

## CHAPTER 29

### PUBLIC SERVICE

2007-41

This Act came into operation on 31st December, 2007 by Proclamation (S.I. 2007 No. 170).

#### **Amended by:**

*2010-1*

#### **Law Revision Orders**

*The following Law Revision Order or Orders authorized the insertion and removal of pages as the case may be under the Law Revision Act Cap.2 now repealed:*

2009

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#### **Guide to symbols in historical notes:**

- indicates an amendment made by an Act

/ indicates an amendment made by statutory instrument



## **CHAPTER 29**

### **PUBLIC SERVICE 2007-41**

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**BARBADOS****PUBLIC SERVICE  
2007-41**

*An Act to revise and consolidate the law relating to the administration of the public service for the purpose of achieving greater efficiency and effectiveness in the management of that service and for matters related thereto.*

[Commencement: 31st December, 2007]

**PART I  
PRELIMINARY****Short title**

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

**Interpretation**

2. In this Act,

“Chairman” means the Chairman of the Committee of Permanent Secretaries;

“Code of Conduct and Ethics” means the Code established by paragraph (b) of section 11(1) and set out in the *Second Schedule*;

“Code of Discipline” means the code established by paragraph (c) of section 11(1) and set out in the *Third Schedule*;

[2010-1]

“Committee of Permanent Secretaries” or “Committee” means the Committee established by section 7;

“days” means working days;

[2010-1]

“established office” means an office established by this Act or the former Act, as the case may be;

“former Act” means the *Civil Establishment Act, 1949* (Act 1949-5);

“former Training Act” means the *Training Act, 1972* (Act 1972-25);

“Head of Department” means a person listed as the head of a department specified in Part II of the *Eighth Schedule*;

[2010-1]

“Head of the Public Service” means the person designated as such under section 6(1);

“Permanent Secretary” includes

(a) the holder of an office in the same grade as that of Permanent Secretary; and

(b) the holder of an office specified in Part I of the *Eighth Schedule*;

[2010-1]

“Privy Council” means the body of that name established by section 77 of the *Constitution*;

“public office” or “office” means any office of emolument in the Public Service;

“public officer” or “officer” means the holder of any public office and includes any person appointed to act in that office;

“Public Service Appeal Board” means the Board established as such under section 98A of the *Constitution*;

[2010-1]

“Public Service” or “Service” means the service of the Crown in a civil capacity in respect of the Government of Barbados, but shall not be construed as including service in

- (a) the office of Governor-General, Prime Minister or other Minister, Parliamentary Secretary, Leader of the Opposition, President or Deputy President of the Senate or Senator, Speaker, Deputy Speaker or member of the House of Assembly or member of the Privy Council;
- (b) the office of a member of the Judicial and Legal Service Commission, the Public Service Commission or the Police Service Commission;
- (c) the office of a member of or the holder of an office of any board, committee or other similar body (whether incorporated or not) established by any law in force in Barbados; or

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- (d) except as otherwise provided in the *Constitution*, the office of a Judge;

“Public Service Training Fund” or “Fund” means the Fund established by section 25;

“Recruitment and Employment Code” means the Code established by paragraph (a) of section 11(1) and set out in the *First Schedule*;

“secondment of a public officer” means the temporary transfer of that officer from a substantive office to another position or employment outside the Public Service at the request of the Government of Barbados or the entity to which the officer is transferred;

“Service Commission” or “Commission” means the

- (a) Judicial and Legal Service Commission established by section 89(1) of the *Constitution*;

(b) Public Service Commission established by section 90(1) of the *Constitution*; or

(c) Police Service Commission established by section 91(1) of the *Constitution*,

as the case may be;

“temporary employee” or “employee” means a person other than a public officer who holds a temporary office in the Public Service;

“temporary office” means a public office that has not been established under any enactment;

“Training Committee” means the Training Committee established by section 24(1);

“Training Loan Fund” means the Training Loan Fund established by section 4(1) of the former *Training Act* (Act 1972-25) and continued by section 26 of this Act;

### **Application**

3.(1) This Act applies to the following persons in the Public Service, whether appointed before or after 31st December, 2007:

(a) public officers; and

(b) temporary employees.

(2) A reference in any provision of this Act to a period of employment shall, unless the context otherwise provides, be construed as including employment before, on or after 31st December, 2007.

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PART II  
MANAGEMENT OF THE PUBLIC SERVICE

**Management of the Public Service**

- 4.(1) The Public Service shall be managed by the
- (a) Service Commissions in accordance with their functions under the
    - (i) *Constitution*;
    - (ii) *Service Commissions (Public Service) Regulations, 1978* (S.I. 1978 No. 183) ;
    - (iii) *Service Commissions (Police Service) Regulations, 1964* (L.N. 1964 No. 69) ; and
    - (iv) provisions of the Codes as set out in the *Schedules* to this Act;
  - (b) Head of the Public Service; and
  - (c) Committee of Permanent Secretaries.
- (2) Notwithstanding subsection (1), a Permanent Secretary has responsibility for the management of the Ministry or Department to which that Permanent Secretary is assigned.

**Functions of Service Commissions**

- 5.(1) Each Commission, in carrying out its functions mentioned in section 4(1),
- (a) shall be responsible for giving such advice, or making such recommendations, as the case may be, in respect of appointments in the Public Service in both established and temporary offices;
  - (b) shall give directions of a general nature and provide guidance to officers or employees in the Public Service in relation to the

performance of their duties in order to promote the development of the Service; and

- (c) may appoint committees, panels or other bodies established for the purpose of
  - (i) recruitment to or promotion in the Service;  
*[2010-1]*
  - (ii) any other matter the Commission thinks fit.

(2) Each Commission shall, in carrying out its functions under this Act, ensure transparency, fairness and justice; and shall regard the proper management of the Public Service, including the development of the human resources of the Service, as its primary goal.

### **Head of the Public Service and the special powers of the Head**

6.(1) There shall be a Head of the Public Service, who

- (a) shall be the holder of the office of Permanent Secretary; and
- (b) shall be designated in writing as Head of the Public Service by the Prime Minister in his own discretion.

(2) The person designated as Head of the Public Service pursuant to subsection (1) shall be the Chairman of the Committee of Permanent Secretaries established by section 7.

(3) The Head of the Public Service may

- (a) request information from Ministries concerning the activities of those Ministries;
- (b) in carrying out functions in respect of the Public Service, conduct such inspections or investigations and make or receive such reports as the Head may consider necessary or the Prime Minister may direct.

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*[2010-1]*

**Committee of Permanent Secretaries**

**7.** There is hereby established a Committee of Permanent Secretaries comprising

- (a) the Head of the Public Service; and
- (b) Permanent Secretaries.

**Functions of the Committee**

**8.** The functions of the Committee are to

- (a) advise the Prime Minister on
  - (i) such areas of the management of the Public Service as the Minister requires; and
  - (ii) the policies necessary to administer and develop the Public Service;
- (b) consider and make recommendations on any specific matter referred to it by the Prime Minister;
- (c) co-ordinate those functions of the Public Service that relate to the management of the Service to ensure that there exists the capacity of the Government to provide a modern and efficient Public Service;
- (d) expedite the decision-making process, particularly in matters requiring the involvement of several ministries, departments or agencies;
- (e) submit to the Prime Minister, not later than 3 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.

**Procedure of the Committee**

- 9.** The Committee shall
- (a) meet as often as it deems necessary or expedient for the performance of its functions, but not less than once every 3 months; and
  - (b) regulate its own procedure, including the appointment by the Chairman of a secretary, who shall be the holder of an office that is not below that of Deputy Permanent Secretary.

**Safety at work**

**10.(1)** Notwithstanding paragraph (f) of section 8, it shall be the duty of every Permanent Secretary to ensure that the provisions of any enactment in respect of the health, safety and welfare of persons at work are observed in relation to the Ministry or Department to which the Permanent Secretary is assigned.

(2) A Permanent Secretary shall be regarded as having discharged the duty of a Permanent Secretary under subsection (1) where the Permanent Secretary has taken all actions that are necessary or appropriate in the circumstances.

**Codes**

- 11.(1)** The following Codes for the Public Service are hereby established:
- (a) the Recruitment and Employment Code that governs the methods to be used in recruitment and promotion in the Service;
  - (b) the Code of Conduct and Ethics that establishes standards of conduct in the Public Service; and
  - (c) the Code of Discipline that is aimed at enforcing the standards mentioned in paragraph (b).

(2) Any person who contravenes any of the provisions of the Codes referred to in paragraphs (b) and (c) of subsection (1) in respect of which a penalty is specified is liable to the penalty so specified.

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[2010-1]

### **Grievance-handling**

**12.(1)** Where an officer or employee is aggrieved by any action or decision of

- (a) a person appointed by the Commission who has or who had supervisory powers over that person;
- (b) a person other than a person referred to in paragraph (a) who has supervisory powers in respect of the employment of that person; or
- (c) a fellow employee,

the officer or employee may invoke the procedure with respect to grievance-handling that is set out in the *Fourth Schedule*.

(2) An officer or employee referred to in subsection (1) may, in place of the procedure specified in subsection (1), seek the process of alternative dispute resolution.

(3) In this section,

- (a) “grievance” includes a complaint regarding the alleged violation of
  - (i) the provisions of any agreement with a trade union or any other body authorised to represent an officer or employee in respect of employment matters;
  - (ii) the rules or regulations or any conventions applicable to the category of officers to which that person belongs;
  - (iii) the principles of natural justice; or
  - (iv) the dignity of the human person; and

- (b) “alternative dispute resolution” includes conciliation, mediation or any other method of dispute resolution.

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[2010-1]

PART III  
ESTABLISHMENT OF OFFICES

**Establishment of offices**

**13.(1)** The Minister may by order

- (a) establish offices in the Public Service;
- (b) determine the number of persons who may be appointed to those offices;
- (c) prescribe the qualifications to be possessed by persons appointed to those offices; and
- (d) determine the emoluments to be attached to those offices.

(2) An order made under subsection (1) may contain such incidental, consequential and supplemental provisions as the Minister thinks necessary or expedient for giving full effect to the order, including provisions

- (a) for the making of such modifications as may be expedient in any enactment regulating the number of offices in respect of which, or the number of office-holders in respect of whom, salaries may be paid; or
- (b) relating to the appointment, powers, duties, rights and liabilities of any officer holding any office specified in an order.

(3) Subject to subsection (4), an order made under subsection (1) shall be subject to affirmative resolution.

(4) Subsection (3) shall not apply to any order that relates to the qualifications required in respect of the offices in the Public Service.

- (5) Subject to subsection (6), all temporary offices in the Public Service that
- (a) were created as temporary offices; and
  - (b) have been in existence for 3 or more years at 31st December, 2007,
- are hereby established as public offices in the Service.
- (6) Subsection (5) shall not apply to temporary offices that were created in respect of a specific project; and the determination as to whether a temporary office is a project office shall be made by the Ministry responsible for the Public Service.
- (7) Any person who, at 31st December, 2007,
- (a) is not appointed to the Public Service;
  - (b) has been employed
    - (i) in a temporary office;
    - (ii) in an established office; or
    - (iii) in a combination of a temporary and an established office,
- for not less than 3 years immediately before 31st December, 2007; and
- (c) has the qualifications required by the *Civil Establishment (Qualifications) Order* (S.I. 2001 No. 121) for appointment to that office or to an office in a similar grade,
- shall be entitled to be appointed to that office or an office of a similar grade with effect from 31st December, 2007; and shall be treated as being so appointed.
- (8) Where 31st December, 2007 a vacancy exists in an established office and the person who occupies the office has been acting for a period of not less than 3 years immediately before 31st December, 2007 and is qualified by virtue of the *Civil Establishment (Qualifications) Order* (S.I. 2001 No. 121) to be appointed to the office and there is no other person whose qualifications render that person more suitable for appointment, the person shall be entitled to be appointed to the office.

(9) Where as a consequence of an appointment referred to in subsection (8) any other office that is established becomes vacant, each person who has acted in such an office and who satisfies the criteria set out in subsection (8) shall be entitled to be appointed to the office in which he has acted or an office of a similar grade.

(10) A person referred to under subsection (7) or (8) who satisfies the requirements for appointment to an office under those subsections except for the fact that that person does not possess the required qualifications for the office, shall, where the qualifications are obtained within a period of not more than 2 years from 31st December, 2007, be entitled to be appointed to the office or an office of a similar grade from 31st December, 2007.

(11) No established office in the Public Service shall be allowed to remain vacant for a period of more than one year except

- (a) permission to allow the vacancy is granted by the Governor-General on the advice of the Service Commission; or
- (b) the office has been frozen by the Minister.

(12) For the purposes of subsection (11), “frozen”, in relation to an office, means that the office is one that the Minister determines ought not to be filled.  
*[2010-1]*

(13) *[Repealed by 2010-1.]*

(14) Where an officer to whom this section refers is prejudiced by the operation of this section in respect of an appointment to an office by virtue of the provisions of this section, the Governor-General may appoint the officer to an office the appointment of which results in the remedying of the prejudice.  
*[2010-1]*

### **Creation and establishment of temporary offices**

**14.(1)** Subject to subsection (2), the Minister may create temporary offices in the public service for a period of not more than 3 years.

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- (2) The Minister may extend the duration of a temporary office beyond the initial period for which it was created,
- (a) where the office was created for the implementation of a specific project and the project extends beyond the period for which the office has been created, the extension shall be for the period required to complete the project; or
  - (b) in any case other than that mentioned in paragraph (a), for a further period not exceeding 3 years beyond the initial period.
- (3) Where the Minister is satisfied, either during the existence of a temporary office or at the end of the period for which it was created, that it is necessary that the office be established, the Minister shall make an order for the establishment of the office.
- (4) An order made under subsection (3) is subject to
- (a) affirmative resolution; and
  - (b) the provisions of sections 13(3) and 15.

[2010-1]

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[2010-1]

### **Holders of offices not to be disadvantaged**

- 15.(1)** An order made under the former Act or under paragraph (d) of section 13(1) shall not be varied or revoked to the disadvantage of the holders of offices established under the former Act or this Act.
- (2) The salaries and allowances payable to the holders of offices established under the former Act or this Act shall not be altered to their disadvantage.

**Increments**

**16.** Where the emoluments attached to an office established by an order under section 2 of the former Act or under section 13 of this Act include a salary on an incremental scale, the Governor-General may order

- (a) that the initial salary of any person appointed to that office shall include such an amount on increment as he thinks expedient;
- (b) that in any case in which it appears to the Governor-General that there are special circumstances relating to the amount of salary or annual increments of a person already appointed to that office which operate unfairly upon, or to the prejudice of, that person and which warrant special adjustment, the salary of that person shall be adjusted within the limits of the scale in such manner as the Governor-General may deem expedient.

**Emoluments payable out of Consolidated Fund**

**17.** All moneys payable under the provisions of any order made under section 13 shall be charged on and paid out of the Consolidated Fund.

**PART IV****APPOINTMENT, TRANSFER, PROMOTION, SECONDMENT****Appointments**

**18.(1)** Appointments to established offices in the Public Service shall be made in accordance with

- (a) the provisions of Part 2 of Chapter VIII of the *Constitution*; and
  - (b) the Recruitment and Employment Code.
- (2) Appointments on contract for a specific duration may be made to any public office; but the terms shall not conflict with the relevant law, Code and

administrative practices applicable to persons in the same category of public office to which the contract relates.

(3) Subject to subsection (1), appointments to offices in the Public Service shall be made in accordance with the Recruitment and Employment Code.

### **Transfers**

- 19.(1)** An appointment on transfer in respect of the holder of a public office
- (a) referred to in Part 2 of Chapter VIII of the *Constitution*, shall be made in accordance with the provisions of that Part;
  - (b) other than an office referred to in paragraph (a), shall be made by the Chief Personnel Officer; or
  - (c) to which the *Delegation of Functions (Public and Police Services) (Miscellaneous Provisions) Order, 1974* (S.I. 1974 No. 122) refers, shall be made in accordance with the provisions of that Order.

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[2010-1]

### **Promotions**

**20.** The Recruitment and Employment Code and section 33 apply in respect of the procedure to be followed regarding promotions to offices in the Public Service.

### **Secondments**

**21.(1)** Where a person who holds an established office is seconded to service under another Government or under an authority, body or agency approved by the Governor-General for the purposes of this section, referred to as “an approved employer”, that person shall, during the period of the secondment, cease to receive the emoluments attached to that office but shall nevertheless, if the approved employer agrees to pay to the Government of Barbados a contribution in respect of his pension during the period of the secondment at the rate prescribed

by the Governor-General, be deemed to continue to hold that office for the purposes of the *Pensions Act*, Cap. 25.

(2) Where the holder of an established office, in this section referred to as “the substantive holder”, is withdrawn from that office for the purpose of being seconded in accordance with subsection (1), the Governor-General may appoint a person to that office as if it were vacant; and that person

(a) shall be deemed to be the holder of that office; and

(b) shall receive the emoluments attached to the office

during such time as the substantive holder of that office is seconded in accordance with this section or the former Act.

### **Period of secondment**

**22.(1)** Where the holder of an established office is seconded to service in accordance with section 21(1), the period of secondment shall be for a period not exceeding 2 years.

(2) Notwithstanding subsection (1), where the holder of a public office is being seconded to an office in the service of an international or regional body approved by the Governor-General under section 21(1), the period of secondment may be extended for such period as the Minister determines.

(3) The Minister may determine that the period of secondment be extended under subsection (2) where

(a) the “approved employer” makes a written request for the retention of the person on secondment; and

(b) the Minister is of the opinion that Barbados is receiving substantial benefits from the secondment.

(4) Subject to subsections (2) and (3), where an officer remains on secondment for a period in excess of 2 years, that officer shall be required to exercise the option of remaining in the service of the organisation or body to which he is seconded or of returning to his substantive position in the Public Service.

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PART V  
MANAGEMENT OF TRAINING AND HUMAN RESOURCE  
DEVELOPMENT

**Policy of training**

- 23.(1)** In this Part, “Minister” means the Minister responsible for Training.
- (2) 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.
- (3) The Minister shall, in stating the policy under subsection (2), have 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.
- (4) The Minister shall also, in stating the policy under subsection (2), have due regard to the changing requirements of the Service and of Barbados, particularly in the areas of management, technical skills at both national and international levels and all those are as required to give effect to the national goals of Government to ensure that the Service is capable of meeting those requirements.
- (5) The Minister may, on the advice of the Training Committee and pursuant to section 32, make regulations to give effect to the policy referred to in subsection (2).

**Training Committee**

**24.(1)** There is hereby established a Training Committee that shall advise the Minister on training requirements and study leave in the Public Service.

(2) The Training Committee shall

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

(3) The composition and procedure of the Training Committee are set out in the *Fifth Schedule*.

**Public Service Training Fund**

**25.(1)** There is established, under the control and management of the Minister, a Public Service Training Fund into which shall be paid

- (a) all moneys which immediately before 31st December, 2007 stand to the credit of the Training Fund established under the former *Training Act*, Cap. 35;
- (b) all moneys that represent the repayment on or after 31st December, 2007 of
  - (i) a loan including interest on the loan repaid by any person to whom a loan was made out of the Training Fund; or
  - (ii) the proceeds of the forfeiture carried out after 31st December, 2007 in respect of any bond that secured an award made out of that Training Fund; and
- (c) all moneys provided by Parliament for payment into the Public Service Training Fund.

(2) The Minister may, subject to such terms and conditions as may be prescribed, award free scholarships and training courses out of the Fund to public officers.

### **Training Loan Fund**

**26.(1)** The Training Loan Fund, into which shall be paid

- (a) all moneys provided by Parliament for payment into that Loan Fund; and
- (b) all moneys which represent the repayment of a loan including interest thereon repaid by any person to whom a loan is made under subsection (2),

shall continue under, and be subject to the provisions of, this Act.

(2) The Minister may, subject to such terms and conditions as may be prescribed, make loans from the Training Loan Fund to any person other than a person mentioned in section 25(2) for the purpose of assisting that person to pursue a course of study or training approved by the Training Committee.

(3) A loan made under subsection (2) shall not exceed \$10 000 or such greater amount as the Minister may by order prescribe, and shall bear interest at the prescribed rate.

(4) Where repayment of a loan made under subsection (2) remains outstanding contrary to the provisions of this Act or the regulations, the Minister may recover that loan in civil proceedings before a magistrate for District "A".

### **Reports**

**27.** The Minister shall, not later than 4 months after the end of each financial year, cause to be laid before Parliament separate reports on the Public Service Training Fund and the Training Loan Fund showing,

- (a) in the case of each Fund, the number of awards made and in force and the amount of each award;

- (b) in the case of the Training Loan Fund, the number of loans made and the amount of each loan; and
- (c) in each case, the state of the Fund.

**Awards under *Training Act* to continue in force**

**28.** An award made under the former *Training Act*, Cap. 35 and in force immediately before 31st December, 2007 shall, subject to the terms and conditions on which it was made, continue to have effect as if it were made under this Act.

PART VI

OTHER CONDITIONS OF SERVICE

**Pensions, retirement benefits**

**29.(1)** The

- (a) *Pensions Act*, Cap. 25 and *Pensions Regulations*; and  
[1947-20]
- (b) all other laws relating to the pensions and retiring benefits of public officers and other persons holding public office

that applied to those persons immediately before 31st December, 2007, shall continue to apply to those persons.

(2) The enactments referred to in subsection (1) shall apply to public officers who hold office on or after 31st December, 2007.

## PART VII

## APPEALS

**Public Service Appeal Board**

- 30.(1)** An appeal shall lie to the Public Service Appeal Board from
- (a) a decision of a Service Commission; or
  - (b) a decision of any person to whom the powers of the Commission have been delegated,

in respect of disciplinary proceedings, other than dismissal, brought against a public officer.

- (2) An appeal under subsection (1) shall be to the Board at the instance of the public officer in respect of whom the decision was made within 14 days of the date when written decision has been served on that officer personally.

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[2010-1]

**Right to appeal to the Privy Council not affected**

- 31.(1)** Subject to subsection (2), the right of a public officer to have his case referred to the Privy Council under section 98 of the *Constitution* shall not be affected by the right to appeal under section 30.

(2) Where a public officer has had his case determined by the Privy Council under section 98 of the *Constitution*, section 98A(6) of the *Constitution* shall apply in respect of those proceedings.

(3) The right of appeal provided in this Part does not affect the right of a public officer to redress before the High Court.

PART VIII  
MISCELLANEOUS

**Regulations**

- 32.(1)** The Minister may make regulations
- (a) prescribing and regulating
    - (i) increments; and
    - (ii) awards based on merit, ability and integrity;
  - (b) respecting the grant of leave to public officers;
  - (c) prescribing anything that is required to be prescribed under this Act; and
  - (d) generally for giving effect to the provisions of this Act.
- (2) The Minister responsible for Training may make regulations in respect of the training of officers.

**Administrative Orders, General Orders**

- 33.(1)** The Minister may make administrative orders to give effect to any provisions of the Codes or any other provisions of this Act.
- (2) Subject to subsection (3), the General Orders are from 31st December, 2007 deemed to have been made under subsection (1) and shall remain in force until revoked by an instrument in writing by the Minister under this Act.
- (3) Where any provision of the General Orders is inconsistent or in conflict with a Code or any regulation made under this Act, the Code or regulation shall prevail and the General Order shall, to the extent of the inconsistency, be invalid.

**Amendment of Schedules**

- 34.(1)** The Minister may by order amend any of the Schedules.

- (2) An order made under subsection (1) is subject to negative resolution.

[2010-1]

### **Repeal and savings**

- 35.(1)** The *Civil Establishment Act*, Cap. 21 is hereby repealed.
- (2) The *Training Act*, Cap. 35 is hereby repealed.
- (3) All orders that were made under the *Civil Establishment Act*, Cap. 21 and are in force at 31st December, 2007, shall continue in force as if made under this Act in so far as they are not inconsistent with this Act, until revoked by an order made under this Act.
- (4) The provisions of the *Service Commissions (Public Service) Regulations, 1978* (S.I. 1978 No. 183) , to the extent that they are inconsistent with the provisions of this Act, are hereby revoked.
- (5) *The Civil Establishment (Leave Passages) Order* (L.N. 1966 No. 17) shall continue in force in respect of those officers who entered the Public Service prior to 1st January, 1980 and who are entitled to the payment of passages under that Order.

### **Transitional provisions relating to officers appointed retrospectively**

- 36.(1)** The provisions set out in the *Sixth Schedule* apply with respect to
- (a) officers who on the date of the commencement of the former Act were officers in the Public Service; and
  - (b) officers to whom section 6 of the former Act applied.

### **Agreements in existence at 31st December, 2007**

- 37.** Any Agreement in existence between the Government of Barbados and a representative body of public officers that is in effect at 31st December, 2007 shall be deemed to be in existence for the unexpired term of the Agreement and the provisions of this Act shall apply thereto for that period.

**Oaths of secrecy and allegiance**

**38.** Every public officer shall, if and when required by the Commission or any person delegated by the Commission, subscribe to the Oath or Affirmation of Allegiance, or the Oath or Affirmation of Secrecy, or both, set out in the *Seventh Schedule*.

**Proceedings started prior to 31st December, 2007**

**39.** Any

- (a) investigations into any matter; or
- (b) legal proceedings commenced in any court

under any enactment in respect of disciplinary or other matters brought against a public officer that commenced prior to 31st December, 2007 and are pending on that date shall continue under the enactment.

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**FIRST SCHEDULE***(Sections 2 and 11(1)(a))**INDEX TO RECRUITMENT AND EMPLOYMENT CODE*

1. Application of existing enactments.
2. Notification of vacancies within the Public Service.
3. Selection of officers.
4. Procedure for selection.  
*[2010-1]*
5. Techniques in selection.
6. Length of time list is valid.
7. Composition of selection panels.
8. Adherence to recruitment principles.
9. Exceptions.
10. Performance, Review and Development System.

## RECRUITMENT AND EMPLOYMENT CODE

*General*

Appointments and promotions of officers in the Public Service who are employed by the Governor-General acting on the advice of the Public Service Commission are governed by the provisions of the *Constitution* as regards appointments, the *Service Commissions (Public Service) Regulations, 1978* (S.I. 1978 No. 183) , and the *Civil Establishment (Qualifications) Order* (S.I. 2001 No. 121) .<sup>1</sup> This Code supplements those provisions, and seeks to

extend these provisions to those public officers who are employed by the Judicial and Legal Service Commission or the Police Service Commission, as the case may be, and for whom no specific Regulations apply in this regard. Its principles seek to ensure that recruitment and appointments are made on the basis of merit, impartiality and the highest standards of integrity but, in addition, consideration is also given to seniority and experience where the nature of the work so requires. The same principles that apply to recruitment and promotion to established offices apply to the filling of offices that have not been established under an enactment, even where those offices are filled on a contractual basis.

Subject to the foregoing, the following principles are to be applied:

#### **Application of existing enactments**

1. The process in respect of recruitment and promotion shall be in accordance with

- (a) the provisions of the *Service Commissions (Public Service) Regulations, 1978* (S.I. 1978 No. 183), in so far as those provisions are not inconsistent with this Code;
- (b) the *Civil Establishment (Qualifications) Order* (S.I. 2001 No. 121) until revoked by an Order made under the Act; and
- (c) this Code; and

any breach of the provisions of those enactments is a breach of this Code.

#### **Notification of vacancies within the Public Service**

2. Job opportunities or vacant offices shall be advertised or published within the Public Service or outside Barbados, as the case may require, and all relevant information in respect of a vacant office shall be accessible to prospective applicants and shall include:

- (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 are applied to all candidates.<sup>2</sup>

### **Selection of officers**

- 3.(1)** Every individual to be appointed to an office in the Public Service shall be selected on merit<sup>3</sup>, but, where the nature of the work so requires, consideration shall be given to seniority and experience.
- (2) The method of selection shall be governed by objectivity, impartiality and transparency.
- (3) *[Repealed by 2010-1.]*

### **Procedure for selection**

- 4.(1)** The procedure for selection shall be such that the merit of each person is given equal consideration throughout the entire procedure for selection.<sup>4</sup>
- (2) The procedure for selection shall be such that there is a consistent application of the relevant criteria in respect of each candidate.

### **Techniques in selection**

- 5.(1)** The recommendations of selection panels that have been established to fill vacancies, either through recruitment or promotion, shall be followed in the order of rank<sup>5</sup>.
- (2) Where
- (a) the candidates are not accepted; or
  - (b) the order of rank recommended by the selection panel is not accepted by the recruiting authority,

a new panel shall be established to make new recommendations.<sup>5</sup>

**Length of time list is valid**

**6.** The priority list of a selection panel to fill vacancies, either through recruitment or promotion, once accepted, shall be valid for 2 years.<sup>6</sup>

**Composition of selection panels**

**7.** Selection panels established by recruiting authorities shall comprise persons

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

**Adherence to recruitment principles**

**8.** Subject to paragraph 9, no departure from the recruitment principles is permitted.<sup>6</sup>

**Exceptions**

**9.(1)** Exceptions to the recruitment principles mentioned in this Code are permitted only

- (a) when filling short term vacancies for a period of not more than 12 months and where the Commission considers, in the interest of the Public Service, that the appointment is necessary for the effective functioning or good administration of the relevant Ministry or Department;  
*[2010-1]*
- (b) when employing a person with a disability.  
*[2010-1]*

(2) For the purposes of this Code, a person with a disability is a person who has a physical or mental impairment which has a substantial and long term adverse effect on that person's life activities but which does not or is not expected to interfere with the ability of that person to perform the type of employment which he seeks in the Public Service.

[2010-1]

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[2010-1]

### **Performance, Review and Development System**

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

**NOTES:**

- <sup>1</sup> The *Service Commission (Public Service) Regulations, 1978* (S.I. 1978 No. 183) make provision for the manner in which appointments and promotions are to be made to established offices in the Service. *The Civil Establishment (Qualifications) Order* (S.I. 2001 No. 121) sets out the qualifications required for each established office.
- <sup>2</sup> The purpose of this principle is to create fair and open competition from the outset of the selection process, and to ensure that there has been no deviation from this approach when the final decision is made.
- <sup>3</sup> Merit is to be interpreted so as to ensure that
- (i) persons are not appointed to offices unless they are competent to perform the duties of those offices;
  - (ii) in circumstances where more than one individual satisfies the criteria for appointment, the office should be offered to the person who is considered to be best capable of performing the duties.

Fairness and transparency seek to ensure that any scrutiny of the selection process will reveal no bias in the assessment of candidates at any time during that process.

The selection of candidates at each stage must be such that it can be demonstrated that there has been absolute fairness without any form of discrimination or the introduction of any irrelevant considerations. Where the selection process includes the specific testing of the skills and aptitudes of candidates, then all such tests must have been proven previously to be acceptable on the basis of their reliability as indicators of future performance. No psychological tests should be administered or interpreted by persons who are not professionally trained.

- <sup>4</sup> The selection procedure should be 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. At the

conclusion of the exercise all those candidates who are deemed to possess the requisite qualifications, skills and competencies for appointment should be ranked in order of merit. Appointments must be offered in accordance with that rank order, unless it is possible to appoint all applicants immediately.

- <sup>5</sup> This is intended to ensure that the principles of this Code are adhered to in all cases except those permitted by the Code itself.
- <sup>6</sup> The purpose of setting criteria is to differentiate on a consistent and objective basis between candidates at each stage of the selection process. The criteria must be relevant to the job.
- <sup>7</sup> In order to give managers flexibility to meet short-term needs sensibly and economically, recruitment to appointments of up to 12 months may be carried out without open competition if personnel from within the organisation are filling such vacancies. If there is any possibility that staff may be needed for more than 12 months, or if the vacancy is being filled by external recruitment, then the procedures for full, fair and open competition should be used at the outset.

[2010-1]

<sup>8</sup> Persons with disabilities of the kind mentioned in paragraph 9(b) of this Code and who are found to be competent to do the job should have full employment opportunities in the Public Service.

**SECOND SCHEDULE***(Sections 2 and 11(1)(b))**INDEX TO THE CODE OF CONDUCT AND ETHICS*

1. Definition.
2. Application.  
*[2010-1]*
3. The role of the Public Service.  
*[2010-1]*
4. Principles of accountability, legality and the upholding of ethical standards.
5. Integrity, impartiality, honesty.
6. Mode of dealing with public and other officers.
7. Use of public funds.
8. Conflict of interest.
9. Actions to instil confidence.
10. Records and non-disclosure of information.
11. Improper behaviour to be reported.
12. Reports to be made to Service Commission.
13. Declining to act on decisions.
14. Hours of work, punctuality.

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15. Absence without permission.
  16. Prohibited activities.
  17. Dress.
  18. Loss of or damage to property.
  19. Private work.
  20. Strikes.
  21. Criminal conviction.
  22. Sexual harassment.
  23. Use of information technology and the internet.
  24. Use of the media.
  25. Application of Code.
  26. Other misconduct not specifically mentioned.
  27. Penalties.

#### THE CODE OF CONDUCT AND ETHICS

##### General [2010-1]

This Code also applies to public officers who are governed by the *Police Act*, Cap. 167, the *Prisons Act*, Cap. 168 and the *Fire Service Act*, Cap. 163 where no specific provision under those Acts or under statutory instruments made under those Acts applies in relation to the misconduct specified in this Code.

**Definition**

1. For the purposes of this Code, “public officers” or “officers” include those persons who are temporary employees within the meaning of this Act.

**Application**

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

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[2010-1]

**The role of the Public Service**

3.(1) The role of the Public Service is 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 frank, 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 at sub-paragraph (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 Government’s policies and programmes;
- (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 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 conducive to the good health and 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 Barbados' democratic system of government;
  - (m) provides a fair system of review of decisions taken in respect of persons in the Public Service; and
  - (n) provides a system of preserving employee privacy.
- (3) For the purposes of sub-paragraph (2)(c), a decision relating to engagement or promotion 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 selection 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.

[2010-1]

(4) The Commissions shall issue directions in writing in relation to each of the values mentioned in sub-paragraph (2) 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.

[2010-1]

(5) Officers shall uphold and promote the values referred to in subparagraph (2).

[2010-1]

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[2010-1]

### **Principles of accountability, legality and the upholding of ethical standards**

4. Officers shall serve the Government in accordance with the principles set out in this Code, recognising:

(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

(d) the ethical standards governing particular professions.

### **Integrity, impartiality, honesty**

5. 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, Parliament, Permanent Secretaries or the public.

### **Mode of dealing with public and other officers**

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

### **Use of public funds**

7.(1) Officers shall endeavour to ensure the proper, effective and efficient use of public funds; and officers are strictly accountable in respect of the use of those funds in accordance with the provisions of

- (a) the *Financial Management and Audit Act*, Cap. 5;
- (b) any rules made under the *Financial Management and Audit Act*, Cap. 5; and
- (c) the *Financial Administration (Financial) Rules, 1971* (S.I. 1971 No. 46) .

(2) Officers shall not appropriate or use public funds in contravention of this Act or any other law.

### **Conflict of interest**

8. 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**

- 9.(1) Officers shall conduct themselves in a manner that will ensure the efficient and effective discharge of their duties.
- (2) Officers shall comply with restrictions on their political activities in accordance with this Act or Regulations.
- (3) Public officers shall conscientiously perform their duties and obligations and impartially assist, advise and carry out the lawful policies of the Government.

### **Records and non-disclosure of information**

- 10.(1) Officers shall not, without authority, disclose official information that has been communicated in confidence within the Ministry or department, or received in confidence from others.
- (2) Officers shall maintain official records
  - (a) where a failure to do so would amount to a grave injustice; or
  - (b) as required by this Act or Regulations made thereunder or by any other law.
- (3) Nothing in this Code should 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 access as officers.

**Improper behaviour to be reported**

**11.(1)** Where an officer believes that he 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 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 becomes aware.

**Reports to be made to Service Commission**

**12.** Where an officer has reported a matter referred to in paragraph 11 in accordance with the relevant procedures and believes that the response does not represent a reasonable response to the grounds of his concern, the officer may report the matter in writing to the Service Commission.

**Declining to act on decisions**

**13.(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.

(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 disagreement with any decision or proposed course of action which the Permanent Secretary finds difficult to defend or which he regards as inconsistent with his obligation to see that the administration of his department is carried out with due regard to the propriety of the proposed course of action; and he shall set out the reasons for his disagreement.

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

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

### **Hours of work, punctuality**

**14.(1)** The hours of work of officers of the Public Service are those published by the Minister, and may be different for different categories of officers but shall not be varied except with the approval of the Minister.

(2) Officers shall attend work punctually; habitual lateness is a breach of this Code.

(3) Each Ministry or department shall maintain

(a) a register of attendance; or

(b) some other form of time-keeping acceptable to the Permanent Secretary or the Head of Department, as the case may be,

for the purpose of recording the arrival and departure of officers who, except with the permission of the Permanent Secretary or Head of Department, are required to record their arrival and departure.

### **Absence without permission**

**15.(1)** Officers who are absent from duty without permission, unless in the opinion of the Permanent Secretary or Head of Department the absence is due to illness or other unavoidable circumstances, are in breach of this Code, and their

pay may be reduced appropriately by the Permanent Secretary or Head of Department to take account of such absence.

(2) Absence as a result of illness or unavoidable circumstances referred to in sub-paragraph (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.

### **Prohibited activities**

**16.(1)** Officers while on duty shall not 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 sub-paragraph (1).

### **Dress**

**17.(1)** Officers are, while on duty, 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, Ministry of the Civil Service but shall not be contrary to the provisions of sub-paragraph (1).

### **Loss of or damage to property**

**18.(1)** Officers are 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.

### **Private work**

**19.(1)** Officers are permitted to undertake other paid employment only with the permission of the Service Commission.

(2) Notwithstanding sub-paragraph (1) the Governor-General, on the advice of the Service Commission, shall designate offices, the holders of which are permitted to engage in private work outside of official hours.

(3) The Governor-General, on the advice of the appropriate Service Commission, shall determine the conditions under which the holders of offices designated under sub-paragraph (2), in any individual case, are permitted to perform private work.

(4) For the purposes of sub-paragraphs (2) and (3) the general conditions applicable to the grant of permission for an officer to engage in private work under sub-paragraph (1) are as follows:

- (a) at no stage shall there be any conflict of interest between the official duties and private work of the officer;
- (b) the facilities, equipment, time and services of the employer shall not be used in furtherance of private work without the express permission of the employer.

(5) The permission to engage in private work may be withdrawn at any time by the Governor-General, on the advice of the Service Commission, where the Governor-General is satisfied that the private work is adversely affecting the official duties of the officer or the business of the Public Service; and the officer so affected shall be informed in writing of the reasons for the withdrawal.

### **Strikes**

**20.(1)** All officers who are on leave at the commencement of a strike must be informed by the Permanent Secretary or Head 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 purposes of study or training; and
  - (b) leave of absence outside Barbados.
- (2) Officers shall not be paid for any day or portion of a day during which they are on strike.
- (3) 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.
- (4) 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 sub-paragraph (1) fails to report for duty as provided in that sub-paragraph, the Permanent Secretary may withhold payment of the salary or wages for that officer in respect of the period of the strike during which he failed to report.
- (5) Notwithstanding sub-paragraph (2), 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**

**21.(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**

**22.(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 purposes of sub-paragraph (1), “sexual harassment” includes unwelcome 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**

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

#### **Use of the media**

**24.** Officers shall not

- (a) be editors of any newspaper or directly or indirectly take part in the management of newspapers;
- (b) contribute to any newspapers in Barbados or elsewhere on questions that can properly be called political or administrative, but may furnish articles upon subjects of general interest;
- (c) make a statement to the media or allow themselves to be interviewed on questions of public policy or on matters affecting the defence, military resources or diplomatic relations of Barbados without the prior approval of the Minister concerned;

- (d) make public or communicate to the media or cause to be made public or to be communicated to the media or to unauthorised persons any documents, papers or information which may come into their possession in their official capacity or make private copies of those documents or papers;
- (e) give broadcast talks or engage in any discussion that is being broadcast on any subject that may properly be regarded as of a political or administrative nature, without the prior permission of the Minister concerned; or
- (f) disclose or produce in evidence any official document of a confidential character in any court of law without obtaining the previous permission of the Minister.

### **Application of Code**

**25.** Subject to the provisions of the Memorandum of Understanding between the Government of Barbados and the Barbados Secondary Teachers' Union with respect to the terms and conditions of employment of the teachers mentioned therein, the provisions of this Code shall apply to every officer employed on or after 31st December, 2007.

### **Other misconduct not specifically mentioned**

**26.** 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.

### **Penalties**

- 27.** A person who either
- (a) fails to comply with; or

(b) engages in behaviour that is proscribed by

- (i) the provisions of paragraphs 5(c), 7(2), 8, 10, 11(2), 15, 16, 17, 18, 21, 22, 23 and 24 of the Code is guilty of misconduct that shall be regarded as a “misconduct of a serious nature” within the meaning of paragraph 2 of the Code of Discipline; and
- (ii) the provisions of paragraphs 14(2), 16, 18 and 19(1) is guilty of misconduct that shall be regarded as misconduct of a minor nature within the meaning of paragraph 2 of the Code of Discipline,

and is subject to the penalty for the misconduct as is specified in the Code of Discipline set out in the *Third Schedule*.

**THIRD SCHEDULE***(Sections 2 and 11(1)(c))***CODE OF DISCIPLINE IN THE PUBLIC SERVICE**General

This Code also applies to public officers who are governed by the *Police Act*, Cap. 167, the *Prisons Act*, Cap. 168 and the *Fire Service Act*, Cap. 163 where no specific provision under those Acts or under statutory instruments made under those Acts applies in relation to the misconduct specified in this Code.

1. This Code is aimed at ensuring
  - (a) that standards of conduct laid down in this Act, in any statutory instruments made thereunder or in the Code of Conduct and Ethics 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.
2. In this Code,

“misconduct of a serious nature” means conduct that warrants the dismissal of the offending person and, in addition to the misconduct specified in paragraph 27(b)(i) of the Code of Conduct and Ethics, includes the following:

  - (a) absence from duty without leave or approval;

- (b) conviction of a criminal offence punishable by a term of imprisonment;
- (c) 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;
- (d) unauthorised disclosure of information pertaining to the Government;
- (e) insubordination;
- (f) habitual intoxication or possession, use or distribution of illegal drugs while on duty;
- (g) reporting for duty or performing duties while under the influence of alcohol or illegal drugs;
- (h) failure to observe any laws, orders, rules or regulations governing the Public Service;
- (i) falsification of accounts or records, either manual or electronic;
- (j) wilful mutilation, alteration or destruction of property including official documents or records, either manual or electronic;
- (k) the threatening of a fellow officer or any person or threatening the destruction of any property while on duty;
- (l) the causing of grievous bodily harm;
- (m) the unauthorised possession of a firearm or other device that can be considered an offensive weapon;
- (n) acceptance of bribes or other inducements;
- (o) misappropriation of public funds;
- (p) major loss of or damage to property;
- (q) failure to perform the duties assigned to the office;
- (r) negligence in the performance of duty;

- (s) failure to maintain official records where the consequence amounts to a grave injustice;
- (t) misconduct involving 3 or more of the matters listed herein as matters of misconduct of a minor nature in sub-paragraphs (a) to (f) within a period of 2 years;

“misconduct of a minor nature” means misconduct that does not warrant dismissal and in addition to the misconduct specified in paragraph 27(b)(ii) of the Code of Conduct and Ethics includes the following:

- (a) use of obscene, abusive or insulting language while on duty;
- (b) malingering on duty;
- (c) failure to maintain official records as required;
- (d) loss of or damage to property of the Crown other than that considered as misconduct of a serious nature;
- (e) misuse of the Government’s Intranet, the Internet and any other information technology network;
- (f) disorderly conduct;

“officer” includes a temporary employee.

### **Criminal investigations**

3.(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 Code of Conduct and Ethics.

(2) Where an officer is charged with a criminal offence, the Permanent Secretary or Head of Department shall inform the Commission through the Chief Personnel Officer of the charge and the Commission may recommend to the

Governor-General that the officer be interdicted on half pay until the determination of the charge.

(3) An officer who is under interdiction from duty in accordance with sub-paragraph (2) may not leave Barbados without the permission of the Governor-General granted on the recommendation of the Commission.

#### **Adjudication of misconduct of a serious nature**

4.(1) The Governor-General shall, on the advice of the Commission, appoint a resident panel comprising not less than 10 persons, members of which shall include attorneys-at-law, retired and serving public servants to enquire into misconduct of a serious nature; but only 3 of whom shall sit and enquire into any matter at any one time.

(2) The Permanent Secretary or Head of Department shall, within 14 days of becoming aware of misconduct of a serious nature on the part of an officer, investigate the matter and if the authorised officer is of the opinion that the public interest requires that the officer should cease forthwith to perform the functions of his office during the investigation, the Permanent Secretary or Head of Department may suspend the officer on full pay for the purpose of carrying out the investigation and immediately inform the Commission through the Chief Personnel Officer, of the suspension.

(3) Where the Permanent Secretary or Head of Department is directly involved in the misconduct referred to under sub-paragraph (2), the investigation may be carried out by such other officer of the same grade as the Permanent Secretary as the Commission determines.

(4) In any case in which an authorised officer fails to take the action referred to in sub-paragraph (2), the Commission may issue instructions setting out the manner in which any case of misconduct is to be dealt with; and the case shall be dealt with accordingly.

(5) Where an authorised officer who carries out the investigation pursuant to this paragraph is satisfied that a breach of the Code of Conduct and Ethics or the

Code of Discipline has occurred, the authorised officer shall within 7 days of being so satisfied,

- (a) inform the Commission of the breach; and
- (b) recommend that a charge be brought against the officer.

(6) Where the Commission determines that a breach of one or both of the Codes referred to under sub-paragraph (5) may have occurred, the Commission shall within 14 days of that determination,

- (a) bring a charge of misconduct against the officer; and
- (b) establish an investigatory committee of 3 persons from the resident panel of persons to conduct an enquiry into the charge; and
  - (i) at least one of the three shall be an attorney-at-law; and
  - (ii) each of the members should be selected with due regard to the standing of the officer concerned and to the nature of the charges made against the officer.

(7) Where a member of the investigatory committee is a public officer, that member shall be the holder of an office which is at a grade higher than that of the officer against whom the charge has been brought, but in any case shall not be at a grade below that of Senior Personnel Officer.

(8) An officer who is charged under sub-paragraph (6) may be interdicted from duty by the Governor-General on the recommendation of the Commission

- (a) on such reduced pay not exceeding one half the salary to which the officer would have been entitled had the officer not been interdicted; and
- (b) for a period of not more than 6 months;

and notice of the interdiction shall be in writing and shall be sent to the officer as soon as practicable.

(9) Where a period of more than 6 months has elapsed in respect of an officer who is interdicted under sub-paragraph (8) and the charge against the officer has not been determined, the Commission may extend the period of interdiction for such period as it determines; and the officer shall receive the salary to which he would have been entitled but for the interdiction.

(10) An officer who is under interdiction from duty under sub-paragraph (8) may not leave Barbados without the permission of the Governor-General granted on the recommendation of the Commission.

(11) A charge brought against an officer under sub-paragraph (6) shall be defined in a written statement that also sets out the nature of the case to be answered, 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 may be assisted, if he so wishes, throughout the enquiry by a trade union representative, an attorney-at-law or a friend.

(12) A copy of the statements and all documentary evidence that may be used in an enquiry relating to a charge of misconduct of a serious nature shall be given to the officer who is charged as soon as is practicable but not later than 7 days thereafter.

(13) The officer who is charged under sub-paragraph (6) shall be given 14 days after the receipt of the statements and documentary evidence supplied pursuant to sub-paragraph (12) to reply to the charge, and to make any observations he may wish to make in writing in respect of the charge.

(14) The investigatory committee referred to under sub-paragraph (6)

- (a) is required to conclude an enquiry into the charge within 6 months of the date when the charge was brought; and

- (b) shall submit a report of the hearing to the Commission not more than 14 days after completion of the enquiry, giving the opinion of the panel as to
- (i) whether the charge has been proved;
  - (ii) the reasons for arriving at its opinion; and
  - (iii) the penalty that may be imposed for the offence, by the Commission.

(15) The Commission shall, within 21 days of receiving a report referred to under sub-paragraph (14), make such decision on the matter as the Commission considers appropriate; and shall advise the Governor-General accordingly.

(16) Where

- (a) the charge brought against an officer under sub-paragraph (6) has not been proved, and
- (b) the salary of that officer was reduced,

the salary of the officer shall be reinstated to the amount that the officer received immediately before the suspension or interdiction as the case may be; but if the enquiry results in any disciplinary action other than removal from office, the officer shall be allowed such emoluments as the Governor-General approves on the recommendation of the Commission.

(17) The Commission shall, through the Chief Personnel Officer, inform the officer of the decision of the Governor-General made pursuant to subparagraph (16); and that decision shall be communicated by the Chief Personnel Officer to the officer concerned within 7 days of the receipt of the information by the Chief Personnel Officer.

(18) A member of the resident panel appointed under sub-paragraph (1) who is not a public officer, may be paid such fee for his services as the Governor-General, acting in his discretion after consultation with the Commission and the Minister, determines.

(19) In this paragraph, “authorised officer” means the Permanent Secretary, Head of Department or an officer of the same grade as Permanent Secretary to whom sub-paragraph (3) refers, as the case may be.

### **Adjudication of minor offences**

5.(1) A person who is a senior personnel officer or other officer of a similar or a higher grade in the Public Service deputed by the Permanent Secretary, 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 under sub-paragraph (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 brought under subparagraph (1) shall at the end of the hearing,

(a) decide whether the public officer committed the misconduct for which he is charged; and

(b) recommend to the Permanent Secretary a penalty which is permissible under this Code if the public officer is found to have committed the misconduct.

(4) The decision of the person who is conducting the enquiry and any penalty recommended shall be conveyed to the public officer charged in writing within 7 days of the completion of the enquiry.

(5) A copy of all the material relating to the case shall be submitted to the Chief Personnel Officer within 7 days of the completion of the case.

### **Penalties**

6.(1) 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 in excess of 6 months;

- (b) reduction in rank;
- (c) suspension of future increments for a period not exceeding 2 years;
- (d) reprimand in writing;
- (e) compulsory retirement; or
- (f) dismissal.

(2) 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.

#### **Referral to Privy Council**

7.(1) Where the Commission has advised that

- (a) an officer ought to be removed from office; or
- (b) any penalty ought to be imposed on the officer by way of disciplinary control,

and the officer desires to apply by virtue of section 98 of the *Constitution* for a reference of the case to the Privy Council, the application shall be made in writing to the Governor-General within 14 days of the date on which the officer is informed of that advice; and the case shall be referred accordingly.

(2) Notwithstanding sub-paragraph (1), an officer suspended pursuant to section 98 of the *Constitution* shall not be paid any of his emoluments during the suspension.

[2010-1]

**FOURTH SCHEDULE***(Section 12(1))**Grievance-Handling Procedure*

**1.** The procedure for handling grievances is as follows but may be varied where the union and the Government agree to do so:

- (a) the aggrieved officer or employee, the shop steward of the union that represents the officer or employee and the supervisory officer of the officer or employee may seek to resolve the grievance within 3 days after the grievance has been reported;
- (b) where there is no resolution of the matter in accordance with sub-paragraph (a), the aggrieved officer or employee may, in writing, appeal to the Permanent Secretary assigned to the Ministry or Department within which the office to which the aggrieved party is appointed falls, to determine the matter within 7 days of the date when the matter reaches the Permanent Secretary;
- (c) where the union representing the aggrieved officer or employee is dissatisfied with the decision of the Permanent Secretary made pursuant to sub-paragraph (b), the aggrieved officer or employee may so inform the Permanent Secretary, Ministry of the Civil Service or the Chief Personnel Officer, in writing; and the Permanent Secretary or the Chief Personnel Officer shall determine the matter within 10 days of the receipt of the matter by the Permanent Secretary of the Ministry of the Civil Service or the Chief Personnel Officer;
- (d) where the aggrieved officer or employee is dissatisfied with the decision made pursuant to sub-paragraph (c), he may, within 10 days of the date when that decision was made, appeal to the Head of the Public Service;

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

**2.** For the purposes of this Schedule, “union” means the trade union or other body authorised to represent an officer or employee in respect of employment matters.

*[2010-1]*

**FIFTH SCHEDULE***(Section 24(3))**TRAINING COMMITTEE*

- 1.(1) The Training Committee shall consist of the following:
- (a) Head of the Public Service;
  - (b) Permanent Secretary, Ministry of the Civil Service;
  - (c) Permanent Secretary responsible for Training or the Principal Training Officer;
  - (d) Chief Personnel Officer;
  - (e) Permanent Secretary, Ministry of Finance; and
  - (f) Permanent Secretary with responsibility for international donor or development agencies;
  - (g) Permanent Secretary, Ministry of Education.
- (2) The Head of the Public Service shall be chairman of the Committee and may at any time summon a meeting of the Committee.
- (3) Four members of the Committee shall form a quorum, and, subject to this Act and the Regulations, the Committee may regulate its procedure.
2. The Committee shall, in the exercise of its functions under the Act or the Regulations, be subject to the policy to be followed pursuant to section 23.

**SIXTH SCHEDULE***(Section 36)****TRANSITIONAL PROVISIONS IN RELATION TO PUBLIC OFFICERS WHO  
WERE EMPLOYED UNDER THE FORMER ACT***

- 1.** The following provisions apply with respect to public officers who on 31st December, 2007, were officers in the public service (and who are hereinafter referred to as “existing officers”):
- (a)* where the Governor-General appoints an existing officer to an office established by an order under section 13(1), the Governor-General may, subject to paragraphs *(b)* and *(c)*, appoint the officer with effect from a date prior to 31st December, 2007 or such later date as he thinks fit, so, however, that the emoluments of the officer shall, in respect of any period during which his appointment is deemed to have had retrospective effect, be reduced by the amount of the emoluments attached to the office or offices actually held by him during that period;
  - (b)* for the purposes of paragraph *(a)*, there shall be excluded from any period during which an appointment is deemed to have had retrospective effect any period during which the officer received less than the emoluments attached to the office or offices actually held by him;
  - (c)* the period during which the appointment of an existing officer may be deemed to have had retrospective effect shall not exceed the period during which the officer was in the Public Service;
  - (d)* if the Governor-General considers that an existing officer appointed to an office established under section 13(1) will, unless the conditions of service prescribed by that order are modified, be in a worse position with respect to the conditions of his service as compared with the conditions of his service before being so appointed, he may make such modifications to such conditions as appear to him to be necessary to

ensure that they are, as nearly as maybe, equal to the conditions of service obtaining in respect of that officer before his appointment.

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**SEVENTH SCHEDULE***(Section 38)***OATHS AND AFFIRMATIONS**

I, (A.B), do swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth II, Her Heirs and Successors according to law, So help me God!

**AFFIRMATION OF ALLEGIANCE**

I, (A.B), do solemnly and sincerely affirm and declare that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth II, Her Heirs and Successors according to law.

**OATH OF OFFICE AND SECRECY**

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

**AFFIRMATION OF OFFICE AND SECRECY**

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

**EIGHTH SCHEDULE***(Section 2)***PART I***[2010-1]**Offices to which paragraph (b) of the definition “Permanent Secretary” refers*

Chief Agricultural Officer

Chief Education Officer

Chief Medical Officer of Health

Chief Technical Officer, Ministry of Public Works

Chief Town Planner

*[2010-1]*

Commissioner of Police

**PART II***[2010-1]**Departments whose Administrative Head is a Head of Department for the Purposes of this Act*

<b>DEPARTMENT</b>	<b>HEAD</b>
Analytical Services	Director
Barbados Drug Service	Director
Bureau of Gender Affairs	Director
Central Purchasing Department	Chief Supply Officer
Children’s Development Centre	Coordinator
Coastal Zone Management Unit	Director
Community Development Department	Chief Community Development Officer
Co-operatives Department	Registrar

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<b>DEPARTMENT</b>	<b>HEAD</b>
Corporate Affairs and Intellectual Property Office	Registrar
Customs Department (including the VAT Unit)	Comptroller
Data Processing Department	Director
Department of Archives	Chief Archivist
Department of Commerce and Consumer Affairs	Director
Department of Emergency Management	Director
Electoral Department	Chief Electoral Officer
Electrical Engineering Department	Chief Electrical Officer
Environmental Protection Department	Director
Erdiston College	Principal
Fire Service Department	Chief Fire Officer
Fisheries	Chief Fisheries Officer
Forensic Science Centre	Director
Government Industrial Schools	Principal
Government Information Service	Chief Information Officer
Government Printing Department	Government Printer
Immigration Department	Chief Immigration Officer
Inland Revenue Department	Commissioner
Labour Department	Chief Labour Officer
Land Registry Department	Registrar of Titles

<b>DEPARTMENT</b>	<b>HEAD</b>
Land Tax Department	Commissioner
Lands and Surveys Department	Chief Surveyor
Licensing Authority	Chief Licensing Officer
Media Resource Department	Chief Media Resource Officer
Meteorological Department	Director of Meteorological Services
National Disabilities Unit	Director
National HIV/AIDS Commission	Director
National Insurance Department	Director
National Library Service	Director
National Nutrition Department	Nutrition Officer
Natural Heritage Department	Director
Ombudsman	Ombudsman
Post Office	Postmaster General
Prisons Department	Superintendent
Probation Department	Chief Probation Officer
Psychiatric Hospital	Hospital Director
Public Markets	Manager
Registration Department	Registrar
Samuel Jackman Prescod Polytechnic	Principal
School Meals Department	Manager
Secondary Schools	Principal
Statistical Services Department	Director

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<b>DEPARTMENT</b>	<b>HEAD</b>
Supervisor of Insurance	Supervisor of Insurance and Pensions
Telecommunications Service	Chief Telecommunications Officer
Treasury Department	Accountant General
Welfare Department	Chief Welfare Officer
Youth Affairs	Director of Youth Affairs

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