



**ESTABLISHMENTS CODE  
OF THE  
GOVERNMENT OF THE  
DEMOCRATIC SOCIALIST REPUBLIC OF  
SRI LANKA**

**Volume II**

Issued by the Secretary to the Ministry in charge of the subject  
of Public Administration  
under the Authority of the Cabinet of Ministers

1999

PRINTED AT THE DEPARTMENT OF GOVERNMENT PRINTING SRI LANKA

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## **THE ESTABLISHMENTS CODE**

### **Volume II**

This volume of the Establishments Code deals with the disciplinary control of all public officers other than public officers referred to in Articles 41, 51, 52, 54 and 114(6) of the Constitution of the Democratic Socialist Republic of Sri Lanka and members of the Army, Navy and Air Force.

02. The provisions of this volume have been approved by the Cabinet of Ministers in terms of Article 55(4) of the Constitution of the Democratic Socialist Republic of Sri Lanka.

03. The new print of Volume II replaces the existing Volume II dated 08th April, 1981 and shall come into force with effect from 01st November, 1999.

04. Doubts and difficulties in interpretation and cases not covered by these rules should be reported to the Director of Establishments.

P. A. SENARATNE,  
Secretary,  
Ministry of Public Administration,  
Home Affairs and Plantation Industries.

02nd August, 1999.



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## CHAPTER XLVII

### GENERAL CONDUCT AND DISCIPLINE

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2. Use of Liquor and Narcotic Drugs
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8. Adherence to the Establishments Code, Financial Regulations and other relevant Provisions.
9. Political Activities by Public Officers.



## CHAPTER XLVII

### GENERAL CONDUCT AND DISCIPLINE

#### 1. General Conduct

1:1 A Public Officer is expected to give his undivided allegiance to the State at all times and on all occasions when the State has a claim on his services.

Undivided allegiance.

1:2 An officer is required to discharge with diligence and efficiency any duties in which the State may think it desirable to employ him.

Perform any duties assigned.

1:3 An officer is required to familiarize himself with and to observe the provisions of the Financial Regulations, the Establishments Code, Circular Instructions and other Departmental Manuals and Instructions.

Familiarity with Regulations.

1:4 An officer should at all times act in a manner befitting his public office. He should not commit any act that would bring the public service or the post he holds into disrepute. If an officer commits an act that would bring the public service or the post he holds into disrepute, such fact should be reported by his immediate superior or other authority to the Head of Department in which the officer is serving or to the Secretary to the Ministry in which he is serving or his Disciplinary Authority without delay.

Safeguard  
repute of his  
office and the  
service.

1:5 An officer shall not do anything which will bring his private interest into conflict with his public duty or which compromises his office. He should so conduct himself at all times as to avoid giving rise to any appearance of such conflict or of being so compromised. He should in particular observe carefully the provisions of Chapter XXIX of the Establishments Code.

Avoid conflict  
of interests.

1:6 Canvassing whether done directly or indirectly, by an officer for an appointment, promotion or transfer in the Public Service, will be regarded as an act of misconduct rendering the officer liable to disciplinary action or Court action as provided for in Article 60 of the Constitution.

Shall not  
canvass  
promotions, etc.

1:7 Arranging an interchange of duties or attempting do so for a pecuniary consideration will render the officer concerned liable to disciplinary action.

Exchange duties  
for pecuniary  
consideration.

Courtesy to public.

1:8 An officer must be courteous towards the public and readily assist all persons visiting public offices on business. An officer should always be polite in his official acts and correspondence.

Restraint and temperate in use of language

1:9 An officer should be temperate and restrained in his language when corresponding or writing reports and minutes.

Collection of money.

1:10 An officer should not directly participate in the collection of money for public charities from his subordinates nor should he permit members of his family to take part in such a collection from his subordinates.

Private use of Government labour and property.

1:11 No officer shall utilize Government labour on private jobs of any kind whether during or outside the official hours of work, or put any Government property to his personal use without the special sanction of the Secretary.

Supplies to Government prohibited

1:12 No officer may furnish supplies on public account or furnish specimens to any public institution without the special prior sanction of the Secretary.

## 2. Use of Liquor and Narcotic Drugs

Use of liquor or narcotic drugs is an act of misconduct.

2:1 An officer found drunk or smelling of liquor or to have used narcotic drugs whilst on duty or otherwise within the premises of his place of work or the premises of any other public institution would be considered to have committed a serious act of misconduct. In such an event, the relevant Head of Institution or the Disciplinary Authority is bound to take disciplinary action against such officer.

Major punishments to be imposed.

2:2 In a disciplinary inquiry into the offence of drunkenness or smelling of liquor, the evidence of two officers of Staff Rank will be sufficient to establish an officer's guilt, and if he is found guilty by such a formal disciplinary inquiry the Disciplinary Authority may dismiss such officer from service or impose on him any other major punishment referred to in sub-section 24:3 of this Code.

Compulsory dismissal on second time

2:3 Any officer found guilty of an offence mentioned in sub-section 2:2 above for the second time will compulsorily be dismissed from service.

Compulsory dismissal for use of narcotic drugs.

2:4 Any officer suspected of having used narcotic drugs as mentioned in sub-section 2:1 above must be confirmed to have committed such offence by a report made by a Government Medical Officer or a Judicial Medical Officer. In the event that the officer is found guilty of having committed such offence by a formal disciplinary inquiry, he will compulsorily be dismissed from service.

### 3. Gifts and Subscriptions

3:1 An officer or a member of his family shall not accept any presents, gifts, or other benefits other than the ordinary gifts of relatives and personal friends, whether in a direct or indirect form, and whether in the shape of money, goods, free passages, services, unusual discounts on the cost of goods supplied or services rendered, etc.

Officers and families prohibited from receiving certain types of gifts.

3:2 The officer will be held responsible for the observance of the rule in the preceding section by the members of his family.

Be responsible for the acts of the members of his family.

3:3 Gifts received by an officer from a Head or a representative of a Foreign State should be regarded as received by him solely in his capacity as representative of the State.

Gifts received on official capacity.

3:4 Gifts given by persons such as visiting Heads of States, which cannot be refused may be accepted subject to the following sub-sections:

When refusal is not possible instructions to be followed.

3:4:1 A gift so received should be reported to the Secretary, Ministry of Foreign Affairs.

To be reported to the Secretary, Ministry of Foreign Affairs.

3:4:2 Gifts valued at less than Rs. 5,000 by the Director General of Customs will be returned to the recipient. If the officer does not intend to purchase the gifts valued at over Rs. 5,000 after paying the customs duties, the gift will be disposed of as directed by the Secretary, Ministry of Foreign Affairs.

Action as directed by the Secretary, Ministry of Foreign Affairs.

3:5 Money which has been subscribed with a view to marking public appreciation of an officer may be used for a public purpose in the name of the person who has merited such public esteem.

Money subscribed in appreciation of an officer may be used for public purposes.

3:6 The collection of subscriptions from subordinate officials to defray the cost of testimonials and presentations to superior officers is prohibited.

No money should be collected from subordinate officers.

Circulation of subscription lists prohibited.

3:7 The collection of subscriptions and the circulation of subscription papers for the purpose of making a present to an officer or for the collection of funds for distribution among the officers during New Year, Christmas and similar occasions is also prohibited.

Rules may be relaxed on transfer/retirement.

3:8 The rules in this section may be relaxed upon an officer's transfer or his final relinquishment of service but only with the permission of the Head of Department or the Secretary.

#### 4. Pecuniary Embarrassment

Debt regarded as impairing efficiency.

4:1 Serious pecuniary embarrassment, from whatever cause, is to be regarded as a circumstance which impairs the efficiency of an officer and renders him less valuable and worthy of trust than he would otherwise be.

Affecting the confidence that may be reposed in the officer.

4:2 Such embarrassment, if occasioned by extravagance, imprudence or other reprehensible cause may be regarded as an offence affecting the repute of the Public Service and the degree of confidence which may be reposed in the officer.

Disciplinary action may be taken.

4:2:1 When such serious pecuniary embarrassment of an officer is become known due notice should be taken thereof and disciplinary action taken against the officer as the circumstances may appear to deserve.

Salary receipt not to be negotiated.

4:3 An officer is prohibited from borrowing money on the security of a salary receipt. If it is established that an officer has borrowed money tendering a 'pay-bearer' salary receipt as security for a loan, such officer may render himself liable to disciplinary action. Ordinarily an officer must draw his salary himself and give his receipt on the general pay abstract (*vide* Financial Regulations).

Disciplinary action to be taken in cases of indebtedness and insolvency.

4:4 In the event of an officer being convicted by a Court of Law for non-settlement of a debt or being adjudicated insolvent, or entering into a composition with his creditors, disciplinary action shall be taken against him under the provisions of this Code for bringing the public service into disrepute. Where it appears that his offence has been occasioned by unavoidable misfortune, such fact may be given sympathetic consideration when imposing a punishment on him even though he is found guilty of the offence.

Should inform Head of Department of fact.

4:5 Immediately on being arrested for debt, or on insolvency proceedings being taken against an officer, he must inform the Head of Department of such fact. Failure to do so may render the officer concerned liable to disciplinary action for serious misconduct.

4:6 The Court of Law should report every case in which insolvency proceedings are taken against an officer and every case in which an officer becomes a judgment-debtor, to the Head of Department in which the officer is employed.

Courts to report of insolvency proceedings.

4:7 Heads of Departments should deal with these reports in the manner prescribed in the disciplinary rules for investigation and punishing inefficiency or misconduct on the part of an officer.

Action on such reports as laid down by rules.

## 5. Use of Government Funds for Private Purposes

5:1 An officer is strictly prohibited from borrowing from any Government Shroff or Cashier or any of their assistants public money in their custody.

Borrowing from Shroffs, etc.

5:2 Shroffs and Cashiers and any other officer in charge of public funds are strictly prohibited from making unauthorized advances and granting loans to any officer.

Unauthorized advances and loans.

5:3 The appropriation, for however short a period, of public money for private purposes is to be viewed as a very grave offence. The Disciplinary Authority should initiate legal proceedings and also hold a formal disciplinary inquiry against an officer alleged to be guilty of such offence.

Misappropriation a grave offence.

## 6. Release of Official Information to the Mass Media or the Public

[Amendment for Section 6 PA Circular 04/2015](#)

6:1 A Secretary or Head of Department may use his discretion in supplying to the Mass Media or the Public, information regarding Government and Departmental activities, coming within his purview, which may be of interest and value to the public.

By Secretary or Head of Department only.

6:1:1 Such information should normally be channeled to the Mass Media through the Director of Information. They may, however, issue such information direct if they consider that the circumstances make it necessary to do so.

Information to be channeled through the Director of Information.

6:1:2 The information issued in terms of sub-section 6:1 above should in all cases be confined to facts, statistics, etc. and on no account should any expression of opinion be proffered.

Should be confined to facts and statistics only.

6:1:3 No information even when confined to statements of facts should be given where its publication may embarrass the Government as a whole or any Government Institution or officer. In cases of doubt, the Minister concerned should be consulted.

No expression of opinion or embarrassment.

Not to be used to criticize or ventilate grievances.	6:1:4 The Mass Media should not be used as a medium of criticism of the Government or other Government Institutions or to ventilate departmental grievances (vide section 3:2 of Chapter XXXI of the Establishments Code).
Emanating officially.	6:2 Whenever a Secretary or Head of a Department gives information to the Mass Media it should always be given for publication as emanating officially from him.
When information is released to the media inquiries should be made against those responsible	6:3 If a Mass Media report alleges that the information has been supplied by an officer or officers in the Public Service or generally by a member of a department, the Head of the Department should inquire from the officer or officers concerned whether the information was supplied by them. If the Mass Media report alleges that the information was received from an employee of the department and makes no specific reference to any officer or officers of the department, the Head of Department should inquire from every staff officer in the relevant branch of that department whether the information was supplied by him or not or whether he could fix the responsibility of supplying that information on any officer of his branch. The Head of Department should forward the reply or replies along with a confidential report to the Secretary who will take further action if found to be desirable.
Secretaries/ Heads of Departments to ensure attention on mass media reports.	6:4 A Secretary or Head of Department should ensure that a mass media report not authorised by sub-sections 6:1 and 6:2 above relating to his Ministry or Department is brought to his notice, and that action is initiated in terms of sub-section 6:3 regarding the publication of such report.
Interviews forbidden without authority.	6:5 An officer not specially authorized in that behalf, other than those referred to in section 6:2 is forbidden to allow himself to be interviewed on, or communicate, either directly or indirectly, any information which he may have gained in the course of his official duties to any person, inclusive of mass media reporters who are not officially entitled to receive such information.
No interviews on State policy, etc.	6:6 An officer, whether on duty or leave of absence, should not allow himself to be interviewed on questions of public policy or on any matters affecting the defence and security of Sri Lanka.
Publication of official documents is prohibited.	6:7 An officer is strictly prohibited from sending or causing to send any official correspondence or a copy thereof to the mass media, for whatever purpose, without the previous sanction of the Secretary and/or Head of Department.

6:8 No officer may hold any office in any mass media organization or directly or indirectly take part in the management of it, without the prior permission of the Secretary in charge of the subject of Public Administration.

Holding office  
in Mass Media  
organizations,  
etc.

#### **7. Publication of Books, Articles , Broadcast Talks, etc.**

7:1 An officer shall not contribute articles, creative writings or furnish information anonymously or under a pseudonym to the mass media in Sri Lanka, or elsewhere.

Amendment for Section 6  
PA Circular 04/2015

Anonymous  
articles, etc.

7:2 An officer shall not publish any books or articles, or give broadcast talks or express opinions in public on any matter which can properly be called administrative, without the prior approval of the Secretary. Application for such approval should be accompanied by the script of the proposed article or talk in duplicate. The Secretary, unless otherwise directed by his Minister, should submit such scripts for the approval of his Minister before sanctioning the application.

Articles, talks,  
etc. on adminis-  
trative matters.

7:3 An officer may furnish to the mass media or to any other publication, signed articles, or give broadcast talks, or other material over his own name on other subjects of general interest provided, however, that it may not embarrass the Government , other Government Departments or Government officers.

Articles on  
other subjects  
may be  
published under  
his signature

7:4 An officer who desires to consult or make use of official records for the purpose of publishing a book or other work must obtain the prior permission of the Head of the Department responsible for the custody of these records.

Permission of  
Head of  
Department  
necessary to  
consult official  
records.

7:5 Before an officer publishes any book or other work the subject matter of which is connected with the official duties of himself or any other officer or the compilation of which has involved reference to official records, he should obtain the written approval of the Secretary. A condition of such consent may be that any number of copies of the publication required for Government use shall be supplied at a specified reduced price to be determined by the Secretary according to each case.

Prior permission  
of Secretary  
necessary to  
publish books  
and articles.

#### **8. Adherence to the Establishments Code, Financial Regulations and other Provisions.**

8:1 All Public Officers shall adhere to the provisions of the Establishments Code and the Financial Regulations and amendments made to them from time to time, Public Administration and Treasury Circulars issued from time to time, and Circulars, Regulations, Standing Orders, Procedures, Orders and other instructions formally issued by Secretaries to Ministries, Heads of Departments and other appropriate authorities.

Public Officers  
to adhere to all  
relevant rules  
and regulations

Disciplinary steps to be taken.	8:2 Any infringement of provisions referred to in sub-section 8:1 above may be treated as an offence mentioned in the First Schedule of this Code, and the appropriate Disciplinary Authority shall forthwith take disciplinary action against the officer concerned.
External pressure no plea.	8:3 No plea made by any officer that the infringement of the provisions in sub-section 8:1 above was occasioned by the pressure put on him by any officer or authority or other party shall be entertained.
Disciplinary action against officers who put undue pressure.	8:4 Any public officer who orders, puts pressure on or directs an officer who has been delegated powers under a particular rule or regulation by the Cabinet of Ministers or the Public Service Commission or the Secretary to a Ministry or a Head of Department to act in such manner as to infringe the provisions of sub-section 8:1 above shall be deemed to be guilty of serious misconduct coming under the First Schedule and the Appropriate Disciplinary Authority shall forthwith take disciplinary action against him.

## 9. Political Activities by Public Officers

9:1 Officers who are privileged to enjoy political rights under Chapter XXXII of Part One of the Establishments Code shall enjoy such rights in accordance with the provisions of that Chapter. Any public employee who acts in excess of such provisions and limits shall be deemed to be guilty of serious misconduct which will be punishable under the First Schedule of this Code.

9:2 Any public officer who is deprived of political rights under Chapter XXXII of Part One of this Code engaging in political activities shall be deemed to be guilty of misconduct of a serious nature punishable under the First Schedule of this Code.

## CHAPTER XLVIII

### RULES OF DISCIPLINARY PROCEDURE

1. General.
2. Power of Dismissal and Disciplinary Control.
3. Procedure for Disciplinary Action by the Cabinet of Ministers.
4. Procedure for Disciplinary Action by the Public Service Commission.
5. Procedure for Disciplinary Action by a Secretary to a Ministry Holding Delegated Authority from the Public Service Commission.
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8. Officers permanently released to a Statutory Body or State Corporation or Institution vested in the Government or Government Company or Commission or any other semi-Government Organization.
9. Officers transferred, or appointed to another post, from one Ministry or Department to another Ministry or Department.
10. Disciplinary Action against an officer whenever there is a change in the Disciplinary Authority in the course of a Disciplinary Inquiry.
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38. Action to be taken whenever there is inconsistency between texts.

## CHAPTER XLVIII

### RULES OF DISCIPLINARY PROCEDURE

#### 1. General

The power of dismissal and disciplinary control of public officers is vested in the Cabinet of Ministers under the Constitution. The following rules should be read in conjunction with any orders which may be issued from time to time by the Cabinet of Ministers.

1:1 For the purposes of this Chapter -

1:1:1 "Disciplinary Authority" means the appropriate authority for dismissing or exercising disciplinary control over any particular officer in terms of section 2 below; "Disciplinary Authority" also includes any authority appointed to act in such capacity in the absence of the substantive holder of the post.

1:1:2 "Disciplinary Authority" in the case of an officer holding an acting appointment will be the disciplinary authority appropriate to such officer, had he been holding such appointment on a substantive basis.

1:1:3 "Minister" with reference to a Department or Institution means the Minister in charge of that Department or Institution, and with reference to a post or officer means the Minister in charge of the Department or Institution to which that post or officer belongs.

1:1:4 "Minister concerned" and "Ministry concerned" refer respectively to the Minister and Ministry in charge of the Department or Institution in which the officer concerned is working.

1:1:5 "The Minister concerned" in the case of the offices in charge of persons appointed by the President (except Secretaries to Ministries) will be the President and in the case of the Office of the Leader of the House of Parliament, the "Minister concerned" will be the Minister who has been appointed Leader of the House of Parliament. In the case of the Office of the Cabinet of Ministers, the Public Service Commission, the Elections Department and the Audit Department "Minister" means the President.

1:1:6 "Secretary" with reference to a Department or other Institution means the Secretary to the Ministry in charge of that Department or other Institution; with reference to a post or officer means the Secretary to the Ministry in charge of the Department or other Institution to which that post or officer belongs; and in the case of Departments or other Institutions not grouped under Ministries, unless otherwise specified, means the Head of that Department or other Institution.

1:1:7 "Heads of Departments" means the Heads of Departments and other officers listed in Appendix I of Volume I of the Establishments Code and other officers appointed from time to time by the Cabinet of Ministers as Heads of Departments.

Amendment to  
Sub Section 1:1:  
and 1:1:2  
PA Circular  
10/2017

1:1:8 "Head of Department" in the case of a Ministry Office means the Secretary to the Ministry concerned.

1:1:9 In respect of the Combined Services "the Secretary of the Ministry or the Head of Department" means the Secretary, Ministry of Public Administration or the Director, Combined Services as the case may be.

1:1:10 "Officer of Staff Grade" means an officer, the initial of whose consolidated salary is Rs. 67,320 per annum or above and whose annual increments are Rs. 2,460 and above.

1:1:11 "Public Officer" means any person who holds any paid office under the Republic, but does not include -

- (a) the President;
- (b) the Speaker;
- (c) a Minister;
- (d) a member of the Judicial Service Commission;
- (e) a member of the Public Service Commission;
- (f) a Judicial Officer;
- (g) a Deputy Minister;
- (h) a Member of Parliament;
- (i) the Secretary-General of Parliament;
- (j) a member of the President's Staff;
- (k) a member of the staff of the Secretary-General of Parliament;
- (l) employees of Statutory Boards, Corporations and Institutions vested in the Government.

1:1:12 "Appellate Authority" means the Cabinet of Ministers, the Public Service Commission or a Committee thereof.

1:1:13 "The Commission" means the Public Service Commission or a Committee thereof.

1:2 All acts of misconduct or lapse by officers calling for punishment in any form should be dealt with, under these rules, as soon as possible, by the Disciplinary Authorities, Heads of Departments and other relevant Heads of Institutions. To enable such action to be taken, reports, information, etc. on such acts of misconduct and lapse should be furnished, without delay, to the relevant Disciplinary Authorities, Heads of Departments and other Heads of Institutions by the officer or officers holding supervisory or administrative authority over the officer concerned in the institution or office where he works. To shirk this responsibility will also be an act of misconduct calling for disciplinary action.

1:3 No proceedings or order made under these rules shall be invalid by reason only of any informality, or the non-observance of any rule or provision which has not resulted in a failure of justice.

1: 4 When at any stage proceedings are laid before the Public Service Commission or transmitted to the Cabinet of Ministers they should be accompanied by a concise and self-contained report, summarizing the salient points of the case. Where reference is made to a departmental paper or that of an institution, it should be neatly labeled or flagged for easy reference. The original of a document produced in prosecution or a certified copy as well as documents produced in defence together with the Personal File, History Sheet and any relevant documents of the officer concerned should accompany the report.

1:4:1 If a formal disciplinary inquiry has been held, the proceedings should be arranged in chronological order and the various stages of the proceedings such as relevant material of the preliminary investigation, charges, answers thereto, the inquiry proceedings, findings and the disciplinary orders flagged or labelled separately.

## **2. Power of Dismissal and Disciplinary Control**

2:1 The power of dismissal and disciplinary control of public officers is vested in the Cabinet of Ministers, who will directly exercise these powers in respect of:

- Additional Secretaries to Ministries,
- District Secretaries and Government Agents,
- Heads of Departments,
- Senior Assistant Secretaries, and
- Other officers appointed by the Cabinet of Ministers.

2:2 The Cabinet of Ministers has delegated its powers of dismissal and disciplinary control in respect of all other categories of officers to the Commission.

2:2:1 The Commission will directly exercise its powers of dismissal and disciplinary control in respect of all other such categories of officers in Staff Grade except -

2:2:1:1 Officers in Staff Grade in the Auditor General's Department and the Department of Elections not in the Combined Services where the Secretary to the President is the Disciplinary Authority and

2:2:1:2 Officers in Staff Grade not falling under a Ministry and not in the Combined Services where the Head of Department is the disciplinary authority.

2:3 The powers of dismissal and disciplinary control of all officers not referred to in sub-section 2:2:1 above have been delegated by the Commission to the relevant Secretaries to Ministries, Heads of Departments and other Public Officers. In the case of officers in the Combined Services, the power of dismissal and disciplinary control is accordingly delegated to the Director of Combined Services.

2:4 The Commission may, at its discretion, withdraw any powers already delegated or further delegate such powers from time to time by notification published in the gazette of the Democratic Socialist Republic of Sri Lanka.

### 3. Procedure for Disciplinary Action by the Cabinet of Ministers

3:1 Where disciplinary action is contemplated against an officer referred to in section 2:1 above the Secretary to the Ministry concerned will cause to be made such preliminary investigations as are necessary.

3:2 If a prima-facie case against the officer is disclosed in such preliminary investigation the Secretary will issue a formal charge sheet on the officer. However, if the officer concerned is an officer in the Combined Services, the Secretary to the relevant Ministry should furnish, as soon as possible, the draft charge sheet together with the report of the preliminary investigation to the Secretary in charge of the subject of Public Administration who will, after further scrutiny, issue the charge sheet on the officer concerned under his signature with appropriate amendments where necessary.

3:3 The accused officer should be required to submit his explanations to the charges within a stipulated period. If he fails to submit his explanations within the stipulated period, it will be deemed that he has no explanations to offer and action taken accordingly.

3:4 On receiving the explanation or in case the officer fails to submit his explanation by the end of the stipulated period, the Secretary will forward the proceedings along with his recommendations to the relevant Minister. In the case of an officer in the Combined Services, the Secretary will forward the above documents and reports together with the observations of his Minister to the Secretary in charge of the subject of Public Administration.

3:5 The Secretary in charge of the subject of Public Administration will on receipt of the proceedings under the previous section forward them with his observations to the Minister in charge of Public Administration.

3:6 If the relevant Minister, having considered the explanations submitted by the accused officer and the recommendations of the relevant Secretary as referred to in sub-sections 3:4 and 3:5 above is of opinion that the officer has exculpated himself from the charges he should submit a report together with his recommendations to the Cabinet of Ministers to clear the officer of all charges and acquit him, or if the officer is found guilty of an offence falling under the Second Schedule to order an appropriate minor punishment, or if he is of opinion that a prima-facie case has been disclosed against the officer that he is guilty of an offence under the First Schedule, to order a formal disciplinary inquiry or take such other appropriate action as the Cabinet of Ministers deems it fit. In the case of an officer in the Combined Services, the relevant Minister is the Minister in charge of the subject of Public Administration.

3:7 If the Cabinet of Ministers having considered the explanations submitted by the accused officer and the observations and recommendations of the relevant Secretary and the Minister, is of opinion that the accused officer has exculpated himself from the charges, may clear him of all charges and acquit him, or if it is of opinion that the accused officer is guilty of an offence falling under the Second Schedule, order a minor punishment at its discretion, or if it is of opinion that the officer is prima-facie guilty of an offence falling under the First Schedule direct the Secretary of the relevant Ministry to hold a formal disciplinary inquiry or take such other appropriate action as determined by the Cabinet of Ministers. In the case of an officer in the Combined Services, the relevant Secretary is the Secretary in charge of the subject of Public Administration.

3:8 If at the time of submitting his explanations the accused officer has admitted that he is guilty of all the charges in the charge sheet issued to him, the Secretary to the relevant Ministry should forward his observations and recommendations regarding the punishments that may be imposed on each charge in the charge sheet to the relevant Minister. In such an event the relevant Minister, having considered the recommendations of the Secretary, will forward the proceedings with his own recommendations to the Cabinet of Ministers. In the case of an officer in the Combined Services, the Secretary to the Ministry in which the officer works should forward the relevant proceedings and reports to the Secretary in charge of the subject of Public Administration. The latter should, having considered the observations and recommendations, forward his recommendation to the Minister in charge of the subject of Public Administration who, having considered all the recommendations and observations should forward the proceedings and reports with his own recommendations to the Cabinet of Ministers.

3:9 The Cabinet of Ministers may accept or reject all the observations and recommendations and order an appropriate punishment on the accused officer and if the Cabinet of Ministers decides that it is necessary to hold a formal disciplinary inquiry notwithstanding the admission made by the accused officer, direct the relevant Secretary to hold such an inquiry or take some other appropriate action as it deems fit.

3:10 Where the Cabinet of Ministers has decided that there is no need for a punishment to be imposed on the accused officer or where a punishment has been imposed, the relevant Secretary should convey such fact, without delay, to the accused officer and take such action as may be necessary; similarly, where an order has been issued to hold a formal disciplinary inquiry he should appoint an appropriate Tribunal and cause the inquiry to be held, or where other appropriate action is ordered, take such action. In the case of an officer in the Combined Services, the relevant Secretary is the Secretary in charge of the subject of Public Administration.

3:11 The Tribunal appointed in terms of section 3:10 above in connection with the charges against the officer should forward to the relevant Secretary, without delay, its report, record of proceedings, summary of evidence for the prosecution, summary of evidence for the defence together with other documents produced by both the prosecution and the defence with regard to the inquiry it held. Where unavoidable delays occur in the course of the inquiry, timely intimation of such fact must be made to the relevant Secretary in writing.

3:12 If the relevant Secretary observes that the formal disciplinary inquiry held against the officer is unnecessarily delayed he may at any stage of the inquiry rescind the entire proceedings upto that point and appoint a fresh Tribunal to hold a fresh inquiry or, if the relevant parties agree, to continue the inquiry from the point it was terminated.

3:13 The Secretary should forward the record of proceedings of the formal disciplinary inquiry and other connected documents and reports together with his recommendations to the relevant Minister. In the case of an officer in the Combined Services, the record of proceedings of the inquiry and other connected documents and reports should be referred by the Secretary in charge of the subject of Public Administration to the Secretary to the Ministry in which the officer works. The relevant Secretary should forward, without delay, his observations and recommendations thereon together with the connected documents and

reports to the Secretary in charge of the subject of Public Administration. The latter should, taking into consideration such observations and recommendations, submit all the documents and reports together with his own recommendations and observations, without delay, to the Minister in charge of the subject of Public Administration.

3:14 When the report of the Tribunal and other connected documents together with the observations and recommendations of the relevant officers are received by the relevant Minister, he should, after perusing them, forward his observations and recommendations to the Cabinet of Ministers. In the case of an officer in the Combined Services, the relevant Minister is the Minister in charge of the subject of Public Administration.

3:15 The Cabinet of Ministers, after perusal of all observations and recommendations submitted to it, may decide whether or not the accused officer is guilty of the charges preferred against him, and if he is found not guilty, direct the relevant Secretary to clear him of all charges and acquit him, and if he is found guilty order his dismissal or order other appropriate punishment or take some other appropriate course of action at the discretion of the Cabinet of Ministers.

3:16 When the relevant Secretary is directed by the Cabinet of Ministers in terms of sub-section 3:15 above he should take action accordingly, without delay, and report to the relevant Minister.

#### 4. Procedure for Disciplinary Action by the Public Service Commission

4:1 Where disciplinary action is contemplated against an officer referred to in sub-section 2:2:1 the relevant Secretary to the Ministry or the Head of Department will cause to be made such preliminary investigations as are necessary.

4:2 If a prima-facie case has been disclosed by such preliminary investigation the relevant Secretary to the Ministry/Head of Department should prepare a draft charge sheet in such manner as determined by the Public Service Commission or in accordance with appendix 5 of this code, and forward it, without delay, through his Secretary, if by a Head of Department, or direct, if by a Secretary, to the Public Service Commission together with the proceedings of the preliminary investigation and other documents. However, in the case of an officer in the Combined Services, the Secretary to the Ministry in which the officer works should forward, without delay, the draft charge sheet and other documents to the Secretary in charge of the subject of Public Administration.

4:3 In the case of an officer in the Combined Services, the Secretary in charge of the subject of Public Administration should peruse the draft charge sheet and other documents, and if he is satisfied that a prima-facie case has been disclosed against the officer, he should forward, without delay, such documents, with amendments wherever necessary, to the Public Service Commission.

4:4 If after perusal of the draft charge sheet and other documents the Public Service Commission decides to issue a charge sheet against the officer, it will issue such charge sheet, with amendments wherever necessary, to the officer under the signature of the Secretary to the Commission through the Secretary to the Ministry/Head of Department.

4:5 The Commission should call for the explanations of the accused officer to the charges within a stipulated period.

4:6 The Commission should forward to the relevant Secretary to the Ministry/Head of Department, at the same time the charge sheet is issued, all such documents as may be necessary for the accused officer to examine for the submission of his explanations.

4:7 If the accused officer has submitted his explanations within the stipulated period, the relevant Secretary to the Ministry/Head of Department should forward, without delay, his observations on the explanations and recommendations regarding disciplinary procedure to the Public Service Commission. In the case of an officer in the Combined Services, the observations and recommendations should be forwarded through the Secretary in charge of the subject of Public Administration.

4:8 If the accused officer has failed to submit his explanations within the stipulated period, the relevant Secretary to the Ministry and/or Head of Department should report, without delay, to the Secretary to the Commission his observations and recommendations on the future course of action together with a certificate that the charge sheet was duly handed over to the accused officer. In the case of an officer in the Combined Services, the report should be made through the Secretary in charge of the subject of Public Administration.

4:9 In the case of an accused officer who fails or willfully neglects to submit his explanations within the stipulated period, the Commission may make an appropriate disciplinary order or take some other course of action as it deems fit presuming that the officer has pleaded guilty to all the charges.

4:10 If after the perusal of the explanations of the officer and the observations and recommendations of the relevant Secretary and other officers, the Commission is of opinion that the accused officer has exculpated himself from the charges it may clear the accused officer of all the charges and acquit him, or if the Commission is of opinion that the accused officer is guilty of an offence falling under the Second Schedule, order an appropriate minor punishment as it deems fit, or if the Commission is of opinion that a *prima-facie* case has been disclosed against the officer for an offence falling under the First Schedule, hold a formal disciplinary inquiry against the officer or take such other course of action as it deems fit.

4:11 Where the accused officer has in his explanations pleaded guilty to only one or some of the charges against him or where it appears from his explanations that he is guilty of only one or some of the charges, the Commission should hold a formal disciplinary inquiry into the entire charge sheet.

4:12 If the accused officer has expressly pleaded guilty to all the charges in the charge sheet, the relevant Secretary to the Ministry/Head of Department should forward to the Secretary to the Commission the relevant documents together with his recommendations and observations on the punishment that may be imposed taking into consideration each charge in the charge sheet. In the case of an officer in the Combined Services, such observations and recommendations should be forwarded through the Secretary in charge of the subject of Public Administration.

4:13 The Commission may, either taking or not taking into consideration, all the observations and recommendations impose a punishment on the accused officer as it deems fit, or if it decides that a disciplinary inquiry should be held notwithstanding the confession made by the officer, hold such an inquiry or take some other course of action as it deems fit.

4:14 Where the Commission has decided in terms of sub-section 4:13 that there is no need for a punishment to be imposed on the officer or where a punishment has been imposed, the relevant Secretary to the Ministry/Head of Department should convey such fact, without delay, to the accused officer and take such action as may be necessary, or where an order has been made to hold a formal disciplinary inquiry he should appoint a Tribunal and cause the inquiry to be held, or where other appropriate action is ordered, take action accordingly.

4:15 The Tribunal should forward to the Secretary to the Commission, without delay, its report, record of proceedings, summary of evidence for the prosecution, summary of evidence for the defence together with other documents produced by both the prosecution and the defence with regard to the inquiry it held into the charges against the officer. Where unavoidable delays occur in the course of the inquiry, timely intimation of such fact must be made to the Secretary to the Commission in writing.

4:16 If the Commission observes that the inquiry held against the officer is unduly delayed it may, at any stage of the inquiry, rescind the entire proceedings up to that point and appoint a fresh Tribunal to conduct a fresh inquiry or, if the relevant parties agree, or continue the inquiry from the point it was terminated.

4:17 The Commission may, after careful study of all reports and documents submitted after the inquiry, decide whether or not the accused officer is guilty of the charges preferred against him, and if found not guilty clear him of all the charges in the charge sheet and acquit him, and if found guilty order his dismissal or make any other appropriate disciplinary order or take such other course of action as it deems fit.

4:18 Where the relevant Disciplinary Authority does not agree with the findings of the Tribunal, he may make a disciplinary order contrary to the findings of the Tribunal in accordance with his own findings independently reached by him based on the record of proceedings and other documents. When issuing such contrary disciplinary order the Disciplinary Authority should state, clearly and specifically, in the disciplinary file all the reasons that led to making such an order before it is issued.

4:19 When the Secretary and/or Head of Department is directed by the Commission in terms of sub-sections 4:17 and 4:18 above, such directions should be executed without delay and a report made to the Commission.

##### **5. Procedure for Disciplinary Action by Secretary to a Ministry Holding Delegated Authority from the Public Service Commission.**

5:1 The Public Service Commission may from time to time delegate authority to Secretaries to Ministries by notification published in the Gazette of the Democratic Socialist Republic of Sri Lanka, and in such instances, the relevant Secretaries will exercise disciplinary control over the relevant officers.

5:2 Where a Secretary to a Ministry holding delegated authority in terms of sub-section 5:1 above contemplates disciplinary action against an officer in a category coming within his disciplinary authority, he will cause to be made such preliminary investigations as are necessary by an officer or a group of officers nominated by him or by the relevant Head of Department or Institution.

5:3 If the preliminary investigation held in terms of sub-section 5:2 above reveals sufficient reasons *prima facie* to prefer charges against the officer, the relevant Head of Department should, without delay, furnish the record of proceedings of the preliminary investigation, connected documents, a draft charge sheet together with his observations and recommendations to the relevant Secretary. However, in the case of an officer in the Combined Services, the Secretary to the Ministry in which the officer works should furnish, without delay, the draft charge sheet and other documents to the Secretary in charge of the subject of Public Administration.

5:4 If after perusal of all the documents referred to in sub-section 5:3 above, the relevant Secretary decides to issue a Charge Sheet against the relevant officer he should duly issue the Charge Sheet, with amendments wherever necessary, against the officer through the relevant Head of Department.

5:5 Where the accused officer has submitted his explanations within the stipulated period, the relevant Head of Department should, without delay, forward such explanations together with his observations and recommendations on the disciplinary procedure to the relevant Secretary. In the case of an officer in the Combined Services, the relevant Secretary should forward such explanations together with his observations and recommendations to the Secretary in charge of the subject of Public Administration.

5:6 Where the accused officer has failed to submit his explanations within the stipulated period, the relevant Head of Department should, without delay, forward his observations and recommendations on the future course of disciplinary action to the relevant Secretary together with a certificate that the charge sheet was duly handed over to the accused officer. In the case of an officer in the Combined Services, the Secretary should forward all such documents with his observations and recommendations to the Secretary in charge of the subject of Public Administration.

5:7 Where the accused officer has failed or willfully neglected to submit his explanations within the stipulated period, the relevant Secretary may, at his discretion, make an appropriate disciplinary order or take such other course of action as he deems fit presuming that the accused officer has pleaded guilty to all the charges.

5:8 If after perusal of the explanations submitted by the accused officer and the observations and recommendations by the relevant Head of Department as referred to in sub-section 5:5 above, the relevant Secretary finds that the accused officer has exculpated himself from the charges, he should clear the accused officer of all the charges and acquit him, or if the Secretary finds that the accused officer is guilty of an offence falling under the Second Schedule, order an appropriate minor punishment at his discretion, or if the Secretary finds

the accused officer is prima-facie guilty of an offence falling under the First Schedule, order a formal disciplinary inquiry against the officer or take such other appropriate course of action as determined by him. In the case of an officer in the Combined Services, the relevant Secretary is the Secretary in charge of the subject of Public Administration.

5:9 Where the accused officer in his explanations pleads guilty to only one or some of the charges or where it appears from his explanations that he is guilty of only one or some of the charges, the relevant Secretary should order a formal disciplinary inquiry into the entire charge sheet. In the case of an officer in the Combined Services, the relevant Secretary is the Secretary in charge of the subject of Public Administration.

5:10 Where the accused officer has expressly stated in his explanations that he is guilty of the charges in the Charge Sheet against him, the relevant Head of Department should forward such explanations to the relevant Secretary together with his observations and recommendations on punishment that may be ordered taking each charge into consideration. In the case of an officer in the Combined Services such Secretary should forward all such relevant documents together with his recommendations to the Secretary in charge of the subject of Public Administration.

5:11 After perusal of all observations and recommendations forwarded to him, the Secretary may order an appropriate punishment on the officer, or if he finds that a formal disciplinary inquiry needs to be held, order such a disciplinary inquiry notwithstanding the fact that the officer has pleaded guilty, or order any other course of action as he deems fit. In the case of an officer in the Combined Services, the relevant Secretary is the Secretary in charge of the subject of Public Administration.

5:12 The report of the formal disciplinary inquiry into the charges against the accused officer, record of proceedings, summary of evidence for the prosecution, summary of evidence for the defence together with any other documents produced by the prosecution and the defence should be forwarded to the relevant Secretary. If any unavoidable delays occur in the course of the inquiry timely intimation of such fact should be made to the Secretary in writing.

5:13 If the relevant Secretary observes that the formal disciplinary inquiry held against the accused officer is unduly delayed, he may rescind the entire proceedings so far held at any stage of the inquiry and appoint a fresh Tribunal to either hold a fresh inquiry or, if the relevant parties agree, to continue the inquiry from the point the proceedings were stopped.

5:14 After careful study of all the reports and documents forwarded to him by the Tribunal after the formal disciplinary inquiry, the relevant Secretary may either accept or reject such recommendations and determine whether or not the accused officer is guilty of the charges preferred against him, and if the accused officer is found not guilty, clear him of all the charges and acquit him, and if he is found guilty, dismiss him or make any other appropriate disciplinary order or take such other course of action as he deems fit. In the case of an officer in the Combined Services, the relevant Secretary is the Secretary in charge of the subject of Public Administration.

5:15 Where the relevant Disciplinary Authority does not agree with the findings of the Tribunal, he may make a disciplinary order contrary to the findings of the Tribunal in accordance with the findings independently arrived at by him based on the report of the inquiry and other documents. The Disciplinary Authority should clearly and specifically state in the disciplinary file all the reasons for making such a disciplinary order before it is issued.

#### **6. Procedure for Disciplinary Action by a Head of Department or other Officer Holding Delegated Authority from the Public Service Commission.**

6:1 The Public Service Commission may delegate authority to Heads of Departments and other Public Officers from time to time by notification published in the Gazette of the Democratic Socialist Republic of Sri Lanka, and in such instances the power of disciplinary control over relevant officers will be vested with such Heads of Departments and other Public Officers.

6:2 Where a Head of Department or other Public Officer holding delegated authority in terms of sub-section 6:1 above contemplates disciplinary action against an officer in a category of officers coming within his disciplinary authority, he should hold a preliminary investigation himself or cause to be made a preliminary investigation by another officer or a group of officers appointed by him.

6:3 If a prima-facie case disclosed against the officer by the preliminary investigation held in terms of sub-section 6:2 above, the relevant Disciplinary Authority should prepare a charge sheet and duly issue it on the officer. However, in the case of an officer in the Combined Services, the Head of the Department in which the officer works should forward, without delay, the draft charge sheet and other documents to the Director of Combined Services.

6:4 Where the accused officer is an officer in the Combined Services, the Director of Combined Services should examine the draft charge sheet and other documents and, if he decides to issue a charge sheet on the officer, he should do so, with appropriate amendments wherever necessary through the Head of the Department in which the officer works.

6:5 Where the accused officer fails or willfully neglects to submit his explanations within the stipulated period, the relevant Disciplinary Authority may, at his discretion, make an appropriate disciplinary order or take some other course of action as he deems fit presuming that the officer has pleaded guilty to all the charges.

6:6 If after perusal of explanations submitted by the officer the Disciplinary Authority finds that the officer has sufficiently established his innocence, he may clear the accused officer of all the charges and acquit him, or if the Disciplinary Authority finds that the accused officer is guilty of an offence falling under the Second Schedule, order an appropriate minor punishment at his discretion, or if the Disciplinary Authority finds the officer is, prima-facie, guilty of an offence falling under the First Schedule, hold a formal disciplinary inquiry against the officer or take some other course of action as determined by him. In the case of an officer in the Combined Services, the relevant Disciplinary Authority is the Director of Combined Services.

6:7 Where the accused officer in his explanations pleads guilty to only one or some of the charges in the charge sheet, or where it appears from his explanations that he is guilty of only one or some of the charges, the relevant Disciplinary Authority should order a formal disciplinary inquiry into the entire charge sheet. In the case of an officer in the Combined Services , the relevant Disciplinary Authority is the Director of Combined Services.

6:8 Where the accused officer has expressly admitted that he is guilty of all the charges in the charge sheet issued to him, the relevant Disciplinary Authority may, in consideration of each charge, order appropriate punishment on him or order a formal disciplinary inquiry against the officer, if the Disciplinary Authority so determines, notwithstanding the fact that the officer has pleaded guilty, or order such other course of action as he deems fit. In the case of an officer in the Combined Services, the relevant Disciplinary Authority is the Director of Combined Services.

6:9 The Tribunal should forward the report of the formal disciplinary inquiry, record of proceedings , summary of evidence for the prosecution, summary of evidence for the defence together with documents produced by the prosecution and the defence to the relevant Disciplinary Authority. If unavoidable delays occur in the course of the inquiry timely intimation of such fact should be made to the relevant Disciplinary Authority in writing.

6:10 If the relevant Disciplinary Authority observes that the formal disciplinary inquiry held against the accused officer is unduly delayed, he may rescind the entire proceedings so far held at any stage of the inquiry and appoint a fresh Tribunal to either hold a fresh inquiry or, if the relevant parties agree, to continue the inquiry from the point the proceedings stopped.

6:11 The relevant Disciplinary Authority may, after careful study of all reports and documents forwarded to him by the Tribunal after the formal disciplinary inquiry, either accept or reject such recommendations and determine whether or not the accused officer is guilty of the charges preferred against him, and if the accused officer is found not guilty, clear him of all the charges in the charge sheet and acquit him, and if found guilty, dismiss him or make an appropriate disciplinary order or take such other course of action as the Disciplinary Authority deems fit. In the case of an officer in the Combined Services, the relevant Disciplinary Authority is the Director of Combined Services.

6:12 Where the Disciplinary Authority does not agree with the findings of the Tribunal, he may make a disciplinary order contrary to the findings of the Tribunal in accordance with the findings independently arrived at by him based on the report of the inquiry and other documents. The Disciplinary Authority should state clearly and specifically the reasons for making such disciplinary order in the disciplinary file before such order is issued.

## **7. Officers temporarily released to a Statutory Body or Government Corporation or Institution vested in the Government or Government Company or Commission or other semi-Government Organization**

7:1 Where disciplinary action is contemplated against an officer temporarily released from the public service by the Disciplinary Authority relevant to his substantive post or service for an offence committed by the officer in a post previously held by him, it will be

the responsibility of the Disciplinary Authority or Appointing Authority or Administrative Authority to recall the officer forthwith to the post or service in which he last served before release.

7:2 With regard to an offence committed by an officer temporarily released from the public service after his release, the relevant Head of Institution should conduct a preliminary investigation and, if sufficient material is disclosed, prepare a draft charge sheet and forward it with other documents together with the observations and recommendations of the Secretary in charge of such institution to the Disciplinary Authority in charge of the substantive post of the accused officer. In such an event, it will be the responsibility of the Disciplinary Authority or Appointing Authority or Administrative Authority to recall such officer forthwith to the post or service in which he last served to enable disciplinary action to be initiated against him.

7:3 Where an act of misconduct committed by an officer temporarily released during the period of release has been disclosed after he was recalled or after he reported to his substantive service, the Head of Institution in which the officer served on release should hold a preliminary investigation, and if sufficient material is disclosed, prepare a draft charge sheet and forward it with other documents through the Secretary to his Ministry to the present Disciplinary Authority of the officer. It will be the responsibility of the officer subject to such preliminary investigation to make necessary statements or provide documents or bring to the notice of the Investigating Officer any matters of which he is, or ought to be, aware for the purposes of the preliminary investigation.

7:4 In the event the charges preferred against an officer who has been recalled or has reported to his substantive post or service in terms of sub-sections 7:1 or 7:2 or 7:3 above, if proved, appear *prima facie* so serious as to warrant his dismissal, or if the Disciplinary Authority is of opinion that his continuance in the public service is imprudent, the officer concerned should be interdicted.

7:5 The Disciplinary Authority relevant to the substantive post of the officer recalled to the substantive service in terms of the above sub-section should duly issue a charge sheet on the officer, appoint a Tribunal and take disciplinary action in accordance with the provisions of this Code. When the Tribunal forwards the record of proceedings, notes of inquiry and other documents, the relevant Disciplinary Authority should take action to make an appropriate disciplinary order after obtaining, wherever necessary, the observations and recommendations of the Secretary in charge of the institution to which the officer had been released.

#### **8. Officers permanently released to a Statutory Body or State Corporation or an Institution vested in the Government or Government Company or Commission or other semi-Government Organization.**

8:1 When an officer who has held a permanent and pensionable post in the public service and permanently released is found to have committed an offence calling for disciplinary action while holding a post before his release by the Disciplinary Authority relevant to such post or service, such fact should be conveyed to the Head of the Institution in which the officer now serves through the Secretary in charge of that Institution.

8:2 The Head of the Department at which it was disclosed that the officer had committed an offence should prepare a draft charge sheet and forward it with other documents to the Disciplinary Authority relevant to the post or service in which the officer had served before he was permanently released to enable disciplinary action to be taken against him.

8:3 The Disciplinary Authority should issue the charge sheet forwarded to him in terms of sub-section 8:2 above to the relevant officer and take disciplinary action against him in accordance with the provisions of this Code. Copies of the charge sheet so issued should also be sent to the Secretary in charge of the Institution in which the officer now serves and the Head of the Institution.

8:4 If after perusal of the report of the inquiry notes of inquiry and other documents forwarded to the Disciplinary Authority by the Tribunal it is found that the officer is guilty of one or some or all of the charges preferred against the officer, the relevant documents should be forwarded to the Secretary in charge of the subject of Public Administration recommending that the officer be deprived of his full pension or a certain percentage thereof taking the nature of the offence into consideration.

8:5 On receiving a recommendation from the relevant Disciplinary Authority in terms of sub-section 8:4 above, the Secretary in charge of the subject of Public Administration may, after careful study of all the facts, order that the officer be deprived of his full pension and/or gratuity or that a certain percentage of his pension and/or gratuity be deducted.

8:6 The decision taken by the Secretary in charge of the subject of Public Administration should be conveyed by him direct to the accused officer and copies of the decision should be duly sent to the Disciplinary Authority, the Head of the Department in which he last served and the Head of the Institution in which the officer now serves.

8:7 The Head of the Department in which the officer last served should inform the Secretary in charge of the subject of Public Administration in writing, with copy to the Disciplinary Authority, that he will confirm with the decision of the Secretary in charge of the subject of Public Administration.

8:8 It will be the responsibility of the Director of Pensions to enter such orders in a register especially maintained for the purpose and take necessary action to ensure that such orders are duly implemented.

#### **9. Officers transferred or appointed to another post from one Ministry or Department to another Ministry or Department.**

9:1 When disciplinary action is contemplated against an officer transferred or appointed to another post from one Ministry or Department to another Ministry or Department for an offence committed by him before such transfer or appointment by the Head of his previous Institution, the latter will cause to be made a preliminary investigation against the officer, and if a prima-facie case is disclosed, he should prepare a draft charge sheet and forward it together with the report of the preliminary investigation and all other documents to the relevant Disciplinary Authority through the Head of the Department in which the officer now serves. On receiving such documents by the Head of the present Institution he should, without delay, forward all such documents to the Disciplinary Authority.

9:2 It will be the responsibility of the relevant Disciplinary Authority, on receiving the draft charge sheet and other documents in terms of sub-section 9:1 above, to duly issue the charge sheet, with amendments wherever necessary, to the officer, appoint a Tribunal and take disciplinary action against the officer in accordance with the provisions of this Code.

9:3 In such a formal disciplinary inquiry, the responsibility for appointing an officer to present the case for the prosecution rests on the Head of the Institution in which the officer served at the time he committed the offence.

#### **10. Disciplinary Action against an officer whenever there is a change in the relevant Disciplinary Authority in the course of a Disciplinary Inquiry.**

10:1 Where a formal charge sheet has been issued to a particular officer and where there is a change in his Disciplinary Authority at any stage before a disciplinary order is issued, such change will in no way affect the disciplinary proceedings in progress. The previous Disciplinary Authority should continue the disciplinary proceedings in accordance with the provisions of this Code irrespective of the change in the Disciplinary Authority.

10:2 The previous Disciplinary Authority pertaining to the accused officer should, at the conclusion of the formal disciplinary inquiry forward, without delay, the findings of the Tribunal and his recommendations on the findings and on the disciplinary order to be issued and all other documents in connection with the disciplinary inquiry to the present Disciplinary Authority pertaining to the accused officer.

10:3 It will be the responsibility of the present Disciplinary Authority pertaining to the officer, on receiving the documents and the observations and recommendations of the previous Disciplinary Authority pertaining to the officer in terms of sub-section 10:2 above, to make an appropriate disciplinary order after careful study of the above documents.

10:4 Where the present Disciplinary Authority disagrees with the findings of the Tribunal or with the recommendations of the previous Disciplinary Authority, he may make a disciplinary order contrary to the findings of the Tribunal in accordance with the findings arrived at by him independently based on the report of the disciplinary inquiry and other documents. The Disciplinary Authority should state clearly and specifically the reasons for making such contrary disciplinary order in the disciplinary file before such order is issued.

#### **11. Officers charged for the same transaction or a series of transactions**

11:1 Where a Disciplinary Authority has issued charge sheets for disciplinary action against more than one officer coming under his area of authority for offences committed in the course of the same transaction or a series of transactions, he should appoint one Tribunal for all the accused officers and take disciplinary action in accordance with the provisions of this Code.

11:2 The Disciplinary Authority may, taking into consideration the similarities and dissimilarities of all the charges in the various charge sheets issued in terms of sub-section 11:1 above, order one formal disciplinary inquiry or separate disciplinary inquiries for all the accused officers or order separate disciplinary inquiries for the accused officers divided into

groups. Whether one formal disciplinary inquiry was held in respect of all the accused officers or several disciplinary inquiries were held in respect of the accused officers divided into groups, it will be the responsibility of the Tribunal to prepare inquiry reports in respect of each accused officer separately and forward them to the relevant Disciplinary Authority.

11:3 Where officers not under the control of the same Disciplinary Authority are to be charged for an offence committed in the course of the same transaction or a series of transactions, the Head of the Institution in which the offence connected with the transaction or transactions was committed should prepare separate charge sheets in respect of each officer and forward them to the relevant Disciplinary Authorities. The Head of Institution should also forward, together with the draft charge sheet, particulars regarding all officers to be charged and the background information regarding the transaction for the information of the relevant Disciplinary Authorities.

11:4 Where disciplinary proceedings are decided to be held against the officers by the respective Disciplinary Authorities, and if it is considered prudent to hold one disciplinary inquiry in respect of all the accused officers, it would be more appropriate for the other Disciplinary Authorities to appoint the same Tribunal that is appointed in respect of the highest officer by his Disciplinary Authority as the Tribunal in respect of all other accused officers as well.

## 12. The Public Service Commission

12:1 The Public Service Commission or a Committee thereof will have the powers specified in Article 58(2) of the Constitution. Accordingly, any public officer aggrieved by any order of transfer or dismissal or any other order relating to a disciplinary matter made by a public officer to whom the Public Service Commission or a Committee thereof has delegated its powers shall have a right of appeal to the Public Service Commission or a Committee thereof.

12:2 All correspondence containing observations and recommendations on any matter referred to the Commission or a Committee thereof should be signed by the Secretary or an Additional Secretary empowered to do so by the Secretary, in the case of a Ministry and by the Head of Department in the case of a Department. In the case of the Ministry in charge of the subject of Finance, the Secretary may empower the Deputy Secretary to the Treasury to sign such documents.

12:3 Where a Secretary or a Head of Department is invited to attend a meeting of the Public Service Commission or a Committee thereof, he should do so in person whenever possible. Where a Secretary is prevented from attending such a meeting owing to unavoidable circumstances, an Additional Secretary of the Ministry may represent the Secretary with his written authority. In the case of the Ministry in charge of the subject of Finance, the Secretary, if he is unable to attend a meeting summoned by the Commission owing to unavoidable circumstances, may authorize the Deputy Secretary to the Treasury to represent him.

12:4 The Commission may summon the Tribunal, the accused officer, his representative, or any other person to appear before it in order to obtain clarification on any matter.

12:5 The Commission or a Committee thereof may direct any officer to verify certified copies of documents furnished by an accused officer with the originals where it considers it necessary to do so and report thereon. An officer who has received such an order should execute it without delay. When the officer has certified that he had done so, such certificate or document will form part of the record.

### 13. Preliminary Investigation

13:1 A preliminary investigation is that which is conducted by a Disciplinary Authority or Head of Institution or other Appropriate Authority or by an officer or a Committee of Officers duly authorized by the above authorities to find facts as are necessary to ascertain the truth of a suspicion or information that an act of misconduct has been committed by an officer or several officers, and to find out and report whether there are, *prima-facie*, sufficient material and evidence to prefer charges and take disciplinary action against the officer or officers under suspicion. The primary task of an officer or a Committee of Officers conducting a preliminary investigation is the recording of statements of relevant persons, examination of documents and records, obtaining of originals or certified copies thereof, physical verification of state-owned assets in the charge of the officer or officers subject to the investigation, examination of relevant premises, taking over of all articles and documents which are considered necessary and making their observations and recommendations on matters found out by them regarding the act of misconduct committed.

13:2 An authority ordering a preliminary investigation into an act of misconduct should, at the same time that such order is issued, specify the time limit within which the officer or Committee of officers should complete the preliminary investigation taking into consideration the nature of each act of misconduct, as the case may be. However, where the officer conducting the preliminary investigation adduces reasons that there are valid obstacles to completing the investigation within the specified time limit, the relevant Authority may grant an appropriate extension of time. Nevertheless, all relevant parties should ensure that such preliminary investigations are carried out and are completed with the least possible delay.

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13:3 An officer appointed by a relevant Authority to conduct a preliminary investigation should be released from his substantive duties by the relevant Head of Institution to enable the officer to devote his full time continuously on such task.

13:4 The relevant Authority may appoint several officers or groups of officers, as the case may be, to independently conduct a preliminary investigation into a single transaction or a series of transactions.

13:5 The suspected officer or officers or their representatives should not be allowed to be present when statements are recorded from connected parties in a preliminary investigation.

13:6 Where the alleged charges relate to a shortage or misappropriation of goods, a count of all the relevant stock in the charge of the relevant officer should be taken.

13:7 The suspect officer or officers have a right to be present when State documents and stocks in their charge are verified. At the end of the verification, they should hand over a statement to the officer conducting the preliminary investigation that the verification was

done in their presence and whether or not they were satisfied with the results of the verification. Further the suspect officer or officers have the right to be present when materials that seem to be necessary for production at the formal disciplinary inquiry are selected and sealed and observe such process.

13:8 Where, during a preliminary investigation, an officer or officers willfully neglect to produce State property, documents and money in their charge for verification or where they fail to do so for some other reason, the relevant Authority should appoint a Board comprising three competent officers to verify such property, documents and money or inventories or make copies thereof. Such a Board will have the authority, wherever necessary, to break open the locks of relevant store rooms, almirahs, safes, drawers or other places under lock and key.

13:9 It is not essential that the officer conducting the preliminary investigation is senior to the suspect officer. But it is more appropriate to appoint, whenever possible, an officer senior to the suspect officer.

13:10 It would be an act of grave misconduct for an officer to refuse to make a statement with regard to an investigation when he is required to do so by an officer duly appointed to conduct a preliminary investigation. When such an incident is reported by an officer conducting a preliminary investigation, it will be the responsibility of the relevant Head of Institution to report such fact to the relevant Disciplinary Authority to enable him to take disciplinary action against the officer concerned.

13:11 Although the suspect officer or officers admit that they have committed the particular act of misconduct in the course of the preliminary investigation, it will be the responsibility of the officer conducting the preliminary investigation to continue the investigation to its end and forward his observations and recommendations to the appropriate authority.

13:12 After the completion of the preliminary investigation, the officer conducting the investigation should forward the report of the preliminary investigation together with the statements obtained from the relevant parties, documents, etc. taken into his custody and his observations and recommendations to the appropriate authority. The officer conducting the preliminary investigation should also prepare a draft charge sheet as per Appendix 5 of this Code and forward it to the relevant authority in the event that sufficient material is disclosed that call for disciplinary action against the suspect officer or officers.

#### **14. Issuing a Charge Sheet to an Accused Officer**

14:1 The charge need not take a legalistic form. However, it should be a clear and simple statement or statements of any acts of misconduct or lapses committed or believed to have been committed by the accused officer that call for a formal disciplinary inquiry against him.

14:2 The charge sheet should essentially contain the following recitals:

14:2:1 Under which Chapter, Section or Sections of this Code the Charge Sheet against the officer is issued.

- 14:2:2 Under which schedule of this Code do the charges preferred fall.
- 14:2:3 The time limit allowed for the accused officer to submit his answers to the Charge Sheet.
- 14:2:4 To whom should the answers to the Charge Sheet be submitted.
- 14:2:5 The Charges preferred.
- 14:2:6 The names, posts and present places of work of witnesses who are expected to be summoned for the formal disciplinary inquiry to substantiate the charges.
- 14:2:7 Statements of witnesses and documents that would be used to substantiate the charges at the formal disciplinary inquiry.
- 14:2:8 In whose custody are the documents that constitute evidence, and how and where they could be examined by the accused officer himself or with his representative.
- 14:2:9 That the accused officer has the right to appoint an officer to represent him.
- 14:2:10 Action that would be taken if answers to the Charge Sheet are not received within the stipulated period.
- 14:3 Whenever a charge sheet is issued against an accused officer by a Disciplinary Authority or by any other Authority duly authorized by the former, it should be in the form as given in the specimen in Appendix 5 or 6, as the case may be.
- 14:4 A Disciplinary Authority may amend a charge sheet at any time between its hand-over to the accused officer and the commencement of the formal disciplinary inquiry.
- 14:5 Whenever a charge sheet is amended in terms of sub-section 14:4 above, the Disciplinary Authority should give sufficient time to the accused officer to submit his explanations to the amended charge sheet or to examine the documents.
- 14:6 Where an officer presenting the case for the prosecution considers in the course of a disciplinary inquiry, but before leading evidence for the prosecution is over, that the charge sheet should be amended, and where such amendments relate to the charges preferred, he should forward the proposed amendments in writing to the appropriate Disciplinary Authority. In such an instance, the Tribunal should adjourn the inquiry until such amendments are approved or not approved by the Disciplinary Authority. It will be the responsibility of the Disciplinary Authority to make available his decision expeditiously to enable the inquiry to be held continuously.
- 14:7 The number of occasions that a charge sheet could be amended in terms of sub-section 14:6 above is limited to two.

14:8 When the officer presenting the case for the prosecution makes a request, after the commencement of the disciplinary inquiry, to amend the list of documents or the list of names of witnesses mentioned in the charge sheet, the Tribunal may take a decision on such request as is necessary. The number of occasions that a list of documents or list of witnesses could be so amended is limited to two.

14:9 It will be the responsibility of the Disciplinary Authority or any other officer mentioned in the charge sheet as the officer in whose charge the documents are kept to provide the opportunity to the accused officer or to the officer duly appointed to represent him to examine statements and documents in so far as they relate to the documentary evidence mentioned in the charge sheet against the officer.

14:10 It will be the responsibility of the officer in charge of the documents to ensure their absolute security during such examination as referred to in sub-section 14:9 above.

14:11 On the request made by the accused officer or the officer appearing for him, photocopies of relevant statements and documents may, at the discretion of the officer in charge of the documents, be made available. Action should be taken to recover a specified fee for the State when making available such photocopies.

14:12 When a formal charge sheet has been issued against an officer for disciplinary action against him, granting him salary increments, promotions, foreign trips and scholarship, study leave with pay, loans and advances, no-pay leave locally and abroad and secondments should forth-with be suspended until the final outcome of the inquiry.

14:13 If it becomes necessary for an accused officer to proceed abroad to get treatment for an illness on the recommendation of a Medical specialist permission should be obtained from the Disciplinary Authority.

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## 15. Answers to the Charge Sheet by the Accused Officer

15:1 The accused officer should forward his answers to the charges to the Disciplinary Authority within the stipulated period and in such manner as mentioned in the charge sheet.

15:2 Where the accused officer makes a written request giving valid reasons for failure to furnish his answers within the stipulated period, the Disciplinary Authority may, taking such reasons into consideration and, at his discretion, grant an extension of time to furnish answers to the charges.

15:3 Where the accused officer has failed to furnish his answers to the charges within the stipulated period, the relevant Head of Institution should forward a report to the Disciplinary Authority together with a certificate confirming that the charge sheet was duly handed over to the accused officer.

15:4 In the case of an accused officer who fails or willfully neglects to furnish his answers to the charges within the stipulated period, the Disciplinary Authority may, at his discretion, make an appropriate disciplinary order or take some other course of action as he deems fit presuming that the accused officer is guilty of all the charges.

15:5 Where the accused officer pleads guilty in his answers to only one or some of the charges in the charge sheet or where it appears from his answers that he is guilty of only one or some of the charges, the Disciplinary Authority should order a formal disciplinary inquiry into the entire charge sheet.

15:6 Where the accused officer in his answers to the charges has expressly admitted that he is guilty of all the charges in the charge sheet duly issued to him, the Disciplinary Authority may order an appropriate punishment on him or order a formal disciplinary inquiry irrespective of the fact that the officer has pleaded guilty.

15:7 An officer called upon to furnish answers to charges has the right either to furnish a comprehensive answer or plead 'guilty' or 'not guilty' and request for an inquiry to prove his innocence.

15:8 An officer who furnishes a comprehensive answer to the charges in terms of sub-section 15:7 above should also furnish together with such answer originals or certified copies of documents on which he relies to establish his innocence and particulars of his witnesses and affidavits containing their statements.

15:9 Where the Disciplinary Authority finds that the accused officer has in his answers sufficiently established his innocence, he may clear the accused officer of all the charges and acquit him, or where the Disciplinary Authority finds that the accused officer is guilty of an offence falling under the Second Schedule, order a minor punishment, or where the Disciplinary Authority finds the officer is, *prima facie*, guilty of an offence falling under the First Schedule order a formal disciplinary inquiry against him.

## **16. Documents used as Documentary Evidence in a Formal Disciplinary Inquiry**

16:1 All documents produced at a formal disciplinary inquiry to establish charges against an accused officer should be confined to only those cited as documentary evidence in the relevant charge sheet. Fresh documents may be introduced whenever the charge sheet is duly amended.

16:2 The officer presenting the case for the prosecution may produce relevant documents in terms of sub-section 16:1 above before the Tribunal either personally or through witnesses as is appropriate.

16:3 The original of an official document in the custody of an officer in a Government Institution or a semi-Government Institution need not be produced at any formal disciplinary inquiry held under this Code. A duly certified copy of the document would suffice unless the Tribunal considers it necessary to peruse the original document itself.

16:4 In the case of a document which is not an official document as referred to in sub-section 16:3 above, the original itself must be produced before the Tribunal at a formal disciplinary inquiry. Where it is not possible to do so, a certified copy must be verified with the original and the Tribunal must satisfy itself before making a decision.

16:5 An accused officer or his representative should be allowed by the officer specified in the charge sheet to examine any document that is intended to be used against him. But where a document is produced in the course of an inquiry it will be sufficient if the Tribunal permits the defence to examine it on production. Where necessary the Tribunal may adjourn the inquiry for such purpose.

16:6 Sub-section 16:5 above will not apply in the case of such documents as are mentioned in sub-section 21:25 of this Chapter.

### 17. Prosecution in a Formal Disciplinary Inquiry

17:1 It is the Head of the Ministry or Department or other Institution in which the accused officer was working at the time he committed the offence who should appoint the officer to present the case for the prosecution at a formal disciplinary inquiry.

17:2 It will be the sole responsibility of the officer conducting the case for the prosecution to conduct the case in such manner as to establish the charges preferred against the officer in the charge sheet issued to him by the Disciplinary Authority making use of the relevant documents and witnesses.

17:3 An officer presenting the case for the prosecution cannot be a witness in the same formal disciplinary inquiry.

17:4 If, after the commencement of the formal disciplinary inquiry but before the conclusion of the evidence for the prosecution, the officer presenting the case for the prosecution decides on valid reasons that the charges issued against the accused officer should be amended, he may apply in writing to amend the charges subject to a maximum of two occasions.

17:5 When an officer to present the case for the prosecution is appointed by the relevant Head of Institution by himself or with the consent of any other Head of Institution, it will be the responsibility of the relevant Head of Institution to release the officer, wherever necessary, from his normal duties to enable him to perform such task effectively.

17:6 Where a particular public officer has been appointed by a Head of Department or other relevant authority to present the case for the prosecution in a formal disciplinary inquiry he may not refuse such appointment. However, if the officer appointed to present the case for the prosecution makes written representations to the relevant authority on the obstacles and difficulties that confront him in the satisfactory discharge of his obligations the relevant Authority may, taking into consideration such representations, and if found necessary, cancel such appointment.

17:7 The refusal by a public officer appointed to present the case for the prosecution in a disciplinary inquiry to accept such appointment without valid reasons will render him liable to disciplinary action for misconduct.

17:8 An officer entrusted with the responsibility of presenting the case for the prosecution in a formal disciplinary inquiry should extend his fullest co-operation to the Tribunal to enable it to conduct the inquiry without causing inconvenience to connected parties.

17:9 Where an officer presenting the case for the prosecution in a formal disciplinary inquiry retires from the public service before the completion of the inquiry, such retirement will in no way affect his obligation of presenting the case for the prosecution.

17:10 The function of the officer appointed to present the case for the prosecution should not be entrusted to any other officer unless for such reasons as the failure of the officer to

discharge his duties efficiently and loyally, his dismissal, interdiction, serious illness or physical and mental incapacity making him incapable of conducting the prosecution, or his death.

17:11 Every officer appointed to present the case for the prosecution should perform such task honestly, efficiently, loyally and protecting the interests of the State so that the trust placed in him by the relevant Authority is not betrayed.

17:12 The officer presenting the case for the prosecution should, within a period of fourteen days of the completion of the formal disciplinary inquiry or within a period as specified by the Tribunal, forward to the Tribunal a comprehensive summary of evidence pinpointing all the facts that would relate to finding the accused officer guilty of the charges preferred against him.

17:13 It will be the responsibility of the officer presenting the case for the prosecution to correctly and duly take into his custody all documents intended to be produced at the formal disciplinary inquiry, to keep them in his custody securely and confidentially until they are produced at the inquiry, to produce them before the Tribunal for marking, to obtain a formal statement from the Tribunal that the documents so marked were taken into its custody, to return to the appropriate authorities any documents that remain with him without being produced and also to forward a copy of the statement by the Tribunal that the documents were taken over by it to the appropriate authority.

#### **18. Appearances on behalf of Accused Officers at Formal Disciplinary Inquiries.**

18 : 1 The accused officer has the right to appoint a person who is eligible in terms of sub-sections 18:2 and 18:3 to appear for him with the prior, written concurrence of the Disciplinary Authority.

18 : 2 The accused officer may appoint an officer who is a serving public officer or a retired public officer to appear for him.

18:3 Where an accused officer has made a request for the appointment of an Attorney-at-Law to appear for him at a formal disciplinary inquiry, the Disciplinary Authority may, taking into consideration the nature of the charges in the charge sheet and the complexity of the evidence likely to be led at the inquiry, agree to such request as is appropriate.

18:4 Where the person named to represent the accused officer is an Attorney -at-Law who is also a public servant, the Disciplinary Authority should treat him as a public servant.

18:5 Where the Tribunal is convinced that a particular officer appearing for an accused officer is conducting himself in such a manner as to impede the due progress of the inquiry, the Tribunal should send a detailed report on such officer to the Disciplinary Authority of the accused officer. Where the Disciplinary Authority, taking into consideration the contents of the report, decides that allowing the officer representing the accused officer to continue his work would seriously hamper the disciplinary proceedings, he may withdraw the concurrence given by him in respect of such officer and direct the accused officer to get another officer to represent him with the concurrence of the Disciplinary Authority.

## 19. Tribunals of Inquiry

19:1 It will be the function of the Disciplinary Authority to decide on the person or persons who would constitute the Tribunal appointed for a formal disciplinary inquiry in accordance with the provisions of this Code.

19:2 Where an accused officer wishes to have an Attorney - at - Law appointed as the Tribunal in a formal disciplinary inquiry against him, he should apply in writing to the Disciplinary Authority giving sufficient reasons. But the Disciplinary Authority may, at his discretion, take a decision on such a request as appropriate. Whenever such a request is refused the Disciplinary Authority should note explicitly the reasons for such refusal in the relevant file.

19:3 It is only a person who holds or has held an office senior to that of the accused officer who should be appointed by the Disciplinary Authority as a member of a Tribunal.

19:4 A public officer can be appointed as a Tribunal in a formal disciplinary inquiry only if he has never been punished for an offence under the first schedule of this Code during his period of service.

19:5 The Secretary in charge of the subject of Public Administration should constitute a Panel of Inquiry Officers consisting of retired public officers who have not been punished for an offence indicated under the first Schedule of the Establishments Code during their period of service and who count a period of service of ten years or more in a staff grade, and of Attorneys-at-Law, and maintain it revising it as appropriate. It will also be the responsibility of the Secretary in charge of the subject of Public Administration to convey particulars regarding such Panel, from time to time, to Secretaries to Ministries, Heads of Departments and other relevant authorities.

19:6 Where the Disciplinary Authority decides to appoint as Inquiry Officer a retired public officer or an Attorney-at-Law with a minimum of ten years' experience such Inquiry Officer should be selected only from the Panel referred to in sub-section 19:5 above.

19:7 Where the Disciplinary Authority appoints more than one inquiry officer as the Tribunal for a formal disciplinary inquiry such number should be an odd number, and one of them should be designated as Chairman.

19:8 Where the Disciplinary Authority contemplates disciplinary action against an accused officer for an offence falling under the Second Schedule of this Code, the Tribunal appointed for the purpose should consist of only one member.

19:9 Where a Disciplinary Authority has appointed a serving public officer as a Tribunal in a formal disciplinary inquiry, it will be the responsibility of the relevant Head of Institution to release such officer from his normal duties to enable him to conduct the inquiry successfully.

19:10 Where a public officer has been appointed as a Tribunal in terms of sub-section 19:9 above, it will be the responsibility of such officer to conduct the inquiry impartially, fairly and expeditiously in accordance with the provisions of this Code and forward the report of the Inquiry without delay, to the Disciplinary Authority.

19:11 Where the report of the Inquiry is not submitted within the period specified by the Disciplinary Authority or within a reasonable period, the Disciplinary Authority may report such fact to the Disciplinary Authority pertaining to the Inquiry Officer to enable disciplinary action to be taken against him.

19:12 Where the Disciplinary Authority appoints an officer belonging to the Panel of Inquiry Officers maintained in terms of sub-section 19:5 above as a Tribunal in a formal disciplinary inquiry, it will be the responsibility of such officer to conduct the inquiry impartially, fairly and expeditiously in accordance with the provisions of this Code and submit the report of the Inquiry to the Disciplinary Authority. Where the Inquiry Officer fails to transmit the report of the Inquiry within the period specified by the Disciplinary Authority or within a reasonable period, the Disciplinary Authority may deduct an appropriate percentage of the allowance payable to him or, as the case may be recommend to the Secretary in charge of the subject of Public Administration to delete his name from the Panel of Inquiry Officers.

19:13 Where a Disciplinary Authority has made a request, in terms of sub-section 19:12 above, giving valid reasons that the name of an Inquiry Officer be deleted from the Panel of Inquiry Officers registered with the Ministry in charge of the subject of Public Administration, the Secretary in charge of the subject of Public Administration may, taking into consideration the relevant facts, delete such name from the Panel of Inquiry Officers as appropriate.

19:14 An officer appointed as a Tribunal for one formal disciplinary inquiry among several other such inquiries which relate or correspond to each other and held in connection with the same transaction or a series of transactions will not be eligible to be appointed to appear for an accused officer or present the case for the prosecution in another inquiry which relates or corresponds to the above inquiries.

## **20. The role of a Public Officer who is a State witness at a Formal Disciplinary Inquiry**

20:1 Where any public officer nominated by a Disciplinary Authority as a witness for the prosecution in a formal disciplinary inquiry is summoned by the relevant Tribunal, he is bound to participate in such inquiry as instructed by the Tribunal.

20:2 A public officer summoned to give evidence at a formal disciplinary inquiry is bound to give truthful evidence honestly, faithfully, completely and accurately on all matters within his knowledge and on those matters that ought to be within his knowledge by virtue of the nature of his duties, and giving such evidence should be considered part and parcel of the duties that belong to the post he holds.

20:3 If a public officer summoned to give evidence in a formal disciplinary inquiry in terms of sub-section 20:1 above, willfully or negligently or inadvertently abdicates the responsibilities enumerated in sub-section 20:2, the Tribunal, if it considers such action so serious as to warrant disciplinary action against the officer, should send a complete report containing all facts as would establish the allegations against the officer together with its observations and recommendations to the Disciplinary Authority of the officer concerned.

20:4 Where a Disciplinary Authority who receives a report in terms of sub-section 20:3 above is satisfied that there is sufficient material in the report to take disciplinary action against the officer, he may issue a charge sheet in connection with the charges preferred against him by the Tribunal on the officer, call for his explanations, and order appropriate punishment deeming such offence as falling under the Second Schedule of this Code.

## 21. Conduct of a Formal Disciplinary Inquiry

21:1 An officer appointed as a Tribunal in a formal disciplinary inquiry should hold the inquiry, without delay, or within a period specified by the Disciplinary Authority and transmit, as soon as possible, the report of Inquiry to him. Where it is evident that representations made by a particular party are done with the sole purpose of delaying or frustrating the course of justice, requests for postponements should not be granted by the Tribunal on such occasions.

21:2 Where the accused officer absents himself from the inquiry consecutively on two occasions without giving prior notice indicating valid reasons for his absence, and if he will not participate in the inquiry on the next date too, the Tribunal should inform the accused officer under registered post that the inquiry will be held ex parte. Where the accused officer fails to appear when the inquiry is resumed on the next date, the Tribunal should proceed with the inquiry whether or not the accused officer participates in the proceedings.

21:3 The Tribunal may, depending on the nature of the charges, arrive at a decision on documentary evidence alone. Similarly, the Tribunal may arrive at a decision on oral evidence alone or on both documentary and oral evidence led before the Tribunal.

21:4 Where the charge sheet has been amended after the commencement of the inquiry and the officer presenting the case for the prosecution requests, in view of such amendment, that he be allowed to recall witnesses, summon new witnesses and entertain any further documents as he considers necessary, the Tribunal should grant such request.

21:5 In a situation such as referred to in sub-section 21:4 above, the Tribunal should give the accused officer adequate opportunity to defend himself against such amended charges by examining documents or cross-examining witnesses.

21:6 The Tribunal may direct the relevant parties to produce any document the relevant authority considers as strictly confidential, which has not been produced and the perusal of which the tribunal considers would help in arriving at a decision.

21:7 The Tribunal may read a document which the relevant authority has decided as confidential. But if matters contained therein are to be used against the accused officer, the document or the relevant extract should be shown to the accused officer or the officer appearing for him.

21:8 The decision of the Tribunal on any matter of procedure as laid down by this Code for formal disciplinary inquiries or on any objection taken on procedural grounds shall be final. The principle by which the Tribunal should be guided in such matters is the objective of the Inquiry to arrive at the truth speedily, and that mere inconsequential technicalities, whether procedural or otherwise, should not be allowed to impede its progress.

21:9 Where the accused officer or the officer appearing for him or any other party on behalf of the accused officer hampers the progress of the inquiry, the Tribunal should, without delay, report such matter in detail to the relevant Disciplinary Authority.

21:10 The Tribunal should direct itself by the best evidence which it can procure or which is led before it, whether or not such evidence is admissible in a Court of Law.

21:11 Any objection raised in the course of an inquiry and the ruling of the Tribunal thereon with relevant reasons should be recorded within square brackets in the record or proceedings.

21:12 If an officer's handwriting or signature is in question in the course of an inquiry, it will be sufficient if two witnesses who are familiar with the officer's handwriting or signature testify that it is that of the officer concerned. However, this will not preclude the Tribunal from obtaining expert opinion where necessary.

21:13 Where a witness accepts that a written statement made by him at a preliminary investigation is true, matters contained in such statement will be accepted as evidence led at the formal disciplinary inquiry.

21:14 In a case where evidence is not led afresh in terms of sub-section 21:13 above, the Tribunal or the officer presenting the case for the prosecution may question the witness on any matter on which they consider that further elucidation is necessary and, likewise, permit the defence to cross-examine the witness on the recorded statement and on any other oral evidence led from him at the inquiry.

21:15 The accused officer may give evidence on his behalf at a formal disciplinary inquiry, in which event he may be cross-examined. Likewise, the accused officer, as he chooses, may refrain from giving evidence or make only a written or an oral statement.

21:16 All witnesses to the formal disciplinary inquiry should be summoned by the Tribunal. Official witnesses should be summoned through their Heads of Departments.\*

21:17 The Tribunal may, before permitting the summoning of a witness or the production of a document, require to be satisfied as to the relevance of the testimony or the document.

21:18 Where an unofficial witness fails to attend, and the Tribunal considers that his attendance is absolutely essential, an application may be made under Section 2 of the Commissions of Inquiry Act (Cap 393) for constitution of the Tribunal as a Commission of Inquiry in order to empower it to compel the attendance of such witness.

21:19 No witness should be permitted by the Tribunal to be present when the evidence of any other witness is being recorded.

21:20 The accused officer may elect to make a statement after all the evidence has been recorded. The fact that in such a case, he will not be liable to be cross-examined on such a

statement, will have to be taken into account when assessing the evidentiary value of such a statement. However, even though such a statement is not liable to be cross-examined, the Tribunal may seek further elucidation, which it considers necessary, from the accused officer on matters arising from such statement.

21:21 Any objections made to the general conduct of the inquiry by the connected parties and the comments of the Tribunal thereon should be noted in the record of proceedings at the conclusion of the inquiry. The record of proceedings should be signed by all the parties connected to the inquiry.

21:22 At the end of each day of the inquiry, the Tribunal will make available to the officer presenting the case for the prosecution and the accused officer or the officer appearing for him uncertified copies of the notes of inquiry containing the evidence of witnesses.

21:23 The Tribunal should at no time give any indication to anyone of what its findings are likely to be.

21:24 At the conclusion of the inquiry the Tribunal should inform the officer presenting the case for the prosecution and the accused officer to make their written submissions to reach the Tribunal within fourteen days of the completion of the inquiry. However, where the Tribunal considers that owing to the nature of the inquiry or other unavoidable circumstances, the period of fourteen days is insufficient, it may specify a reasonable period of time to make such submissions. If within the fourteen days or within the period specified by the Tribunal, the relevant parties fail to make written submissions, the Tribunal should send its final report, without delay, to the relevant Disciplinary Authority deeming that written submissions have not been made. Any written submissions made will form a part of the record and should be forwarded as annexes.

21:25 The Tribunal may refer to any document even though it has not been produced in evidence, which assists it in arriving at a decision. Nevertheless, such a document should not properly be regarded as evidence.

21:26 The report of the Tribunal should, among other things, invariably contain the following:

21:26:1 the background to the incident in brief.

21:26:2 general remarks on the conduct of the formal disciplinary inquiry.

21:26:3 summary of evidence led on each charge.

21:26:4 analysis of evidence on each charge and the findings of the Tribunal on each charge.

21:26:5 where the accused officer is found guilty of even one charge the opinion of the Tribunal as to the seriousness of the charge and suggestions to the Disciplinary Authority on imposing punishment.

21:26:6 where, according to matters led before the Tribunal, it is found that a witness for the inquiry or the accused officer or any other public officer has committed another act of misconduct, all relevant facts to enable disciplinary action to be taken against the connected parties.

21:26:7 In the light of the matters revealed by the inquiry, the observations and suggestions of the Tribunal regarding changes that should be effected in the Administration or procedure for the prevention or restriction of such incidents for the future well-being of the public service.

21:27 The Tribunal should, as soon as possible after the conclusion of the inquiry, transmit its type-written report thereon together with the record of proceedings and all connected documents and productions to the appropriate Disciplinary Authority. Where the transmission of the inquiry report is inordinately delayed the reasons for such delay should accompany the report.

21:28 The Tribunal may consult the Constitution that was in force during the relevant period of time Statutory rules and regulations, Establishments Code, Financial Regulations, Circulars issued by the Ministries and Departments, Standing Orders issued by the respective Government institutions, approved procedures, etc. in arriving at its decision even though such documents have not been produced in evidence at the formal disciplinary inquiry by the prosecution or the defence.

## 22. The Role of the Disciplinary Authority

22:1 Where it is observed that the proceedings of a formal disciplinary inquiry are being unduly delayed, it will be the responsibility of the Disciplinary Authority to take action, as and when necessary, to avoid such delays.

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22:2 It is the responsibility of the Disciplinary Authority to keep the proceedings of the formal disciplinary inquiry, from its commencement to the conclusion, under his constant observation and take corrective action, as and when necessary, so that the expenses the Government will have to incur on traveling expenses and other allowances caused by postponements in the course of the inquiry could be minimized.

22:3 It is the responsibility of the Disciplinary Authority to cause to be sent to him, without delay, the final report and other relevant documents relating to a formal disciplinary inquiry in respect of which he has to make a disciplinary order.

22:4 It is the responsibility of a Disciplinary Authority to carefully study the report of the inquiry forwarded to him and make his disciplinary order without delay. Here, the Disciplinary Authority should always keep in mind the adage that "justice delayed is justice denied".

22:5 A Disciplinary Authority may, after careful study of the report of a formal disciplinary inquiry forwarded to him by the Tribunal, arrive at the following decisions:

22:5:1 Convict the officer of one or some or all of the charges.

22:5:2 Acquit the accused officer of one or some or all of the charges.

22:5:3 Quash the proceedings of the formal disciplinary inquiry and order a fresh disciplinary inquiry.

22:6 The Disciplinary Authority may accept or reject or revise any or some or all of the findings of the Tribunal in arriving at a decision in terms of 22:5:1 and 22:5:2.

22:7 Where any or some or all of the findings of the Tribunal are rejected or revised in terms of sub-section 22:6 above, the Disciplinary Authority should note clearly and specifically in the relevant disciplinary file all the reasons on which such decision was based.

22:8 The Disciplinary Authority should decide to quash the entire inquiry proceedings in terms of sub-section 22:5:3 only when the Tribunal has conducted the inquiry improperly and in contravention of the approved procedure or when the officer presenting the case for the prosecution has willfully or negligently or inadvertently failed to present the case for the prosecution in such manner as to protect the interests of the Government.

22:9 Where a Disciplinary Authority makes a decision in terms of sub- section 22:8 above, he should clearly and specifically note in the relevant disciplinary file all the reasons on which such decision was based.

### **23. The Disciplinary Order**

23:1 A disciplinary order made by a Disciplinary Authority should invariably contain the following:

23:1:1 Whether the officer is guilty or not guilty of each charge or the charges preferred against him in the charge sheet.

23:1:2 Punishments and/ or conditions imposed in respect of charges of which the accused officer is found guilty.

23:2 Where a Disciplinary Authority decides to acquit an accused officer of all the charges against him, such decision should be forthwith communicated to him. The Disciplinary Order should contain an order for reinstatement if the accused officer is under interdiction in connection with the charges and an order to pay any emoluments withheld during the period of interdiction.

23:3 Where the Disciplinary Authority finds the accused officer guilty of one or some or all of the charges he may impose a separate punishment in respect of each charge or impose a punishment or punishments common to all the charges of which the accused officer is found guilty.

23:4 Where the disciplinary order is not one of dismissal, it should contain an order for the immediate reinstatement of the accused officer if he is under interdiction and an order as to what percentage of any emoluments or allowances withheld during the period of interdiction should be paid to him or whether the whole of the emoluments and allowances withheld should not be paid.

23:5 Where a compulsory transfer is ordered on the accused officer as a punishment in the disciplinary order it should, whenever possible, indicate the new place of work to which the officer should be transferred. When such transfers are ordered the officer is not entitled to traveling expenses, settling in allowances, etc.

23:6 Where the recovery of a certain sum of money as a surcharge or for a loss caused to the Government by the accused officer forms a part of the disciplinary order, it is the responsibility of the relevant Accounting Officer to recover such sum of money. If any emolument or allowance withheld has to be paid to the officer according to the Disciplinary Order, such payment may be made only after the recovery from such payment the amount due to the Government from the officer.

23:7 Where a certain sum of money has to be recovered as a surcharge or for a loss caused to the Government from an accused officer punished with dismissal, it is the responsibility of the relevant Head of Department to initiate, wherever necessary, legal proceedings against the officer, without delay, to recover such sum of money.

23:8 Only a minor punishment as referred to in sub-section 24:2 below may be imposed on an accused officer found guilty of an offence falling under the Second Schedule.

23:9 The effective date of a punishment imposed by the Disciplinary Authority on an accused officer after the completion of a formal disciplinary inquiry or after calling for his explanations should be the date on which the formal charge sheet was served on him or the date on which his explanations were called for, as the case may be.

Amendment to  
Section 23:9  
PA Circular  
18/2013

## **24 Punishments**

24:1 Punishments are classified into minor and major punishments. Minor punishments will be appropriate for offences in the Second Schedule and offences of the type similar to those.

### **24:2 Minor Punishments**

24:2:1 Reprimand ( A warning or a severe warning is not a punishment.)

24:2:2 Severe reprimand.

24:2:3 Censure

24:2:4 Suspension of the increment for a period not exceeding one year.

24:2:5 Stoppage of the increment for a period not exceeding one year.

24:2:6 Order a disciplinary transfer on the officer at his own expense.

24:2:7 A fine not exceeding a week's pay.

24:2:8 Any other form of punishment similar to but not more severe than the above punishment as determined by the relevant Disciplinary Inquiry.

### **24:3 Major Punishments**

24:3:1 Dismissal

24:3:2 Termination of service of an officer serving a period of probation.

- 24:3:3 Retirement for general inefficiency
- 24:3:4 Compulsory retirement as a merciful alternative for dismissal.
- 24:3:5 Rejection of extension of service beyond the optional age of retirement.
- 24:3:6 Reduction in seniority (i.e. reversion by a specific number of steps in the grade to which the officer belongs.)
- 24:3:7 Reduction in rank (i.e. reversion to the next lowest class or grade of the service to which the officer belongs.)
- 24:3:8 Reduction to a lower post where the officer does not belong to a "service" but holds a departmental post.
- 24:3:9 reduction of salary by a specified number of increments
- 24:3:10 Deferment of salary increment.
- 24:3:11 Deferment of promotions for a specified period
- 24:3:12 Disqualification from sitting any promotional examination for a specified period.
- 24:3:13 Any other form of punishment similar to and not more severe than those listed above as determined by the relevant Disciplinary Authority.
- 24:4 The fact that a disciplinary transfer may be ordered under 24:2:6 above does not mean that a transfer on disciplinary grounds cannot be ordered by a competent authority without proceedings being taken under this Code. Such a transfer at the officer's own expenses may be ordered by the transferring authority entirely at his discretion and independently of the provisions of this Code. However, if none of the charges preferred against the officer is proved in a subsequent disciplinary inquiry, such transfer should be regarded as a normal transfer and the officer will be entitled to all allowances due to him in terms of the Establishments Code.
- 24:5 Where a transfer is imposed on an accused officer as a part of the disciplinary order, the period after which he could again obtain a transfer to whatever post in the office he worked earlier should be specifically stated in the disciplinary order.
- 24:6 Where a deferment or reduction or stoppage of salary increment has been ordered as a part of the disciplinary order; such order should be implemented based on the salary step the officer last received.

e.g. If a Disciplinary Authority has ordered on 01.02.92 that the salary increment of an officer interdicted on 01.01.90 and whose increment falls on 1st June be deferred by one year, it is the salary increment due to the officer on 01.06.90 that should be deferred. Salary increments of subsequent years should be granted to him even if he was not in service.

Amendment to  
Sub Section 24:3:5  
PA Circular 28/2017

Amendment to  
Section 24:6 PA  
Circular 18/2013

24:7 Where an order not to pay arrears of salary for the period under interdiction forms part of the disciplinary order, an officer will not be entitled to receive arrears of salary increments for which he would have been eligible. However, he should be placed on the relevant step on his salary scale reckoning the salary increments for which he would have been eligible, irrespective of the fact that he was not in service, and paid accordingly.

24:8 A Disciplinary Authority, other than the Cabinet of Ministers and the Commission or a Committee thereof, is not competent to order compulsory retirement as a merciful alternative to dismissal. This is the prerogative of the appellate authority to be considered only if and when an appeal is duly made to it, and normally in the case of an officer whose previous record of service is long and meritorious.

## 25. Punishments Under the Summary Disciplinary Procedure

25:1 Public officers to whom authority is duly delegated by the Public Service Commission with regard to imposing minor punishment on accused officers may do so in accordance with the summary disciplinary procedure.

25:2 Action in terms of sub-section 25:1 above should be taken only on such occasions where the alleged offence is not so serious an act of misconduct calling for action under the formal disciplinary procedure.

25:3 Where an officer with delegated authority as mentioned in sub-section 25:1 above contemplates disciplinary action under summary disciplinary procedure against a subordinate officer he should inform the accused officer in writing the act of misconduct disclosed to have been committed by him and order him to show cause, if any, within an appropriate and reasonable period, as to why he should not be punished for such misconduct. The above communication should also state that if the accused officer fails to submit his explanations within the stipulated period, action will be taken presuming that the officer has no explanations to offer.

25:4 Where the explanations submitted by an officer called upon to do so in terms of sub-section 25:3 above within the stipulated period is insufficient to acquit him or where he fails to submit his explanations within the stipulated period, the officer holding delegated authority may, taking into consideration the nature of the offence, impose punishment in terms of sub-section 25:5 below.

25:5 The punishment imposed on an officer found guilty under the summary disciplinary procedure should not be more severe than a fine equivalent to a day's pay of the officer concerned.

25:6 Officers subject to minor punishments under the summary disciplinary procedure in terms of sub-section 25:5 above may appeal against such punishments to the Public Service Commission or to any officer to whom appellate authority has been delegated by the Commission.

## 26. Appeals against Disciplinary Orders and Revisions

26:1 The revision, variation or cancellation of any disciplinary order by the Disciplinary authority itself, other than by the Cabinet of Ministers, after the order has been made, should be done only for the sole purpose of correcting an error or irregularity appearing on the face of such order. Whenever the Disciplinary Authority decides as stated above, to revise, vary or cancel a disciplinary order issued by itself, he should note clearly and specifically in the relevant disciplinary file all the reasons on which such decision was based.

26:2 Where an aggrieved officer appeals within the specified period against a disciplinary order made by a Disciplinary Authority, the Cabinet of Ministers or the Commission or a Committee thereof holding appellate authority, as the case may be may revise, vary or cancel such disciplinary order on the averments in the appeal.

26:3 A public officer aggrieved by any disciplinary order made by a Disciplinary Authority may appeal against such order in writing to either the Cabinet of Ministers or the Public Service Commission, as the case may be.

Amendment to  
Section 26:3  
PA Circular 05/2017

26:4 An appeal should be made by the aggrieved officer himself. An appeal made by any other person on his behalf will not be entertained or acknowledged by the relevant Appellate Authority.

26:5 An officer aggrieved by a disciplinary order imposed on him by a public officer holding delegated authority from the Public Service Commission or a Committee thereof has the right of making only one appeal to the Commission against such order.

26:6 An appeal made in terms of sub-section 26:5 above should be made within three months of the receipt of the disciplinary order. However, appeals received after three months but before six months may also be entertained, at the discretion of the Commission, if there are valid reasons.

26:7 An appeal to the Public Service Commission by an officer in service should be made through his Head of Institution and the Disciplinary Authority. Handing over of the appeal to the Head of Institution before the expiry of three months of the delivery of the disciplinary order will be deemed as the appeal has been forwarded within the specified period. It will be the responsibility of the Head of Institution as well as the Disciplinary Authority to deal with appeals received by them expeditiously and transmit them to the Commission, without delay, together with their observations and recommendations and all relevant files and documents in accordance with the provisions of this Code. An officer dismissed from the public service should forward his appeal direct to the Secretary to the Commission under registered post.

26:8 Where the appellant is no longer in service the decision of the Commission should be conveyed direct to him and where the appellant is in service such decision should be conveyed to him through the relevant Disciplinary Authority and Head of Department. In both instances, a copy of the decision should also be sent by the Secretary to the Commission to the relevant Disciplinary Authority.

26:9 A further appeal, if any, on a decision made by the Commission or a Committee thereof should be forwarded to Cabinet of Ministers. The Public Service Commission or a Committee thereof should not accept for adjudication any appeal made against a decision by them. As an exception the Public Service Commission or a Committee thereof may use its discretion only to correct an error or an irregularity in its earlier decision.

26:10 An officer not satisfied with the decision on an appeal made to the Public Service Commission in terms of sub-section 26:5 above has the right of making one appeal to the Cabinet of Ministers. Such appeals should be forwarded through the Minister in charge of the Ministry in which the officer now serves or had earlier served. In the case of officers in the Sri Lanka Administrative Service or the Combined Services the relevant Minister is the Minister in charge of the subject of Public Administration.

26:11 Appeals made in terms of sub-section 26:10 above should be forwarded to the Cabinet of Ministers by the relevant Minister in the form of a Cabinet Memorandum. Only one appeal in respect of a disciplinary order or of an appeal could be forwarded to the Cabinet of Ministers in terms of this section.

26:12 The Cabinet of Ministers may vary, revise or rescind a disciplinary order made by the Public Service Commission or a Committee thereof or an order made by it on an appeal.

26:13 When on examination of the report of the Inquiry and other documents by the appellate authority it is disclosed that an officer other than the accused officer is guilty of any act of misconduct or lapse, the appellate authority may direct or recommend to the disciplinary authority that necessary disciplinary action be taken against such an officer.

## **27. Procedure to be followed when Court of Law or a Statutory Authority proceeds against of Public Officer**

27:1 When a criminal offence punishable under the Law of Sri Lanka by a Court of Law is disclosed, *prima facie* against an officer on facts or evidence led in the course of a preliminary investigation or in some other manner, such matter should, without delay, be reported by the Disciplinary Authority or Head of Institution of such officer to the Police or appropriate Statutory Authority for suitable action to be taken against the officer under the Law of Sri Lanka.

27:2 When an offence of bribery or corruption is disclosed, *prima facie*, against an officer on facts or evidence led in the course of a preliminary investigation or in some other manner, such matter should, without delay, be reported by the Disciplinary Authority or Head of Institution of such officer to the Commission to Investigate Allegations of Bribery or Corruption or to such other statutory authority empowered by law to investigate such allegations for suitable action to be taken against the officer under the appropriate law.

27:3 When an offence punishable through a duly authorized statutory authority or institution (e.g. Director General of Customs, Commissioner General of Income Tax) for violating any provision in an Act passed by the Legislature of Sri Lanka is disclosed, *prima facie*, against an officer on facts or evidence in the course of a preliminary investigation or

in some other manner, such matter should, without delay, be reported by the Disciplinary Authority or Head of the Institution of such officer to the appropriate statutory authority or Institution for suitable action to be taken against the officer under the appropriate law.

27:4 Even though transmission of information as referred to in sub-sections 27:1, 27:2 and 27:3 above to the respective authorities has been done, a preliminary investigation in progress or work with regard to holding a preliminary investigation where sufficient matters are disclosed should not be suspended or postponed unless there are compelling reasons or unavoidable circumstances. If the preliminary investigation is suspended owing to a compelling reason or an impediment it should be re-commenced and concluded as soon as possible.

27:5 Where respective authorities have been informed to take legal action in terms of sub-sections 27:1, 27:2 and 27:3 above and such authorities ask for documents, any relevant article or anything else that are relevant for purposes of their investigations and legal proceedings, the relevant Head of Institution or Disciplinary Authority should make available such items to the respective authorities.

27:6 Where documents as are necessary for preliminary investigations or legal proceedings are handed over to the respective authorities, the Head of Department or a Staff Officer should retain photocopies of such documents certified by them that may be necessary for any disciplinary proceedings likely to be taken against the accused officer by the Department. Certified copies of the documents thus retained should be totally admissible in a formal disciplinary inquiry against the officer.

27:7 Where a public officer is taken into custody by the Police or some other statutory authority pending legal proceedings against him or where he is remanded before the commencement of legal proceedings in a Court of Law the officer should be granted compulsory leave to cover such period.

27:8 When a public officer taken into custody by the Police or any other statutory authority is released from custody he should be reinstated. However, if such reinstatement would obstruct a formal disciplinary inquiry scheduled to be held by the Disciplinary Authority, the accused officer should not be reinstated but interdicted.

27:9 When an officer remanded pending legal proceedings against him is released on bail, he should be reinstated in service if the Disciplinary Authority determines that his reinstatement will not adversely affect the interests of the public service. If the Disciplinary Authority is satisfied that his reinstatement in service will adversely affect the interests of the public service he should be further kept on compulsory leave. Similarly, where the Disciplinary Authority contemplates disciplinary action against the officer and his reinstatement is an impediment to the contemplated disciplinary proceedings the officer should be interdicted as appropriate.

27:10 Where legal proceedings are taken against a public officer for a criminal offence of bribery or corruption the relevant officer should be forthwith interdicted by the appropriate authority.

27:11 Even when Court proceedings are in progress against a public officer for an offence which falls under this Code, the relevant Disciplinary Authority should hold a disciplinary inquiry against the officer independent of Court proceedings. The suspension or postponement of the departmental disciplinary inquiry should be done only when there is a compelling reason or unavoidable obstacle.

27:12 The fact that Court proceedings against the officer are still in progress will in no way affect the making of a disciplinary order at the conclusion of the disciplinary inquiry against him in terms of sub-section 27:11 above.

27:13 Where at the time of making the order in the Court proceedings against an officer in terms of sub-section 27:11 above, the departmental disciplinary inquiry against him is still in progress, it should be continued to its conclusion, irrespective of the Court order, and the disciplinary order made unless there is a compelling reason or an unavoidable obstacle for the continuance of the inquiry.

27:14 Where an officer acquitted by a departmental inquiry of a charge or a series of charges is found guilty by a Court of Law of the same charges, the fact that he has been acquitted by the departmental inquiry should not stand in the way of taking action against him in terms of Section 28 of this Code.

27:15 Where Court proceedings and a departmental inquiry have been held with regard to a charge or a series of charges, and where the departmental inquiry finds the officer guilty, the fact that the officer is acquitted in the Court proceedings should in no way affect the implementing of the disciplinary order made on matters revealed in the departmental disciplinary inquiry.

## **28. Disciplinary Action against a Public Officer in view of Orders issued against him by a Court of Law or a Statutory Authority**

28:1 If an officer is convicted by a Court of Law in any criminal proceeding, or is summarily convicted by a Court of Law under section 449 of the Code of Criminal Procedure Act, or is found guilty of any offence or is subjected to any penalty by any Statutory Authority empowered by law to do so, that Court or Statutory Authority will report the facts to the disciplinary authority with a certified copy of the proceedings.

28:2 Conviction for the purpose of these rules includes warning and discharge or conditional discharge under section 306 of the Code of Criminal Procedure Act No. 15 of 1979.

28:3 On receiving a report from a Court or Statutory Authority in terms of sub-section 28:1 above, the Disciplinary Authority may, where the department has not held a formal disciplinary inquiry or where disciplinary proceedings are not contemplated against the officer regarding the incident concerned, make a disciplinary order against the relevant officer without holding a formal disciplinary inquiry taking into consideration the findings of the Court or the Statutory Authority as the case may be.

28:4 In making a disciplinary order in terms of sub-section 28:3 above, the Disciplinary Authority should base such order on the fact that the officer has been convicted and the seriousness of the offence or offences. It will not be necessary to take note of the punishment imposed by the Court or the Statutory Authority.

28:5 If the officer furnishes to the Disciplinary Authority proof of the fact that he has appealed against the conviction, order or findings of the Court or Statutory Authority, the Disciplinary Authority will await the outcome of such appeal before ordering punishment. If the officer has been interdicted in this connection, he should remain interdicted.

28:6 The fact that an officer has been acquitted or discharged or found not guilty by a Court of Law or Statutory Authority is no reason at all why he should not be dealt with under this Code, if there is sufficient material on which disciplinary proceedings can be taken against him.

28:7 An officer who has been punished under this Code for any offence, other than a punishment in terms of sub-section 28:3 above, may not claim remission of such punishment on the grounds that he has subsequently been acquitted or discharged by a Court of Law in respect of that same offence, or that the order of a Court has been set aside in appeal.

## **29. Offences disclosed in an audit report**

29:1 Where a report by the Auditor-General discloses that an officer or a group of officers have committed irregularities or acts of misconduct because of not adhering to existing rules and regulations or through negligence or inadvertence, the relevant Disciplinary Authority should invariably take disciplinary action against such officer or officers.

29:2 If the report of the Auditor-General is comprehensive enough as to establish the charges to be preferred against the officer, a charge sheet should be issued based on such report and a formal disciplinary inquiry held and necessary action taken.

29:3 Where the Disciplinary Authority is of opinion that preparing a charge sheet or establishing the charges against an accused officer on the report of the Auditor - General is difficult, the relevant Head of Institution or Disciplinary Authority should, without delay, hold a preliminary investigation to further consolidate the acts of misconduct mentioned in the report of the Auditor - General and to facilitate the proper presentation of the charges at a formal disciplinary inquiry. Where a case of misconduct is *prima facie* disclosed by the preliminary investigation, the relevant Disciplinary Authority should take disciplinary action against the accused officer in accordance with the provisions of this Code.

29:4 Even where acts of misconduct are disclosed by Internal Audit Reports, the relevant Disciplinary Authority should take action in terms of sections 29:1, 29:2 and 29:3 above.

## **30. Offences Disclosed in a report of a Commission of Inquiry**

30:1 Where charges for misconduct are disclosed against a public officer by a report of a Commission or a Commission of Inquiry appointed by an authority duly empowered by the law in force at the time and where the relevant officer has been punished by Parliament or a Court of Law consequent upon reference of such charges by the Commission, the relevant Disciplinary Authority should take action in terms of section 28 of this Code.

30:2 Where it is observed, *prima facie*, that the facts revealed in the report of the Commission Inquiry are sufficient to establish the charges preferred against the accused officer in a formal disciplinary inquiry, action should be taken to issue a charge sheet on such report and to hold a formal disciplinary inquiry and take suitable action.

30:3 Where the Disciplinary Authority is of opinion that preparing a charge sheet or establishing the charges against an accused officer on the report of a Commission of Inquiry is difficult, the relevant Head of Institution or Disciplinary Authority should, without delay, hold a preliminary investigation to further consolidate the acts of misconduct mentioned in the report of the Commission of Inquiry and to facilitate the proper presentation of the charges at a formal disciplinary inquiry. Where a case of misconduct is disclosed by the preliminary investigation, the Disciplinary Authority should take disciplinary action against the officer in accordance with the provisions of this Code.

### **31. Interdiction and Compulsory Leave**

31:1 Where it is disclosed, *prima facie*, that a public officer has committed either one or some or all of the following acts of misconduct, the relevant Disciplinary Authority, or the relevant Secretary to the Ministry or Head of Department not holding disciplinary authority, may forthwith interdict the officer concerned subject to the covering approval of the Disciplinary Authority. However as soon as the letter of interdiction is issued by the Disciplinary Authority should be informed sending also a copy of such letter to the purpose of obtaining covering approval.

31:1:1 Non-allegiance to the Constitution of the Democratic Socialist Republic of Sri Lanka.

31:1:2 Act or cause to act in such manner as to bring the Democratic Socialist Republic of Sri Lanka into disrepute.

31:1:3 Being prosecuted in a Court of Law on anti-government, terrorist or criminal charges.

31:1:4 Being prosecuted in a Court of Law on bribery or corruption charges.

31:1:5 Being drunk or smelling of liquor within duty hours or within Government premises.

31:1:6 Use or be in possession of narcotic drugs within duty hours or within Government premises.

31:1:7 Misappropriate or cause another to misappropriate government funds.

31:1:8 Misappropriate government resources or cause such misappropriation, or cause destruction or depreciation of government resources willfully or negligently.

31:1:9 Act or cause to act negligently or inadvertently or willfully in such manner as to harm government interests.

31:1:10 Act in such manner as to bring the public service into disrepute.

31:1:11 Divulge information that may harm the State, the State Service or any other State Institution or make available or cause to make available State documents or copies thereof to outside parties without the permission of an appropriate authority.

31:1:12 Alter, distort, destroy or fudge State documents.

31:1:13 Conduct oneself or act in such manner as to obstruct a public officer in the discharge of his duties, or insult, or cause or threaten to cause bodily harm to a public officer.

31:1:14 Refuse or neglect to carry out lawful orders given by a Senior officer, or insubordination.

31:1:15 Where it is considered that allowing an officer to perform his duties is harmful or imprudent so far as the public service is concerned.

31:2 The Disciplinary Authority only may interdict an officer in terms of sub-section 31:1:15 above.

31:3 An authority who decides to interdict a public officer in terms of sub-section 31:1 above should note clearly and specifically in the relevant file the reasons on which such decision was based.

31:4 Normally a public officer should be interdicted on matters disclosed in a preliminary investigation held into the charges against him.

31:5 In such instances as given below, a relevant authority may interdict a public officer even without holding a preliminary investigation as referred to in sub-section 31:4 above.

31:5:1 Where it is evident to the relevant authority that the continuance of the officer in service is detrimental to the holding of a preliminary investigation against him.

31:5:2 Where the first information itself on the suspected acts of misconduct committed by the officer is sufficient to establish the relevant matters.

31:5:3 Where Court proceedings have been initiated against a public officer in terms of section 27 of this Code.

31:6 Even in the case of an officer interdicted in terms of 31:5:1 and 31:5:2 above, a preliminary investigation should be held, without delay, after interdiction.

31:7 In the case of an officer interdicted in terms of 31:5:3 above, action should be taken to hold a preliminary investigation whenever possible.

31:8 When a public officer under interdiction in terms of sub-section 31:5 above is summoned for a preliminary investigation in connection with himself or another officer, he is bound to participate in such investigation and reveal to the investigating officer any information of which he is aware or ought to be aware.

31:9 Where a public officer is interdicted by a Head of Department or a Secretary to a Ministry who is not a disciplinary authority, the record of the preliminary investigation on which the interdiction was based and other relevant particulars together with the report containing recommendations as to the payment of emoluments to the officer during the period of interdiction should be sent, without delay, to the relevant Disciplinary Authority.

31:10 The non-payment or the payment of one-half of the emoluments to an officer under interdiction for the period of interdiction is decided by the Disciplinary Authority.

31:11 A public officer interdicted under the following circumstances should not be paid any emoluments during the period of interdiction.

31:11:1 Where legal proceedings have been initiated for a terrorist offence or anti-government activities or criminal offence or an offence of bribery or corruption or fraud.

31:11:2 Where misappropriation of a serious nature of public funds and property is committed or where they are caused to be destroyed or depreciated by acts of commission or omission.

31:12 In the case of instances not falling under sub-section 31:11 above, the Disciplinary Authority may decide either not to pay the emoluments or to pay one-half of the emoluments in consideration of the seriousness of the charge, prior record of service of the officer, his financial needs, etc.

31:13 Where a Disciplinary Authority is satisfied that an officer under interdiction, while receiving one-half of the emoluments, acts willfully or negligently in such manner as to impede the progress of the formal disciplinary inquiry held into the charges against him or to unduly delay such proceedings, the Disciplinary Authority may suspend the payment of one-half of the emoluments to the officer. In such a case, the Disciplinary Authority should note clearly and specifically in the relevant file the reasons on which such decision was based.

31:14 If the disciplinary order imposed consequent upon the formal disciplinary inquiry results in any lesser punishment than dismissal, the Disciplinary Authority should decide on the full payment of the emoluments withheld, or of a certain percentage thereof, and such decision will form part of the disciplinary order.

31:15 An officer's "emoluments" means the emoluments of his substantive post. It should not include any allowance in the nature of a duty allowance, or a reimbursement of expenditure incurred on official duty such as traveling, transport and combined allowance.

31:16 If an officer cannot appropriately be interdicted in terms of the preceding sub-sections, but it is in the interest of the preliminary investigation or the formal disciplinary inquiry that he should not exercise the functions of his office, he should be transferred or attached to an institution within the relevant Ministry or he should be placed on compulsory leave in terms of the provisions of Part I of the Establishments Code.

31:17 As the reinstatement of an officer who is not found guilty owing to his being interdicted without sufficient cause would result in the payment of his emoluments for the period of no work, the appropriate authority should personally satisfy himself before an officer is interdicted.

Amendment to  
Section 31:12  
PA Circular  
06/2004

**32. Compulsory Retirement for Offences under the First Schedule**

32:1 Where there is a prima-facie case against an Additional Secretary, Senior Assistant Secretary, Head of Department, Government Agent or District Secretary in respect of an offence in the First Schedule warranting disciplinary action, and where the Secretary to the relevant Ministry, taking into careful consideration, the nature of the offence, the period of service of the officer, his prior service, the difficulty in adopting a formal disciplinary procedure, the reasons which led the officer to commit such offence and its background, considers that the most appropriate action in the circumstances is the compulsory retirement of the officer, he should send a complete report on the matter with the concurrence of his Minister to the Secretary in charge of the subject of Public Administration.

32:2 Provided, however, that where charges of terrorist or anti-government activities or criminal or bribery or corruption charges are alleged, or misappropriation of public funds and property or causing another party to commit such acts are involved or where it appears that a decision has been taken with a view to earning an undue advantage for oneself or for another party by abusing one's official status, a formal disciplinary inquiry should be held, instead of resorting to the provisions of sub-section 32:1 above, against such officer in accordance with the other provisions of this Code.

32:3 On receiving a report from a Secretary to a Ministry in terms of sub-section 32:1 above, the Secretary in charge of the subject of Public Administration should call upon the officer to submit, within a stipulated period, a complete and accurate clarification on the charges preferred against him.

32:4 Where an officer fails or willfully neglects to submit his explanations or clarification within the stipulated period, the Secretary in charge of the subject of Public Administration should inform the relevant Secretary to suspend further action under sub-section 32:1 above and take formal disciplinary action against the officer in accordance with the provisions of this Code.

32:5 The Secretary in charge of the subject of Public Administration, after careful study of the matters represented by the relevant Secretary and the explanations submitted by the officer, should report with his observations and recommendations through his Minister and with his concurrence to the Cabinet of Ministers.

32:6 On receiving a report in terms of sub-section 32:5 above, the Cabinet of Ministers may, in consideration of the matter contained therein, order that the officer be compulsorily retired or that normal disciplinary action be taken against him.

**33. Retirement of a Public Officer for General Inefficiency**

33:1 Where warnings, reprimands and other punishments imposed on an officer over a long period of time on various occasions during his period of service for acts of misconduct, or misdemeanor, or negligence or inadvertence have failed in improving his conduct and efficiency, the Disciplinary Authority may, if he determines that his continuation in the service is detrimental to the efficiency of the public service, retire the officer for general inefficiency.

33:2 Where a Secretary to a Ministry or Head of Department is of opinion that there is cause for action to be taken in terms of sub-section 33:1 above, he should send a full report based on information gathered, wherever necessary, from the departments or institutions in which the officer had earlier worked, together with his observations and recommendations, to the appropriate Disciplinary Authority.

33:3 A Disciplinary Authority receiving a report in terms of sub-section 33:2 above, should direct the relevant officer to show cause, if any, in writing, within a stipulated period, as to why he should not be retired for general inefficiency.

33:4 The Disciplinary Authority may, in consideration of the matters contained in the report sent by the Secretary or the Head of Department and the explanations submitted by the officer, retire him for general inefficiency or order any other appropriate punishment.

33:5 Where the officer fails or willfully neglects to submit his explanations within the stipulated period it will be deemed that he has no explanations to offer and the Disciplinary Authority may impose an appropriate order under sub-section 33:4 above.

33:6 The Disciplinary Authority making an order for retirement of the officer for general inefficiency may, taking into consideration the nature of the offences committed or the inefficiency of the officer, recommend to the Secretary in charge of the subject of Public Administration that a certain percentage of the pension payable to the officer be deducted.

**34. Permission to leave the Island when preliminary action is being taken to commence disciplinary proceedings against a Public Officer or while a formal Disciplinary inquiry is pending after the issue of a charge sheet or Proceedings are in Progress**

34:1 Where preliminary work with regard to taking disciplinary action against a public officer has been done by the relevant Disciplinary Authority or Head of Institution but a charge sheet has not yet been issued to him, and the officer requests that he be allowed to leave the Island, the Head of Institution should forward such application together with his observations and recommendations to the relevant Disciplinary Authority. The Disciplinary Authority, taking into consideration all relevant matters, should forward his recommendations on the application of the officer to the authority approving the leave. The authority approving the leave should take note of the observations and recommendations made by the Disciplinary Authority when approving such leave.

34:2 Whenever a public officer to whom a charge sheet has been issued in connection with a formal disciplinary inquiry to be held against him wants to leave the Island he should obtain the written concurrence of the Disciplinary Authority through the Head of his Institution. On receiving such an application the Disciplinary Authority, taking all the relevant matters to his consideration, should make his recommendation, as the case may be, to the authority approving leave out of the Island. The Authority approving the leave should take note of the observations and recommendations of the Disciplinary Authority when approving leave.

**35. Resignation of a Public Officer when Disciplinary Proceedings against him are in Progress**

35:1 Any written application made by a public officer for resignation after disciplinary proceedings against him have been initiated but before the disciplinary order is made should be rejected.

35:2 If the officer is already in service and has failed to report for duty after the rejection of the application for resignation as per Section 35:1 above, the Disciplinary Authority should take action in terms of Chapter V of the Establishments Code.

35:3 Even when the officer is already under interdiction and has failed to participate in the formal disciplinary inquiry that is being held against him, the Disciplinary Authority should take action in terms of Chapter V of the Establishments Code.

35:4 When an officer makes an application for resignation after the formal disciplinary inquiry against him has been concluded but before the disciplinary order is made, the Disciplinary Authority should reject such application and make the disciplinary order.

### **36. Disciplinary Procedure against an officer reaching the Optional Age of Retirement**

Amendment to Section  
36 PA Circular  
08/2019

36:1 In deciding on granting an extension of service to an officer reaching the optional age of retirement, the fact that a preliminary investigation is in progress or a formal charge sheet has been issued against him, or that he is under interdiction as a part of the disciplinary proceedings, or that a formal disciplinary inquiry is in progress, or that legal proceedings have been initiated against him for terrorist or anti-government activities or for criminal or bribery or corruption offences should not be taken into consideration.

36:2 When a public officer against whom a formal disciplinary inquiry is in progress requests that he be allowed to retire on reaching the optional age of retirement or his extension of service has been refused on other grounds or when the officer reaches the compulsory age of retirement, he should be retired subject to Section 12 of the Pensions Minute.

36:3 It will be the responsibility of the relevant Disciplinary Authority to take every possible precaution to conclude with the least possible delay any preliminary investigation or work in connection with disciplinary proceedings or the formal disciplinary inquiry against an officer serving on extension of service.

36:4 The preliminary investigation, work in connection with the disciplinary proceedings and the formal disciplinary inquiry against an officer retired subject to Section 12 of the Pensions Minute should be held and concluded by the Disciplinary Authority irrespective of the retirement of the officer. In such an instance, the Disciplinary Authority should be guided by the provisions of this Code.

36:5 An officer retired subject to Section 12 of the Pensions Minute is bound to participate in the preliminary investigation or formal disciplinary inquiry held against him, furnish information and assist in the completion of such task with the least possible delay.

36:6 If, at the conclusion of the formal disciplinary inquiry, the Disciplinary Authority in consideration of the report of the Inquiry and other connected documents finds the officer not guilty of the charges preferred against him, the Disciplinary Authority should inform the Director of Pensions to convert the retirement granted subject to Section 12 of the Pensions Minute into a normal retirement.

36:7 Where the Disciplinary Authority finds the officer guilty of one, some or all of the charges according to the material disclosed at the formal disciplinary inquiry, he should, depending on the nature of the charge or charges of which the officer is found guilty, send his observations and recommendations, without delay, whether the officer should be deprived of his full pension, gratuity and other allowances payable to him or whether a certain percentage thereof should be deducted, together with the charge sheet, report of the Inquiry and all other relevant documents to the Secretary in charge of the subject of Public Administration.

### **37. Vacation of Post**

37:1 Where an officer who has been served with a Notice of Vacation of Post under the provisions of Chapter V of Part I of the Establishments Code intends to tender an appeal against such Notice, such appeal should be tendered to the appropriate authority before the expiry of three months from the date on which the Notice of Vacation of Post was served on him.

37:2 If the Disciplinary Authority considers, in view of the matters represented in the appeal submitted to him in terms of sub-section 37:1 above, that the officer has not reported for duty because of acceptable reasons, he may order the reinstatement of the officer after imposing punishment for not reporting for duty without permission.

37:3 Where the Disciplinary Authority has rejected the reinstatement of the officer, he may appeal against such decision to the Cabinet of Ministers or the Public Service Commission, as the case may be, within six months from the date of such decision.

### **38. Action to be taken whenever there is inconsistency between texts**

In the event of any inconsistency between the Sinhala, Tamil and English texts of this code, the Sinhala text shall prevail.

**The First Schedule of Offences Committed by Public Officers**

- (1) Non-allegiance to the Constitution of the Democratic Socialist Republic of Sri Lanka.
- (2) Act or cause to act in such manner as to bring the Democratic Socialist Republic of Sri Lanka into disrepute.
- (3) Anti-government or terrorist or criminal offences.
- (4) Bribery or Corruption.
- (5) Being drunk or smelling of liquor within duty hours or within Government premises.
- (6) Use or be in possession of narcotic drugs within duty hours or within Government premises.
- (7) Misappropriate or cause another to misappropriate public funds.
- (8) Misappropriate government resources or cause such misappropriation or cause destruction or depreciation of government resources willfully or negligently.
- (9) Act or cause to act negligently or inadvertently or willfully in such manner as to harm government interests.
- (10) Act in such manner as to bring the public service into disrepute.
- (11) Divulge information that may harm the State, the State Service or other State Institution or make available or cause to make available State documents or copies thereof to outside parties without the permission of an appropriate authority.
- (12) Alter, distort, destroy or fudge State documents.
- (13) Conduct oneself or act in such manner as to obstruct a public officer in the discharge of his duties, or insult, or cause or threaten to cause bodily harm to a public officer.
- (14) Refuse to carry out lawful orders given by a senior officer or insubordination.
- (15) Any violation of provisions of the Establishments Code, Financial Regulations, Public Service Commission Circulars, Public Administration Circulars, Treasury Circulars, Departmental Circulars, Departmental Handbooks or Manuals or willfully, inadvertently or negligently act in circumvention of such provisions.
- (16) Aid and abet, or cause to commit the above offences.



**The Second Schedule of Offences Committed by Public Officers**

Offences, though not falling within the First Schedule above, are caused owing to the inefficiency, incompetence, inadvertence, lack of integrity, improper negligence and indiscipline of an officer.



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## APPENDIX 1

### DEFINITION OF OFFENCES CAUSED OR COMMITTED BY PUBLIC OFFICERS

(1) Offences committed by public officers may be broadly defined as follows, but this definition should not be treated as a comprehensive list of offences. It will also not preclude taking action against an officer for any other offence not covered by these definitions, but for which it is considered that an officer should be punished.

(2) Offences may be broadly categorized under the following heads :

Inefficiency,  
Incompetence,  
Negligence,  
Lack of Integrity,  
Improper Conduct (whether connected with an officer's official duties or not), and  
Indiscipline.

**Inefficiency** may or may not arise from a lack of competence. It consists of failure due to indifference, inadvertence or other defects on the part of an officer to discharge the duties expected of him to reasonable standards.

**Incompetence** arises from a lack of the intellectual, temperamental, physical or other qualities that an officer is presumed to possess or to have developed for the efficient discharge of his duties, considering his position, seniority, the level of responsibility at which he functions, his age, experience, the qualifications normally stipulated for recruitment to the post he holds, etc. It could be technical, professional or administrative incompetence, or incompetence in the handling of staff, labour, or other personal relationship in his office.

**Negligence** is a neglect of the duties entrusted to him and would cover such matters as errors and mistakes arising from a lack of care or diligence, failure to supervise programmes, staff, etc., to ensure that public funds are not wasted or public property damaged.

**Lack of Integrity** relates to acts or omissions arising from motives of improper personal gain, fraud, cheating, theft, forgery, dishonesty, concealment of the truth or portions of the truth in writing reports, suppression of documents or facts, bribery, the use of his official position or the exercise of his official functions for his own private advantage or the advantage of his friends or relatives; the use of public property or the services of subordinates for private purposes; acceptance of gifts or favours from members of the public or firms with whom an officer has official dealings or on whom he is in a position to bestow some present or future favour; any act which brings his private interest into real conflict with his official duties.

**Improper Conduct** when connected with official duties, relates to such matters as the betrayal of confidence enjoyed officially; acts of indiscretion in the place of work, or outside the place of work but in relation to an officer's subordinates; speaking in public or publishing articles on matters in which the officer is prohibited from expressing opinions in public; engaging in political activities where he is prohibited from doing so; inciting his subordinates to disloyalty; doing anything that might seem to compromise his official position or any other act which demoralizes the Public Service, or brings the Public Service or the office he holds into disrepute; any act which appears to bring his private interest into conflict with his public duties even if the conflict is not in fact real. Improper conduct not connected with his official duties relates to such matters as habitual drunkenness, use of narcotic drugs, disorderly behavior in public places, immorality of a type that becomes a public scandal or any other act which brings the Public Service or the office he holds into disrepute.

**Indiscipline** relates to such matters as unpunctuality, refusal to carry out orders, rudeness whether to his superiors, subordinates or members of the public, drunkenness when on duty, use of narcotic drugs, leaving office without permission, etc.

Breaches of the Financial Regulations, the Establishments Code, or any Departmental Orders, Regulations, etc., are specific offences, which may also arise from Incompetence, Negligence or the Lack of Integrity.

*Examples:*

A law enforcement officer, and in certain circumstances an officer who fraternizes with a law-breaker or reputed law-breaker would be guilty of improper conduct.

An officer who has interests in a firm with whom he has official dealings would be guilty of improper conduct, even if in fact he gets no benefit out of it unless he has brought the fact to the notice of his superior officer.

An officer whose child obtains employment or an apprenticeship in a firm with which he has dealings in his official capacity, would be guilty of improper conduct, even though such employment was sought and obtained by that child on his own merits, unless notice of that fact has been given to his superior officer.

If any personal gain or advantage is obtained by any of the above acts the officer would be guilty of a lack of integrity. Benefits obtained for welfare or other society, or acts done under the guise or in the name of such a society could in certain circumstances amount to improper conduct or lack of integrity.

The seriousness of an offence must be judged not only by the act itself, but in relations to the office held by the person concerned, and the circumstances surrounding it.

All these categories of offences may be classed in one or another of Schedules A and B depending on their gravity (judged in the light of this section) and on the punishment that would seem appropriate if the offences are proved.

An officer may not be exculpated on the grounds that he did or omitted to do anything on the orders of his Minister unless he can furnish proof that he tendered the correct advice in writing to his Minister, but that his advice was overruled. This provision will have a special bearing on offences of the type described in the First Schedule.

## APPENDIX 2

### Notes for the Guidance of Tribunals of Inquiry

1. The date and time of the Inquiry, the place at which it is held, the name of the officer presenting the case for the prosecution, name of the accused officer, and the name of the person appearing for the defence should be entered on the record at the commencement of each sitting.
2. The evidence of witnesses should be given in the language in which they are most familiar. If the Tribunal or the defence are not familiar with it, the evidence should be translated. The evidence need not be given on oath.
3. All evidence should be recorded in direct speech as a continuous narrative and not in the form of question and answer. (e.g. "I then saw him leaving the office." not "Witness states that he then saw him leaving the office.") However, if on particular points a record in question and answer form is necessary in order to put the meaning of what is being recorded beyond doubt, it may be so recorded.
4. Where the evidence of a witness contradicts the evidence given by him at the preliminary investigation, he should be requested to explain the contradiction. The explanation of the witness, if any, should be recorded. If he states that he is unable to offer an explanation such statement should also be recorded. If the witness remains silent when so questioned, the fact should be recorded within square brackets. Here the Tribunal should pay attention to Section 20 of Chapter XLVIII of this Code.
5. If a witness refuses to give an answer, the question should be recorded and the observation (the witness does not answer) recorded thus in square brackets.
6. Any other observations arising out of the evidence being recorded, and which the Tribunal wishes to record, should be recorded in the same manner in square brackets e.g. (At this stage the defence objects to my asking him the question "Were you aware that James had been to jail ?" I overrule the objection after hearing the defence.)
7. Similarly any other observations pertinent to the Inquiry should be recorded at the stage at which they arise, and in the body of the record e.g. (At this stage the witness turns boisterous and I/We adjourn the Inquiry for half an hour.)
8. After the evidence of the prosecution witnesses has been led, the accused officer should be asked whether he is summoning any witnesses in his defence and his answer recorded. The evidence of the defence witnesses, if any, should then be recorded. If witnesses for the prosecution are re-examined or new witnesses are summoned after the defence has led its evidence, the defence will be permitted the same facility.

9. At the conclusion of a witness' evidence he should be asked to read over his statement and sign it with the endorsement "read and accepted as correct ". The Tribunal should also sign the statement, if the evidence is recorded in a language other than that in which he gave it. The Tribunal should read over and explain to the witness the evidence as recorded by him and sign the statement with the endorsement "read and explained by me." If the witness denies having made any statement as recorded, such denial should be recorded within square brackets together with the comments of the Tribunal, immediately below evidence recorded and before the witness is asked to subscribe his signature to it.

10. The questions put to witness should be simple and so framed as to obtain from the witness, as nearly as may be, in a chronological sequence, a narrative of all the relevant facts which he has witnessed, i.e., which he has in any manner directly seen or otherwise directly observed or perceived. A general request to a witness to tell what he knows or to state the facts of the case is, as a rule, not to be permitted because it affords an opening for a prepared story.

11. A witness should not be permitted to state in evidence what another person told him, unless the statement of that person has been recorded or will be recorded in the course of the inquiry.

12. It is the duty of the Tribunal to ascertain facts of the case. The Tribunal may recall witnesses already heard to get at the truth of the matter and should be in a position at the end of the inquiry to state clearly whether the officer concerned is guilty or not guilty of the charge or charges made against him.

13. Productions at an Inquiry for the prosecution should be marked P1 ,P2, etc., (in the order in which they are produced) and productions of the defence marked D1, D2, etc., and initialled by the Tribunal.

14. The Tribunal in arriving at its conclusions should consider a fact to be proved, if after considering all available evidence, it believes such a fact to exist or considers its existence so probable that a prudent man would in the circumstances act on the presumption that it exists. It should consider a fact disproved if after considering all the available evidence it is satisfied that the fact does not exist or considers its non-existence so probable that a prudent man would in the circumstances act on the presumption that it does not exist. A fact is said not to be proved, when it is neither proved nor disproved.

15. The conclusions of the Tribunal should always be based on facts established in evidence given before it and not on conjectures. Inferences may, however, be drawn where they obviously arise from the facts of the case.

APPENDIX 3

**Form of Report by Secretary to the Ministry /Head of Department on Appeals to the  
Public Service Commission Against Disciplinary Punishments**

(Please send all the connected files referred to below along with this report.)



**Secretary /Head of Department.**

Date:.....



## **APPENDIX 4**

### **Form of Report on Appeals to the Public Service Commission Against Notice of Vacation of Post**

**(Please send all the connected files referred to below along with this report)**

- (1) Name of Officer :-**
- (2) Department / Ministry :-**
- (3) Designation :-**
- (4) Date of Birth :-**
- (5) Date of Appointment :-**
- (6) Date of Appointment to Present Post :-**
- (7) Salary** **(i) Salary Scale :-**  
**(ii) Present Step on Salary Scale :-**  
**(iii) Number of Increments earned :-**
- (8) Staff Grade or Non-Staff Grade :-**
- (9) When was the Notice of Vacation of Post served :-**
- (10) Record of past service (in brief) :-**
- (11) Comments of Secretary / Head of Department on each of the averments made in the appeal :-**
- (12) Recommendation of Secretary / Head of Department :-**

**Secretary / Head of Department**

**Date :-**



## APPENDIX 5

### SPECIMEN CHARGE SHEET

(Specimen of a Charge Sheet issued by a Disciplinary Authority to an Accused Officer.)

You are hereby required under sub-section .....of Chapter XLVIII of the Establishments Code to show cause, if any, in writing why you should not be dismissed or otherwise punished for committing one or some or all of the offences in connection with acts of neglect of duty and/or misconduct embodied in the following charges falling under Schedule ..... of Chapter XLVIII of the Establishments Code, while you were serving as .....in ..... Your reply should reach me within .....days of receipt of this charge sheet by you.

**Charges:**

- (i) .....
- (ii) .....
- (iii) .....
- (iv) .....

02. Following witnesses and documents will be made use of to establish the charges :

**Witnesses :**

- (i) .....
- (ii) .....
- (iii) .....

**Documents :**

- (i) .....
- (ii) .....
- (iii) .....

03. If you and/or the officer appearing for you wish to examine the documents referred to in para 02 (ii) above, you may do so with the prior approval of .....(Head of Department ) on a date specified by him, and obtain photocopies of documents that you may require with the prior approval of .....on payment of a specified fee.

04. If you wish to retain an officer to appear for you, you should inform me his designation ( in the case of a retired officer the designation he held), his official /private address and his consent to appear for you on the annexed form, and obtain my prior approval. The officer appearing for you should be a public officer or a retired public officer.

05. You may furnish your answers in terms of sub-sections 15:7 and 15:8 of Chapter XLVIII of the Establishments Code. If you plead not guilty and request that a formal disciplinary inquiry be held to prove your innocence an Inquiry Officer will be appointed by me in terms of Section 19 of Chapter XLVIII of the Establishments Code. If you apply to retain an Attorney-at-Law you should support your application with valid reasons.

06. If your replies do not reach me through .....(Head of Department) within the stipulated period, it will be deemed that you have no explanations to offer and action will be taken accordingly.

07. Please acknowledge receipt of this Charge Sheet through .....(Head of Department).

Disciplinary Authority.

Copies : 1.  
2.

## APPENDIX 6

### SPECIMEN CHARGE SHEET

(Specimen of a Charge Sheet issued to an Officer retired subject to Section 12 of the Pensions Minute)

You are hereby required under sub-section .....of Chapter XLVIII of the Establishments Code to show cause, if any, in writing why you should not be deprived of the pension payable to you or why a certain percentage thereof should not be deducted for committing one or some or all of the offences in the following charges falling under Schedule .....of the Establishments Code, while you were serving as.....in.....  
Your reply should reach me through .....within .....days of receipt of this Charge Sheet by you.

**Charges:**

- (i) .....
- (ii) .....
- (iii) .....
- (iv) .....

02. Following witnesses and documents will be made use of to establish the charges :

**Witnesses :**

- (i) .....
- (ii) .....
- (iii) .....
- (iv) .....

**Documents :**

- (i) .....
- (ii) .....
- (iii) .....

03. If you and/or the officer appearing for you wish to examine the documents referred to in paragraph 02 (ii) above, you may do so with the prior approval of .....(Head of Department) on a date specified by him, and obtain photocopies of documents that you may require with the prior approval of .....on payment of a specified fee.

04. If you wish to retain an officer to appear for you, you should inform me his designation (in the case of a retired officer the designation he held ), his official /private address and his consent to appear for you on the annexed form, and obtain my prior approval. The officer appearing for you should be a public officer or a retired public officer.

05. You may furnish your answers in terms of sub-sections 15:7 and 15:8 of Chapter XLVIII of the Establishments Code. If you plead not guilty and request that a formal disciplinary inquiry be held to prove your innocence an Inquiry Officer will be appointed by me in terms of Section 19 of Chapter XLVIII of the Establishments Code. If you apply to retain an Attorney-at-Law you should support your application with valid reasons.

06. If your replies do not reach me through .....(Head of Department) within the stipulated period, it will be deemed that you have no explanations to offer and action will be taken accordingly.

07. Please acknowledge receipt of this Charge Sheet through .....(Head of Department).

Disciplinary Authority.

Copies : 1.  
2.

My No. E/9/6/48  
Ministry of Public Administration  
and Home Affairs  
Independence Square  
Colombo - 07  
15 th December, 2004

Secretaries to Ministries  
Chief Secretaries of Provincial Councils and  
Heads of Departments

### **Revision of Chapter XLVIII of the Establishments Code**

The Government has decided to revise the provisions of Part II, Chapter XLVIII of the Establishments Code as shown below. Therefore the said Part II Chapter XLVIII of the Establishments Code will be revised in such a manner that it will not affect prejudicially the disciplinary inquiries in which charge sheets have already been issued.

I. The Sub-Section 19:5 of Chapter XLVIII of the Establishments Code is substituted with the following provision.

19:5 The Secretary in charge of the subject of Public Administration should constitute a panel of Disciplinary Inquiry Officers consisting of retired officers who have not been punished under Schedule A of the Establishments Code during their period of service and who count a service of ten years or more in a staff grade post or retired officers who possess more than five years experience by serving as a Disciplinary Inquiry Officer, Prosecuting Officers or a Defending Officer with eight years service in a Staff Grade post, and Attorneys -at-Law with more than ten years practice, and maintain such panel continuously revising it whenever appropriate. It will also be the responsibility of the Secretary in charge of the subject of Public Administration to inform particulars regarding such panel from time to time to Secretaries to Ministries, Heads of Departments and other relevant authorities.

II. The following Sub-Section 22:1:1 is inserted immediately after Sub-Section 22:1

22:1:1 The Disciplinary Authority should take necessary steps to conclude the relevant inquiry and to issue the disciplinary order within a period of one year from the date of serving of a charge sheet against an accused officer. Except where the charge is not in terms of Sub-Section 31:11, and except where the proceedings and the issue of disciplinary order are delayed for more than one year due to the lapse of the part of the accused officer, he should if under interdiction be re-instated in service and paid his salary from that date. Regarding the unpaid salary up to that date action should be taken as stated in the disciplinary order received.

III. Following new Sub-Sections 27:10:1 and 27:10:2 are inserted immediately after Section 27:10

27:10:1 The Disciplinary Authority may, except where the charges are under Bribery or Corruption anti-government, or terrorist activities, re-instate an officer who has been charged in a Court of Law on a criminal offence not relevant to his official duties if he decides that such re-instatement will not adversely affect the interests of the Public Service, depending on the nature of charges framed.

27:10:2 If the Disciplinary Authority is of the opinion that re-instatement under Sub-Section 27:10:1 will be prejudice to the Public Service such officers should be kept under interdiction until the court order is delivered. However, if there is a delay of more than one year in the delivery of the court order, the Disciplinary Authority may order that the officer be paid an amount not exceeding half his salary.

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IV. The following Sub-Section 31:12:1 is inserted immediately after Sub-Section 31:12

31:12:1 If the court order is not delivered within a year under circumstances stated in Sub-Section 27:10:2 the Disciplinary Authority may order that the officer be paid an amount not exceeding half his salary.

Back

Sgd./ S. C. Mannapperuma  
Secretary  
Ministry of Public Administration  
and Home Affairs

Public Administration Circular No – 6/2004(1)

My No: EST-9/DICIP/06/55  
Ministry of Public Administration  
and Home Affairs  
Independence Square  
Colombo 07  
30.12. 2011

Secretaries to Ministries  
Chief Secretaries of Provincial Councils  
Heads of Departments,

**Revision of Chapter XLVIII of the Establishments Code**

The Cabinet of Ministers has decided at its meeting held on 09.11.2011 that the provisions of Public Administration Circular No 06/2004 dated 15.12.2004 issued on the above matter shall be further effective subject to the following revisions.

02. Accordingly Sub Section 22:1:1, Chapter XLVIII, volume II of the Establishments Code shall be revised in the following manner so as not to cause any prejudice to the disciplinary inquiries for which the charge sheets have been issued.

22:1:1      The Disciplinary Authority should take necessary steps to conclude the relevant inquiry and to issue the disciplinary order within a period of one year from the date of serving of a charge sheet against an accused officer. Except where the charge is not in terms of Sub – Section 31:11, and except where the proceedings and the issue of disciplinary order are delayed for more than one year due to lapse of the part of the accused officer, he should, if under interdiction, be re-instated in service and paid his salary from that date, on the discretion of the disciplinary authority, subject to the facts mentioned in the disciplinary inquiry. Regarding the unpaid salary up to that date, action should be taken as stated in the disciplinary order received.

03. Maintenance of a pool of inquiry officers as per provisions in Sub Section 19:5, Chapter XLVIII of the Establishments Code revised by Public Administration Circular No 07/2010 dated 22.06.2010 shall never be a prejudice to the right of the Public Service Commission for the maintenance of separate list of names of inquiry officers as per provisions in Sub Section 19.6 of the same Chapter.

Sgd./P.B. Abeykoon  
Secretary  
Ministry of Public Administration  
and Home Affairs

Public Administration Circular No: 07/2010

My No: E/9/6/Dis.2-2(V)

Ministry of Public Administration  
and Home Affairs,  
Independence Square,  
Colombo 07.

2010.06.22

Secretaries to Ministries,  
Chief Ministers of Provincial Councils,  
Heads of Departments.

**Revision of Requirements necessary for appointment to the Tribunal of Inquiry**  
**Chapter XLVIII – Establishments Code – Volume II**

The Government has decided to revise the sub sections 19:4 and 19:5 of Chapter XLVIII of the Establishments Code Volume II.

02. Accordingly, the following sub sections 19:4 and 19:5 of Chapter XLVIII of the Establishments Code Volume II shall be revised as follows.

19:4 – A Public Officer can be appointed as a Tribunal in a formal disciplinary inquiry, only if he has never been punished for an offence under the first schedule, or has completed a satisfactory period of 05 years of service after committing an offence under the second schedule of the Establishments Code, during his period of service.

19:5 – The Secretary in charge of the subject of Public Administration should constitute a Panel of Inquiry officers consisting of retired Public Officers, who have not been punished for an offence indicated under the first schedule of the Establishments Code, or who have completed a satisfactory period of five years of service after committing an offence indicated under the second schedule therein, during their period of service and who count a period of service of ten years or more in a staff grade, and of Attorney – at – Law, and maintain it revising it as appropriate. It will also be the responsibility of the Secretary in charge of the subject of Public Administration to convey particulars regarding such Panel, from time to time, to Secretaries to Ministries, Heads of Departments and other relevant authorities.

03. Further, the name list of disciplinary inquiry officers published so far by Public Administration Circulars shall remain effective until further orders.

D. Dissanayaka  
Secretary  
Ministry of Public Administration  
and Home Affairs

Public Administration Circular: 18/2013

My No: EST-9/DICIP/06/0212  
Ministry of Public Administration and  
Home Affairs  
Independence Square  
Colombo 07

04.09.2013

Secretaries to Ministries  
Chief Secretaries of Provincial Councils  
Heads of Departments

**Revisions to Sinhala and English texts of Chapter XLVIII of the Establishments Code**

Your attention is drawn to Chapter XLVIII, Volume II, of the Establishments Code.

02. It has been decided at the meeting of the Cabinet of Ministers held on 25.07.2013 that Sinhala and English texts of sub sections 23:9, 24:6, 27:10 and 36:7 of the above Chapter should be rectified revising them in the proper manner.

03. Accordingly following texts are applied in substitution to the existing texts.

i. English text of Sub-Section 23:9

23:9. The effective date of the punishment imposed by the disciplinary authority on an accused officer after completion of a formal disciplinary inquiry or after calling for his explanations should be the date on which he committed the offence relevant to the charge

No revision to the Sinhala text of this Sub-Section.

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ii. Sub-Section 24:6

24:6. Where a deferment or reduction or stoppage of salary increments has been ordered as a part of the disciplinary order, such order should be implemented subject to the sub-section 23:9.

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iii. English text of Sub-Section 27:10

27:10. Where legal proceedings are taken against a public officer for criminal offence or bribery or corruption, the relevant officer should be interdicted forthwith by the appropriate authority.

No revision to the Sinhala text of this Sub-Section.

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iv. Sub-Section 36:7

36:7. Where disciplinary authority finds the accused officer guilty of one or some or all of the charges according to the materials disclosed at the formal disciplinary inquiry, he should, depending on the nature of charge or charges of which the officer is found guilty, send without delay, his observations and disciplinary order, together with the charge sheet, report of the inquiry and all other relevant documents, to the Secretary in charge of the subject of Public Administration, stating either to withhold or reduce a certain amount of pension, gratuity or other allowances payable or awarded to him in terms of Minutes on Pensions, to take action in terms of Section 12 of the Minutes on Pensions.

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Sgd./P.B. Abeykoon  
 Secretary  
 Ministry of Public Administration and Home Affairs

Public Administration Circular: 04/2015

My Number: EST-9/DICIP/06/0052

Ministry of Public Administration, Provincial  
Councils, Local Government and Democratic  
Governance,  
Independence Square,  
Colombo 07  
29.01.2015

Secretaries to Ministries,

Chief Secretaries of Provinces,

Heads of Departments,

**Issuing statements to the mass media**

Your attention is drawn to Section 6 and 7 of Chapter XLVII, Volume II of the Establishments Code which is on releasing of official information to the mass media or the public.

02. It has been observed that problematic situations have arisen in the past due to certain information provided by the Public Officers to the mass media regarding various subjects. Attention should be paid promptly to this situation and necessary actions should be taken to prevent such situations.

03. All Public officers should take actions in accordance with the provisions stipulated in Section 6 and 7 of Chapter XLVII, Volume II of the Establishments Code which is on releasing of official information to the mass media or the public and therefore kindly inform relevant officers that disciplinary actions would be taken if a problematic situation arises due to an action taken deviating from the said provisions.

Sgd./ J. Dadallage

Secretary

Ministry of Public Administration, Provincial Councils

Local Government and Democratic Governance

Public Administration Circular : 05/2017

My Number : EST-3/DICIP/06/0238  
Ministry of Public Administration  
and Management  
Independence Square  
Colombo 07.

06.03.2017

Secretaries to Ministries  
Chief Secretaries of Provinces  
Heads of Departments

**Revision of Sub Section 26:3, Chapter XLVIII,**  
**Volume II of the Establishments Code**

Your attention is drawn to Sub Section 26:3, Chapter XLVIII, Volume II of the Establishments Code. The Cabinet of Ministers has decided at its meeting held on 31.01.2017 to revise the above Sub Section with the inclusion of the following Sub Section 26:3:1.

26:3:1 The Disciplinary Authority is obligated to inform an Officer aggrieved by a disciplinary order, on a request made by the Officer concerned, the facts on which the said order was based, to enable him to exercise the right of appeal against the said disciplinary order in a more positive manner.

Sgd/J.J.Rathnasiri  
Secretary  
Ministry of Public Administration and Management

My No: EST-3/DICIP/06/0246  
Ministry of Public Administration  
and Management,  
Independence Square,  
Colombo 07.

25.05.2017

Secretaries to Ministries,  
Chief Secretaries of Provinces,  
Heads of Departments,

**Revision of Sub Sections 1:1:1 and 1:1:2, Chapter XLVIII,**  
**Volume II of Establishments Code**

Your attention is drawn to Sub Sections 1:1:1 and 1:1:2, Chapter XLVIII, Volume II of Establishments Code. It has been decided at the meeting of Cabinet of Ministers held on 02.05.2017 to revise the said Sub Sections in the following manner.

- 1:1:1 The “Disciplinary Authority” means the appropriate authority for dismissing or exercising disciplinary control over any particular Officer as per Section 2 mentioned below; the “Disciplinary Authority” also includes any authority formally appointed as per the existing provisions to act, to attend to the duties or to cover up duties in such capacity in the absence of the substantive holder of the post.
- 1:1:2 The “Disciplinary Authority” in the case of a Public Officer holding an acting appointment or an appointment to attend to the duties will be the Disciplinary Authority appropriate to such Officer had the Officer been holding such appointment on a substantive basis.

Sgd/J.J. Rathnasiri  
Secretary  
Ministry of Public Administration and Management

Public Administration Circular : 28/2017

My Number: EST-3/DICIP/06/0253  
Ministry of Public Administration  
and Management  
Independence Square  
Colombo 07.

24.10.2017

Secretaries to Ministries  
Chief Secretaries of Provinces  
Heads of Departments

**Revision of Sub Section 24:3:5, Chapter XLVIII,**  
**Volume II of the Establishments Code**

Your attention is drawn to the Sub Section 24:3:5, Chapter XLVIII, Volume II of the Establishments Code.

02. It has been decided at the meeting of Cabinet of Ministers held on 26.09.2017 to revise the said Sub Section as follows.

24:3:5 Sending on retirement at any time after the optional age of retirement.

Sgd:/J.J. Rathnasiri  
Secretary  
Ministry of Public Administration and Management

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My Number: EST-3/DICIP/06/0269  
Ministry of Public Administration &  
Disaster Management  
Independence Square  
Colombo 07.

28.03.2019

Secretaries to Ministries  
Chief Secretaries of Provinces  
Heads of Departments

**Revision of section 36, Chapter XLVIII, Volume II of Establishments Code**

Your attention is drawn to section 36, Chapter XLVIII, Volume II of Establishments Code.

02. It has been decided at the meeting of the Cabinet of Ministers held on 29.01.2019 to include a new sub section as 36:8 to the said section in the following manner.

36:8 If any disciplinary action is in process at such occasions where an officer should be sent on retirement either under a Section of the Minute on Pensions or any other law before reaching the age of optional retirement, action shall be taken to send such officer subjected to Section 12 of the Minute on Pensions and further to take action to prepare the pension of the officer as per the provisions under which the retirement should have to be made if any disciplinary action was not in process subjected to the implementation of the disciplinary action on the issuance of the disciplinary order at the conclusion of the disciplinary action.

Sgd/ J.J.Rathnasiri  
Secretary  
Ministry of Public Administration &  
Disaster Management

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My Number: EST-3/DICIP/06/0245  
Ministry of Public Administration,  
Disaster Management and  
Livestock Development  
Independence Square  
Colombo 07.

09.09.2019

Secretaries to Ministries  
Chief Secretaries of Provinces  
Heads of Departments

**Amendment of Sub Section 27:10 of Chapter XLVIII of Volume II  
of the Establishments Code**

Your kind attention is drawn to sub section 27:10 of Chapter XLVIII of Volume II of the Establishments Code as amended by the Public Administration Circular 06/2004 dated 15.12.2004.

02. The Cabinet of Ministers at its meeting held on 27.08.2019 has decided to amend the sub sections 27:10:1 and 27:10:2 of such Section as given below:-

27:10:1 However, where legal proceedings are taken against a Public Officer for a corruption or criminal offence other than a solicitation of bribe or act of antigovernment or act of terrorism, the Disciplinary Authority / Administrative Authority should conduct a preliminary investigation against such Officer within a period not more than 02 months. The respective preliminary investigation report should be submitted to the Public Service Commission by the Disciplinary Authority / Administrative Authority and if the Public Service Commission determines that the reinstatement of the Officer concerned is not detrimental to the interests of the Public Service according to facts revealed by such report, such an Officer may be reinstated in service.

27:10:2 Where the Public Service Commission determines that the reinstatement of the Officer in service under Sub Section 27:10:1 is detrimental to the interests of the Public Service, such Officer should be further kept under interdiction pending the verdict of the Court of Law. If the delivery of the verdict of the Court takes a period more than one year against such a person, the Disciplinary Authority may authorize the payment of salary not exceeding half thereof to the Officer concerned.

03. Likewise, Disciplinary Authorities may act in accordance with the provisions in the amended Sub Sections 27:10:1 and 27:10:2 in the case of Officers interdicted from service in terms of the provisions already set out in Sub Section 27:10 of Chapter XLVIII of the Establishments Code.

Sgd/ J.J.Rathnasiri  
Secretary  
Ministry of Public Administration,  
Disaster Management and Livestock Development

My Number: EST-3/DICIP/06/0259  
Ministry of Public Administration,  
Disaster Management and  
Livestock Development  
Independence Square  
Colombo 07.

30.09.2019

Secretaries to Ministries  
Chief Secretaries of Provinces  
Heads of Departments

**Revision of sub sections 13:2, 21:2, 22:1:1 and 14:12**  
**Chapter XLVIII, Volume II of Establishments Code**

Your kind attention is drawn to sub sections 13:2, 21:2, 22:1:1 and 14:12, Chapter XLVIII, Volume II of Establishments Code.

02. It has been decided at the meeting of Cabinet Ministers held on 27.08.2019 to revise the said sub sections including the following provisions.

**I. Revision of the sub section 13:2, Chapter XLVIII, Volume II of the Establishments Code.**

13:2 An authority ordering a preliminary investigation into an act of misconduct should, at the same time that such order is issued, strictly order the officer or the Committee of Officers of the preliminary investigation to conclude the preliminary investigation within a period of two months. However, in case where any additional period is required, the officer or the Committee of Officers of the preliminary investigation should obtain the approval of the relevant authority on submission of acceptable reasons. Nevertheless, all relevant parties should ensure that such preliminary investigation is carried out and completed with the least possible delay.

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**II. Revision of the sub section 21:2, Chapter XLVIII, Volume II of the Establishments Code.**

21:2 Where the accused officer absents himself from the inquiry consecutively on two occasions without giving prior notice indicating valid reasons for his absence, the inquiry should be held ex parte by the Tribunal. Accordingly, the Tribunal should inform the accused officer under registered post that the inquiry will be held ex parte. Where the accused officer fails to appear when the inquiry is resumed on the next date, the Tribunal should proceed with the inquiry whether or not the accused officer participates in the proceedings.

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**III. Revision of the sub section 22:1:1, Chapter XLVIII, Volume II of the Establishments Code.**

22:1:1 A disciplinary inquiry conducted on a charge sheet issued against a misconduct of an officer should be concluded within a period of six months from the commencement of such disciplinary inquiry. However, the officer of the investigation should obtain the approval of the Disciplinary Authority in case where an additional period is required for the disciplinary inquiry. However, in case where the disciplinary inquiry is delayed for more than six months due to a reason other than the delay occurred from the part of the accused officer and where the charge is not fallen under sub section 31:11 and the officer has been interdicted, the salaries can be paid to the accused officer reinstating him in service on the discretion of the Disciplinary Authority subjected to the matters mentioned in the disciplinary inquiry. Whenever the disciplinary order is issued, action should be taken regarding the salary, which was not paid so far, in accordance with the content of the disciplinary order.

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**IV. Revision of the sub section 14:12, Chapter XLVIII, Volume II of the Establishments Code.**

14:12:1 At such occasion where a Public Officer has satisfied all the pre qualifications required to sit for an examination for promotion or departmental examination or efficiency bar examination relevant to a certain post shall not be disqualified to sit for an examination for promotion or departmental examination or efficiency bar examination based only on interdiction.

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Sgd/ J.J. Rathnasiri  
Secretary  
Ministry of Public Administration,  
Disaster Management and Livestock Development