



1967/2

THE PUBLIC SERVICE REGULATIONS 1967

Pursuant to Section 48 of the Public Service Act 1965 the Secretary of the Premier's Department, with the approval of the Executive Council, hereby makes the following regulations:-

ANALYSIS

- |  |  |  |
|--|--|--|
| 1. Title and commencement  | 23. Probation reports                                      |  |
| 2. Interpretation  | 24. Reports to be seen by employee.                        |  |
| <u>PART I</u>  |  |  |
| <u>GENERAL PROVISIONS</u>  |  |  |
| 3. Application of regulations  | 25. Hours of work  |  |
| 4. General instructions  | 26. Additional hours of duty                               |  |
| 5. Acquaintance with regulations and instructions  | 27. Time books or other attendance record                  |  |
| 6. Departmental instructions   | 28. Absence from place of employment                       |  |
| 7. Communications with Secretary   | 29. Penalty for unauthorised absence                       |  |
| 8. Departmental head's powers  | 30. Care of stores   |  |
| <u>PART II</u>   |  |  |
| <u>APPLICATIONS FOR EMPLOYMENT</u>   |  |  |
| 9. Form of application   | 31. Care of property                                       |  |
| 10. Failure to reply   | 32. Accounts and public money                              |  |
| 11. Certificates and testimonials  | 33. Liability not to be incurred                           |  |
| <u>PART III</u>  |  |  |
| <u>LEAVE: ANNUAL, SPECIAL AND SICK</u>   |  |  |
| 12. Annual Leave   | 34. Forms of specifications and contracts to be adhered to |  |
| 13. Special Leave  | 35. Elections for Island Council Members                   |  |
| 14. Sick Leave   | 36. Subscription lists, or donation boxes                  |  |
| <u>PART IV</u>   |  |  |
| <u>LEAVE: RETIRING</u>   |  |  |
| 15. Eligibility  | 37. Borrowing and lending                                  |  |
| 16. Eligibility for retiring leave on medical grounds  | 38. Incriminating questions                                |  |
| 17. Cash grant   | 39. Official information not to be given                   |  |
| 18. Leave in anticipation of retiring leave  | 40. Use of official documents                              |  |
| 19. Cash grant equivalent to retiring leave due to death   | 41. Obedience to lawful instructions                       |  |
| 20. Retiring leave for employees dispensed with through no fault of their own before reaching retiring age | 42. Unsatisfactory performance of duties                   |  |
| <u>PART V</u>  |  |  |
| <u>LEAVE: RESIGNING</u>  |  |  |
| 21. Eligibility  | 43. Conviction for offences                                |  |
| <u>PART VI</u>   |  |  |
| <u>REPORTS</u>   |  |  |
| 22. Personal reports   | 44. Solicitation of gifts, rewards, and gratuities         |  |
|  | 45. Near relatives employed in same department             |  |
|  | 46. Insobriety   |  |
|  | 47. Medical examination for inefficiency                   |  |
|  | <u>PART VIII</u>   |  |
|  | <u>ALLOWANCES, GRANTS, AND EXPENSES</u>                    |  |
|  | 48. Higher Duties Allowance                                |  |
|  | 49. Rewards for study                                      |  |
|  | 50. Conveyance expenses on appointment                     |  |
|  | 51. Mode of travel   |  |

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52. Transfer expenses	61. Office accommodation defined
53. Other allowances and expenses	62. Secretary's responsibilities for office accommodation
<u>PART IX</u>	
<u>PUBLIC SERVICE BOARD OF APPEAL</u>	
54. Meetings of Board	63. Physical working conditions
55. Minutes of Board	<u>PART XII</u>
56. Evidence recorded in an appeal	<u>RETIREMENT</u>
57. Procedure on appeal	64. Retirement Policy
58. Evidence of remote witnesses	65. Retirement of medically unfit officers
59. Decision to be notified	<u>PART XIII</u>
<u>PART X</u>	<u>CONTRACTS OF SERVICE</u>
<u>OFFICE APPLIANCES</u>	66. Contracts of service in special cases
50. Office appliances	
<u>PART XI</u>	
<u>OFFICE ACCOMMODATION AND</u>	
<u>PHYSICAL WORKING CONDITIONS</u>	

### REGULATIONS

1. Title and commencement - These regulations may be cited as the Public Service Regulations 1967, and shall come into force on the 10th day of August, 1967.

2. Interpretation - In these regulations, unless the context otherwise requires, -

- "The Act" means the Public Service Act 1965;
- "Employee" means a person employed in the Public Service whether on the permanent staff (including any probationer) or temporarily or as a wage worker;
- "Leave year" means a year ending with the 30th day of November;
- "Officer" means an employee of the Public Service other than a probationer or a temporary salaried employee or a wage worker;
- "Probationer" means a person serving on probation in terms of Section 12 or Section 29 of the Public Service Act 1965;
- "Secretary" means the Secretary of the Premier's Department appointed in terms of Article 73 of the Constitution of the Cook Islands;
- "Service" in relation to the calculation of retirement leave on retirement, means unbroken full-time employment in the Public Service at the time when an employee ceases work, together with any other period, and type of employment which the Secretary may in his discretion recognise; but does not include -
  - (a) Any continuous period of leave exceeding three months (other than for sickness, furlough, study leave on pay, or military service, or for such other purposes as the Secretary may prescribe in the Public Service Manual of Instructions); and
  - (b) Any period of anticipated retiring leave;
- "Service Organisation" means the Cook Islands Branch of the New Zealand Public Service Association (inc.), Island Territories Section;
- "Temporary" employee means an employee for the time being employed in terms of Section 10 of the Public Service Act 1965;
- "Wage Worker" means an employee for the time being employed in terms of Section 11 of the Public Service Act 1965.

PART I  
GENERAL PROVISIONS

3. Application of Regulations - (1) These regulations, unless the context otherwise requires and subject to the provisions of this regulation, shall apply to all employees.

(2) The Secretary may from time to time, by notice published in the Public Service Official Circular, exempt any class of employee from the provisions of these regulations or from any part thereof specified in the notice.

(3) Nothing in these regulations shall derogate from the power of delegation conferred upon the Secretary by Section 5 of the Public Service Act 1965.

4. General Instructions - (1) The Secretary may from time to time issue lawful orders to employees in the form of general instructions.

(2) A general instruction according to its tenor may apply generally to all employees, or to a specified group or to specified groups of employees.

(3) The provisions of a general instruction shall be deemed to have been communicated to an employee when the instruction has been published in the Public Service Official Circular or in the Public Service Manual issued by the Secretary, or failing any such publication, when it has otherwise been brought to his personal notice in writing.

5. Acquaintance with regulations and instructions - Every officer, probationer, and temporary employee shall acquaint himself with the provisions of the Act and of all regulations made thereunder and of any instructions issued by the Secretary, and ignorance of any such provision shall not excuse a breach thereof. For this purpose the departmental head shall ensure that copies of the Act and all regulations made thereunder, the Public Service Manual, and any general instructions of the Secretary are available for perusal by officers, probationers, and temporary employees under his control.

6. Departmental instructions - (1) In any Department in which departmental instructions have been issued under the authority of the Departmental head, the departmental head shall ensure that sufficient copies are kept available in each branch of that Department for perusal by any employee affected by them, and that suitable provision is made for the publication of amendments thereto.

(2) Where the provisions of subclause (1) of this regulation have been complied with, the departmental instruction shall be deemed to have been communicated to every employee in that Department, and ignorance of any such departmental instruction shall not excuse a breach thereof.

7. Communications with Secretary - (1) Except as otherwise provided, all communications from departments intended for the Secretary shall be addressed to him at his office in Rarotonga, and signed by the Departmental head or Officer deputed by him to sign on his behalf.

(2) An employee shall be entitled to communicate with the Secretary but shall follow the procedure set down in subclause (3) of this regulation.

(3) Except as otherwise provided in these regulations, all communications from an employee to the Secretary shall be addressed to the Secretary and submitted through the employee's controlling officer and departmental head. Every such communication shall be forwarded promptly by the controlling officer to the departmental head, and by the departmental head to the Secretary.

8. Departmental head's powers - (1) Wherever powers are vested in a departmental head under these regulations, the Secretary shall have authority to give a departmental head written directions in respect of the operation of those powers, and the departmental head shall implement any such directions.

(2) Wherever powers are vested in a departmental head under these regulations, that departmental head may, with the prior approval in writing of the Secretary, delegate within his Department such of those powers as the Secretary approves to a specified employee or to persons of a specified class, or to the holder or holders for the time being of a specified office or of specified classes of offices.

(3) Subject to any general or special directions given by the departmental head, any employee to whom any powers are so delegated may exercise those powers in the same manner and with the same effect as if they had been conferred on him directly by these regulations and not by delegation.

(4) Any employee purporting to act pursuant to any delegation under subclause (2) of this regulation shall, in the absence of proof to the contrary, be presumed to be acting in accordance with the terms of the delegation.

(5) Every delegation under subclause (2) of this regulation shall be revocable in writing at will, and no delegation shall prevent the exercise of any power or function by the departmental head.

(6) Every delegation under subclause (2) of this regulation shall, until it is revoked continue in force according to its tenor, notwithstanding any changes of departmental head.

## PART II

### APPLICATIONS FOR EMPLOYMENT

9. Form of application - (1) Every person desirous of appointment to the Public Service, whether as a probationer in the permanent service or as a temporary employee, shall forward to the Secretary an application containing such particulars as the Secretary may from time to time require.

(2) The Secretary may regard as lapsed;

- (a) Any application for a specific position when an appointment has been made to that position;
- (b) Any general application for employment which was not renewed or received during the preceding six months.

(3) In making appointments from any list of current applications, the Secretary shall have regard to the applicant with the most merit for the position to be filled. For the purposes of this subclause merit shall be determined in the manner prescribed in Section 13 of the Act.

10. Failure to reply - If any applicant for appointment to the Public Service fails to reply within fourteen days to any communication from the Secretary respecting his application addressed to him at his last known place of residence or at such other address as may have been nominated by the applicant, the Secretary may regard his application as having lapsed.

11. Certificates and testimonials - (1) Every applicant for appointment shall, if the Secretary so requires, produce:

(a) A Birth Certificate.

Provided that where a birth certificate cannot be obtained the Secretary may accept other documentary evidence of age and place of birth;

(b) A medical certificate;

(c) A testimonial as to character from a reputable person;

(d) Such further testimonials as the Secretary may require;

(e) A certificate of education qualifications or attainments.

(2) Every such certificate or testimonial may be retained by the Secretary, unless it is accompanied by a copy.

(3) If any applicant fails within a reasonable time to produce when required to do so any certificate or testimonial, or if the documents forwarded are not considered satisfactory, or if the applicant has furnished false or misleading information in respect of his application, the Secretary may annul the appointment.

### PART III

#### LEAVE: ANNUAL, SPECIAL AND SICK

12. Annual Leave - (1) Employees who complete 5 years of service before the end of a leave year shall be entitled to not more than three weeks annual leave in that and succeeding leave years.

(2) Other employees shall be entitled to not more than two weeks annual leave each year.

(3) Notwithstanding the foregoing provisions of this regulation the Secretary may grant annual leave in excess of the amounts laid down above to a specified class or to specified classes of employees.

(4) For the purposes of this regulation the term "week" means five working days in the case of an employee who usually works five days in each calendar week, and, in the case of an employee who usually works six days in each calendar week, means six working days.

(5) For the purposes of this regulation the term "service" may at the discretion of the Secretary include previous government service or other employment.

(6) If an employee to whom subclause (1) or subclause (2) of this regulation applies has been absent on sick leave, whether with or without pay, or special leave without pay in excess of thirty-five days (including Saturdays and Sundays) in one or more periods in any leave year the period of annual leave shall, unless the Secretary otherwise directs, be reduced by one tenth of the number of working days included therein for each thirty-six days (including Saturdays and Sundays) of such absence.

(7) If an employee to whom subclause (3) of this regulation applies has been absent on sick leave whether with or without pay, or special leave without pay in excess of thirty-five days (including Saturdays or Sundays) in one or more periods in any leave year, the period of annual leave shall be reduced in respect of each thirty-six days (including Saturdays and Sundays) of such absence by such proportion of the annual leave as the Secretary, having regard to the provisions of subclause (6) of this regulation, determines.

(8) The Secretary may approve a cash payment to the widow or dependent children of a deceased employee of an amount equivalent in money of the leave that might have been granted to the deceased employee in terms of this regulation had he resigned from the Service at the date of his death.

(9) The departmental head may direct an employee to take annual leave at such time as is convenient to the working of the Department but as far as practicable the wishes of the employee concerned shall be taken into consideration when fixing the time for the taking of leave.

(10) An employee shall forfeit that part of his annual leave when he fails to take it in the leave year in which it is granted, unless he has obtained the approval of the Secretary to the postponement of the leave.

(11) Any officer or probationer aggrieved by a decision of his departmental head under subclause (9) may appeal therefrom to the Secretary in writing within 14 days after the date on which the decision of the departmental head has been communicated to him. The Secretary's decision shall be final.

(12) An officer with over 10 years' service may, with the consent of the Secretary, postpone the taking of up to two years' annual leave in addition to the current year's leave for the purpose of taking a holiday trip overseas. In the event of the trip not eventuating the accumulated leave must be taken within a reasonable time (not exceeding two years) or forfeited. No cash grant instead of that leave will be available.

(13) Teachers who are not required to remain on duty during the school holidays prescribed by the Director of Education shall take leave during the school holidays and shall not be entitled to any other annual or holiday leave. Where teachers are required to remain on duty during the school holidays they shall be granted annual leave in accordance with subclause 1 - 3 of this regulation.

(14) Before any employee takes annual leave he shall obtain the prior approval of his controlling officer.

13. Special Leave - (1) The Secretary may grant special leave subject to such terms and conditions as he may prescribe from time to time.



(2) Maternity Leave shall be granted as leave without pay:

Provided that an employee resuming duty after a period of maternity leave of not more than six months may be granted retrospective pay for up to thirty-one days of the period of absence subject to there being sufficient sick leave available as set out in regulation 14 hereof. The employee shall furnish to the Secretary a certificate from the Health Department in support of the reason for leave of absence before any payment in terms of this proviso is made.

14. Sick Leave - (1) Employees, other than wage workers, shall be entitled to sick leave, subject to such terms and conditions as the Secretary may from time to time prescribe in accordance with the following table:-

<u>Length of Service</u>	<u>Aggregate Period for which Sick Leave on pay may be granted during Service</u>
Up to 3 months	5 days on full pay
Over 3 months and up to 6 months .. ..	10 days on full pay
Over 6 months and up to 9 months .. ..	22 days on full pay
Over 9 months and up to 5 years .. ..	33 days on full pay
Over 5 years and up to 10 years .. ..	65 days on full pay
Over 10 years and up to 20 years .. ..	130 days on full pay
Over 20 years and up to 30 years .. ..	195 days on full pay
Over 30 years .. ..	260 days on full pay

(2) Sick leave on pay may be taken in one or more periods. The aggregate taken shall not exceed the accumulated total allowed for the length of service at the time the sick leave is taken.

(3) The Secretary may, in cases which he considers special, vary, modify, or extend the period and conditions of pay during sick leave as stated in subclause (1) and (2) of this regulation. In exercising this discretion the Secretary shall consider favourably applications for extension of sick leave entitlements, when in his opinion, the illness results from causes that are due to conditions under which an employee has been working, or where any employee, in the discharge of his duties and through no fault of his own, sustains injuries of such a nature as to incapacitate him from duty.

(4) No leave on account of illness shall be granted with pay if the sickness or ill health has been caused by the misconduct of the employee. In order to satisfy himself on that point the Secretary may require the employee to undergo medical examination at his own expense or otherwise by a medical practitioner nominated by the Secretary. The same practice may be followed where an employee is suspected of absenting himself from duty without sufficient cause.

(5) The Secretary may prescribe in his instructions for a medical certificate to be produced by any employee after a specified period of sick leave, or as a clearance for resumption of work.

PART IV  
LEAVE: RETIRING

15. Eligibility - (1) All employees shall, on the establishment of eligibility to retire in accordance with this regulation and after giving notice as specified in section 21 of the Public Service Act 1965, be entitled as of right to the retiring leave prescribed in the table set out in this subclause:

TABLE

<u>Amount of Retiring Leave</u> <u>(In consecutive days):</u>	<u>Qualification Required:</u>
185 days	Completion of 40 years' or more service
91 days plus one day for every two months of service in excess of 25 years	Completion of 20 years' service and age 60 years or more
31 days plus one day for every two months of service in excess of 10 years	Completion of 10 or more years of service (but less than 20 years) and age 60 years or more

(2) Except where permitted to retire on medical grounds in accordance with regulation 16 of these regulations, employees will not be eligible for retiring leave if they have less than 10 years' service even though they have attained the age of 60 years or more.

16. Eligibility for retiring leave on medical grounds - (1) Any officer may relinquish office on medical grounds before reaching his optional retiring age and be eligible for retiring leave as of right, if he is accepted for retirement by the Superannuation Board in terms of section 36 of the Superannuation Act, 1956.

(2) Leave entitlement under this regulation shall be a minimum of 91 days regardless of length of service, with the exception that an officer with service in excess of 25 years may be granted an additional one day for every two months of that excess service.

(3) Subclauses (1) and (2) of this regulation shall also apply to any officer compulsorily retired on medical grounds in terms of regulation 65 of these regulations.

(4) The Secretary may at his discretion declare any probationer, temporary employee, or wage worker to be entitled to retiring leave on medical grounds as if he were an officer, or may grant such lesser amount of leave as he thinks fit.

17. Cash grant - All employees relinquishing office pursuant to any of the provisions of regulations 15, 16 and 20 hereof may accept, instead of any period of any retiring leave to which they are entitled, a lump sum payment equivalent in value to that leave.

18. Leave in anticipation of retiring leave - (1) An officer with over 20 years' continuous service shall be entitled as of right (but subject to subclauses (2) and (3) of this regulation) to leave on full pay in anticipation of retiring leave on the basis of up to 91 days and 20 years' continuous service plus one day for every three months' service in excess of 20 years.



(2) Every approval to anticipate retiring leave shall be conditional on a written undertaking given by the officer that, in the event of his resigning before completion of his full term of service, he will refund the value of any number of days of leave taken in anticipation (calculated at the gross salary rate applicable at the time when anticipated leave was taken) which are in excess of the number of days leave due on resigning.

(3) All officers shall give three months' notice of their intention to take anticipated retiring leave. The actual period of the leave shall be subject to Departmental convenience, but shall in no case be less than one month at any one time, and the Secretary shall not withhold the granting of the leave beyond 12 months from the date of application.

(4) Anticipated retiring leave taken shall not be counted as service for retirement purposes.

19. Cash grant equivalent to retiring leave due on death - The Secretary may approve a cash payment to the widow or dependents of a deceased employee of a sum the equivalent in money of the leave that would have been granted to the deceased employee under these regulations had he retired from the Public Service on the date of his death.

20. Retiring Leave for employees whose services are dispensed with through no fault of their own before reaching retiring age - (1) The Secretary on the facts of each case, may grant retiring leave to employees whose services are dispensed with through no fault of their own before retiring age, according to the following table:-

<u>Amount of Retiring Leave</u> <u>(In consecutive days)</u>	<u>Qualification required</u>
91 days .. .. .	Completion of 15 years' service
61 days .. .. .	Completion of 10 and under 15 years' service
31 days .. .. .	Completion of 5 and under 10 years' service.

(2) This regulation does not apply to wage workers or temporary employees, except that in cases where there is 20 years' service or more, six weeks' retiring leave may be granted on the same basis as for permanent staff who resign.

#### PART V

#### LEAVE: RESIGNING

21. Eligibility - (1) The Secretary may, at his discretion, grant resigning leave to officers who have not reached their optional retiring age, on the basis that those who have completed 20 years of continuous service will be eligible for 45 days plus one day for every six months of service in excess of 20 years, irrespective of age at the time of resignation.

(2) In special circumstances the Secretary may grant resigning leave to officers with less than 20 years' continuous service who are less than 60 years of age.

PART VI  
REPORTS

22. Personal Reports - At such time and in such manner as the Secretary may from time to time prescribe, the departmental head shall furnish to the Secretary a report upon the work, performance, and merit for promotion of officers under his control.

23. Probation Reports - At such times and in such manner as the Secretary may from time to time prescribe, the departmental head shall complete and furnish to the Secretary a report on each probationer under his control, such report to indicate the probationer's progress and merit for appointment to the permanent staff.

24. Reports to be seen by the employee - The employee reported on in terms of regulation 23 or regulation 24 hereof shall be shown the report and shall initial it as having been seen.

PART VII  
CODE OF CONDUCT

25. Hours of work - Except where otherwise provided in any Act, regulation, or award, employees shall observe such hours of work as the Secretary may from time to time direct.

26. Additional hours of duty - (1) The Secretary may authorise overtime work, subject to such conditions as he may from time to time prescribe, but must ensure that it is kept to a minimum.

(2) Every employee who is called upon to work overtime shall attend during such additional hours of duty as may be specified by his controlling officer. Except in the case of emergency or where public safety is involved, the Secretary may excuse any officer from working overtime.

(3) Payment for overtime work shall be made at such rates and subject to such conditions as the Secretary may from time to time determine.

27. Time books or other attendance record - (1) In every branch of a Department an attendance book or other record of attendance shall be kept in a form approved by the Secretary.

(2) The officer appointed by the controlling officer to be responsible for attendance records shall have custody of the attendance book or other record of attendance, and the controlling officer shall be responsible to the departmental head for the proper keeping thereof and the due observance by the employee at the branch of the prescribed hours of attendance and of any regulations and general instructions relating to attendance.

(3) Every employee shall, at the times of his arrival for duty and departure therefrom, enter the respective times thereof in the attendance record.

(4) Every employee who reports late for duty shall be required to make up the time so lost as directed by his controlling officer.

(5) The Secretary, on such conditions as he thinks fit, may exempt any employee or any class of employees from the provisions of this regulation.

28. Absence from place of employment - No employee shall be allowed to leave his place of employment during prescribed hours of attendance, except on official business or by express permission of his controlling officer. All absences shall be appropriately recorded in the attendance book or other record.

29. Penalty for unauthorised absence - (1) Except in cases of illness or other emergency, no employee shall be absent without leave during working hours from his usual place of employment or from the district in which he is employed.

(2) Where for reasons of illness or emergency an employee cannot attend at his place of employment at the time appointed, he shall use his best endeavour to send intimation of his absence and the reason therefor to his controlling officer as soon as possible.

(3) In any case where an employee's absence is not sanctioned, there shall be deducted from his salary the pay for his period of absence, in addition to any further penalty which may be imposed by the Secretary in terms of the Public Service Act 1965.

(4) In cases of unauthorised absence from work the departmental head may adopt the practices outlined in subclause (4) of regulation 14 of these regulations.

30. Care of stores - Every employee shall exercise strict economy in the use of stores, stationery, and other supplies.

31. Care of property - Every employee shall be held responsible for the careful use and preservation of all Government property in his possession, custody, or care.

32. Accounts and public money - (1) In the matter of accounts and the collection or payment of public money, every employee must conform strictly to the provisions of the law, and to such instructions and directions as may from time to time be issued by order of the Financial Secretary.

(2) A copy of the Treasury Instructions shall be kept in every office for the use of employees receiving and paying public money.

33. Liability not to be incurred - No employee shall be authorised to incur or shall attempt to incur any liability, or shall have authority to make or shall attempt to make any contract, on behalf of the Crown or of the Government or of any Department of the Public Service, without proper authority.

34. Forms of specifications and contracts to be adhered to - The general conditions and forms of specifications and contracts which may from time to time be prescribed by any Department shall be strictly adhered to by employees of that Department, and alterations therein shall not be made except where authorised in writing by the proper authority.

35. Elections for Island Council Members - (1) An employee must notify the Secretary immediately if he intends to stand for election for an Island Council and advise in due course the result of the election.

(2) Where, in the opinion of the Secretary, the duties of Island Councillor will conflict with the due and proper discharge of the employee's official duties he may be required if elected, either to resign his position on the Island Council or to resign from the Public Service.

36. Subscription lists, or donation boxes - (1) Except with the prior approval of the departmental head based on rules to be prescribed by the Secretary from time to time in his instructions, the circulation of any subscription list or donation box among employees, or the solicitation by any employee of monetary assistance on behalf of any individual or of any charitable or other institution or for any purpose whatsoever from any other employee, is hereby forbidden.

(2) Nothing in this regulation shall operate so as to prevent the Secretary from authorising in appropriate cases Public Service wide circulation of subscription lists or donation boxes.

(3) Where circulation of a subscription list or donation box has been approved by the departmental head or the Secretary, no employee shall be obliged to contribute.

37. Borrowing and lending - Any monetary transaction between employee, either as principals or agents, whereby any interest or other return in money or kind is charged or payable, or the borrowing of money by employees from their subordinates, is forbidden.

38. Incriminating questions - No employee may refuse to answer any question solely on the grounds that it could lead to a charge under the Public Service Act 1965;

Provided that any employee who so wishes shall be entitled before any interrogation to consult his solicitor or service organisation representative.

39. Official information not to be given - (1) Every officer, probationer, or temporary employee, upon taking employment in the Public Service, shall be required to complete a statutory declaration in a form approved by the Secretary to the effect that his attention has been drawn to the provisions of the Official Secrets Act 1951 and of this regulation. Any wage worker or class of wage workers may also be required by the Secretary to complete a similar declaration.

(2) An employee shall not use for any purpose, other than for the discharge of his official duties, information gained by or conveyed to him through his connection with the Public Service.

(3) No information out of the strict course of official duty shall be given, directly or indirectly, or otherwise used by an employee without the express direction or permission of his Minister.

(4) Communications to the press or other publicity media on matters affecting any Department of the Public Service shall be made only by the employee authorised to do so.

40. Use of official documents - No employee shall take documents or copies of documents from official records for any purpose whatsoever, other than use in connection with his duties. Where any employee wishes to produce official documents or copies thereof as evidence in any appeal or review of grading in terms of the Public Service Act 1965, he shall be required to obtain the consent of his departmental head, who shall prescribe the method and form in which they will be produced.

41. Obedience to lawful instructions - Every employee shall obey promptly and with readiness all lawful instructions that may be given to him by his controlling officer. If any employee thinks that he has ground for complaint arising out of any such instructions, or from any other cause whatsoever, he may report the same to the departmental head or to the Secretary for his decision; but the employee shall nevertheless as far as possible carry out until they are countermanded any lawful instructions which may have been given to him.

42. Unsatisfactory performance of duties - (1) Wherever it is found that an officer or probationer is performing his duties in an unsatisfactory manner, his controlling officer or other authorised officer shall inform him in writing of the fact and the precise nature of his failing; and the officer or probationer may, if he so desires, give explanations for his unsatisfactory performance.

(2) If the officer or probationer, after perusing the report, refuses to initial it as having been seen, the controlling officer shall endorse on the file copy of the notice the fact that it has been served on the officer or probationer concerned, and the date on which it was shown to him.

(3) The controlling officer shall have regard to any such notice when preparing the officer's or probationer's personal reports.

(4) The continued failure of any employee to give satisfaction in the performance of his duties shall be reported to the Secretary who shall decide whether disciplinary action shall be taken. This regulation shall not prevent the Secretary from initiating disciplinary action in respect of officers in the manner prescribed in section 31 of the Public Service Act 1965.

43. Conviction for offences - If any employee is convicted by any Court of any offence arising from the improper conduct of the employee, the controlling officer of the branch in which that employee is employed shall immediately report the circumstances to the departmental head, who shall forthwith forward the report to the Secretary with a recommendation as to the action to be taken in terms of Section 29 of the Public Service Act 1965.

44. Solicitation or acceptance of gifts, rewards, and gratuities - (1) An employee shall not, directly or indirectly, solicit or accept gifts or presents from any member of the public concerned, directly or indirectly, with any matter connected with the duties of the employee or in connection with the Public Service:

Provided that this regulation shall not prevent the acceptance by an employee, with the permission in writing of the Secretary, of a public testimonial presented on his retirement from the Public Service, or upon transfer from the locality in which he has been employed, or a presentation from fellow employees.

(2) An employee shall not demand any fee, reward, gratuity, or remuneration of any kind whatsoever, other than his salary and allowances, for services performed or to be performed by him, either in or out of his usual hours of employment, in connection with the Public Service

45. Near relatives employed in same department - (1) Any officer or probationer who has a near relative working in the same department, or who is being transferred or promoted to another department where there is a near relative, shall notify the Secretary (through the departmental head) of the name of the relative and of the relationship. In forwarding the notification the departmental head shall indicate to the Secretary whether employment of the officers or probationers concerned in the same department or office is desirable, and the Secretary may, if the circumstances warrant, transfer one or other of the persons to another office or department at no reduction in salary or grading.

(2) Any officer affected by a decision under this regulation may request the Secretary in writing to review the decision. Any such request shall be lodged by the officer with the Secretary within 14 days after the date on which the decision has been communicated to him. Before completing his review the Secretary shall afford an opportunity for the officer to appear, to request explanation, and to state his case.

(3) For the purposes of this regulation the term "near relative" in relation to any officer or probationer, means his father, mother, son, daughter, husband, wife, brother or sister

46. Insobriety - If any controlling officer observes at any time that any employee under his control or supervision is unfit to perform his duties properly by reason of indulgence in intoxicating liquor or drugs, he shall immediately notify his departmental head. If in his opinion the circumstances so warrant, the controlling officer shall suspend the employee from duty.

47. Medical examination for inefficiency - (1) If any employee becomes inefficient and incapable of carrying out the duties allotted to him through repeated illness, through alcoholism, or through mental or physical deterioration, the Secretary may take steps to have the employee examined by a medical practitioner.

(2) In the event of an unfavourable medical report which in the opinion of the Secretary points to action less than retirement in accordance with regulation 65 hereof, if the employee is unwilling to accept duties at a lower level of responsibility and remuneration consistent with his ability, or to take any course of treatment prescribed by the medical practitioner for his disability, the Secretary shall initiate appropriate action in terms of sections 30 (c) and 31 of the Public Service Act 1965.

(3) All medical reports obtained in terms of this regulation shall be shown to the employee concerned.

#### PART VIII

#### ALLOWANCES, GRANTS AND EXPENSES

48. Higher duties allowance - Any employee efficiently performing the duties of a position of a higher grade shall be granted an allowance in respect of the performance of those duties at such rate and upon such conditions as the Secretary may from time to time prescribe, provided that no employee shall receive a Higher Duties allowance for longer than six months unless the Secretary has made a special review of the allowance.



49. Rewards for study - (1) The Secretary may approve, for any employee who partially or wholly completes an approved examination in terms of this regulation, -

- (a) Allowances or cash grants to such extent and subject to such conditions as may from time to time be prescribed in the Public Service Manual;
- (b) An accelerated salary increment or increments.

(2) For the purpose of this regulation the term "examination" means any examination or course of study which is notified from time to time by the Secretary.

50. Conveyance expenses on appointment - (1) In the case of a new appointee, the Secretary may allow such sum as he thinks reasonable to compensate the appointee for the travelling expenses in taking up the appointment.

(2) In special cases a newly appointed married employee who incurs expenditure in the removal of his household effects to the place of employment may, at the discretion of the Secretary, be refunded that expenditure on such conditions as the Secretary thinks fit.

51. Mode of travel - (1) The Secretary shall prescribe general rules from time to time on the mode of travel of employees travelling on transfer or on official business.

(2) Should any employee desire a mode of travel more expensive than that determined in accordance with the general rules, he shall be responsible to bear personally the cost of the additional expense involved.

52. Transfer expenses - (1) Employees transferred from one locality to another solely at their own request shall bear the whole cost of their removal, unless the Secretary otherwise directs.

(2) When employees are transferred to meet the convenience of the Service or in the course of promotion, the actual and reasonable cost of conveyance of the employees and of their families shall be paid by the Government:

Provided that the Secretary may vary the operation of this regulation in any case where the employee transferred is not the breadwinner of the family:

Provided also that, in determining the Government's responsibility for meeting the cost of transfer of families, the Secretary may exclude members who are in full time gainful employment or who would not normally be classed as dependents.

(3) The Secretary may provide in his instructions, in respect of the employees to whom subclause (2) of this regulation applies, for:

- (a) The amount of personal expenses, and the maximum period for which those personal expenses may be allowed, to an employee and his dependent family travelling on transfer from one locality to another;
- (b) The nature of the expenses to be paid during the journey, and subsequent to arrival;
- (c) Conditions governing the insurance, packing, and removal of furniture and effects:

- (d) Specification of articles, not forming part of the usual household furniture and effects, for which removal expenses will not be paid:
- (e) Other extra expenses arising from changing households to be paid to married employees, and the conditions under which they will be paid.

53. Other allowances and expenses - (1) The Secretary may grant allowances to employees stationed at islands other than home islands. The rates of and conditions attaching to such allowances shall be prescribed from time to time by the Secretary.

(2) An employee who is required to be on call for duty at short notice at any time of the day or night may be paid a standby allowance at such rate as the Secretary may from time to time determine.

(3) The Secretary may grant other allowances at such rates as he may from time to time determine -

- (a) as instrument or tool allowances
- (b) as scale mileage allowances
- (c) as interpreter's allowances
- (d) as cashier's allowances.

(4) The Secretary may grant expenses, refunds or allowances to meet costs incurred by non-employees or employees, or to meet special conditions attached to an employee's duties, in any case not specifically covered in those regulations where he considers that the circumstances justify payment.

#### PART IX

##### THE PUBLIC SERVICE BOARD OF APPEAL

54. Meetings of Board - The Public Service Board of Appeal shall meet at such time or times and in such place or places as may be fixed by the Chairman of the Board, but the Chairman shall ensure that meetings are frequent enough to avoid unreasonable delays in dealing with appeals.

55. Minutes of Board - (1) The Public Service Board of Appeal shall keep a minute book in which the official proceedings of the Board shall be recorded.

(2) The minutes of each meeting shall be confirmed no later than the next subsequent meeting of the Board, and when confirmed shall be signed by the Chairman of the Board.

(3) The minute book shall be in the custody of the Secretary to the Board, and shall be at all times open to inspection by the Secretary and the Cook Islands Branch of the Public Service Association (Incorporated) Island Territories Section.

56. Evidence recorded in an appeal - Both the applicant and the Secretary shall be entitled to receive transcripts of portions of evidence recorded in any appeal to which they were parties if they so request at any time within three months after the date on which the evidence was given. Requests for such transcripts shall be addressed to the Secretary to the Public Service Board of Appeal accompanied by such fees as may from time to time be determined by the Minister of Finance. The Secretary to the Public Service Board of Appeal shall notify the other party of any such request, and shall keep a copy of the transcript for one month. All transcripts shall be certified as true and correct records by the Secretary to the Public Service Board of Appeal.

57. Procedure on Appeal - (1) The appellant shall forward to the Secretary his notice of appeal, which shall comply fully with the requirements of the Act and shall set out concisely the grounds for his dissatisfaction with the decision against which he appeals. The notice of appeal shall then be transmitted to the Secretary of the Public Service Board of Appeal who shall acknowledge receipt of the notice of appeal to the appellant in such manner and with such additional advices as may from time to time be decided by the Public Service Board of Appeal.

(2) As soon as practicable after the Secretary of the Public Service Board of Appeal has satisfied himself that the appeal lies or that good and sufficient reason has been shown in writing by any appellant appealing out of time, he shall in writing by any appellant appealing out of time, he shall advise both the appellant and the Secretary the time and place fixed for the hearing of the appeal, which time shall be at least ten days after the date on which the notice is posted to the appellant.

(3) In any case where the Secretary of the Public Service Board of Appeal is of the opinion that an appeal does not lie he shall forthwith advise both the appellant and the Secretary of such opinion to permit the appellant to contest the opinion before the Board if he considers this necessary.

Any question as to whether or not an appeal lies shall be determined by the Board and recorded as a decision of the Board.

(4) If the appellant or his representative fails to appear at the hearing or notify the reason for non-attendance, the Board may dismiss the appeal for want of prosecution. If he appears, the evidence shall be taken in his presence or in the presence of his representative or in the presence of both of them.

(5) The Secretary of the Public Service Board of Appeal shall also be responsible for such notices as have to be given to the Secretary or a provisional appointee, or to a provisional appointee's Department or an appellant's Department, in order to comply with the provisions of the Act and to discharge efficiently the Board's business.

58. Evidence of remote witnesses - Where the evidence of witnesses employed in remote localities is required, and where arrangements cannot conveniently be made for their attendance in person, or where they would be subjected to undue expense in travelling to appear before the Public Service Board of Appeal, the Chairman of the Board may appoint a competent person or persons to take the evidence on oath of the witnesses concerning the matter of appeal.

59. Decision to be notified - The Secretary of the Public Service Board of Appeal shall, forthwith after any appeal has been considered forward the decision of the Board to those parties to the appeal listed in subclause (2) of regulation 57.

#### PART X

#### OFFICE APPLIANCES

60. Office appliances and their use - (1) Office appliances shall not be purchased or hired for use in any Department, unless the purchase or hire has previously been approved either generally or specifically by the Secretary.

(2) Any approval given by the Secretary shall not absolve the departmental head from liability for obtaining any necessary approval for the expenditure of funds in respect of any such purchase or from compliance with any regulations for the time being in force relating to the method of purchasing stores.

PART XI

OFFICE ACCOMMODATION AND PHYSICAL WORKING CONDITIONS

61. Office accommodation defined - (1) For the purposes of regulations 62 and 64 hereof the term "office accommodation" means any area which is occupied by any Public Service Department primarily for office purposes; and includes space used as an adjunct (whether as basements, storage sheds, corridors, grounds or otherwise); but does not include space to which an office may be incidental (whether this space is used for stores, laboratories, studios, hospitals, prisons, or otherwise).

62. Secretary's responsibilities for office accommodation - The Secretary's responsibilities in respect of office accommodation shall be to -

- (a) Approve plans, design, and subdivision of new or altered office accommodation:
- (b) Allocate office accommodation to Departments:
- (c) Ensure that all existing office accommodation is used economically and efficiently, and is adequately maintained to standards which may be prescribed from time to time in the Secretary's instructions.

63. Physical working conditions - (1) The responsibility of the Secretary for the prescription and supervision of physical working conditions in terms of section 3 (3) (c) of the Public Service Act 1965 shall include all places of employment for employees in the Public Service, but in no way affects the powers and responsibilities of the Minister of Labour or the Industrial Officer in terms of the Industrial Ordinance.

(2) The Secretary may prescribe in his instructions for minimum standards of physical working conditions in relation to heating, lighting, ventilation, fire protection, structural safety, cleanliness, rest rooms and other similar matters; and departmental heads shall ensure that these standards are met in the accommodation occupied by their Departments.

PART XII

RETIREMENT

64. Retirement Policy - (1) Every officer whose continuous service commenced on or after the 1st day of August 1964 shall be required to relinquish his office on attaining the age of 60 years.

(2) Every officer whose continuous service commenced before the 1st day of August 1964, and who is not a contributor to the Government Superannuation Fund, shall, on completion of 40 years' service be required to relinquish his office at such date (not being later than the date on which he attains the age of 60 years) as the Secretary directs. A non-contributor to the Fund as aforesaid whose length of service at the age of 60 years does not exceed 40 years shall be required to relinquish his office at the date on which he completes 40 years' service or at the age of 65 years, whichever is the earlier.

(3) Every officer who is a contributor to the Government Superannuation Fund and has been continuously employed in the Government service from a date before the 1st day of January 1946, or whose period of contributory service commenced before that date, may elect to relinquish his office on completion of 40 years' contributory service notwithstanding that he has not reached the age of 60 years and he shall, on completion of 40 years' contributory service, be required to relinquish his office at such date (not being later than the date on which he attains the age of 60 years) as the secretary directs. A contributor to the Fund as aforesaid whose length of contributory service at the age of 60 years does not exceed 40 years shall be required to relinquish his office at the date on which he attains the age of 65 years, whichever is the earlier.

(4) Every officer whose continuous service commenced on or after the first day of January 1946, but before the first day of August 1964 and who is a contributor to the Government Superannuation Fund and whose contributory service commenced on or after the 1st day January 1946, shall be required to relinquish his office when he has attained the age of 60 years if his contributory service is not less than 40 years. A contributor as aforesaid whose length of contributory service at the age of 60 years does not exceed 40 years, shall be required to relinquish his office at the date on which he completes 40 years contributory service or at the date on which he attains the age of 65 years, whichever is the earlier.

(5) Notwithstanding the foregoing provisions of his regulation, the Secretary may, for the efficiency of the Service and with the consent of an officer, retain him in office beyond the age of compulsory relinquishment of office where it is deemed necessary in the public interest to do so. Any extension of service under this provision shall be reviewed annually and in no case shall an officer be retained beyond the age of 65 years.

(6) Any leave due or granted to an officer who elects or is directed to relinquish his office in accordance with retirement policy, shall be taken immediately following the date of relinquishment. The officer shall be deemed to be supernumerary during the period of this leave and retirement will be effective from the date on which the leave expires.

(7) The discretionary powers vested in the Secretary under section 35 (3) (f) of the Superannuation Act 1956 are in addition to and not inconsistent with the retirement code promulgated in this regulation.

**65. Retirement of medically unfit officers -** (1) Any officer of the Public Service who, on the certificate of any two medical practitioners nominated by the Secretary, is medically unfit to perform his duty may be required by the Secretary by notice in writing to relinquish office within such time, being not less than three months, as may be specified in the notice:

Provided that, before issuing the notice, the Secretary shall satisfy himself that there are not other suitable duties which could be assigned to the officer.

(2) Any officer required under this regulation to relinquish office from the Public Service and who fails to do so on the expiration of the time specified may have his service terminated in accordance with section 21 (1) (a) of the Public Service Act 1965.

(3) Nothing in this regulation shall apply to any officer who applies voluntarily to relinquish office. If he is a contributor to the Government Superannuation Fund, he shall follow the procedure set down in the Superannuation Act 1956.

(3) Where the officer required to relinquish office is a contributor to the Government Superannuation Fund, medical practitioners appointed by the Secretary in terms of this regulation shall have the approval of the Government Superannuation Board. All medical reports obtained in terms of this regulation shall be shown to the employee concerned.

#### PART XIII

##### CONTRACTS OF SERVICE

66. Contract of service in special cases - (1) The Secretary may, in any case he considers warrants it, enter into a contract of service with any person for a specified period not exceeding four years;

Provided that every such contract shall be deemed to contain a provision that the contract may be terminated at any time by the Secretary if the person employed under contract is found guilty of an offence in terms of the Act or these regulations but that the period of employment shall be governed by the terms of the contract in all other respects.

(2) The provisions of the Act and these regulations shall apply to contract employees in the same manner as to all other employee except to the extent that they are inconsistent with the express terms of the contract of service or with any special provisions decided upon from time to time by the Secretary.

DATED at Rarotonga this 10th day of August 1967.

M.L. Hegan,  
Secretary of the Premier's Department

Approved in Executive Council pursuant to  
Section 48 of the Public Service Act 1965  
this 10th day of August 1967.

M.L. Hegan,  
Clerk of the Executive Council