

THE CONSTITUTION OF JAMAICA

REGULATIONS

(made under section 72 of the Jamaica (Constitution) Order in Council, 1959, preserved by section 2 of the Jamaica (Constitution) Order in Council, 1962)

THE JUDICIAL SERVICE REGULATIONS, 1961

(Made by the Governor, after consultation with the Judicial Service Commission, on the 1st day of June, 1961) L.N. 94/61

[1st June, 1961.]

PART I—Preliminary

1. These Regulations may be cited as the Judicial Service Regulations, 1961. Short title.

2. In these Regulations unless the context otherwise requires— Interpretation.

“authorized officer” means a member of the Commission or an authority or a public officer to whom the functions of the Governor-General have been delegated pursuant to section 71 of the Order;

“chairman” means chairman of the Commission and includes any member presiding at a meeting of the Commission;

“Commission” means the Judicial Service Commission established by section 68 of the Order;

“functions” includes powers and duties;

“judicial office” means the office of Resident Magistrate, Judge of the Traffic Court, Registrar of the Supreme Court or such other office connected with the Courts of Jamaica as, subject to the provisions of the Order, may be prescribed by any enactment of the Parliament of Jamaica;

“judicial officer” means the holder of a judicial office;

“member” means member of the Commission;

“Order” means the Jamaica (Constitution) Order in Council, 1959;

“perform” in relation to functions includes exercise;

“regulation” means one of these Regulations;

“relative office” means an office in respect of which the Commission is required to make recommendations for appointment to the Governor-General;

“secretary” means the secretary to the Commission appointed pursuant to regulation 4 and includes the person for the time being performing the functions of that office.

PART II—*Judicial Service Commission*

Oath of office. Schedule. 3. The chairman and members and every officer appointed under regulation 4 shall on appointment take before a Justice of the Peace an oath in the appropriate Form in the Schedule.

Appointment of secretary and staff. 4.—(1) The Governor-General, after consultation with the Commission and with the Cabinet, may constitute the office of secretary to the Commission and such other offices as he may consider expedient for securing the due performance of the functions of the Commission.

(2) The Governor-General upon the recommendation of the Commission may from time to time appoint persons to the offices constituted pursuant to paragraph (1).

Functions of Commission. 5. Where the Order requires the Governor-General in the performance of any function to act on the recommendation of the Commission the Governor-General—

(a) may where that function has been delegated pursuant to section 71 of the Order; and

(b) shall in every other case, request the Commission to make its recommendation and it shall be the duty of the Commission to make the recommendation so requested.

Procedure and meetings. 6.—(1) The Commission shall meet as often and at such times and places as in the discretion of the chairman may be necessary or expedient for the purpose of performing its functions.

(2) In the absence of the chairman from any meeting the members present may elect one of their number to preside at that meeting.

(3) All decisions at a meeting of the Commission shall be by a majority of the votes of the members present and voting:

Provided that where the voting is equal the chairman shall have a casting vote as well as an original vote.

Record of meetings and decisions. 7.—(1) It shall be the duty of the secretary duly to record minutes of all meetings of the Commission.

(2) Copies of such minutes duly confirmed at a subsequent meeting or by the individual members on circulation thereof shall as soon as practicable thereafter be forwarded to the Governor-General.

(3) Any member of the Commission present when any decision is made who dissents therefrom may require that his dissent and his reasons for dissenting be recorded in the minutes.

8. Matters may also be decided by the Commission without a meeting upon circulation of the relevant papers among the members; but if on circulation of the papers relating to any matter a difference of opinion arises among the members, or if any member so requires, it shall be the duty of the secretary to reserve the matter for discussion at a meeting.

Decisions otherwise than at a meeting.

9. The Commission in considering any matter or question may consult with such public officer or other person as the Commission may consider proper and desirable and may require any public officer to attend and give evidence before it and to produce any official documents relating to such matter or question.

Consultation with other persons.

10. Any public officer who without reasonable cause fails to appear before the Commission when required to do so, or who fails to comply with any request properly made by the Commission, shall be guilty of a breach of discipline and the Commission may where appropriate recommend that disciplinary proceedings be instituted against him.

Failure to comply with Commission's request.

11. Except with the consent of the Governor-General signified in writing under the hand of the Governor-General's Secretary, a person shall not in any legal proceedings produce or be permitted to give secondary evidence of the contents or nature of any document, communication or information addressed, made or given—

Privileged information.

- (a) to the Commission by or on behalf of the Governor-General, the Chief Personnel Officer, a Permanent Secretary or the Head of any Government Department for the purpose of enabling the Commission to perform any of its functions; or
- (b) by the Commission to the Governor-General, the Chief Personnel Officer, a Permanent Secretary or the Head of any Government Department in relation to any matter concerning or arising out of the functions of the Commission.

Penalty for
supplying
false in-
formation to
Commission

12. Any person who in connection with any application by any person for employment or promotion in a relative office, or with any matter upon which it is the duty of the Commission to make any recommendation to the Governor-General or upon which it is the duty of the Commission or of an authorized officer to make any decision, wilfully gives to the Commission or to any member thereof, or to an authorized officer any information which he knows to be false or does not believe to be true, or which he knows to be false by reason of the omission of any material particular, shall be guilty of an offence, and upon summary conviction thereof before a Resident Magistrate shall be liable to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding two years or to both such fine and such imprisonment.

PART III—*Making and Termination of Appointment*

Principles
of selection.

13. For the purpose of making recommendations in relation to appointments to vacancies in any relative offices the Commission shall consider the eligibility of all officers for promotion, may interview candidates for such appointments and shall in respect of each candidate consider, amongst others, the following matters—

- (a) his qualifications;
- (b) his general fitness;
- (c) any previous employment of the candidate in the public service or in private practice.

Premature
retirement.

14.—(1) Where it appears to the Chief Justice that, pursuant to paragraph (b) of section 8 of the Pensions Act, a judicial officer who has attained the age of fifty years ought to be called upon to retire from the public service, the Chief Justice shall report the matter together with his reasons therefor to the Commission, and the Commission shall recommend to the Governor-General whether or not that officer ought to be called upon to retire.

(2) Any such officer shall be afforded an opportunity of submitting to the Commission any representations he may wish to make regarding his proposed retirement.

(3) A judicial officer may at any time after he attains the age of fifty years apply to the Governor-General for permission to retire pursuant to paragraph (i) of subsection (1) of section 6 of the Pensions Act, and shall in his application state the grounds on which it is based.

(4) The Commission shall recommend to the Governor-General whether or not an application under paragraph (3) ought to be granted.

15.—(1) Notwithstanding the provisions of regulation 29, where it is represented to the Commission or the Commission considers it desirable in the public interest that a judicial officer ought to be required to retire from the public service on grounds which cannot suitably be dealt with by the procedure prescribed by regulation 29, it shall call for a full report from the Chief Justice and from the Head of any Ministry or Department in which the officer has served during the immediately preceding ten years. Retirement in the public interest.

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

16. Where the appointment of a judicial officer is terminated under regulation 14 or 15 his service shall terminate on such date as the Commission may recommend and the question of his pension shall be dealt with in accordance with the provisions of the Pensions Act. Pension.

PART IV—Discipline

17.—(1) The Commission shall deal with disciplinary proceedings against judicial officers. Functions respecting discipline.

(2) Subject to paragraph (3), where the Commission is of opinion that disciplinary proceedings ought to be instituted against a judicial officer, the Commission may recommend to the Governor-General that such proceedings be instituted against him.

(3) Where an offence against any enactment appears to have been committed by a judicial officer the Commission shall before making a recommendation under paragraph (2) obtain the advice of the Attorney-General as to whether criminal proceedings ought to be instituted against the officer concerned; and if the Attorney-General advises that criminal proceedings ought to be so instituted the Commission shall not recommend the initiation of disciplinary proceedings before the determination of the criminal proceedings so instituted.