation to the employment of the public officer;
 - (c) a fellow public officer,

the public officer may invoke the procedure with respect to grievance handling that is set out in section 59 of this Code.

(2) A public officer may, instead of the procedure referred to in subsection (1), opt for the process of alternate dispute resolution.

(3) In this section—

“alternate dispute resolution” includes conciliation, mediation or any other method of dispute resolution; and

“grievance” includes a complaint regarding the alleged violation of—

- (a) the provisions of any agreement between a trade union or any other body authorised to represent a public officer in respect of employment matters;
- (b) the rules or regulations or any conventions applicable to the category of public officers to which the public officer belongs;
- (c) the principles of natural justice; or
- (d) the dignity of the human person.

Grievance handling procedure.

59. (1) The procedure for handling grievance shall be as provided in subsections (2), (3), (4) and (5).

(2) The aggrieved public officer, the shop steward of the union which represents the public officer, and the supervisory officer of the public officer may seek to resolve the grievance within a period of three working days after the grievance has been reported.

(3) Where there is failure to have the matter resolved in accordance with the provisions of subsection (2), then the aggrieved public officer may appeal to the Permanent Secretary, who shall determine the matter within a period of seven working days, and such appeal shall be brought within a period of three working days.

(4) Where the union representing the public officer is dissatisfied with the decision of the Permanent Secretary made pursuant to the provisions of subsection (3), the aggrieved public officer may refer the matter to the Chief Personnel Officer, in writing, and the Chief Personnel Officer shall determine the matter within a period of ten working days.

(5) Where the aggrieved party is dissatisfied with the decision made pursuant to subsection (4), he or she may, within ten working days of that decision, appeal to the Head of the Public Service.

(6) Where the decision made by the Head of Public Service is not accepted, the union may declare that a dispute exists.

(7) For the purposes of this section, “Union” means the trade union or other body authorised to represent an officer or employee in respect of employment matters.

Penalties.

60. (1) A person who fails to comply with, or engages in behaviour which is prohibited by, the provisions of section 25(3) of this Code commits misconduct which is regarded as misconduct of a minor nature within the meaning of section 2 of the Public Service Code of Discipline, and shall be liable to the penalty for the misconduct as is specified in the Public Service Code of Discipline.

(2) A person who fails to comply with, or engages in behaviour which is prohibited by, the provisions of sections 7(c), 9(2), 10, 13, 23, 24, 26, 27, 33, 48, 51, 52, 53, 55(2) of this Code commits misconduct which is regarded as a “misconduct of a serious nature” within the meaning of section 2 of the Public Service Code of Discipline, and shall be liable to the penalty for the misconduct as is specified in the Public Service Code of Discipline.

THIRD SCHEDULE

(Section 53)

PUBLIC SERVICE CODE OF DISCIPLINE

ARRANGEMENT OF SECTIONS

1. Citation
2. Interpretation
3. Purpose of the Code
4. Criminal investigation
5. Adjudication of minor offences
6. Adjudication of misconduct of a serious nature
7. Penalties

PUBLIC SERVICE CODE OF DISCIPLINE

Citation.

1. This Code may be cited as the Public Service Code of Discipline.

Interpretation.

2. In this Code, unless the context otherwise requires—

“Act” means the Public Service Act, Cap. 22.09;

“Chief Personnel Officer” means the Permanent Secretary, Human Resources Department;

“Code” means the Public Service Code of Discipline;

“misconduct of a minor nature” means conduct that does not warrant dismissal, and, without prejudice to the generality of the foregoing, includes the following—

- (a) use of obscene, or abusive or insulting language while on duty;
- (b) malingering on duty;
- (c) failure to maintain official records as required;
- (d) insubordination;
- (e) unpunctuality without just cause;
- (f) loss of or damage to property of the Crown other than that considered as a misconduct of a serious nature;
- (g) misuse of the Government’s intranet, the internet and any other information technology network;
- (h) disorderly conduct;

“misconduct of a serious nature” means improper or unprofessional conduct that may warrant the dismissal of a public officer found guilty of such conduct, and, without prejudice to the generality of the foregoing, such conduct, in addition to the misconduct specified in section 49 of the Public Service (Conduct and Ethics of Officers) Code, include the following—

- (a) absence from duty without leave or approval for a period of five days;
- (b) conviction of a criminal offence punishable by a term of imprisonment;
- (c) unauthorised disclosure of information pertaining to the Government;
- (d) habitual intoxication or possession, use or distribution of illegal drugs while on duty;
- (e) reporting for duty or performing duties while under the influence of alcohol or illegal drugs;
- (f) failure to observe any laws, orders, rules or regulations governing the Public Service;
- (g) falsification of accounts or records, either manual or electronic;
- (h) wilful mutilation, alteration or destruction of property including official documents or records, either manual or electronic;

- (i) failure to report or disclose any information that ought reasonably to be reported or disclosed where the consequence of that failure amounts to a grave injustice;
- (j) threatening of a fellow officer or any person or threatening the destruction of any property while on duty;
- (k) causing of grievous bodily harm;
- (l) unauthorised possession of a firearm or other device that can be considered an offensive weapon;
- (m) acceptance of bribes or other inducements;
- (n) misappropriation of public funds;
- (o) major loss of or damage to property of the employer;
- (p) failure to perform the duties assigned to the office;
- (q) negligence in the performance of duty;
- (r) sexual harassment;
- (s) failure to maintain official records where the consequence amounts to a grave injustice;
- (t) misconduct involving three or more of the matters listed herein as matters of misconduct of a minor nature in paragraphs (a) to (h) within a period of two years;

“officer” includes a temporary employee;

“sexual harassment” has the meaning assigned to it by section 52(2) of the Public Service (Conduct and Ethics of Officers) Code.

Purpose of the Code.

3. The purpose of this Code is to ensure—
- (a) that standards of conduct laid down in the Act, in any regulations made under the Act or in the Public Service (Conduct and Ethics of Officers) Code are observed;
 - (b) the existence of general principles that guide the disciplinary process including—
 - (i) procedural fairness;
 - (ii) determining each case on its merits;
 - (iii) indicating the factors to be taken into account; and
 - (iv) the powers and responsibilities of the investigating officer.

Criminal investigation.

4. (1) Notwithstanding the fact that an officer is under investigation in respect of the commission of an offence leading to criminal charges or has been charged with an offence, disciplinary proceedings or action may be instituted or continued under this Code in relation to a breach of this Code or the Public Service (Conduct and Ethics of Officers) Code.

(2) Where the investigation referred to under subsection (1) or an investigation into any other misconduct has been or is about to be instituted, and the Permanent

Secretary or Head of Department is of the opinion that the public interest requires that the officer should forthwith cease to perform the functions of his or her office, the Chief Personnel Officer may recommend to the Commission that the officer be interdicted.

(3) An officer who is under interdiction from duty may not leave Saint Christopher and Nevis without the permission of the Governor-General granted on the recommendation of the Commission.

Adjudication of minor offences.

5. (1) A senior Human Resource officer or other officer of a similar or a higher grade in the Public Service deputed by the Chief Personnel Officer, shall conduct the necessary enquiry into any charge relating to misconduct of a minor nature by a public officer.

(2) The person who conducts an enquiry referred to in subsection (1) shall be at a grade that is higher than that of the officer who is charged.

(3) The person who conducts the hearing of a charge shall at the end of the hearing—

(a) decide whether the officer committed the offence for which he or she is charged; and

(b) recommend to the Chief Personnel Officer, a penalty which is permissible under this Code if the officer is found to have committed the offence.

(4) The enquiry shall be conducted within a period of ten working days.

(5) The decision of the person who is conducting the enquiry and any penalty recommended shall be conveyed to the person charged in writing within seven working days of the completion of the enquiry.

Adjudication of misconduct of a serious nature.

6. (1) The Commission may set up a Committee of Enquiry of not more than three persons, to conduct the necessary enquiry into any charge against an officer for the commission of misconduct of a serious nature.

(2) Any officer in a panel deputed to conduct an enquiry referred to in subsection (1) shall be a holder of an office which is at a grade higher than that of the officer against whom the charge is brought, but in any case shall not be below the level of senior personnel officer.

(3) The Chief Personnel Officer shall, within seven days of becoming aware of a breach of Public Service (Conduct and Ethics of Officers) Code on the part of an officer, bring a charge against that officer for the breach.

(4) An officer who is charged under subsection (3) may be suspended from duty by the Chief Personnel Officer.

(5) Notice of suspension of the officer shall be in writing, and shall be sent to the Commission and the concerned officer as soon as practicable, except that suspension shall be subject to the confirmation of the Commission.

(6) An officer who is suspended pursuant to the provisions of subsections (4) and (5) shall be entitled, during the period of suspension, to such reduced pay as the Commission may determine in the circumstances.

(7) The reduction in a person's rate of pay made pursuant to the provisions of subsection (6) shall not exceed one half of the salary to which the officer would have been entitled had he or she not been suspended, and the reduction shall be for a period not exceeding six months after which period the officer will revert back to his or her normal salary.

(8) A charge brought against an officer pursuant to the provisions of subsection (3) shall be defined in a written statement, in which statement the nature of the case to be answered shall be set out, together with—

- (a) an individual statement signed by the officer, if any;
- (b) signed statements from all witnesses, supervisors, and any other relevant parties; and
- (c) advice to the officer that he or she may be assisted, if he or she so wishes throughout the hearing by a trade union representative, an attorney-at-law or a friend.

(9) A copy of the statements and all documentary evidence which is to be used in an enquiry relating to a charge of misconduct of a serious nature shall be given to the officer who is charged.

(10) The officer who is charged shall be given ten working days after receipt of the statements and documentary evidence supplied in accordance with the provisions of subsection (9) to reply to the charges, and to make any observations he or she may wish in writing in respect of the charge.

(11) The Committee of Enquiry that has conducted an enquiry into a misconduct of a serious nature shall submit a report of the hearing to the Chief Personnel Officer not more than ten working days after completion of the enquiry, giving the opinion of the panel as to—

- (a) whether the person is guilty as charged;
- (b) the reasons for its opinion; and
- (c) the maximum penalty that ought to be recommended for the misconduct by the Commission.

(12) The Chief Personnel Officer, shall, within five working days of receiving a report relating to a disciplinary charge, convey in writing his or her decision and any recommendation as to the penalty to be imposed for consideration by the Commission.

(13) The Commission shall conclude its deliberations on the matter within twenty-eight days of the receipt of the information pursuant to the provisions of subsection (12) of this section.

Penalties.

7. (1) The penalties that may be imposed on an officer against whom a disciplinary charge constituting misconduct of a minor nature is proved, are as follows—

- (a) an oral warning; or
- (b) reprimand in writing.

(2) The penalties that may be imposed on an officer against whom a disciplinary charge constituting misconduct of a serious nature is proved are as follows—

- (a) suspension on half pay for a period not exceeding six months;
- (b) reduction in rank;
- (c) suspension of future increments for a period not exceeding two years;
- (d) compulsory retirement; or
- (e) dismissal.

FOURTH SCHEDULE

(Section 53)

PUBLIC SERVICE STANDING ORDERS

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PUBLIC SERVICE STANDING ORDERS

PART I

PRELIMINARY

Citation.

1. These Orders may be cited as the Public Service Standing Orders.

Interpretation.

2. (1) In these Standing Orders, unless the context otherwise requires—

“Act” means the Public Service Act, Cap. 22.09;

“Caribbean Community” means the Caribbean Community including the CARICOM Single Market and Economy established by the Revised Treaty of Chaguaramus signed at Nassau, the Bahamas on 5 July 2001;

“CARICOM Member State” means a Member State of the Caribbean Community;

“Commission” means the Public Service Commission established under section 77 of the Constitution;

“Department” means a department of the Government referred to in section 61 of the Constitution;

“designated travelling officer” means a public officer who holds a post which has been designated by Cabinet to be a scheduled travelling post in the Public Service;

“Head of Department” is the public officer who is responsible for the day to day running of a Department for which a Minister is responsible and has direction and control and which is supervised by a Permanent Secretary;

“Head of the Public Service” has the meaning given under the Public Service Act;

“immediate family”, in relation to a public officer, means his or her—

(a) wife or husband;

(b) mother or father;

(c) children who have not attained eighteen years, or who are under full time education;

“office of emolument”, in relation to the definition of “public officer”, means any pensionable post;

“Permanent Secretary” means a permanent secretary whose responsibility is described under section 61 of the Constitution;

“public office” means any office of emolument in the public service;

“public officer” means any person holding or acting in any public office;

“Public Service” means, subject to the provisions of section 119 of the Constitution, the service in a civil capacity of the Crown in right of the Government;

“Service Commission” means the Public Service Commission, the Judicial and Legal Services Commission or any other Service Commission appointed under the Constitution of Saint Christopher and Nevis.

(2) Any other term used in these Standing Orders shall have the meaning assigned to it by the Act.

Application of Standing Orders.

3. These Standing Orders shall apply to all public officers except in cases where, by virtue of the Constitution or any other law in force in Saint Christopher and Nevis, specific provision is made with respect to a particular public office or category of public office.

Duty of Head of Department to make copies of Standing Orders available.

4. The Head of Department or Permanent Secretary shall ensure that a sufficient number of copies of these Orders are readily available for consultation by all public officers within the Department and to meet the needs of the Department.

Duty of officers to familiarize themselves with the Standing Orders.

5. A public officer shall familiarize himself or herself with these Orders and any amendments made to these Orders.

Acquaintance with Government notices and orders.

6. (1) A public officer shall acquaint himself or herself with all Government notices and Orders whether published in the *Official Gazette* or conveyed by circular or other means of communication.

(2) Permanent Secretaries as well as Heads of Department shall be responsible for the circulation of the notices and Orders referred to in subsection (1) to the public officers under their direction and control.

Liability of officer to disciplinary action.

7. A public officer shall be liable to disciplinary action in respect of a breach of any provision of these Standing Orders.

PART II

SALARIES AND ACTING ALLOWANCES

Salaries to be determined by Parliament.

8. The scales of salary attached to public officers shall be those provided for in the Government’s Annual Estimates of Expenditure, and as approved by Parliament.

Incremental salary scale.

9. Subject to the provisions of these Standing Orders, where the salary attached to any post is in an incremental scale, it shall be normal for a public officer appointed on a permanent basis to be paid initially the minimum salary of the scale, and in accordance with the provisions of the Public Service (Recruitment and Appointment) Code, annual increments at the rates provided until the maximum of the scale is reached.

Payment of salaries.

- 10.** (1) Salaries shall normally be paid monthly in respect of the calendar month.
- (2) A public officer shall receive the salary of his or her post from the date upon which he or she assumes duties of the post.
- (3) A public officer shall not be paid a salary in respect of any period during which the public officer has been absent from duty without the approval of a Permanent Secretary or Head of Department unless the Governor-General, acting in accordance with the recommendation of the Commission, directs otherwise.
- (4) A public officer who is proceeding on leave outside of Saint Christopher and Nevis may receive, prior to embarkation, his or her salary for the whole of the month in which he or she leaves Saint Christopher and Nevis.

Promotional increases in salaries.

- 11.** (1) The following provisions of this section shall apply where a public officer is promoted to a public office carrying salary on an incremental scale.
- (2) If, immediately prior to his or her promotion, the salary of the public officer was less than the minimum of the new public office he or she shall receive the minimum, but if the grant of the next increment in his or her former office would have brought his or her salary in that office up to the minimum of the scale of his or her new office, he or she shall receive one increment in the new scale of his or her promotion.
- (3) If, immediately prior to his or her promotion, the public officer's salary was below the maximum of the scale of his or her office, and was not less than the minimum of the scale of the new office, he or she shall receive a salary at a point in the new salary scale amounting to one full increment (but not two) higher than his or her salary in the former office.
- (4) If the maximum, or fixed salary of his or her former office was not less than the minimum of the scale of his or her new office, and the public officer has at the date of his or her promotion served at that maximum, or fixed salary for a period exceeding one year, he or she shall be appointed in the new scale at a point which provides two full increments in that scale.

Incremental dates.

- 12.** The incremental date of all officers shall be the first day of the month in which they are appointed or promoted.

Grant of increments.

- 13.** A public officer's annual increment shall be paid on the personal certificate of the Permanent Secretary or Head of Department in the form set out in Form 4 of Schedule 1 to these Orders.

Suspension, deferment and withholding of increments.

- 14.** (1) A public officer's increment shall not be suspended, deferred or withheld except by order of the Governor-General acting in accordance with the recommendation of the Service Commission.
- (2) Where a Permanent Secretary or Head of Department considers that a public officer's increment should be suspended, deferred or withheld the Permanent Secretary or Head of Department shall—

- (a) notify the public officer in writing, at least one month before the date on which the increment is due, that he or she considers that the increment ought not to be granted and he or she shall give reasons why the increment ought not to be given; and
- (b) report the matter to the Chief Personnel Officer, in the case of a public officer below the level of Head of Department, or the Head of the Public Service, in the case of a public officer at or above the level of Head of Department, who shall refer the case to the Commission for the making of a recommendation to the Governor- General.

(3) In making his or her recommendation for the suspension, deferment or withholding of an increment the Permanent Secretary or Head of Department shall take into account the gravity of the original misconduct or dereliction of duty, if any, and the nature of the public officer's subsequent behaviour, or his or her present degree of efficiency.

(4) An increment may be suspended for a period not exceeding three months, and the payment of the increment at the end of the period of suspension may be from the date on which it became due.

(5) An increment may be deferred for a period not exceeding six months, including any period for which it has been suspended, and shall be payable from the date on which it is restored.

(6) Where an increment is withheld the public officer shall be denied that increment during each subsequent year of his or her service for a period not exceeding two years.

(7) Where an increment is withheld, the Governor-General, acting in accordance with the recommendation of the Service Commission, may at any subsequent increment date grant the public officer a special increment which will have the effect of restoring the public officer to his or her proper increment position in the salary scale.

Retention of services of promoted officer in former Department.

15. (1) Where a public officer is promoted to a public office in another Department, arrangements should normally be made whereby he or she assumes his or her new duties on the date of his or her appointment.

(2) Where, a public officer is promoted in accordance with the provisions of subsection (1) and exceptional circumstances necessitate the public officer's retention in his or her former Department beyond the promotion date, he or she shall be considered to be holding his or her new office from the date of his or her appointment to that office, and seconded to his or her former Department subject to the approval of the Chief Personnel Officer, in the case of a public officer below the level of Head of Department, or the Head of the Public Service, in the case of a public officer at or above the level of Head of Department.

(3) In implementing the provisions of this section, regard shall be had to the relevant provisions of the Public Service (Recruitment and Appointment) Code.

General principle relating to allowances in relation to acting appointments.

16. (1) Where a public officer is absent from office due to annual leave or short absence due to illness or other cause, as a general rule, as provided by section 40(1) of the Public Service (Recruitment and Appointment) Code, no acting appointment may be made to that office, and no acting allowance shall be payable, except that if

another officer within the Department is requested to perform those functions during the absence of the concerned officer then the officer who is requested to perform those functions shall be entitled to a responsibility allowance.

(2) Without prejudice to the provisions of subsection (1), an acting allowance in relation to an acting appointment shall be paid as provided by the provisions of section 17 of these Standing Orders.

Acting allowance.

17. (1) A public officer duly appointed to act in a higher office than his or her own office shall, if required to act for a continuous period of twenty-eight days or more, be granted, in addition to his or her substantive salary, an acting allowance calculated on the following basis—

- (a) where the higher office carries a fixed salary, 95% of the difference between the public officer's substantive salary and the salary of the higher office; or
- (b) where the higher office carries a higher scale of salary, the difference between the public officer's substantive salary and the minimum salary of the higher office:

Provided that in both cases, the acting allowance shall not be less than the amount of the increment in the salary scale of the higher office.

(2) Where a public officer discharges the duties of another office in addition to his or her own and the two offices are distinct and separate offices in different departments, or do not stand to one another in any immediate relationship of superiority or subordination, the public officer shall be paid an acting allowance at the rate of one half of the initial or fixed salary of the post in which he or she is acting.

Duty allowance.

18. (1) A duty allowance which is attached to a public office shall be payable to the substantive holder of the public office only when he or she is actually performing the duties of the public office.

(2) The acting public officer shall, during his or her absence or incapacity, draw duty allowance referred to in subsection (1), except that in a case where an acting appointment is necessitated by the absence of the substantive officer on duty outside Saint Christopher and Nevis or on leave or sick leave for a period not exceeding ten working days at any one time, the duty allowance shall be payable both to the substantive holder and to the acting officer.

(3) The fees, if any, attached to a public office may be paid to an acting holder of that public office.

Acting allowance when acting officer on leave.

19. (1) Subject to subsection (2), a public officer who is in receipt of an acting allowance may continue to be paid the acting allowance while he or she is on departmental leave or sick leave not exceeding ten working days if it has not been necessary to appoint another public officer to perform the duties of the post in which he or she is acting.

(2) Except in the case of departmental leave or sick leave as provided for under this section, a public officer shall not be paid an acting allowance while on leave.

Subsistence and transport allowances payable to acting officers.

20. A public officer who is appointed to act in a higher office will be eligible for subsistence and car allowance at the rate prescribed for the higher office.

PART III

LEAVE, MEDICAL LEAVE, ETC.

Leave

Types of leave to which public officers are eligible.

21. Public officers are eligible for the following types of leave, that is to say—

- (a) departmental leave;
- (b) vacation leave;
- (c) medical leave;
- (d) maternity and paternity leave;
- (e) leave on urgent private affairs;
- (f) special leave to attend sporting and other events; and
- (g) study leave.

Leave to be granted subject to certain conditions.

22. (1) Leave shall be granted subject to the exigencies of the Public Service and shall be computed in working days.

(2) The rates of leave and the condition governing the grant of leave set out in these Orders shall apply to all monthly paid officers whether on the pensionable establishment of, or temporary term of, service except that in the case of teachers and officers on contract or secondment, special conditions shall apply in terms of their service.

(3) The Governor-General may, acting on the recommendation of the Commission, direct that a public officer take vacation where it is in the interest of the Public Service to do so.

Authority to grant leave.

23. (1) A Permanent Secretary or Head of Department is authorised to grant leave to a public officer in his or her Department below the level of Head of Department within the following limits—

- (a) all departmental leave;
- (b) vacation leave, up to a period not exceeding a total of absence of thirty working days in a year;
- (c) urgent private affairs.

(2) All other leave not referred to in subsection (1) and leave in excess of the limits prescribed in subsection (1) may be granted by the Chief Personnel Officer, in the case of a public officer below the level of Head of Department.

(3) In the case of a Permanent Secretary or Head of Department, an application for leave shall, with the consent of the responsible Minister, be submitted to the Chief Personnel Officer who shall refer the application to the Prime Minister for his or her approval.

(4) An application for leave shall be submitted on the forms prescribed by the Minister and copies of applications for vacation leave granted by a Permanent Secretary or Head of Department shall be forwarded to the Chief Personnel Officer for record.

(5) A Permanent Secretary or Head of Department may delegate the authority to grant departmental leave under subsection (1)(a) to a senior officer.

Leave not to entail the employment of extra staff except in certain circumstances.

24. (1) As a general rule, a Permanent Secretary or Head of Department is expected to reallocate a public officer's duties while he or she is on leave without extra staff.

(2) The employment of temporary relief may be sanctioned only in the case of a public officer absent on leave for periods exceeding twenty days.

(3) Temporary relief may be allowed for shorter periods if the exigencies of the Public Service so require.

Cancellation of vacation leave.

25. (1) A public officer may be recalled from leave in the exigencies of the Public Service except that the unexpired portion of leave shall be regarded as deferred leave.

(2) Where a public officer falls sick while on vacation leave, that officer's vacation leave shall stand deferred, and the officer shall be granted medical leave following the proper procedure for granting such leave.

(3) An officer who is granted medical leave in accordance with the provisions of subsection (2) shall report back on duty after the expiry of the medical leave.

(4) A public officer whose vacation leave is deferred in accordance with the provisions of this section shall, upon application in accordance with the provisions of this Part, be allowed to take the deferred vacation leave.

Extensions of leave.

26. (1) A public officer seeking an extension of leave shall in the absence of exceptional circumstances apply to his or her Permanent Secretary or Head of Department in sufficient time for a decision on the application to be communicated to him or her before the expiry of the leave granted.

(2) An application for an extension of leave on the grounds of ill health shall—

- (a) in case of a public officer who is undergoing medical treatment in Saint Christopher and Nevis, be supported by a medical certificate from a registered medical practitioner; and
- (b) in case of a public officer who is undergoing medical treatment outside Saint Christopher and Nevis, be supported by a medical certificate

from a registered medical practitioner in the country where the officer is undergoing treatment together with a medical certificate from a medical practitioner registered in Saint Christopher and Nevis.

Compulsory leave.

27. (1) A public officer may be required by the Permanent Secretary Human Resources, to take leave which is due to him or her.

(2) A public officer may also be required in the public interest to proceed on leave or to remain on leave after the expiry of leave granted to him or her, provided that such leave shall not count against leave to be earned in the future.

Absence without permission.

28. (1) A public officer who absents himself or herself from his or her duties without permission being granted or who fails to resume duty on the expiry of the leave shall be regarded as absent without permission and shall not be entitled to salary during such absence.

(2) All absences referred to in subsection (1), shall be reported to the Chief Personnel Officer and the period of absence may not be set off against any leave eligibility without the approval of the Chief Personnel Officer.

(3) Where a public officer absents himself or herself from duty for a period exceeding five working days without permission being granted, then such officer shall be deemed to have abandoned his or her post, and the matter shall be reported to the Service Commission accordingly.

(4) Where a public officer is found to have abandoned his or her post in accordance with the provisions of this section, without justification, then such officer shall, in accordance with the provisions of the Code of Discipline, be liable to dismissal.

Overstay of approved leave and leave not earned.

29. (1) Where a public officer through circumstances beyond his or her control is compelled to overstay his or her approved leave, he or she may, with the approval of the Chief Personnel Officer—

(a) have the excess leave deducted from the amount of any deferred leave or leave due in the next leave year; or

(b) refund salary in respect of the days of excess leave taken.

(2) For the purposes of these Standing Orders, a public officer who is granted medical leave exceeding sixty days on full salary shall not, while the medical leave is still in existence, earn any vacation leave.

(3) A public officer who is granted study leave without pay shall not earn any vacation leave in respect of the period spent on his or her studies.

Arrangements for the grant of leave.

30. Subject to the exigencies of the Public Service, Permanent Secretaries and Heads of Departments shall arrange that officers take departmental leave in the year in which it accrues.

Forfeiture of departmental leave not taken.

31. (1) Any departmental leave due and not taken in a particular year will lapse unless the public officer is precluded by the exigencies of the Public Service from taking such leave.

(2) The approval of the Chief Personnel Officer must be obtained for departmental leave not taken to be converted into vacation leave.

Rates of leave.

32. (1) The rates of leave for which the various grades of officers are eligible are set out in Schedule 1 to these Standing Orders.

(2) Where a public officer is upgraded to the higher leave earning category he or she will earn leave at the higher rate with effect from the date of upgrading.

(3) A public officer shall not be allowed to take vacation leave before he or she has completed one year of service from the date of his or her employment except on the grounds of urgent private affairs or serious indisposition.

Leave to be counted in respect of period of service.

33. (1) Except as provided by these Standing Orders, leave will be calculated or counted on the basis of one completed year in the service.

(2) For the purposes of this section, absences while on—

- (a) official duty;
- (b) departmental leave; or
- (c) medical leave with salary,

will count as service.

Leave prior to resignation.

34. (1) A public officer or employee who resigns his or her appointment after giving the prescribed notice or because of ill health or who is dismissed shall be granted the departmental and accumulated vacation leave, which he or she has earned.

(2) The leave referred to in subsection (1) shall not be included as part of the period of notice of termination of service.

(3) The provisions contained in subsection (1) shall not apply to a public officer or employee who, while on duty, resigns and fails to give the requisite period of notice.

Leave without pay.

35. Leave without pay may be granted at the discretion of the Chief Personnel Officer.

Medical Leave, Maternity Leave, Paternity Leave, and Family Emergency Leave

Circumstances in which medical leave may be granted.

36. (1) A public officer may be granted medical leave if the officer is ill or injured, provided that the illness or injury prevents the officer from carrying out his or her duties.

(2) Medical leave exceeding ten working days may be granted to a public officer if the officer produces additional medical evidence to the effect that such leave is required by the officer.

Medical leave in excess of two consecutive calendar days to require production of medical certificate.

37. (1) Medical leave on full pay to cover absence from duty due to illness or injury shall be granted, subject to the provisions of these Standing Orders, without affecting eligibility for departmental or vacation leave.

(2) An application for medical leave if it exceeds two consecutive working days shall be supported by a medical certificate issued by a registered medical practitioner practising in Saint Christopher and Nevis.

(3) Medical leave when granted shall be accounted for in working days.

Medical leave granted without production of medical certificate.

38. The total period of sick leave which may be granted for absence not supported by a medical certificate shall not exceed ten working days in a year, except that in the case of a teacher shall not exceed six working days in a year.

Maximum medical leave days to be granted.

39. (1) A public officer may be granted medical leave on full salary up to a maximum period of sixty working days during any period of twelve months.

(2) Where a public officer exhausts the medical leave referred to in subsection (1) and it is found necessary to extend the medical leave, then such officer may be granted an additional medical leave of sixty working days on half salary:

Provided that medical leave on full salary combined with medical leave on half salary shall not exceed one hundred and twenty working days.

(3) Where a public officer exhausts the medical leave referred to in subsections (1) and (2) such officer may be granted medical leave of sixty working days without salary.

(4) Where a public officer who is granted medical leave pursuant to the provisions of subsection (2) is eligible for vacation leave after the expiry of the medical leave with half pay, such officer shall be allowed to take vacation leave with full pay.

Medical leave for periods exceeding one hundred and twenty working days subject to Medical Assessment Panel's recommendation.

40. (1) A public officer who has been on medical leave for a continuous period of one hundred and twenty working days within one year, shall, unless specifically exempted on the advice of the Chief Medical Officer, be required by the Chief Personnel Officer, to submit himself or herself for an examination by the Medical Assessment Panel.

(2) Where the Medical Assessment Panel advises that the public officer be prematurely retired from the public service, unless the officer is engaged on daily rates of pay, the public officer shall be granted a minimum of two months leave on full salary.

(3) The recommendation of the Medical Assessment Panel shall be made and communicated to the Chief Personnel Officer within a period of two months prior to the expiry of the two months leave referred to in subsection (2).

Illness incurred while on duty.

41. (1) Upon production of a medical certificate, medical leave, on full pay, may be granted where a public officer is suffering from—

- (a) an injury sustained in the execution of his or her duties; or
- (b) an illness caused by or directly attributable to the nature of his or her duties.

(2) Medical leave granted under this section shall not be taken into account for purposes of counting any other leave to which the officer is entitled under these Standing Orders.

Officers may be required to appear before the Medical Assessment Panel.

42. (1) Where a Permanent Secretary is of the opinion that a public officer's performance is being impaired by the health or injury of the officer, and that it is necessary for the officer concerned to be medically examined, the Permanent Secretary shall, through the Chief Personnel Officer, request the Medical District Officer to examine the officer concerned, and the officer may, on the basis of the results of the examination, be required to appear before the Medical Assessment Panel.

(2) A public officer may be called upon at any time by the Service Commission to submit himself or herself for examination by a District Medical Officer, and may, on the basis of the results of the examination, be required to appear before the Medical Assessment Panel.

(3) An officer who is required to appear before the Medical Assessment Panel may bring with him or her a personal physician.

(4) Where it is decided that a public officer needs to be examined by the Medical Assessment Panel the public officer shall present himself or herself for examination at the place and time instructed.

(5) A public officer who fails to comply with an instruction given under this section, or who fails to comply with the medical advice given, may render himself or herself liable to disciplinary action.

Medical Officer to make a report in certain circumstances.

43. The Chief Personnel Officer shall, acting in accordance with the recommendation of the Service Commission, initiate disciplinary proceedings against a public officer, if a Government Medical Officer reports to him or her the situations listed in this section—

- (a) that the public officer has refused to carry out or is neglecting to carry out the medical advice given;

- (b) that the illness of a public officer has been caused by his or her own negligence or misconduct;
- (c) that the public officer is feigning in ill-health.

Maternity, paternity, and family emergency leave.

44. (1) A female public officer shall be granted maternity leave for a period of three months.

(2) A female public officer who requires extra days in addition to the period referred to in subsection (1) may, upon application, be granted any vacation leave to which she is entitled immediately after the completion of maternity leave.

(3) Where the female public officer referred to in subsection (2) has no vacation leave she is entitled to, then she may, upon application, be granted an unpaid leave.

(4) A male public officer who has completed two years service shall be entitled to paternity leave with pay, subject to the following terms and conditions—

- (a) the officer shall be granted five working days' paid leave per confinement up to a maximum of two confinements during his term of service;
- (b) the officer shall provide documentation declaring that he is married to the expectant mother or that he has been in a spousal relationship with the expectant mother for a period of not less than five years;
- (c) the officer shall, at least three months prior to the expected date of birth of the child, produce a medical certificate stating the expected date of the birth;
- (d) paternity leave will be granted within two weeks of the birth of the child;
- (e) only one period of leave shall be granted irrespective of whether more than one child is born as a result of the same pregnancy;
- (f) paternity leave may be taken in conjunction with annual vacation leave.

(5) For the purposes of subsection (4), "spousal relationship" means a marital relationship, or a common law relationship in which a male and a female have been cohabiting for a period of not less than five consecutive years.

(6) Where a public officer's child, spouse or parent becomes seriously ill and requires care, the public officer may, upon application, be granted a compassionate leave for a period of three days in order to deal with the family emergency, provided that the public officer would be required to provide written verification of his or her family member's illness and have it signed by a medical practitioner.

Other Forms of Leave

Leave on urgent private affairs.

45. (1) A public officer may be granted leave on the grounds of urgent private affairs, and an application for such leave shall be accompanied by a statement of the reasons for the application.

(2) A statement under subsection (1) shall, if desired, be treated as confidential.

Granting of leave on urgent private affairs.

46. (1) Leave on urgent private affairs shall be granted in accordance with the provisions of section 23 of these Standing Orders.

(2) A public officer may be required to take all leave for which he or she is eligible.

(3) A public officer may be granted, in addition to the leave referred to in subsection (2), leave on full salary to bring the total leave granted to fifty-four working days provided that such additional leave as may be granted will count against his or her future leave eligibility.

(4) If a public officer retires, resigns or is discharged before he or she becomes eligible for leave equal to the additional unearned leave taken, the public officer will refund to the Government the salary he or she might have been paid during that leave.

Special leave to attend sporting and other events.

47. (1) Special leave on full salary may be granted by the Chief Personnel Officer in the following circumstances—

- (a) to enable public officers who are selected by the proper authorities to represent Saint Christopher and Nevis or the West Indies in sports events;
- (b) to enable public officers who belong to legally recognised organisations and are selected by the proper authorities to attend gatherings of a national, regional or international character connected with such organisations;
- (c) to enable representatives of staff associations and trade unions to attend seminars, conferences, workshops in connection with the performance of the aims and objectives of their organisations;
- (d) to enable public officers who are selected by the proper authorities to represent a State or Inter-State or international side either in an administrative capacity or as a participant.

(2) Special leave under this section shall be limited to not more than one calendar month on any one occasion or in any one year and any leave required over and above this maximum shall be counted as leave without salary except that in any special case additional leave on full or half salary may be granted.

Study leave.

48. (1) Study leave may be granted to a public officer who—

- (a) has been appointed to the service for a period of five years;
- (b) is nominated by the Government to attend a course of study;
- (c) attends a course of study at his or her own request, with the approval of the Government; or
- (d) is personally granted a bursary or other award to follow a Government approved course of study.

(2) Where a public officer is nominated by the Government to attend a course of study the following conditions shall apply—

- (a) a Government approved course of study is a course for which Government has specifically chosen a public officer, but not a course of training which a public officer selects of his or her own volition even if the course was advertised by Government and the public officer approved;
- (b) a Government approved course should be of not more than two years duration (Certificate, Diploma, Attachment) and only in exceptional cases should they provide for training at degree level;
- (c) a public officer should not forfeit part of his or her vacation leave towards study leave if he or she is on a Government approved course as he or she is regarded as being on duty;
- (d) a public officer on study leave should not earn vacation for any period in excess of one year's leave entitlement;
- (e) a public officer may be permitted at the conclusion of a course of study overseas to spend his or her earned leave abroad;
- (f) a public officer who is selected by the Government for a Government approved course of study and considered to be on duty shall receive full pay.

(3) A public officer who receives a bursary or other award to attend a course of study or is otherwise accepted for admission to a course but is not nominated by the Government to attend the course, shall apply for approval of his or her attendance, at the course.

(4) If approval for attendance at a course is given under subsection (3), the following conditions shall apply—

- (a) a public officer who has been confirmed in a pensionable office shall be granted study leave without pay for the full period of the course;
- (b) a public officer who has not been confirmed in his or her appointment shall resign his or her appointment if he or she wishes to attend the course, provided that in either case, a public officer may be granted the full amount of leave for which he or she is eligible.

Officer to execute a bond.

49. (1) The grant of study leave referred to in section 48(1)(a) of these Standing Orders will be subject to the execution of an agreement by the public officer who is granted study leave to undertake to remain in the Public Service of Saint Christopher and Nevis for a minimum period specified under subsection (2) after the expiry of his or her leave.

(2) The minimum period referred to in subsection (1) shall be—

- (a) where a public officer attends a course of more than three months but less than six months duration, twelve months;
- (b) where a public officer attends a course of more than six months but less than two years duration, two years;
- (c) where a public officer attends a course of more than two years but less than four years duration, three years;

(d) where a public officer attends a course of four years and or more, five years.

(3) The agreement referred to in subsection (1), shall take the form of a bond with or without sureties, and if a public officer fails to be bound by the bond, he or his sureties shall be liable to repay to the Government all or any part of any allowances, fares, passages and salary paid to him or her during the period of the course as the Financial Secretary may specify.

Assistance when granted leave to attend course of training or study.

50. In exceptional cases, a public officer who is granted study leave on half pay or no pay to attend a course of training or study abroad may be granted financial assistance in the form of a loan in addition to any leave salary payable, at a rate determined in the light of the prevailing circumstances.

Examination fees may be paid by the Government.

51. Where a public officer is nominated by Government to attend a course of study and is granted leave for that purpose, his or her tuition and examination fees may, upon application by the officer before attending the course, be paid by the Government, unless such fees are included in any bursary or award which is made to him or her.

Miscellaneous Provisions

Leave registers and leave accounts.

52. (1) A Permanent Secretary or Head of Department is required to maintain a Departmental Leave Register in which leave granted by him or her shall be recorded.

(2) A Permanent Secretary shall, in addition, maintain individual leave accounts in the prescribed form in respect of all public officers in his or her Department.

(3) When a public officer is transferred from one Department to another his or her leave account shall be forwarded to the other Department.

(4) All earned leave other than departmental leave shall be entered in a public officer's leave account.

On death of an officer, cash equivalent of earned leave payable.

53. On the death of a public officer cash equivalent of any departmental or vacation leave which he or she has earned shall be paid to his or her estate.

Leave to count as pensionable service.

54. (1) Leave granted on full or half pay counts as pensionable service.

(2) Leave granted, without pay does not break continuity of pensionable service but it counts as pensionable service only when granted on grounds of public policy.

No pay leave to be discounted.

55. Leave without pay in excess of three months will not count for purposes of increment.

Return to duty to be reported.

56. The resumption of duty by a public officer after leave other than departmental leave shall be reported in writing by the Permanent Secretary or Head of Department to the Chief Personnel Officer, Accountant-General and Director of Audit.

PART IV

ADVANCES, SUBSISTENCE, TRAVELLING AND OTHER ALLOWANCES

*Advances***Advances in general.**

57. (1) A public officer may, with the approval of the Financial Secretary, receive advances from public funds for the purposes and on the conditions set out in this Part.

(2) Where such an advance is not specifically provided in these Orders, an advance may be made in exceptional circumstances with the prior approval of Financial Secretary, and in each case of such advance the conditions of security, interest and the mode of repayment should be settled before granting it.

Advances to officers travelling on duty.

58. (1) A public officer travelling on duty to another country may be given an interest free advance in anticipation of subsistence allowance.

(2) A public officer who is required to travel on duty may be given an interest free advance before leaving his or her station on account of hotel expenses.

(3) An advance under subsection (1) or (2) shall not exceed the total amount that would be drawn by that public officer at the authorised rate payable to him or her for the period that he or she is expected to be out of Saint Christopher and Nevis.

(4) An advance under subsection (2), shall be accounted for and retired in full within fourteen days of the public officer's return to Saint Christopher and Nevis and no advance shall be drawn while any portion of a previous similar advance remains outstanding.

*Subsistence Allowance***Subsistence allowance on travel duty.**

59. (1) The payment of a subsistence allowance is intended to ensure that a public officer who is required to travel on duty outside of Saint Christopher and Nevis who is absent on duty from his or her station over-night shall not be out of pocket as a result, and that the officer shall not derive any pecuniary benefit from travel duty.

(2) Subsistence allowance shall be calculated to meet only the additional expenditure which a public officer when travelling on duty away from home is obliged to incur over and above the expense which he or she would otherwise normally incur at home.

Subsistence allowance payable in respect of journeys within Saint Christopher and Nevis.

60. A public officer who is absent overnight from his or her station on duty in Saint Christopher and Nevis will be eligible for subsistence allowance at the prescribed rates.

Basis upon which subsistence allowance is calculated

61. The rates of subsistence allowance payable to public officers while on official Government duty abroad shall be determined, from time to time, by the Ministry of Finance.

Subsistence allowance when on duty outside Saint Christopher and Nevis.

62. A public officer who is required to travel on duty outside Saint Christopher and Nevis to attend conferences, meetings, official functions or on training shall receive subsistence allowance at the prescribed rates.

*Travelling Allowance***Travelling officers.**

63. (1) A public officer who is the holder of a travelling post shall be eligible for regular or commuted vehicle allowances.

(2) The rates of regular or commuted allowances payable to public officers referred to in subsection (1) shall be determined, from time to time, by the Ministry of Finance.

Mileage allowance.

64. A public officer who is not eligible for vehicle allowance will receive a mileage allowance in respect of travelling undertaken with the prior approval of his or her Permanent Secretary or Head of Department in his or her own car on official duties.

Rates of payment of vehicle and mileage allowances.

65. (1) The rates of regular and commuted vehicle allowances and mileage allowances shall be as prescribed by Cabinet, from time to time.

(2) The payment of vehicle allowances shall be dependent upon the public officer concerned maintaining the car in respect of which the allowance is paid, in a road worthy condition and using it for official travelling, and it shall be in the discretion of the Financial Secretary to authorise the continuation of the allowance during any period when the vehicle is temporarily not roadworthy.

Mileage records and mileage allowance claims.

66. (1) A public officer in receipt of mileage allowance are required to keep a daily record of his or her journey on duty.

(2) A record referred to in subsection (1) must show the dates, places visited and actual mileage.

(3) A Head of Department or Permanent Secretary shall be responsible for ensuring that proper records for mileage allowance are kept.

(4) A public officer shall submit a claim for the payment of mileage allowance in the prescribed form monthly within three days of the end of the month in which the expenditure was incurred, together with a certified statement of places visited, dates, distances travelled and the nature of the duty performed and responsibility for the correctness of the claim will rest on the public officer making the claim.

Continuation of allowances when a public officer is removed from travelling duties.

67. (1) Where a public officer who is in receipt of a regular or commuted vehicle allowance is transferred permanently to a post in which he or she is not entitled to such vehicle allowance, the public officer shall receive the vehicle allowance for a period not exceeding four months if the public officer maintains the vehicle for his or her use during that period.

(2) When the public officer who is in receipt of a regular or a commuted vehicle allowance is appointed to act in a post in which a smaller allowance is attached, the public officer shall be paid the allowance attached to his or her substantive post for a period of four months if he or she maintains the car for his or her use during that period.

Continuation of allowance on leave.

68. A regular or commuted vehicle allowance shall be payable to a public officer at the full rate during leave including sick leave.

Removal of baggage on transfer.

69. (1) Where the transfer of a public officer from one station to another involves the conveyance of the public officer's baggage including furniture and household effects, the Head of Department or the Permanent Secretary shall arrange for the transportation of the public officer's baggage to his or her new station.

(2) If damage to baggage occurs during transit, such damage may be assessed and the value of the damage reimbursed to the public officer concerned provided that no reimbursement will be made if the cause of damage is due to faulty packing.

(3) Where Government is unable to provide transportation on the transfer of a public officer from one station to another, transportation expenses shall be provided to the public officer for the transfer of his or her family and household effects.

PART V

INITIATION AND PROCESSING OF LEGISLATION

Promotion of new legislation or amending existing legislation.

70. (1) Where it is proposed to promote new legislation or to promote an amendment to existing legislation or to make subsidiary legislation the procedure set out in Schedule 2 to these Standing Orders shall, subject to the provisions of subsection (2), be followed in all cases.

(2) The procedure as set out in that Schedule shall not be changed or varied in anyway except by Cabinet, and where a change or variation becomes necessary, Cabinet authority to that effect must be sought and obtained.

(3) The Chief Parliamentary Counsel's Department shall not give consideration to any request for the preparation of legislation which does not follow the procedure referred to in subsection (1).

Authority to draft legislation.

71. Before drafting instructions are given to the Chief Parliamentary Counsel for drafting Bills or subsidiary legislation, the instructing Ministry or Department shall—

- (a) seek Cabinet approval in principle authorising the subject legislation; or
- (b) request through its Minister the authority of the Attorney-General or Solicitor-General for the legislation to be drafted without the prior approval of Cabinet, provided that such approval shall be given only in special circumstances.

Instructions to Chief Parliamentary Counsel.

72. (1) When Cabinet has approved the proposals for legislation, the instructing Ministry or Department shall then forward copies of the Minister's Cabinet memorandum and the Cabinet Minute together with any other relevant papers so that the legislative draftsman is given the clearest possible explanation of what it is intended to achieve by the legislation to be drafted.

(2) For the purposes of this section, the instructing Ministry or Department shall comply with the provisions of Part III of Schedule 2 to these Orders.

Allocation of drafting duties.

73. (1) The particular drafting task shall be assigned to a particular legislative draftsman by the Chief Parliamentary Counsel, and such officer shall generally be responsible for the legislation until it is enacted.

(2) Officers in the Ministry or Department promoting the legislation may be called on to attend a number of conferences with the legislative draftsman and will be expected to seek out and provide all information that may be required for the purposes of drafting the legislation.

Scrutiny of draft legislation.

74. The draft of any legislation when ready shall be provided to the instructing Ministry or Department, and the Ministry or Department are required not only to examine the legislation critically but also to circulate the draft legislation to persons who, in the opinion of the instructing Ministry or Department, should be given an opportunity to comment on the draft.

Satisfaction of the Attorney-General and the Solicitor-General.

75. The Chief Parliamentary Counsel shall bring to the personal attention of the Attorney-General and the Solicitor-General certain provisions in the legislation which is being drafted if such provisions—

- (a) may have the effect of altering any provision of the Constitution;
- (b) may interfere with private property;
- (c) fail to preserve existing personal or similar rights;
- (d) might render a person stateless;

- (e) are contrary to the rule of law as generally understood in a democratic society;
- (f) might offend against the comity of nations or against public international law.

Final draft legislation.

76. (1) After the legislation has been drafted by the legislative draftsman and approved by the promoting Ministry or Department and by the Attorney-General and Solicitor-General, if required, then the legislation shall be submitted to the Cabinet accompanied by a Memorandum of the subject Minister explaining the legal effect of the legislation's more important provisions.

(2) No Bill or subsidiary legislation shall be tabled in the National Assembly without Cabinet approval having been obtained.

PART VI**QUARTERS, FURNITURE ETC.****Free quarters.**

77. (1) The Minister may prescribe quarters which shall be free quarters.

(2) Free quarters will normally be unfurnished, and if furniture is provided by the Government, a furniture rental shall be charged.

Reduced rent quarters.

78. (1) The Minister may prescribe quarters which shall be reduced rent quarters.

(2) A public officer occupying reduced rent quarters shall pay half the assessed rental up to a maximum of 10% of his or her salary.

(3) Reduced rent quarters will normally be unfurnished and if furniture is provided by the Government a furniture rental may be charged.

Full rent quarters.

79. (1) The Minister may prescribe quarters which may be quarters owned or rented by the Government, and which shall be termed full rent quarters.

(2) A public officer occupying full rent quarters shall be charged the assessed rental up to a maximum of 20% of his or her salary and if full rent quarters are furnished a furniture rental will be payable in addition.

Furniture.

80. (1) Basic furniture may be provided on the scale to be prescribed by the Minister, and at the rental of 12% per annum of the cost of the furniture or of the assessed value in the case of used furniture.

(2) Variation to the scale may be made only with the authority of Cabinet.

(3) Furniture in a quarter will be replaced when deemed unserviceable by the Chief Personnel Officer.

Allocation of government quarters.

81. (1) The allocation of Government quarters to entitled public officers shall be the responsibility of the Housing Committee, and a public officer who refuses a quarter allocated to him or her shall bear the full cost of providing himself or herself with housing.

(2) If a Government quarter assigned to a particular officer is for any reason left unoccupied by the public officer ordinarily entitled to occupy it, it may be allocated temporarily to another public officer by the Housing Committee.

(3) A public officer allocated Government quarters shall continue to pay rent for such quarters while on leave unless he or she vacates the quarters or the quarters are occupied temporarily by another officer with the approval of the Housing Committee.

Sharing of quarters.

82. (1) Officers sharing Government quarters shall be required to share the assessed rental of the quarters but in no case shall such officer be required to pay more than 10% of salary as rent.

(2) The assessed rental of any furniture provided by the Government will be shared equally.

(3) Government quarters may not be shared, however, without the approval of the Chief Personnel Officer.

Payment of rent.

83. (1) Any rent due from a public officer in respect of Government quarters or furniture allocated to him or her shall be deducted from his salary at the end of each month in arrears.

(2) Rental is payable from the date on which a public officer takes over Government quarters to the date immediately preceding the date on which he or she hands them over, both dates inclusive.

Duties of Chief Personnel Officer.

84. The Chief Personnel Officer will be responsible for—

- (a) maintaining inventories of all Government furniture and fittings taken over by officers;
- (b) the custody of the keys of all unoccupied government quarters;
- (c) taking over Government quarters vacated by officers and furniture returned by them for handing over Government quarters and furniture which are allocated to officers;
- (d) reporting to the Accountant-General the occupancy and vacation of all Government quarters, together with their assessed rental;
- (e) maintaining up to date records of the assessed rentals of all reduced rent and full rent quarters.

Handing over and taking over of Government quarters and furniture.

85. (1) The custody of Government quarters and furniture shall be with the Chief Personnel Officer.

(2) An incoming occupant of Government quarters must acknowledge receipt of the Government quarters and all articles of Government furniture and equipment therein by signing the inventory.

(3) An out-going occupant of Government quarters shall hand over the keys of the quarters he or she is vacating and all articles of Government furniture and equipment as per inventory to the Chief Personnel Officer or to a public officer authorised by the Chief Personnel Officer who will check and sign the inventory in acknowledgment of their surrender.

(4) A public officer who is provided with Government quarters shall give at least one month's notice to the Chief Personnel Officer before he or she intends to surrender it.

Officer's liability for deficiencies or damages.

86. A public officer occupying Government quarters shall be liable for the cost of making good any deficiency, damage or neglect discovered during his or her occupancy or at the time he or she hands over the Government quarters.

Responsibilities of officer for Government quarters.

87. (1) A public officer shall take reasonable care of the Government quarters and its fixtures and all articles of Government furniture allocated to him or her.

(2) A public officer who is allocated Government quarters shall not alter the structure of the fixtures.

(3) If any alteration is desired, the public officer may make an application to the Chief Personnel Officer.

(4) All defects in Government quarters occupied by a public officer shall be reported promptly by the public officer to the Chief Personnel Officer.

(5) A public officer who is occupying Government quarters is responsible for maintaining the grounds of Government quarters in reasonable conditions.

(6) If the grounds are neglected, the Department of Public Works may direct the public officer to restore them to a neat and orderly state and if the direction is not complied with within such period as may be allowed the Minister responsible for Public Works may direct the Chief Engineer, Ministry of Public Works, to effect the desired improvements at the expense of the public officer concerned.

Quarters for members of officer's family only.

88. (1) Government quarters are intended for the accommodation of public officers, their wives, husband, children and dependent relatives only.

(2) No part of any Government quarters may be sublet or occupied by another family unit, whether relatives or friends, without the formal permission of the Chief Personnel Officer.

Termination of tenancy.

89. The Department of Public Works may terminate the tenancy of Government quarters at any time by giving three months notice to the occupant.

PART VII
GENERAL PROVISIONS

Channels of communication.

90. (1) A public officer who wishes to make representations relating to his or her conditions of service or any other matter of public nature shall first address the Permanent Secretary or Head of Department through his or her Supervisor.

(2) If a public officer is not satisfied by a reply received after representation made under subsection (1), he or she may write a response to the Chief Personnel Officer through the Head of Department or Permanent Secretary and the Permanent Secretary or Head of Department shall together with the response in a separate memorandum submit his or her own views on the representation made.

(3) The Chief Personnel Officer shall address his or her reply to the public officer through the Permanent Secretary or Head of Department.

(4) Representations received other than through the correct channel shall be returned unanswered to the public officer through the Permanent Secretary or Head of Department.

Annual confidential report.

91. (1) A confidential report on a public officer below the level of Head of Department shall be prepared bi-annually in the form specified and submitted to the Chief Personnel Officer during the months of January and July for the six months preceding the date of the confidential report.

(2) A report on—

- (a) a Head of Division shall be made by the Permanent Secretary or Head of Department;
- (b) any other public officer shall be made by the Supervisor or the Head of Division, Head of Department or the Permanent Secretary.

(3) Confidential reports shall be transmitted in duplicate on the form prescribed by the Minister to the Chief Personnel Officer who will forward one copy to the Secretary to the Commission.

Reports may be submitted at other times.

92. Where there are special reasons, confidential reports on a public officer may be submitted at any time or may be called for by the Chief Personnel Officer.

Confidential reports to be shown to officer reported on.

93. (1) A confidential report on a public officer's performance shall be discussed with the public officer before it is forwarded to the Permanent Secretary of his or her Department and the Chief Personnel Officer.

(2) If a public officer's work is found to be unsatisfactory in any respect, and it is felt that he or she is capable of improvement, he or she shall be warned before his or her confidential report is written.

(3) A copy of the warning letter and of any reply which the public officer may make shall be forwarded to the Chief Personnel Officer at the time the annual confidential report on the public officer is submitted.

Death of a public officer to be reported immediately.

94. A Permanent Secretary or Head of Department shall report the death of public officer in the Department immediately to the Chief Personnel Officer.

Next of kin.

95. (1) On first appointment, a public officer is required to notify the Chief Personnel Officer of the names and addresses of not more than two relatives or friends whom he or she would wish to be informed in the event of his or her death or serious illness.

(2) Any change in those particulars should be notified promptly to the Chief Personnel Officer.

Death or injury to a public officer.

96. (1) If a public officer is killed or injured as a result of an accident while he or she is on duty, an immediate investigation shall be made and the Permanent Secretary and a Board of Enquiry shall be appointed by the Cabinet to investigate the circumstances of the death or injury.

(2) The report of the Board of Enquiry shall be sent to the Chief Personnel Officer as soon as practicable.

Upkeep of public buildings.

97. (1) A Permanent Secretary or Head of Department shall be responsible for ensuring that public buildings under his or her charge—

- (a) are equipped, where necessary, with extinguishers and that arrangements are made for the periodical examination of such equipment and supply of refills; or
- (b) are as far as practicable, hurricane proof, and that all doors, windows and other entrances or exits are made secure on notification of a hurricane warning.

(2) Unless otherwise expressly stated, the responsibility for maintaining all Government buildings vests in the Ministry of Public Works, Transport and Utilities.

Loss of, or damage to, private property.

98. A public officer shall not be entitled to compensation in respect of losses of, or damage, to private property incurred through fire, theft, riots, or other causes, in the course of duties, but in special cases the grant of compensation may be made as an act of grace.

Occupation of public building by Departments.

99. (1) A Permanent Secretary or Head of Department is required to keep a register of all keys to buildings under his or her control.

(2) A public officer to whom keys are issued for retention will be required to acknowledge the receipt of keys by signature in the register kept under section (1).

(3) Duplicates of keys shall not be kept in the office of the buildings for which they are used.

(4) A Permanent Secretary or Head of Department shall ensure that keys of offices and buildings are entrusted only by responsible public officers.

(5) Any loss of keys must be reported at once to the Permanent Secretary or Head of Department.

(6) A public officer entrusted with keys under this section is personally responsible for their adequate care.

(7) The loss of any key in circumstances suggesting negligence by the public officer concerned will render him or her personally liable for any expenses incurred by the Government in its replacement or in furnishing new locks and keys.

(8) The Accountant-General shall keep all duplicate keys of safes in the Treasury vault and maintain a record of all safe and public officers to whom the safe keys are issued.

(9) A public officer to whom the safe keys are issued is personally responsible for their security and shall report losses immediately to the Accountant-General.

Franking of official correspondence.

100. Official correspondence, including letters, printed matter and miscellaneous packets, which is to be transmitted free by the post, must bear on the envelope or cover, the words “ON Saint Christopher and Nevis Government Service” and, in the lower left hand corner the signature and official designation of a public officer duly authorised to frank official postal packages.

Official seal.

101. Impressions of official seals shall not be given to any private person.

SCHEDULE 1 TO ORDERS

(Section 32(1))

VACATION ENTITLEMENT OR ACCRUALS

1. Vacations shall be fixed according to an officer’s substantive salary scale, which is listed on a K scale.
2. The following rules shall govern the vacation leave process, that is to say—
 - (a) leave for all officers accrues on a monthly basis;
 - (b) vacation leave requests shall be approved by an officer’s Ministry, except where the request is for leave in excess of twenty working days then the approval of the Chief Personnel Officer shall be sought;
 - (c) an officer may, with the approval of the Permanent Secretary, be allowed to carry a vacation leave balance, which balance must be taken in that subsequent year;
 - (d) additional carry-over of vacation leave may be allowed if the exigencies of the position prevent an officer from taking the vacation leave, and which request shall be approved by the Chief Personnel Officer.
3. The entitlement or accruals for existing officers and new officers shall be as set out hereunder:

EXISTING OFFICERS

| K scale | Monthly Accrual | Annual Accrual | Maximum Accrual | Maximum carry Forward |
|---------------|-----------------|----------------|-----------------|-----------------------|
| K21 and below | 1.25 | 15 | 30 | 7.5 |
| K22 – K32 | 1.75 | 21 | 42 | 10.5 |
| K33 and above | 2.25 | 27 | 54 | 13.5 |

NEW OFFICERS

| K scale | Monthly Accrual | Annual Accrual | Maximum Accrual | Maximum carry Forward | Year3 | Year6 | Year9 |
|---------------|-----------------|----------------|-----------------|-----------------------|-------|-------|-------|
| K21 and below | 1 | 12 | 24 | 6 | +1 | +1 | +1 |
| K22 – K32 | 1.5 | 18 | 36 | 9 | +1 | +1 | +1 |
| K33 and above | 2 | 24 | 48 | 12 | +1 | +1 | +1 |

SCHEDULE 2 TO ORDERS*(Section 73(1))***PROCEDURE FOR INITIATION AND PROCESSING OF LEGISLATION****PART I****GENERAL**

1. The contents of this Schedule are intended to assist Government Ministries and Agencies in the preparation of appropriate instructions to the Attorney-General's Chambers for the drafting of legislation.
2. (1) The Chief Parliamentary Counsel's Department in the Ministry of the Attorney-General, Justice and Legal Affairs is charged with the duty of drafting both principal and subsidiary legislation.
(2) Primarily the duty referred to in this paragraph entails translating Government policy into Bills for enactment into laws by the National Assembly.
(3) The drafting of legislation can only be embarked upon on the instructions of the Permanent Secretary of a Ministry addressed to the Attorney-General, except that such instructions shall only be given following a Cabinet decision on the matter.
3. In order to ensure speedy and effective service to every Ministry, Statutory Corporation, and Statutory body by the Chief Parliamentary Counsel's Department it is important that instructions for the drafting of any legislation (whether principle legislation or subsidiary legislation) be as adequate and as specific as possible.

PART II**INITIATION OF PROPOSALS FOR LEGISLATION***Responsibility for initiating legislation*

4. (1) The responsibility for initiating legislation within—
 - (a) a Ministry vests in the Minister holding the portfolio of that Ministry;
 - (b) a special Department, Statutory Corporation, or Statutory body vests in the Minister to whom responsibility for the Department, Statutory Corporation, or Statutory body is assigned.
(2) Where a Ministry, Department, Statutory Corporation, or Statutory body initiates proposals for legislation, then the Permanent Secretary, Head of Department, Statutory Corporation, or Statutory body, as the case may be, shall approach the minister responsible for the subject with a view to obtaining his or her decision as to whether the legislation is necessary.
(3) Where a Ministry, Department, Statutory Corporation, or Statutory body considers that new or amending legislation by an Act of Parliament is necessary, then a Cabinet Memorandum seeking for Cabinet approval in principle shall be submitted by the Minister to the Cabinet.

Seeking Cabinet approval in principle

5. (1) The Cabinet Memorandum shall set out the principles of the policy intended to be carried into effect by the proposed legislation, and the reasons and the reasons why it is considered necessary, but should not enter on the detailed changes in existing law which will be needed.

(2) It must be stated in the Cabinet Memorandum the classification of the proposed legislation.

(3) The classifications referred to in sub-paragraph (2) of this paragraph are the following—

- (a) URGENT – To be introduced at the current meeting of the National Assembly;
- (b) PRIORITY A – To be introduced at the next meeting;
- (c) PRIORITY B - To be introduced at the next meeting but one;
- (d) PRIORITY C - To be introduced at some later time.

(4) Wherever possible, a draft of the Cabinet Memorandum should be sent in advance to the Attorney-General's Chambers in good time so that advice may be given on whether an Act of parliament is necessary in order to achieve the objects desired, and on other legal aspects of the proposal.

(5) Except in cases of extreme urgency or for other exceptional reasons, instructions for the drafting of a Bill shall not be given without Cabinet's approval in principle.

(6) Once the approval of Cabinet is obtained, the Cabinet secretary shall, as soon as possible, accordingly notify the sponsoring Ministry, Department, Statutory Corporation, or Statutory body, as the case may be.

Preparation of Green and White Papers

6. In case of any proposed legislation which is likely to be controversial, the sponsoring Ministry, Department, Statutory Corporation, or Statutory body shall, with the approval of Cabinet, prepare a Green Paper containing a general outline of the policy to which legislative enactment is being sought and circulate the paper to the public for the purpose of receiving comments on the proposed legislation.

7. (1) After the comments are received from the public, the sponsoring Ministry, Department, Statutory Corporation, or Statutory body shall forward the comments to Cabinet which shall review the same and determine what is to be included in the proposed legislation.

(2) Thereafter, the sponsoring Ministry, Department, Statutory Corporation, or Statutory body shall prepare a White Paper outlining what Government intends to put in the proposed legislation.

8. The White Paper shall, after it is discussed by the relevant stakeholders as Cabinet may determine, form the basis of instructions to the Attorney-General, and it may be circulated to the public.

PART III

DRAFTING INSTRUCTIONS

9. Once cabinet approval is obtained for the drafting of any proposed legislation, the Permanent Secretary of the Ministry concerned shall, under his or her hand, forward to the Attorney-General's Chambers instructions for the drafting of the proposed legislation.

10. (1) Drafting instructions shall contain the following information—

- (a) full details of the policy intended to be carried into effect by the proposed legislation;
- (b) references to enactments proposed to be repealed or amended;
- (c) references to areas in which existing legislation is defective or reasons for wanting to enact new legislation or amend legislation;
- (d) information on how the Ministry proposes to carry its policy into effect;
- (e) information on whether Ministries and other institutions which have a stake in the matter have been consulted, and if yes, what their views are;
- (f) other information such as what the Ministry would like to be prohibited, and the applicable penalties; and
- (g) an indication of the priority of the proposed legislation as determined by Cabinet.

(2) Drafting instructions should be accompanied by any relevant memoranda, reports of committees and other material which may be useful to the legislative draftsman.

11. Where the instructing Ministry has any particular legislation which it would like to be used as a precedent, the legislation should be sent to the Attorney-General's Chambers with the drafting instructions, and not *in lieu* of them.

12. (1) If there were any studies or consultancies carried out in respect of any matter, the reports of such studies or consultancies should be made available to the legislative draftsman with drafting instructions and not *in lieu* of them.

(2) It should also be indicated which findings or recommendations of the study or consultancy, as the case may be, have been endorsed by Cabinet, and which of them Cabinet has directed should be put into legislative form.

13. If it is necessary to clarify any issue during the drafting process, the legislative draftsman will contact the sponsoring Ministry and arrange a meeting.

PART IV

CONSIDERATION OF DRAFT LEGISLATION

General

14. (1) Once a preliminary draft of the required legislation is produced and approved by the Attorney-General, a copy of the same will be forwarded to the relevant Permanent Secretary for his or her Ministry's consideration and comments.

(2) If other Ministries or institutions have a stake in the matter they should be provided with copies of the draft legislation.

(3) Any person to whom draft legislation is sent should scrutinise the such legislation with care so as to make sure that it will be able to give effect to the desired policy.

(4) Alterations to the draft legislation shall in no circumstances be made otherwise than by the legal draftsman.

15. Any comments or suggested amendments should be forwarded to the legislative draftsman as soon as possible, in writing for record purposes, in which case an amended version of the draft will be produced and the process described in paragraph 14.

16. (1) If a Ministry approves a draft legislation, it shall inform the Attorney-General's Chambers in writing, and also indicate whether it is ready to proceed to Cabinet.

(2) Cabinet copies of the draft legislation shall be produced and forwarded to the relevant Ministry to enable it to present the same to Cabinet.

17. The procedures set out in paragraphs 13 and 14 shall apply to subsidiary legislation.

Preparation of Blue Print to a Bill

18. After a draft legislation (Draft Bill) is considered and approved by Cabinet, the sponsoring Ministry shall prepare a blue print of the Bill for circulation to members of the public.

Legislative Programme

19. Before each sitting of the National Assembly, the Prime Minister's Office shall circulate a request for a list of Bills proposed to be introduced during the sitting of the National Assembly, and at subsequent sittings by each Minister.

20. (1) The returns from Ministries shall be consolidated and submitted to the Cabinet Legislation Committee, which shall prepare, for Cabinet approval, a programme for the forthcoming sitting, and subsequent sittings of the National Assembly.

(2) The order of priority of each Bill shall be determined by Cabinet.

21. Bills which are not included in the programme may be introduced during the sitting of the National Assembly, with the approval of Cabinet, should the need arise, but this should as far as possible be avoided, since in such cases there is no adequate time for full consideration of the drafting of the Bill.

FIFTH SCHEDULE*(Section 53)***FOREIGN SERVICE REGULATIONS**

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FOREIGN SERVICE REGULATIONS

PART I

PRELIMINARY

Citation.

1. These Regulations may be cited as the Foreign Service Regulations.

Interpretation.

2. In these Regulations—

“child” means—

- (a) a person under the age of 18 years;
- (b) a person 18 years or older whose special circumstances are such that he or she is unable to reasonably provide for his or her daily requirements and “special circumstances” means the person has—
 - (i) a serious illness; or
 - (ii) a physical or mental disability;
- (c) a person 18 years or older but under the age of 25 years who is receiving instruction at an educational establishment or undergoing training for a trade, profession or vocation, whether or not he is also, or will also be, in gainful employment;

“Foreign Service” means that branch of the government responsible for administering the external affairs of the country, consisting of public servants and such other persons as may from time to time be appointed or otherwise assigned thereto;

“Foreign Service Officer” means an officer appointed and assigned to the Foreign Service with responsibility for carrying out representational duties;

“the Government” means the Government of Saint Christopher and Nevis;

“Head Office” means the Ministry of Government responsible for administering the external affairs of the country;

“Head of Foreign Service” means the Permanent Secretary of the Ministry;

“Head of Mission or Consular post” means any Ambassador, High Commissioner or other principal diplomatic representative of Saint Christopher and Nevis accredited to any other country or international organisation subject to the provisions of the Constitution governing such matters;

“locally recruited staff” means employees, other than citizens of Saint Christopher and Nevis, recruited in the country in which a Mission is situated, recruited and employed at such a Mission;

“Minister” means the Minister of Foreign Affairs;

“Ministry” means the Ministry of Foreign Affairs;

“Mission” means an overseas office of the Government responsible for carrying on such representational matters as may be designated and directed by the Minister;

“non-diplomatic staff” means officers who perform non-representational duties on behalf of the Ministry or any of its Missions;

“officer” means a person holding an appointment in the Public Service within the Ministry and includes Foreign Service Officers and non-diplomatic staff;

“Permanent Secretary” means the Permanent Secretary in the Ministry;

“posting” means the assignment of an officer for duties at Head Office or at any of the Missions of the Government;

“transfer” means the normal movement of a public servant between Government Ministries, other than between the Ministry and its Missions.

Application.

3. (1) These Regulations apply to officers of the Saint Christopher and Nevis Foreign Service in respect of the matters specially covered by them.

(2) Notwithstanding subsection (1), where no specific provision has been made in these Regulations, the other regulations and rules governing the Public Service shall apply to officers of the Foreign Service.

(3) These Regulations shall apply to Heads of Missions or Consular posts save and except where their instrument of appointment so stipulates.

(4) These Regulations shall apply to officers already in the Foreign Service, from the date it comes into force.

PART II

FOREIGN SERVICE AND APPOINTMENTS THERETO

Foreign Service.

4. (1) The Saint Christopher and Nevis Foreign Service is an integral part of the Saint Christopher and Nevis Public Service.

(2) The Saint Christopher and Nevis Foreign Service is an instrument of the Government of Saint Christopher and Nevis entrusted to conduct the international relations of Saint Christopher and Nevis.

(3) Officers of the Foreign Service are subject to the administrative authority of the Permanent Secretary.

(4) The Ministry shall—

- (a) strive to maximize the uptake of each new member of staff in respect of his or her roles and functions in the Foreign Service;
- (b) facilitate an orientation and induction process of each new member of staff; and
- (c) develop and monitor an orientation and induction process in collaboration with the Human Resources Management Department.

Structure of Foreign Service.

5. The Foreign Service shall comprise—

- (a) the Head Office;

(b) the Overseas Missions.

Foreign Service officers.

6. (1) Officers of the Foreign Service may be classified as—
- (a) representational officers;
 - (b) non-representational officers; and
 - (c) locally recruited officers.
- (2) The officers classified in regulation 6(1) are set out in Schedules 1, 2 and 3.

Appointment of officers.

7. (1) Appointments to the offices of Ambassador, High Commissioner or other principal representatives of Saint Christopher and Nevis in any other country or accredited to any international organization or to any office, shall be made in accordance with the Constitution.

(2) Appointments of locally recruited staff at the Overseas Missions are made by the Heads of Mission after consultation with the Permanent Secretary and in accordance with regulation 63.

(3) The Minister may, in writing, approve of the appointment of persons to be appointed otherwise than in accordance with regulation 7(2).

(4) Appointments to offices other than those specified in subsections (1), (2) and (3) are made on the recommendation of the Public Service Commission in accordance with the requirements of the Constitution of Saint Christopher and Nevis 1983.

Qualifications.

8. (1) Representational officers and non-representational officers who are members of the Public Service, shall be citizens of Saint Christopher and Nevis who possess the necessary qualifications, one of which should be a degree from an accredited University.

(2) Notwithstanding regulation 8(1), the Minister may give consideration to a citizen with—

- (a) a professional qualification; and
- (b) any combination of experience or training, which is equivalent to the minimum standards of the degree required.

(3) Notwithstanding regulation 8(1), non-representational staff, other than members of the Public Service may be recruited from among—

- (a) Nationals of OECS and CARICOM countries or other Commonwealth Caribbean countries; or
- (b) Nationals of the host country and other friendly states, who fulfil the other requirements in respect of these offices.

Vacant posts.

9. Positions of non-representational and locally recruited officers which may become vacant from time to time may be advertised.

Personnel file.

10. The Head of a Mission or a Consular post shall keep personnel files of each employee and shall make these available at regular intervals to the Permanent Secretary or the Minister.

Annual evaluation.

11. (1) The Head of a Mission or a Consular post shall provide an annual evaluation of each staff member to the Permanent Secretary or the Minister.

(2) The Head of a Mission or a Consular post shall provide a self-evaluation each year on his or her performance and forward the same to the Permanent Secretary and the Minister.

(3) The Head of a Mission or a Consular post shall provide such other information on his or her performance, conduct and behaviour as may be requested by the Permanent Secretary or the Minister.

Work programme.

12. By the first day of January of every year, the Head of a Mission or a Consular post shall provide a work programme for the current calendar year for the input and approval of the Permanent Secretary.

PART III**POSTING OF OFFICER****Posting.**

13. An officer may be posted to a Mission, a Consular post or to Head Office.

Notice of posting or transfer.

14. (1) An officer shall be given at least three months' notice of a posting or a transfer.

(2) Notwithstanding subsection (1), where the exigencies of the service require, an officer may be given a shorter period of notice.

Service in Head Office.

15. (1) Subject to regulation 14(2), a Foreign Service Officer shall on first appointment be required to serve in Head Office for a period of not less than one year before becoming eligible for posting overseas.

(2) Subject to regulation 14(2), a member of the non-diplomatic staff recruited in Saint Christopher and Nevis shall on first appointment be required to serve at Head Office for a period of not less than six months before becoming eligible for posting overseas.

(3) The Minister may, where he or she considers it proper or expedient to do so, vary or waive the period of service under regulations 15(1) or 15(2).

Tour of duty.

16. (1) Subject to regulations 15 and 16(2), a tour of duty at Head Office or in any Mission or Consular post shall be three years.

(2) Notwithstanding subsection (1), where in the opinion of the Minister the exigencies of the service or prevailing conditions at the post justify it, an officer may be required to serve for a shorter or a longer period.

(3) An officer shall not normally be required to serve in any one Mission or Consular post for a period in excess of two consecutive tours of duty, unless stipulated by the Minister.

(4) An officer shall normally be required to spend at least one tour out of three at the Head Office.

(5) Where, owing to the exigencies of the Public Service, a period of duty is extended beyond three years, the succeeding tour will not as a consequence be shortened.

Travel and relocation expenses.

17. (1) When an officer travels to take up an appointment at a Mission, Consular post or to the Head Office at the end of a tour of duty, the Government shall pay the necessary travel and relocation expenses of the officer including—

- (a) economy airfare passage by the approved route to his or her destination;
- (b) the cost of—
 - (i) transportation of his or her baggage and personal effects; and
 - (ii) insurance against loss or damage of the same;
- (c) transportation of not more than one motor car; and
- (d) transportation of such household effects as may be approved by the Minister.

(2) Payment of expenses under regulation 17(1)(b), (c) and (d) is conditional upon the expenses having been incurred within three months of the date of the officer's travel or such further time as the Minister may allow.

(3) The Government shall also pay the cost of passages, transportation and insurance against loss or damage of the personal baggage of the following members of an officer's household who accompany him or her or join him or her subsequently—

- (a) the officer's spouse; and
- (b) up to three of his or her dependent children who are living in his or her household.

(4) The cost of transportation of personal and household effects shall be subject to the weight limits prescribed by the Permanent Secretary and shall be by the most economical mode of transportation.

Refund for cost of storage.

18. (1) Where an officer proceeds on leave from a Mission or Consular post prior to being posted to another Mission or Consular post, he or she shall be refunded the cost of storing in the country of the former posting or of the new posting, his or her

personal effects and such household effects as are approved by the Permanent Secretary, until he or she occupies appropriate accommodation in the country of new posting.

(2) Where an officer has been allowed the cost of transporting his or her personal effects under regulation 17(1) but cannot immediately find suitable accommodation, he or she shall be refunded such reasonable cost of storage of said personal effects for a period of thirty days or for such further period as the Permanent Secretary may allow.

(3) The onus is on the officer to persuade the Minister that the costs are economical and reasonable.

Means of transportation.

19. (1) Subject to regulation 19(2), officers are required to travel by air, by the most economical route when proceeding to a posting.

(2) Where the Minister is satisfied that the circumstances warrant the use of other means of transport he or she may waive the requirement under regulation 19 (1).

Travel prior to retirement.

20. An officer leaving a Mission or Consular post immediately prior to retirement shall have the same entitlement in respect of travel as an officer being posted from a Mission or Consular post to the Head Office.

Death of officer.

21. (1) Where an officer, resident in Saint Christopher and Nevis is posted abroad and dies while serving at a Mission or Consular post, the cost of transportation of the body of the deceased officer, spouse and children of his or her household and their personal and household effects to Saint Christopher and Nevis shall be borne by the Government of Saint Christopher and Nevis and shall be in a manner approved by the Permanent Secretary.

(2) Subject to regulation 21(3), the members of an officer's household may be entitled to retain the officer's accommodation for a period not exceeding three months, where such accommodation is owned by the Government of Saint Christopher and Nevis, and to receive all the officer's allowances and benefits for a period not exceeding one month after the date of the officer's death.

(3) The Minister may, extend the periods specified in regulation 21(2).

Secondment.

22. (1) An officer requesting secondment to a post or position outside of the Foreign Service shall—

(a) attach a copy of the letter of recommendation of the Head of the organization of the secondment;

(b) give not less than three months advanced notice.

(2) The period for such secondment shall not exceed three years.

(3) The period of the secondment shall be for a period that is consistent with the national interest of Saint Christopher and Nevis and shall be determined by the Minister.

(4) Notwithstanding the period specified pursuant to subsections (2) and (3), where the exigencies of the service require, that period may be shortened.

PART IV
ALLOWANCES

Foreign Service allowance.

23. (1) An officer posted at a Mission or Consular post shall be paid a Foreign Service Allowance at the rate approved in respect of officers.

(2) In determining the allowance payable under regulation 23(1), regard shall be had where relevant to the following factors—

- (a) the difference between the costs of living in Saint Christopher and Nevis and that of the host country;
- (b) the need to ensure a standard of living commensurate with the officer's status as a diplomatic representative of Saint Christopher and Nevis;
- (c) the performance of certain diplomatic duties by a spouse;
- (d) the need to incur entertainment expenses;
- (e) the difference in weather between Saint Christopher and Nevis and the host country; and
- (f) the marital status of the officer.

Spouse and children allowance.

24. An officer posted at a Mission or Consular post if he or she has a spouse or children or both shall be paid a spouse and children allowance at the approved rate in respect of a spouse and children who reside with the officer.

Education allowance.

25. (1) An education allowance shall be paid to an officer posted at a Mission or Consular post in respect of each child educated at primary or secondary levels as follows—

- (a) where the child resides with the officer and attends school in the host country; and
- (b) where in that country free education of the standard provided in Saint Christopher and Nevis is not available,

an amount shall be allocated for the cost of compulsory fees where these costs do not exceed the limits approved by the Minister.

(2) Subject to regulations 24 and 25(1), the education allowance shall be paid from the day on which the child enrolls in the school and shall cease on the day the officer relinquishes duty at that Mission or Consular post or the child completes that phase of education, whichever is sooner.

(3) An officer who is transferred from one Mission or Consular post to another may, with approval of the Minister, continue to receive the allowances payable in respect of his or her former posting until the date of his or her assumption of duty at the new posting.

Wardrobe allowance.

26. (1) An officer on his or her first posting away from Head Office shall be paid, at the approved rates, a wardrobe allowance in respect of himself or herself and for the members of his or her family who reside with him or her.

(2) A wardrobe renewal allowance shall be paid every three years to each officer in receipt of an allowance under regulation 26(1).

PART V

ACCOMMODATION FOR OFFICERS

Setting-up grant.

27. (1) A setting-up grant will be paid to officers of the Foreign Service on their first posting to the Mission in order to assist in meeting the initial cost of establishing residence abroad.

(2) The setting-up grant is payable at rates approved by the Permanent Secretary.

Accommodation for Heads of Mission.

28. Heads of Mission will be provided with free furnished accommodation and with a household or domestic helper.

Accommodation owned by Government.

29. (1) Where suitable furnished accommodation rented or owned by the Government of Saint Christopher and Nevis is available, an officer may be required to occupy it.

(2) Where an officer is required to occupy the accommodation referred to in regulation 29(1) but elects to occupy other accommodation, he or she will be entitled to the normal accommodation allowance due to his or her rank.

(3) Notwithstanding regulation 29(1), an officer serving abroad, who owns and occupies his or her own house in the country of post, may be granted, with the approval of the Minister—

- (a) an allowance *in lieu* of furnished accommodation provided by the Government; and
- (b) such an allowance which shall not exceed the maximum amount payable as rental for furnished accommodation for officers of similar rank.

(4) The allowance referred to in regulation 29(3) will be determined by the Minister and shall not exceed the maximum amount payable as rental for furnished accommodation for officers of similar rank.

Hotel expenses.

30. (1) An officer who is unable to move into suitable accommodation immediately on assumption of duty at a Mission or Consular post shall be eligible for payment of hotel expenses for himself or herself and family up to a maximum amount per day as the Minister may determine.

(2) The period of such eligibility shall not exceed twenty-eight days or such longer period as the Minister may determine commencing not earlier than seven days before the date of assumption of duty.

Moving expenses.

31. (1) Where an officer is required by the Head of Mission or Consular post to change his or her accommodation he or she will be reimbursed the reasonable expenses incurred in moving his or her household and personal effects from the former accommodation to the new accommodation.

(2) Where in such circumstances, an officer is required to pay rent simultaneously for a period for both the former and the new accommodation, he or she will be reimbursed the cost of the additional expenditure involved.

Termination of lease.

32. (1) When negotiating a lease, an officer should endeavour to secure the insertion of a clause which will enable them to terminate the lease at short notice in the event of transfer before the lease expires.

(2) In the case of a tenancy agreement which does not already provide for termination at short notice, efforts should be made to obtain an agreement in writing with the lessor enabling the tenancy to be terminated before its expiry if the lessee is transferred.

(3) If, on leaving his or her post otherwise than at his or her own request, an officer is unable to dispose of the unexpired balance of the lease of his or her accommodation immediately, or is to pay rental *in lieu* of notice, he or she will be paid the resulting cost.

Security Deposit.

33. (1) Where a security deposit is required on the lease of an officer's accommodation, he or she will be paid the amount of this deposit.

(2) Where such deposit is not recovered at the termination of the lease and the Head of Mission or Consular post is satisfied that the non-recovery is due to the officer's fault, then the officer shall be called upon to make good the amount of the deposit.

Housing allowance during absence.

34. (1) An officer who is eligible for a housing allowance under regulation 29, will continue to receive housing allowance during any period of authorised absence from his or her post other than on study leave or on leave of absence on half pay or without pay in excess of three months, provided he or she is to return to duty at the Mission or Consular post and the Head of Mission or Consular post, is satisfied that the officer has retained the accommodation and has not sublet it.

(2) Where accommodation is sublet, the amount received by the officer as rent will be deducted from his or her housing allowance.

(3) If such amount is greater than his or her housing allowance, the excess shall be paid into the accounts of the Mission or Consular post and treated as revenue.

Allowance for higher post.

35. An officer acting in a post at a higher level than his or her substantive post will receive an additional allowance in accordance with the normal Public Service procedures.

Emergency evacuation.

36. Where, owing to the outbreak of hostilities or a natural disaster or other threatening circumstances, the Permanent Secretary or the Head of Mission, or in the absence of the Head of Mission, the senior officer at the Mission or Consular post authorises the evacuation of all employees and members of their household, all reasonable expenses or losses thereby incurred by an officer, subject to the approval of the Minister, may be met by the Government of Saint Christopher and Nevis.

Accommodation in Saint Christopher and Nevis.

37. (1) An officer posted to Saint Christopher and Nevis after serving abroad will be provided with suitable housing accommodation for a period not exceeding one month.

(2) Where accommodation to be provided under regulation 37(1) is not available and an officer has to find his or her own accommodation, he or she will be paid an allowance, to be determined by the Permanent Secretary, to assist in meeting the cost thereof.

PART VI

OVERSEAS ALLOWANCES

Allowances while overseas.

38. (1) An officer will be paid such overseas allowance as the Minister may determine.

(2) The overseas allowance is intended, together with salary, to enable an officer generally to maintain himself or herself, spouse and dependents in conditions and at standards at which he or she most usefully and conveniently will be able to carry out his or her duties abroad.

(3) Subject to these Regulations, overseas allowance will be payable from the date on which an officer reports for duty at a Mission or Consular post until the date of termination of his or her tour of duty.

(4) Where applicable, having regard for the rank of the officer, the allowances in addition to a basic salary shall include—

- (a) Foreign Service Allowance;
- (b) Housing Allowance;
- (c) Entertainment Allowance, which is only applicable to the Head of Mission or the Charge d’Affaires in the absence of the Head of Mission;
- (d) Wardrobe Allowance;
- (e) Spouse Allowance;

- (f) Child or Children Allowance;
- (g) Travel Allowance.

Rates for overseas allowance.

39. (1) Where applicable, overseas allowance will be paid at the following rates during periods of vacation leave—

- (a) 100% for the first 28 days;
- (b) 75% for the second 28 days;
- (c) 50% for any period thereafter.

(2) Overseas allowance will be paid in full during periods of sick leave.

(3) An officer who—

- (a) is relieved of his or her normal duties and who undergoes training in a country other than his or her country of posting and has to maintain a residence in his or her country of posting; or
- (b) undergoes training in his or her country of posting but at a centre away from his residence so that he or she continues to maintain two residences, will receive, in addition to the appropriate subsistence, his or her overseas allowance in full.

(4) An officer who undergoes training in his or her country of posting and continues to occupy the same residence will receive the whole of his or her overseas allowance less an amount equal to the subsistence allowance, if any, payable to him or her during the period of his or her training.

(5) No overseas allowance will be paid during periods of study leave on reduced pay or leave without pay.

Temporary assignment.

40. An officer who is posted to a Mission or Consular post but is assigned temporarily to duties elsewhere, is eligible, during the period of such assignment, for full rate of overseas allowance payable in respect of his or her substantive post, in addition to any other allowances that may be payable to him or her under applicable regulations.

PART VII**ENTERTAINMENT ALLOWANCE****Entertainment allowance for official entertainment.**

41. The Head of a Mission, an Embassy or a Consular posts or Chargé d’Affaires will be provided with entertainment allowance at a rate to be approved by the Permanent Secretary for the purpose of undertaking such entertainment as may be required in the course of their official duties.

Entertainment allowance while on vacation.

42. (1) An officer who has been granted vacation or sick leave will be paid entertainment allowance for the first fourteen days of such leave but is not eligible for any entertainment allowance in respect of any period thereafter.

(2) No entertainment allowance is payable in respect of any period of study or training leave or leave on reduced pay or without pay.

Entertainment allowance while on special duties.

43. An officer temporarily assigned to special duties will continue to receive entertainment allowance in full, provided he or she is not paid a similar allowance in respect of his or her special duties.

PART VIII

TRAVELLING ON OFFICIAL BUSINESS

Transportation for Head of Mission or Consular post.

44. Each Head of Mission or Consular post shall be provided with a chauffeur-driven motor car.

Travelling posts.

45. An officer who is the holder of a post which is a scheduled travelling post, is eligible for an advance to assist in the purchase of a motor vehicle under the conditions laid down by the applicable regulations.

Travel allowance.

46. An officer who is required to use their motor-cars in the performance of his or her official duties is eligible for the payment of travel allowance at rates determined by the applicable regulations.

Travel away from cities.

47. (1) An officer who is required to perform the duties of his or her post away from the cities where his or her Mission or Consular post is located is eligible for the payment of the following expenses at rates approved by the Minister—

- (a) transportation;
- (b) hotel accommodation;
- (c) meals;
- (d) subsistence allowance.

(2) The route and method of transportation and type of hotel accommodation of officers shall be in accordance with direction issued by the Permanent Secretary.

Travel with spouse in representational capacity.

48. (1) If a Head of Mission or Consular post, after agreement with the Permanent Secretary, considers that it is in the public interest for himself or herself or other officer travelling on duty in the country which he or she is stationed to be accompanied by his or her spouse in a representational capacity, the cost of his or her

transportation, hotel accommodation and meals within such limits as are approved by the Permanent Secretary will be paid.

(2) Pursuant to subsection (1), the Head of Mission or Consular post must furnish a certificate to that effect when forwarding the relevant account to the Ministry.

Compassionate travel allowance.

49. Where an officer posted at a Mission or Consular post travels to Saint Christopher and Nevis because of a terminal illness or death of his or her spouse, parent, or child or children, he or she shall, subject to the approval of the Minister, be paid a compassionate travel allowance.

Absence from country of posting.

50. (1) A Head of Mission or Head of Consular post shall not leave the country to which he or she is posted for any reason whatsoever except with the prior approval of—

- (a) in the case of Head of Mission, the Permanent Secretary; and
- (b) in the case of Head of Consular post, the Head of Mission.

(2) Where a Head of Mission or Head of Consular post expects to be absent from the city of post for any period exceeding one (1) week, prior notice of such absence shall be given to the Permanent Secretary or the Head of Mission, as the case may be.

(3) An officer, other than a Head of Mission or Consular post, shall not leave the city of Mission or Consular post for any reason without prior approval of the Head of Mission or Consular post, as the case may be.

(4) Pursuant to subsection (3), prior notification shall be given to the Head of Mission or Consular post if an officer proposes to leave the city of Mission or Consular post.

(5) Notwithstanding subsection (3), the Permanent Secretary may give permission to an officer to travel on official business.

PART IX

LEAVE AND HOME LEAVE PASSAGES

Leave entitlement.

51. An officer is eligible for leave in accordance with the provisions of—

- (a) the general rules and regulations of the Public Service; or
- (b) their Contract.

Vacation leave.

52. Vacation leave may be granted—

- (a) in the case of Head of Mission, by the Permanent Secretary on the advice of the Minister;

- (b) in the case of Head of Consular post, by the Permanent Secretary on the advice of the Minister;
- (c) in the case of other officers, by the Head of Mission or Consular post, as the case may be.

Sick leave.

53. (1) The Head of a Mission who is compelled to take sick leave shall immediately report his or her absence to the Permanent Secretary.

(2) The Head of a Consular post who is compelled to take sick leave shall immediately report his or her absence to the Head of Mission.

Leave outside country of posting.

54. Leave may not be spent outside the country of posting except with the permission of the Permanent Secretary.

Monthly details of leave.

55. The Permanent Secretary shall be furnished monthly with the details of leave granted under regulation 52.

Leave between posting.

56. (1) Officers may be required to take vacation leave between postings, that is between leaving a Mission or Consular post on transfer and taking up duty at another Mission or Consular post or in Saint Christopher and Nevis, or between leaving Saint Christopher and Nevis on transfer and taking up duty at a Mission or Consular post.

(2) Where an officer is unable, owing to the exigencies of the Public Service, to take vacation leave immediately prior to transfer to a new post, he or she will be granted leave as soon as convenient after he or she assumes his or her new appointment.

Return passage.

57. (1) An officer is eligible, on completion of every three years of overseas service, for payment of the return economy air passages to Saint Christopher and Nevis for himself or herself, spouse and dependents, not exceeding five passages in all, in order to spend part or all of his or her vacation leave in Saint Christopher and Nevis.

(2) Return passages under this regulation will be payable for travel by approved route and method of transportation.

(3) When an officer, his or her spouse or dependent is unable for good reason, to travel by air, payment may be authorised for a passage by other means of transportation approved by the Permanent Secretary.

Unused leave.

58. An officer who is transferred from one Mission or Consular post to another may carry forward to his or her new posting any unused portion of his or her home leave passage eligibility for the purpose of determining such eligibility in his or her new post.

Home leave passage.

59. (1) Home leave passages will only be granted to officers who intend to spend all or part of their leave in Saint Christopher and Nevis.

(2) The cost of the passages, pursuant to subsection (1), shall not exceed the cost of economy return air passages to Saint Christopher and Nevis by the most direct route.

Home leave passage not as of right.

60. The provisions of regulation 57 shall not be construed as conferring any inherent right to the grant of home leave passages at the end of a period of three years overseas service.

Official engagements.

61. (1) An Ambassador, a High Commissioner or a Head of Consular post resident abroad who is returning temporarily to Saint Christopher and Nevis to pursue official engagements on behalf of the government should observe the following before arrival in Saint Christopher and Nevis, they should formally advise the Permanent Secretary of their visit, in particular—

- (a) the nature and duration of their engagement in Saint Christopher and Nevis; and
- (b) the particulars of their travel arrangements should be outlined.

(2) When an Ambassador, a High Commissioner or Head of a Consular post is requested to return to Saint Christopher and Nevis by a Ministry other than the Ministry of Foreign Affairs, then the Permanent Secretary of the requesting Ministry shall formally request and obtain the approval of the Permanent Secretary of the Ministry of Foreign Affairs for the Ambassador's, High Commissioner's or Head of a Consular post's release.

Temporary assignment.

62. (1) Contingent upon regulation 60, an Ambassador, High Commissioner or Head of Consular post resident abroad but who is requested to return to Saint Christopher and Nevis on temporary assignment in service of the Government should—

- (a) be accommodated at a hotel;
- (b) receive per diem in Eastern Caribbean Currency;
- (c) be accorded such local ground transportation assistance as may be agreed between them and the requesting Ministry;
- (d) be accorded an economy airfare return ticket.

(2) The cost of the foregoing shall be met by the Ministry requesting the services of the Ambassador or High Commissioner.

(3) An Ambassador, High Commissioner or Head of Consular post who is returning to Saint Christopher and Nevis on private business or holiday need only observe regulation 61(1)(a) and shall be personally liable for the costs or expenses incurred in relation to his or her trip or holiday.

PART X

NON-REPRESENTATIONAL OR CONTRACT STAFF

Employment at Mission or Consular post.

63. Non-representational staff shall satisfy such requirements as may be laid down by the Public Service Commission or their contract where applicable, in regard to employment at a Mission or Consular post.

Comparable salaries.

64. Salaries payable to such persons will be related to current rates payable to persons employed in comparable categories of employment in the cities where the Missions or Consular posts are situated.

Leave for non-representational staff.

65. Non-representational staff will be granted leave applicable to persons employed in comparable categories of employment in the cities where the Missions or Consular posts are situated.

Medical treatment of non-representational staff.

66. Members of the non-representational staff are entitled to the same privileges regarding medical treatment and hospitalization as representational staff recruited from capital of the Overseas Missions.

Permanent employment not as of right.

67. (1) Employment of non-representational staff at a Mission or Consular post for whatever period does not itself entitle such officers to permanent employment in the Public Service.

(2) A person referred to under subsection (1) shall not be entitled to transfer between Missions or Consular posts or to any other part of the Public Service.

PART XI

GOVERNANCE, CONDUCT AND DISCIPLINE OF OFFICERS

Conduct and discipline of officers.

68. (1) All matters relating to conduct and discipline of officers shall be referred to the Permanent Secretary.

(2) An officer serving at a Mission shall at no time engage in any activity which would in any way impair his or her usefulness as an official representative of Saint Christopher and Nevis or bring the reputation of the Government of Saint Christopher and Nevis into disrepute.

(3) An officer posted at a Mission shall be held responsible for the conduct of the members of his or her household.

Employment of spouse of officer.

69. The spouse of a Foreign Service Officer may take up such mode of employment in the host country as is approved by the Head of Mission in accordance with the employment rules of the host country.

Intention to marry.

70. (1) An officer who intends to marry shall so inform the Permanent Secretary in writing at least one month before the event giving the name, address, occupation and nationality of the intended spouse.

(2) Where the effect of an officer's marriage would be to diminish substantially his or her usefulness as a Saint Christopher and Nevis representative abroad as by limiting the number of countries to which that officer could be posted or would otherwise affect that officer's usefulness as a member of the Foreign Service then that officer may be transferred from the Foreign Service.

Political activity.

71. An officer posted at a Mission or Consular post shall not, without the specific instructions in writing of the Head of Mission or the Permanent Secretary, engage in or take part in any activity which is likely to be one of a national or international political controversy in the country in which he or she is serving.

Foreign honour, decoration or medal.

72. An officer or his or her spouse shall not accept any foreign honour, decoration or medal without the prior approval of the Government of Saint Christopher and Nevis.

PART XII

FINANCIAL MANAGEMENT

Public Service Financial rules to apply.

73. In the absence of any other provisions, the financial rules and regulations governing the Public Service shall be applicable to the Missions and Consular posts where appropriate.

Audit investigation.

74. The Head of a Mission or Consular post shall cooperate fully with the Director of Audit or Auditor in his or her conduct of an audit or investigation into the Mission or any aspect of the Mission or Consular post.

Correction of deficiencies.

75. The Heads of Mission or Consular post shall, after discussions with the Permanent Secretary, take immediate steps to correct any deficiencies mentioned in the Auditor's Report or management letter or report issued by the Director of Audit in relation to an audit, investigation of the Mission or any function or operation of the Mission, and shall notify the Auditor via the Permanent Secretary of the actions taken in response to his or her report or letter.

PART XIII

MISCELLANEOUS

Insurance.

76. Insurance Coverage for personnel deployed at Missions, Consulates abroad and dependents is set out in Schedule 4.

SCHEDULE 1 TO THE REGULATIONS*(Regulation 6)***REPRESENTATIONAL OFFICERS**

Representational officers are such as may be accredited to represent Saint Christopher and Nevis before a foreign Government or International Organizations as

Diplomatic and Consular

1. Ambassador (Permanent Representative) or High Commissioner
2. Deputy High Commissioner or Deputy Permanent Representative (this person may also be at the rank of an Ambassador)
3. Minister Plenipotentiary
4. Minister Counsellor
5. Counsellor
6. First Secretary
7. Second Secretary
8. Third Secretary
9. Attaché (the level of the Attaché will be reliant on the rank of the individual so deployed: Legal, defence, military, commercial, cultural, labour, etc.)

Consular Corp.

10. Consul General
11. Vice Consul

or such other diplomatic or consular ranking as may be in force.

SCHEDULE 2 TO THE REGULATIONS*(Regulation 6)***NON-REPRESENTATIONAL OFFICERS**

Non-Representational officers are officers who do not hold diplomatic or consular rank and may be—

1. Accountant
2. Secretary or Executive Officer

or such other officer as may from time to time be posted to the Overseas Missions.

SCHEDULE 3 TO THE REGULATIONS*(Regulation 6)***LOCALLY RECRUITED OFFICERS**

Locally recruited staff comprises officers who do not hold diplomatic rank and are normally recruited in the host country and include—

1. Clerical Officers
 2. Secretaries
 3. Stenographers
 4. Typists
 5. Chauffeurs
 6. Messengers
 7. Guards
 8. Janitors
 9. Maids
-

SCHEDULE 4 TO THE REGULATIONS*(Regulation 76)***INSURANCE COVERAGE FOR PERSONNEL DEPLOYED**

Administrative Instructions

1. Aim of Administrative Instructions.

The present Administrative Instructions aim to provide portable, comprehensive coverage through a health insurance policy for diplomatic and consular representatives and immediate members of their family as well as locally employed staff in the host country of accreditation of the diplomatic and consular missions of the Federation of St Kitts and Nevis.

2. Definitions.

For purposes of the present Administrative Instruction—

- (a) “Immediate Family” means the spouse, including common law spouses where the relationship has been subsisting for at least two years, children up to eighteen (18) years old, and/or any dependent enrolled at a Tertiary institution, up to the age of 25 years.
- (b) “Ministry” means the Ministry of Foreign Affairs of the Federation of St Kitts and Nevis.
- (c) “Minister” means the Minister of Foreign Affairs of the Federation of St Kitts and Nevis.
- (d) “Health Insurance Policy” means individual and/or group health insurance packages to be procured for diplomatic or consular representatives and their immediate family members as well as locally employed staff.

- (e) “Kittitian/Nevisian Citizen” means a natural person holding citizenship of the Federation of St Kitts and Nevis as defined by the Constitution and/or any legislation covering Citizenship.

3. Eligibility—

- (a) The Ministry shall pay for a health insurance policy for diplomatic or consular representatives of the Federation of St Kitts and Nevis abroad and their immediate family, including the administrative and technical staff and their immediate family members.
- (b) The Ministry shall cover health insurance policy for the locally employed staff by diplomatic and consular missions, not including their immediate family members.
- (c) Health insurance shall be paid for—
 - (i) Children up to eighteen (18) years old;
 - (ii) Dependents, up to a maximum of two, aged 25 years once he or she is enrolled in a tertiary educational institution;
 - (iii) Spouse, including common law spouses where the relationship has been subsiding for at least two years; and
 - (iv) Other individuals associated with the Ministry of Foreign Affairs, where such is authorised by the Minister of Foreign Affairs.
- (d) In case an Official resigns from the Foreign Service or is appointed at another position within the Ministry at Capital, he or she shall not enjoy health insurance services covered by the Ministry any longer; except in instances where the individual agrees to offset costs associated with continued coverage.

4. Notifications

The Head of Mission shall be advised by all officers of the names and specific information of spouses, and/or dependents who are to be included on the health insurance policy.

5. List of Health Services

Health insurance policy defined by the present Administrative Instruction shall cover health services provided in the general broad areas—

- (a) Hospital Services;
- (b) Services for non-hospitalised care;
- (c) Health services when travelling;
- (d) Other services including diagnosis when required.

6. Budget

The health insurances shall be paid by the annual budget allocated to diplomatic and consular missions.

7. Procedures—

- (a) The Head of a Diplomatic Mission shall be authorised to perform procedures leading to the conclusion of health insurance policy contracts with registered companies in host country;

- (b) The Head of a Diplomatic Mission shall be authorised to manage the health insurance policy on behalf of the Accounting Officer in the Ministry of Foreign Affairs.
- _____