ANGUILLA

REVISED REGULATIONS OF ANGUILLA

under

PUBLIC SERVICE COMMISSION ACT
R.S.A. c. P165

Showing the Law as at 31 December 2022

This Edition was prepared under the authority of the Revised Statutes and Regulations Act, R.S.A. c. R55 by the Attorney General as Law Revision Commissioner.

Regulation	Citation	Page
PUBLIC SERVICE COMMISSION REGULATIONS *Consolidates: R.A. 1/2004, in force 16 February 2004* *R.A. 12/2010, in force 28 May 2010* *R.A. 16/2019, in force 31 July 2019*	R.R.A. P165-1 *(15/12/2004)* *(15/12/2010)* *(31/12/2022)*	3

Published by the
Attorney General's Chambers
Printed under Authority by
The Regional Law Revision Centre Inc.
ANGUILLA

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

ANGUILLA

REVISED REGULATIONS OF ANGUILLA

under

PUBLIC SERVICE COMMISSION ACT
R.S.A. c. P165

Showing the Law as at 31 December 2022

This Edition was prepared under the authority of the Revised Statutes and Regulations Act, R.S.A. c. R55 by the Attorney General as Law Revision Commissioner.

Regulation	Citation	Page
PUBLIC SERVICE COMMISSION REGULATIONS *Consolidates: R.A. 1/2004, in force 16 February 2004* *R.A. 12/2010, in force 28 May 2010* *R.A. 16/2019, in force 31 July 2021*	R.R.A. P165-1 *(15/12/2004)* *(15/12/2010)* *(31/12/2022)*	3

Published by the
Attorney General's Chambers
Printed under Authority by
The Regional Law Revision Centre Inc.
ANGUILLA

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

© Government of Anguilla

All rights reserved. No part of this publication may be reproduced in any form or by any means (including photocopying) without the written permission of the Government of Anguilla except as permitted by the Copyright Act or under the terms of a licence from the Government of Anguilla.

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

Revised Regulations of Anguilla: P165-1

PUBLIC SERVICE COMMISSION ACT (R.S.A. c. P165)

PUBLIC SERVICE COMMISSION REGULATIONS

Note: These Regulations are enabled under section 6 of the Public Service Commission Act, R.S.A. c. P165.

TABLE OF CONTENTS

PART 1

PRELIMINARY

SECTION

1. Interpretation

PART 2

PUBLIC SERVICE COMMISSION

2. Oath of office
3. Meetings
4. Procedure, quorum and voting
5. Decisions otherwise than at meetings
6. Secretary
7. Record of meetings and decisions
8. Consultation with other persons
9. Unauthorised disclosure or use

PART 3

APPOINTMENTS, PROMOTIONS AND TRANSFERS

10. Recommendations to the Governor
11. Reporting of vacancies
12. Advertisement of vacancies
13. Principles of selection for promotion
14. Seniority lists
15. Selection for an acting appointment as prelude to appointment
16. Selection for an acting appointment not as prelude to appointment
17. Procedure for appointments
18. Selection Boards
19. Selection for scholarships and courses
20. Performance reports to assist Commission
21. Provisions for transfer

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

22. Overseas recruitment

PART 4

PROBATIONARY APPOINTMENTS

23. Probationary service
24. Incremental date where period of probation is extended

PART 5

DETERMINATION OF APPOINTMENTS

25. Abandonment of appointment
26. Reasons for termination of appointment
27. Retirement
28. Termination on abolition of office for improvement in organisation or for financial stringency
29. Retirement in the public interest
30. Pension

PART 6

GENERAL DISCIPLINE AND PROCEDURE

Discipline

31. Functions of the Commission with regard to discipline
32. Misconduct covered and not covered by Regulations
33. Grounds for criminal proceedings
34. No disciplinary proceedings while criminal proceedings pending
35. Interdiction and suspension
36. Copies of evidence of enquiries
37. Disciplinary action after acquittal of criminal charge
38. Officer convicted of criminal charge
39. Non-payment of emoluments on conviction of criminal charge
40. Disciplinary penalties
41. Deferment and withholding of increments
42. Payment of salary to interdicted or suspended officer

Procedure

43. Proceedings in cases where dismissal is not recommended
44. Appointment of Tribunal to inquire into disciplinary charges
45. Proceedings and Report of Tribunal

PART 7

FINAL PROVISIONS

46. Citation

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

SCHEDULE: Oath or Affirmation of Office to be taken by the Chairman and any Member of the Commission

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

PART 1

PRELIMINARY

Interpretation

1. In these Regulations—

"acting appointment" means the temporary appointment of an officer whether on promotion or otherwise to a higher office whether or not that office is vacant;

"appointment" means the conferment of an office of emolument in the public service upon a person;

"authorised officer" means a member of the Commission or any public officer or class of public officer to whom the functions of the Governor have been delegated pursuant to section 66(2) of the Constitution of Anguilla;

"Chairman" means the Chairman of the Commission and includes any temporary chairman and any member presiding at meetings of the Commission;

"Commission" means the Public Service Commission constituted under section 65 of the Constitution of Anguilla;

"Director of Human Resource Management" means the person holding that office;

(R.A. 12/2010, s. 2)

"long-term" means not less than one year;

(R.A. 12/2010, s. 2)

"member" means any person appointed to the Commission under the provisions of section 65 of the Constitution of Anguilla, and includes any temporary member;

"normal retirement age" means the same as defined in the Pensions Act;

(R.A. 1/2004, s.1)

"office or emolument", in relation to the definition of public officer, means any pensionable or non-pensionable post which is shown under a Personal Emoluments sub-head in the Estimates;

"officer" means public officer other than—

(a) a member of the Commission or the Judicial Service Commission;

(b) the Attorney General and the Chief Auditor;

(c) an officer whose appointment is regulated by the Judicial Service Commission; or

(d) police officers below the rank of Superintendent;

(R.A. 12/2010, s. 2)

"Pensions Law" means the Pensions Act as amended by subsequent legislation enacted and any regulations made thereunder;

"salary" means basic salary;

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

"Secretary" means Secretary to the Commission;

"transfer" means the conferment, whether permanently or otherwise, of some public office other than that to which the officer was last substantively appointed, which does not constitute promotion and which does not refer to the posting of an officer between duty posts in the same grade.

PART 2

PUBLIC SERVICE COMMISSION

Oath of office

2. The Chairman and other members of the Commission shall, as soon as possible after appointment, take the oath or make the affirmation set out in the Schedule.

Meetings

3. (1) The Commission shall meet as often as may be necessary for the purposes of performing its functions and such meetings shall be held on such days and at such time and place as the Chairman shall determine.

(2) Where a member fails to attend at least 3 consecutive meetings, the Chairman shall make a report to the Governor.

(R.A. 12/2010, s.4)

Procedure, quorum and voting

4. (1) In the absence of the Chairman from any meeting, the members present may elect one of their number to preside at that meeting.

(2) At any meeting of the Commission, the Chairman and 2 members, one of whom shall be a member appointed after consultation with the Public Service Staff Associations, shall constitute a quorum.

(3) All questions for discussion at a meeting of the Commission shall be decided by a majority of the votes of the members present and voting.

(4) The Chairman or other member presiding at a meeting shall have an original vote, and in the event of an equality of votes, he shall have a second or casting vote.

Decisions otherwise than at meetings

5. (1) Notwithstanding section 4 but subject to subsection (2), questions may also be decided by the Commission without a meeting by circulation of the relevant papers among the members and the expression of their views in writing, and in such case the decision shall be the view of the majority of members expressing a view.

(R.A. 12/2010, s.5)

(2) If any member requires that a matter or question being dealt with by circulation of the relevant papers shall be reserved for consideration at the next following meeting of the Commission, no decision shall be made on that matter or question except at a meeting of the Commission.

Secretary

6. (1) The Commission shall have a secretary who shall not be a member.

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

(2) The Director of Human Resource Management shall be the *ex-officio* Secretary.

(R.A. 12/2010, s.6)

Record of meetings and decisions

7. (1) The Secretary shall ensure that minutes of all meetings of the Commission and all decisions taken under section 5 are recorded, and that copies of such minutes and decisions are presented for confirmation by the Commission as soon as practicable and thereafter forwarded to the Governor.

(2) Any member of the Commission who dissents from a decision may require that his dissent and reasons for dissenting be recorded in the minutes.

Consultation with other persons

8. (1) The Commission in considering any matter or question may consult with any such public officer or other person as the Commission may consider proper and desirable, and may require any public officer to attend for the purpose of assisting the Commission in its deliberations and producing any official documents relating to such matter or question.

(2) Any public officer who, without reasonable cause or excuse, fails to appear before the Commission when required to do so, or fails to comply with a reasonable request made by the Commission or with any requirement of these Regulations, is guilty of misconduct.

Unauthorised disclosure or use

9. (1) Neither the Chairman nor any member nor any person shall without the written permission of the Governor publish or disclose to any person, otherwise than in the exercise of his functions under these Regulations, the contents of any document, conversation or information whatsoever which has come to his notice in the course of his duties under these Regulations in respect of any matter referred to the Commission or dealt with by any officer holding a delegated authority.

(2) If any public officer having possession of any information which to his knowledge has been disclosed in contravention of subsection (1) publishes or communicates any information to any other person otherwise than for the purpose of any prosecution or proceedings under these Regulations, he shall be liable to disciplinary proceedings.

PART 3

APPOINTMENTS, PROMOTIONS AND TRANSFERS

Recommendations to the Governor

10. (1) The Commission shall make recommendations to the Governor with respect to—

(a) appointments, promotions, transfers and secondments of suitable officers;

(b) the confirmation of individual officers in their appointments;

(c) selection of public officers for long-term training courses; and

(d) selection of public officers for training courses—

(i) that are not long-term courses, and

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

(ii) in circumstances where all officers who hold the same office in public service will not be exposed to the same training course.

(R.A. 12/2010, s.7)

(2) The Commission shall not (unless so requested by the Governor) make any such recommendation in relation to a function which has been delegated to an authorised officer.

Reporting of vacancies

11. When it is known that a vacancy will occur, or has occurred in the public service, the Head of Department shall report the vacancy to the Director of Human Resource Management and shall make his recommendations regarding the filling of the vacancy.

(R.A. 12/2010, ss.3 and 8)

Advertisement of vacancies

12. (1) The Secretary shall, when so directed by the Commission, by publication in the *Gazette*, by print or by electronic media give notice of vacancies and any serving officer may make application for appointment to any such vacancy. Such application shall be forwarded to the Secretary through the Head of Department under whose authority the applicant is serving, and through the Director of Human Resource Management.

(R.A. 12/2010, ss.3 and 9(a))

(2) Where the Commission considers either that there is no suitable candidate already in the public service available for the filling of any vacancy or that having regard to qualifications, experience and merit it would be advantageous and in the best interest of the public service that the service of a person not already in the service be considered for the post, the Commission shall recommend such steps (including advertisement of the existence of such a vacancy) as it may think necessary for the filling of such vacancy.

(R.A. 12/2010, s.9(b))

Principles of selection for promotion

13. (1) In considering the eligibility of officers for promotion, the Commission shall take into account the seniority, experience, professional and educational qualifications, merit and ability, together with relative efficiency of such officers and, in the event of an equality of 2 or more officers, shall give consideration to the relative seniority of the officers available for promotion to the vacancy.

(2) The Commission in considering the eligibility of officers under subsection (1) for an appointment on promotion shall attach greater weight to—

(a) seniority, where promotion is to an office that involves work of a routine nature; or

(b) merit and ability, where promotion is to an office that involves work of progressively greater and higher responsibility and initiative than is required for an office specified in paragraph (a).

(3) In the performance of its functions under subsections (1) and (2), the Commission shall take into account as respects each officer—

(a) his general fitness;

(b) the position of his name on the seniority list;

(c) any special qualifications;

(d) any special course of training that he may have undergone (whether at the expense of the Government or otherwise);

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

(e) the evaluation of his overall performance as reflected in annual confidential reports by any Head of Department or other senior officer under whom the officer may have worked during his service;

(f) any letters of commendation or special reports in respect of any special work done by the officer;

(g) the offices of which he has had knowledge;

(h) the duties of the office for which he is a candidate;

(i) any specific recommendation of the Head of Department for filling the particular post;

(j) any previous employment of his in the public service or otherwise;

(k) any special reports for which the Commission may call; and

(l) his devotion to duty.

(R.A. 12/2010, s.10)

(4) In addition to the requirements prescribed in subsections (1), (2) and (3), the Commission shall consider any specifications that may be required from time to time for appointment to the particular post.

(5) Recommendations made to the Commission for promotion shall state whether the person recommended is the senior officer in the department or grade eligible for the promotion and, where this is not the case, reasons for the recommendation shall be given in respect of each person in the department or grade whom it is proposed should be superseded.

(6) In considering the claims of eligible candidates the Commission shall take into account the claims of all eligible officers.

(7) In considering the eligibility of officers for promotion, the Commission may recommend that an officer be promoted on trial to fill a vacant post for a period normally not exceeding one year.

Seniority lists

14. (1) The Secretary shall keep up to date seniority lists of all officers holding offices in the several grades of the public service.

(2) The seniority of an officer shall be determined by the date of his appointment or promotion to a particular grade. The seniority of officers promoted to the same grade on the same date shall be determined by their seniority in their former grade.

Selection for an acting appointment as prelude to appointment

15. (1) The Director of Human Resource Management or Head of Department shall ensure that any recommendations made in relation to an acting appointment as a prelude to a substantive appointment shall be based on the principles prescribed in section 13.

(R.A. 12/2010, s.3)

(2) Where, in the exigencies of the public service, it has not been practicable to apply the principles prescribed in section 13, an officer selected for an acting appointment in consequence of a recommendation made under subsection (1) shall not thereby have any special claim to the substantive appointment.

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

Selection for an acting appointment not as prelude to appointment

16. (1) Where an acting appointment is to be made otherwise than as a prelude to a substantive appointment, the appointed officer shall—

(a) as a general rule be the senior officer in the Department eligible for such acting appointment; and

(b) assume and discharge the duties and responsibilities of the office to which he is appointed to act.

(2) In submitting any recommendation for an acting appointment, the Commission shall examine whether the exigencies of the service would best be served by transferring an officer from another Department next in line of seniority to act, when there is no officer in the Department who is capable of performing the duties of the higher grade.

Procedure for appointments

17. (1) The Commission shall be responsible for the form and manner in which applications are to be made for appointments to public offices within its purview and for the conduct of any examination for recruitment to such offices, and shall determine whether any candidate has the necessary qualifications for appointment to such offices.

(R.A. 12/2010, s.11)

(2) The Commission may interview candidates for appointment and shall consider in respect of each candidate—

(a) his educational qualifications;

(b) his general fitness;

(c) any previous employment of his in the public service or otherwise; and

(d) any reports for which the Commission may call from persons such as the principal, headmaster or headmistress of a candidate's university, college or school or any referees named by the candidate.

Selection Boards

18. (1) The Commission may from time to time appoint one or more than one Selection Board to assist in the selection of candidates for appointment to the public service or for long-term training coursesin discharge of its functions under section 10(1)(c), and the composition of any such Board and the form in which its reports are to be submitted shall be in the discretion of the Commission.

(R.A. 12/2010, s.12)

(2) On consideration of any report of a Selection Board, the Commission may, in its discretion, summon for interview any of the candidates recommended by such Board.

Selection for scholarships and courses

19. The principles of selection for promotion shall be followed where it is desired to select an officer for a course of training which is designed to fit him for a higher post or which may enhance his qualifications for promotion. Otherwise the procedure for making appointments shall be followed.

Performance reports to assist Commission

20. In order to assist the Commission in performing its functions, Heads of Departments shall, in each year on or before the 15th day of January, furnish to the Director of Human Resource Management performance reports

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

in respect of officers serving in their Departments. Such reports shall relate to the 12 months ended on the preceding 31st day of December.

(R.A. 12/2010, ss.3 and 13)

Provisions for transfer

21. Transfers shall be dealt with under the principles of selection for promotion when an increase in emoluments is involved, and under the procedure for appointments when there is no immediate increase in emoluments.

Overseas recruitment

22. If as a result of local advertisement there is no applicant regarded as belonging to Anguilla under the Constitution of Anguilla, or no candidate is selected by the Commission, the Secretary shall inform the Director of Human Resource Management who shall initiate overseas recruitment through the Crown Agents for Overseas Governments, or through other overseas departments or agents as he considers appropriate. When a candidate is selected by the Crown Agents or an overseas department, the Director of Human Resource Management will, after consulting the Chairman and the Head of Department concerned, recommend the appointment directly to the Governor, after taking into consideration the candidature of any local applicants who are not regarded as belonging to Anguilla. Where recruitment is initiated through any other agency or overseas department its recommendation will be referred to the Commission which shall consider at the same time the candidature of any applicants who are not regarded as belonging to Anguilla in reply to any local advertisement.

(R.A. 12/2010, s.3)

PART 4

PROBATIONARY APPOINTMENTS

Probationary service

23. (1) On first appointment to the public service, or on promotion in the service, an officer will be required to serve a probationary period of 1 year in the same office unless a shorter or longer term is specified by the Commission, save for instances where an officer would have served in a temporary or acting capacity for a period in excess of 1 year in the same office to which he has been appointed.

(R.A. 12/2010, s.14)

(2) At the end of the first 6 months during the probationary period, Heads of Departments shall submit to the Director of Human Resource Management a report on every officer so promoted or appointed on probation in their Departments. One month before the end of the probationary period Heads of Departments shall submit a further report and a recommendation—

(a) that the officer be confirmed in the appointment;

(b) that the probationary period be extended;

(c) that the officer's service be terminated; or

(d) that the officer revert to his former post.

(R.A. 12/2010, s.3)

(3) Before any recommendation is made for the extension of the period of probation of an officer or for the termination of his appointment, the Head of Department shall inform the officer of his recommendation and of the specific reasons therefor and he shall invite the officer to submit any representations he may wish to make.

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

(4) If, after consideration of the final report of the Head of Department, the Commission is satisfied that the services of an officer on probation has been satisfactory, the Commission shall recommend that he be confirmed in his appointment with effect from the date of appointment.

(5) If the Commission is not satisfied that the service of an officer on probation has been satisfactory, the Commission may recommend the extension of the period of probation for a further period.

(6) Subject to the provisions of these Regulations, the appointment on probation of an officer may, at any time during the period of probation and without any reason being given, be terminated by the Governor acting on the recommendation of the Commission.

Incremental date where period of probation is extended

24. Where the period of probation of an officer has been extended and he is subsequently confirmed in his appointment, the Commission may recommend that the officer's increment be paid—

(a) with effect from the date it was due had this period of probation not been extended; or

(b) twelve months after the date it was due.

PART 5

DETERMINATION OF APPOINTMENTS

Abandonment of appointment

25. An officer who is absent from duty without leave for a continuous period of 5 working days, unless declared otherwise by the Governor, shall be deemed to have resigned his office and thereupon the office becomes vacant and the officer ceases to be an officer.

(R.A. 12/2010, s.15)

Reasons for termination of appointment

26. The services of an officer may be terminated only for the reasons stated hereafter—

(a) where the officer holds a permanent appointment—

(i) on dismissal or removal in consequence of disciplinary proceedings,

(ii) on normal retirement,

(iii) on retirement for medical reasons,

(iv) on compulsory retirement in the public interest, or to facilitate improvements in the organisation of a Department, or on the grounds of financial stringency, or

(v) on abolition of office;

(b) where the officer holds a temporary appointment—

(i) on the expiry or other termination of an appointment for a specified period,

(ii) where the office itself is of a temporary nature and is no longer necessary,

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

(iii) on the termination of appointment in the case of an officer on probation,

(iv) on the termination of appointment in the public interest,

(v) on dismissal or removal in consequence of disciplinary proceedings, or

(vi) on the termination of appointment in the case of ill-health;

(c) where the officer is on contract his services shall be terminated in accordance with the terms of the contract.

(R.A. 12/2010, s.16)

Retirement

27. (1) An officer holding a pensionable post will be required to retire at any time after attaining the normal retirement age, but in special cases a public officer may be required to retire by the Governor at any time within 5 years before attaining the normal retirement age.

(R.A. 12/2010, s.17)

(2) Heads of Departments will notify the Governor of all officers in that Department who are within 1 year of the normal retiring age, and will also indicate whether they recommend the officer be retained beyond the normal retiring age. Heads of Departments will also advise the Director of Human Resource Management and the Chairman of such notification.

(R.A. 12/2010, s.3)

(3) Except with the approval of the Governor, a pensionable officer, having reached the normal retirement age, will normally be called upon to retire from the public service.

(4) The Commission shall recommend to the Governor whether or not an application for extension of service beyond the normal retiring age under subsection (2) ought to be granted.

(R.A. 1/2004, s.2)

Termination on abolition of office for improvement in organisation or for financial stringency

28. (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 Head of Department shall submit to the Director of Human Resource Management for consideration by the Commission, a report thereon containing his recommendations, with such reasons therefor, as to which substantive holder of such post ought to have his appointment terminated; the Commission shall make such recommendations thereon to the Governor as it may think proper (including, if it thinks fit, a recommendation that the officer concerned be transferred to another post not lower in status than that which has been abolished).

(R.A. 12/2010, s.3)

(2) Subsection (1) shall apply in relation to the termination of appointments for the purpose of facilitating improvement in the organisation of a Department in order to effect greater efficiency or economy, or on the grounds of financial stringency.

(3) Where a Head of Department makes any recommendation under this section, the Head of Department shall, at the same time, notify the officer concerned in writing of his recommendation and such officer may, within 7 days of the receipt of the notification, make representations thereon. Any such representations as may be made shall be forwarded in their original form through the Director of Human Resource Management to the Commission by the Head of Department together with such comments as the Head of Department thinks fit.

(R.A. 12/2010, s.3)

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

Retirement in the public interest

29. (1) Where it is represented to the Commission, or the Commission considers it desirable in the public interest, that an officer ought to be required to retire from the public service on grounds which cannot suitably be dealt with under any of these Regulations, it shall call for a full report on the officer from the Head of every Department in which the officer has served during the last preceding 10 years.

(2) If, after considering such report and giving the officer an opportunity of submitting a reply to the grounds on which his retirement is contemplated, and having regard to the conditions of the public service and the usefulness of the officer thereto, and all the other circumstances of the case, the Commission is satisfied that it is desirable in the public interest to do so, it shall recommend to the Governor that the officer be required to retire.

Pension

30. Where the appointment of an officer is terminated under section 27, 28 or 29, his service shall terminate on such date as the Governor may decide and the question of his pension shall be dealt with in accordance with the provisions of the Pensions Law.

PART 6

GENERAL DISCIPLINE AND PROCEDURE

Discipline

Functions of the Commission with regard to discipline

31. (1) The Commission shall deal with disciplinary proceedings against officers in the light of reports from Heads of Departments or otherwise.

(2) Subject to subsection (3), where the Commission is of the opinion that disciplinary proceedings should be instituted against an officer, the Commission may recommend to the Governor that such proceedings be instituted.

(3) Where an offence against any law appears to have been committed by an officer, the Commission, before making a recommendation under subsection (2), shall obtain the advice of the Attorney General as to whether criminal proceedings ought to be instituted. The Commission shall not recommend the initiation of disciplinary proceedings before the determination of the criminal proceedings so instituted and the time allowed for an appeal from such determination has expired.

Misconduct covered and not covered by Regulations

32. (1) Any misconduct by an officer shall be dealt with under this Part as soon as possible after the time of its occurrence.

(2) Any case not covered by these Regulations shall be reported to the Director of Human Resource Management and the Commission may issue instructions as to how the case is to be dealt with, and the case shall be dealt with accordingly.

(R.A. 12/2010, s.3)

Grounds for criminal proceedings

33. Where upon a preliminary investigation or a disciplinary enquiry an offence against any law appears to have been committed by an officer, the Commission shall, unless action by the police has been or is about to be taken, consult the Attorney General as to whether criminal proceedings should be instituted.

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

No disciplinary proceedings while criminal proceedings pending

34. (1) Where criminal proceedings have been instituted in any court against an officer, proceedings for his dismissal upon any grounds arising out of the criminal charge shall not be taken until after the court has given judgment and the time allowed for an appeal from the judgment has expired; and where an officer after conviction has appealed, proceedings for his dismissal shall not be taken until after the withdrawal or determination of the appeal.

(2) Nothing in this section shall prevent the officer being interdicted from duty pursuant to section 35.

Interdiction and suspension

35. (1) Where there have been or are about to be instituted against an officer—

(a) disciplinary proceedings; or

(b) criminal proceedings;

and, where the Commission is of the opinion that the public interest requires that that officer should forthwith cease to perform the functions of his office, the Commission may recommend his interdiction from such performance; but meanwhile the Governor may of his own accord suspend the officer.

(2) An officer so interdicted or suspended shall, subject to the provisions of section 39, be permitted to receive such proportion of the salary of his office, not being less than one half, as the Governor may decide after considering the recommendation of the Commission, or as the Governor may decide of his own accord.

(R.A. 12/2010, s.18)

(3) If disciplinary proceedings against any such officer result in his exculpation, he shall be entitled to the full amount of the salary which he would have received if he had not been interdicted or suspended but, if the proceedings result in any punishment other than dismissal, the officer shall be allowed such salary as the Governor may decide after considering the recommendations of the Commission.

(4) An officer who is under interdiction or suspension from duty may not leave Anguilla without the permission of the Governor acting after consultation with the Commission.

Copies of evidence of enquiries

36. An officer in respect of whom a disciplinary enquiry is to be held shall be entitled without charge to him to receive copies of, or to be allowed access to, any documentary evidence to be relied on for the purpose of the enquiry. He shall also be given upon request a copy of the evidence (including copies of documents tendered in evidence) after the enquiry is closed.

(R.A. 12/2010, s.19)

Disciplinary action after acquittal of criminal charge

37. An officer acquitted in any court of a criminal charge shall not be dismissed or otherwise punished in respect of any charge of which he has been acquitted, but nothing in this section shall prevent his being dismissed or otherwise punished in respect of any other charge arising out of his conduct in the matter, unless such other charge is substantially the same as that in respect of which he has been acquitted.

Officer convicted of criminal charge

38. If an officer is convicted in any court of a criminal charge, the Commission may consider the relevant proceedings of that court, and, if the Commission is of the opinion that the officer ought to be dismissed or subjected to some lesser punishment in respect of the offence of which he has been convicted, the Commission may thereupon recommend the dismissal or other punishment of the officer without the institution of any disciplinary proceedings under these Regulations.

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

Non-payment of emoluments on conviction of criminal charge

39. An officer convicted of a criminal charge involving dishonesty, fraud or moral turpitude or convicted of a criminal charge and sentenced to imprisonment shall not receive any of his emoluments after the date of such conviction pending consideration of his case by the Commission.

Disciplinary penalties

40. (1) The penalties which may be imposed on an officer against whom a disciplinary charge has been established are—

(a) dismissal;

(b) reduction in office;

(R.A. 12/2010, s.20)

(c) deferment or withholding of increment;

(d) a fine;

(e) severe reprimand; and

(f) reprimand.

(2) Where a fine is imposed the amount of such fine shall be deducted from the salary of the officer by such instalments as may be specified at the time the penalty is imposed.

Deferment and withholding of increments

41. (1) Subject to the provisions of this section, an increment shall not be deferred or withheld except by the Governor acting after consultation with the Commission.

(2) The grant of an increment may be prejudiced by—

(a) lack of efficiency;

(b) unsatisfactory service or conduct; or

(c) failure to pass a requisite examination conditional to the grant of the officer's increment.

(3) Where a Head of Department considers that, for any of the reasons specified in paragraph (2)(a) or (b), an officer's increment ought not to be granted, he shall notify the officer in writing at least 1 month before the date on which the increment is due of the reasons for which he considers that the increment ought not to be granted; and shall, with his recommendation that the increment be either deferred or withheld, report the matter to the Director of Human Resource Management for the Commission's recommendation to the Governor as to whether the payment of the increment ought to be made on the date on which it becomes due.

(R.A. 12/2010, s.3)

(4) In making a recommendation for the deferment or withholding of an increment, the Head of Department shall take into account the gravity of the original misconduct or dereliction of duty, if any, and the nature of the officer's subsequent behaviour, or his present degree of efficiency. He shall also bear in mind that—

(a) "deferment" is a substantial fine; and

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

(b) "withholding" is a very serious penalty which deprives the officer of the amount of that increment during each subsequent year of his service until the officer reaches the maximum of his scale.

(5) An increment may be deferred for a period not exceeding 12 months and shall be payable from the date on which it is restored.

(R.A. 12/2010, s.21)

Payment of salary to interdicted or suspended officer

42. Where an officer has been interdicted or suspended from duty and a reference of his case to the Governor results in his exculpation, he shall be entitled to receive the full amount of any salary which he would have received but for his interdiction or suspension; but, if the reference results in any punishment other than dismissal, the officer shall be allowed such salary as the Governor or the appropriate authorised officer may, in the circumstances, recommend.

Procedure

Proceedings in cases where dismissal is not recommended

43. (1) Whenever a Head of Department considers it necessary to institute proceedings on the grounds of misconduct against an officer serving in his department, he shall cause such preliminary investigation as he considers necessary to be made and report the facts to the Governor through the Director of Human Resource Management together with his recommendations. The Governor shall, after considering the results of the preliminary investigation or of the report, as the case may be—

(a) if he considers that disciplinary charges should be framed against the officer, forward to the officer a statement of the charge or charges framed against him together with a brief statement of the allegations, insofar as they are not clear from the charges themselves, on which each charge is based; and shall call on the accused officer to state in writing before a day to be specified (which shall allow a reasonable interval for the purpose) any grounds on which he relies to exculpate himself; and

(b) if the officer does not furnish a reply within the period specified or does not in the opinion of the Governor exculpate himself, forward to the Secretary copies of reports on the case, the charges, the officer's reply, if any, together with his own comments.

(R.A. 12/2010, ss.3 and 22)

(2) If, on consideration of the reports, including the grounds, if any, upon which the officer relies to exculpate himself, the Commission is of the opinion that no further investigation is necessary, it shall advise the Governor as to the punishment, if any, other than dismissal, which should be inflicted on the officer.

(3) If the Commission, on consideration of the report submitted to it is of the opinion that the matter should be further investigated, it shall advise the Governor as to the manner in which the allegations against the officer should be investigated.

(4) In any such investigation an officer to whom this section applies shall be entitled to know the whole case against him and shall be given an adequate opportunity of making his defence.

(5) The results of such investigation shall be communicated to the Commission by the person conducting such investigation.

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

(6) The Commission may, if it considers the results of the investigation should be amplified in any way or that further investigation is desirable, refer the matter back to the person conducting such investigation for further enquiry and report.

(7) The Commission shall forward to the Governor the proceedings against the officer and shall advise the Governor as to what punishment, if any, other than dismissal, but including retirement from the service, should be inflicted on the officer.

(8) Notwithstanding the provisions of this section if, at any stage during the proceedings taken under it, it appears to the Governor that the offence if proved, would justify dismissal, such proceedings shall be discontinued and the procedure in sections 44 and 45 shall be followed.

Appointment of Tribunal to inquire into disciplinary charges

44. (1) If the officer does not furnish a reply to the charges forwarded under section 43(1)(a) within the period specified or if, in the opinion of the Governor, he fails to exculpate himself, the Governor shall refer the case to the Secretary with his comments and recommendations.

(R.A. 16/2019, s.2)

(2) Thereupon the Commission shall advise the Governor on the appointment of a Tribunal to consist of such persons as it shall specify being not less than 3 in number, to inquire into the matter; and the Governor may appoint a Tribunal for such purpose.

(R.A. 16/2019, s.2)

(3) One member of the Tribunal shall be the Magistrate or a person with legal qualifications. Neither the Head nor any member of the officer's department shall be a member of the Tribunal.

(R.A. 16/2019, s.2)

(4) The Tribunal shall inform the accused officer that on a specified day the charges made against him will be investigated by it and that he will be allowed, or if the Tribunal shall so determine, will be required to appear before it to defend himself.

Proceedings and Report of Tribunal

45. (1) If witnesses are examined by the Tribunal, the accused officer shall be given an opportunity to put questions on his own behalf to the witnesses, and no documentary evidence shall be used against him unless he has previously been supplied with a copy thereof or been given access thereto.

(R.A. 12/2010, s.23(a))

(2) The Tribunal shall, if so requested, permit the accused officer to be represented by a public officer or a legal practitioner.

(3) If during the course of the inquiry grounds for the framing of additional charges against the accused officer are disclosed, the Tribunal shall inform the Governor of the same and, if he thinks fit to recommend proceedings against the accused officer upon such grounds, the same procedure shall be followed in respect of additional charges as was adopted in respect of the original charges.

(4) The Tribunal, having inquired into the matter, shall forward its report thereon to the Secretary accompanied by the record of the charges framed, the evidence led, the defence, and other proceedings relevant to the inquiry.

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

(5) The Commission, after consideration of the report of the Tribunal, may, if it is of the opinion that the report should be amplified in any way or that further investigation is desirable, refer the matter back to the Tribunal for further investigation and report. Otherwise the Commission shall forward the written proceedings of the inquiry to the Governor together with its advice as to the punishment, if any, which should be inflicted on the accused officer. The decision by the Governor on each charge preferred against the accused officer shall be communicated to him, but not the reasons for the decision.

(R.A. 12/2010, s.23(b))

PART 7

FINAL PROVISIONS

Citation

46. These Regulations may be cited as the Public Service Commission Regulations, Revised Regulations of Anguilla, P165-1.

SCHEDULE

(Section 2)

OATH OR AFFIRMATION OF OFFICE TO BE TAKEN BY THE CHAIRMAN AND ANY MEMBER OF THE COMMISSION

I, ……., do swear (or solemnly and sincerely affirm) that I will faithfully execute the office of Chairman/Member of the Public Service Commission without fear or favour, affection or ill-will and that in the execution of the functions of that office I will follow, uphold and preserve the Constitution of Anguilla.

So help me God.*

Signed…….

Sworn/Affirmed before me this …… day of ……, 20…… .

Signed……..……
Governor of Anguilla

**Delete if affirmed*

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai