

NEW HEBRIDES CONDOMINIUM

JOINT REGULATION

No. 7 of 1978

TO PUT INTO EFFECT the Resolution of the Representative Assembly No. 5 of 1978, passed the 25th day of July 1978, providing for the organisation of the Public Service.

MADE by the Resident Commissioners under the provisions of Articles 2:2 and 7 of the Anglo-French Protocol of 1914 and Article 28 (3) of the Exchange of Notes made at London the fifteenth day of September 1977 between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the French Republic.

Scheduled Resolution effect. 1. The Resolution of the Representative Assembly No. 5 of 1978, set forth in the attached Schedule, is hereby put into effect.

Short title and commencement. 2. This Joint Regulation may be cited as the Public Service Regulation 1978 and shall come into operation on the date of its publication in the New Hebrides Government Gazette.

ENACTED at Vila this 26th day of September, 1978.

The Inspector-General  
on special duties,  
conferred with the powers of  
the Resident Commissioners for  
the French Republic in the New Hebrides

Her Britannic Majesty's  
Resident Commissioner

J.J. ROBERT

J.S. CHAMPION

RESOLUTION No.5 OF 1978

providing for Standing Orders for the Public Service

THE REPRESENTATIVE ASSEMBLY OF THE NEW HEBRIDES

at its sittings on the 26th and 27th days of July, 1978 hereby resolves and decides, in accordance with the Exchange of Notes of the 15th day of September, 1977, to adopt the following measures:

STANDING ORDERS

FOR THE

PUBLIC SERVICE

CHAPTER I

GENERAL PROVISIONS

Article 1 These Orders apply to every person appointed to a permanent office in the Public Service, including any person appointed under contract except as otherwise provided in the contract.

Article 2 It is the responsibility of all permanent officers and officers on contract to familiarise themselves with regulations in force. Non-compliance with regulations may be taken as the basis for disciplinary action.

Article 3 Officers as described in Article 1 have the right to belong to a staff association or trade union. Membership or non-membership of a staff association or trade union properly constituted under the Labour Legislation shall in no way affect an officer's appointment, promotion, posting, or in any other way the position of an officer serving under these Orders.

Article 4 Except with the prior permission of the Public Service Commission officers may not perform paid work in any professional capacity outside the Service.

Article 5 Officers are prohibited from having any interest, direct or indirect, personally or through an agent, in any enterprise with which they may need to have dealings in their official capacity, or any interests which may in the opinion of the Public Service Commission compromise their impartiality.

Article 6 Officers are bound by an obligation to preserve the confidentiality of all information which they may learn in their capacity as public servants.

Article 7 Officers are not allowed to receive gifts of any value arising from or in the course of their duties as public servants.

Article 8 Every officer, whatever his rank, will be held responsible for the proper performance of his duties and responsibilities. Any fault or negligence in this respect may render him liable to disciplinary action.

Article 9 A personal file shall be kept for each officer. It shall include all documents concerning the officer's career in the Service, but shall in no case mention or refer to the officer's political or religious opinions. The Chief Personnel Officer is responsible for the maintenance and safe-keeping of these files.

CHAPTER II

RECRUITMENT

SECTION I - GENERAL CONDITIONS OF RECRUITMENT

Article 10 No person may be appointed to an office in the Public Service:

- unless he is of good character,
- unless he fulfills the physical requirements for the appointment,
- if he is under 18 or over 55 years of age. The upper age limit for officers recruited on contract shall be 62 years.
- unless he has a knowledge of English or French.

Article 11 Only persons who fulfill the conditions specified in Article 1(1) of Joint Regulation No.28 of 1977 may be recruited as permanent officers in the Public Service.

(a) These conditions are as follows:

- born in the New Hebrides,
- having one parent or two grandparents born in the New Hebrides,
- having resided in the New Hebrides for 15 years, not necessarily continuously.

Other persons shall be recruited on contract, for a maximum period of three years. Such a contract may be renewed.

SECTION II - PUBLIC SERVICE COMMISSION

Article 12 There shall be a Public Service Commission composed of a Chairman and four members appointed by the Chief Minister. A decision of the Council of Ministers shall fix the conditions of appointment, allowances, and the duration of the appointment of the Chairman and members of the Commission.

Article 13 The following persons shall not be eligible for appointment to membership of the Commission:

- any person who within the preceding twelve months has been a member of the Representative Assembly or the Council of Chiefs,
- any person who holds office in a political party,

- any person who within the preceding twelve months has been an election agent for a candidate for the Representative Assembly.

Article 14 The Co-Presidents of the Joint Court shall have responsibility for the application of the rules for non-eligibility specified in Article 13.

Article 15 The Commission shall be convened by the Chairman. The members of the Commission shall be under an obligation to treat the Commission's proceedings as confidential. They shall not be personally liable for actions taken in the exercise of their duties and responsibilities. The Commission shall make its decisions by simple majority.

Article 16 The Chief Minister shall appoint a substitute for every member of the Commission. The substitute members shall replace their substantive member in case of absence for any reason. A substitute member shall succeed his substantive member as substantive member in his own right for the remaining period of his appointment if the substantive member ceases to carry out his functions during the course of his appointment for whatever reason. A new substitute member shall thereupon be appointed.

Article 17 The Public Service Commission shall recruit all public servants, whatever their conditions of service. It shall decide according to the nature of the employment and the number of candidates whether or not to organise a competitive examination. The selection procedures may be utilised to establish a list in order of merit of candidates who have failed to be recruited but who are considered suitable for appointment when a vacancy arises. A candidate's name shall remain on the list for one year.

Article 18 Each candidate for appointment to the permanent establishment of the Public Service shall be appointed on probation for one year and confirmation of his appointment to the permanent establishment shall be decided by the Public Service Commission only after the expiry of the probationary period and with the favourable recommendation of the officer's head of department.

The Commission may decide to extend the probationary period, or to terminate the officer's employment after giving him one month's notice.

However, if the officer was appointed on transfer or promotion from another office in the Public Service he shall be reverted to his previous appointment and the one year's probation shall count in the calculation of his seniority.

Article 19 The Chief Personnel Officer for the Public Service shall assist the Commission and shall put his staff at its disposal.

SECTION 3 - RECRUITMENT PROCEDURES

Article 20 No appointment, nor any promotion to a higher grade, shall be made which is not for the purpose of filling an existing or forthcoming vacancy.

Article 21 Each vacancy shall be notified by the Chief Personnel Officer to the Public Service Commission. The Commission, if it is satisfied that there is no suitable candidate on the waiting list provided for in Article 17, shall decide whether recruitment shall be by competitive examination or otherwise.

Article 22 When it has been decided to recruit, the Chief Personnel Officer shall inform the employment office of the Department of Labour and Employment of the employment opportunity thus presented and give full information on the nature and number of posts, the standards required, the place of work, the salary and other advantages attached to the employment. The Chief Personnel Officer shall advertise the vacancy in the press and on the radio, and, if appropriate, overseas. Similarly he shall circularise the vacancy within the Service.

Article 23 Applications for appointments in the Public Service shall be addressed to the Chief Personnel Officer who shall forward them to the Public Service Commission.

Each application shall be in triplicate and shall be accompanied by:-

- a birth certificate or statutory declaration in lieu,
- a certified copy of any certificates or references,
- where appropriate, a marriage certificate and children's birth certificates,
- a certificate of medical fitness for the employment applied for, given by a medical practitioner approved by the Administration,
- an official statement of police record or equivalent document.

Article 24 The Chief Personnel Officer shall obtain from the Districts official advice on applicants from the districts.

For candidates who reside outside the New Hebrides this advice shall be replaced by an official statement of police record or equivalent document.

CHAPTER III

REMUNERATION AND OTHER ADVANTAGES

Article 25 Each officer shall be entitled to receive, in arrears, remuneration comprised of the salary corresponding to his index number and the family allowances provided by decision of the Council of Ministers.

Additionally an officer may be eligible for:-

- the overtime payments provided for in the regulations, but this applies only to officers in Grades 1 to 4;
- travel and subsistence allowances;
- any special allowance authorised in respect of particular conditions inherent in certain jobs.

The annexures to these Orders fix the classification of posts by categories and the indexed salary scales.

Article 26 All officers shall be members of a pension scheme for which the regulations and rules of operation will be the subject of a decision of the Council of Ministers.

CHAPTER IV

REPORTS AND ADVANCEMENT

Article 27 Each year every serving officer shall be the subject of an annual confidential report which shall include a general appreciation of the officer and his professional competence. This report shall be written by the Head of Department who shall notify each officer of his report.

When an officer acts in another post a special confidential report shall be prepared by the head of department in whose department he is acting, and this shall be taken into account when the officer is considered for incremental advancement or promotion.

Article 28 Advancement may be by incremental advancement or by promotion to a higher grade.

There shall be a Promotion Board comprised of the members of the Public Service Commission, the Chief Personnel Officer, and four staff representatives. The staff representatives shall be selected in accordance with the rules in Article 31 below.

The Promotion Board shall decide on accelerated incremental advancement in respect of officers with outstanding confidential reports, but may only reduce the normal period of service necessary to qualify for an increment by up to a quarter of that period in respect of any particular salary point.

Conversely, for officers with bad reports the Promotion Board may suspend the officer's normal annual increment.

Promotion to a higher grade may be decided by examination or by selection, according to the decision of the Public Service Commission.

In the case of promotion by selection all heads of departments shall forward to the Chief Personnel Officer the names of all officers in their department who are eligible for consideration. The Promotion Board shall then decide in the light of the personal files and the confidential reports of the officers concerned.

On promotion an officer shall receive a salary equivalent to the salary in his former grade or, if there is no equivalent salary, the next higher salary point.



CHAPTER V

DISCIPLINE

Article 29 Disciplinary punishments are:-

- (a) warning,
- (b) reprimand,
- (c) suspension of increment,
- (d) demotion,
- (e) temporary suspension from employment for a period not exceeding six months,
- (f) compulsory retirement,
- (g) dismissal and loss of retirement benefits.

Temporary suspension from employment shall entail loss of all remuneration and all other benefits. Compulsory retirement preserves the officer's rights to retirement benefits but he cannot commence such benefits until he reaches the normal qualifying age.

Article 30 Warnings shall be given by heads of departments. A reprimand shall be given by the Chief Personnel Officer on the recommendation of the head of department.

All other recommendations for disciplinary action shall be forwarded by the head of department to the Chief Personnel Officer who shall submit them, with the personal file of the officer concerned, to the Disciplinary Committee.

Article 31 There shall be a Disciplinary Committee composed of:-

- the members of the Public Service Commission, the Chairman of which shall be ex-officio the chairman of Disciplinary Committee.
- four staff representatives drawn by lots from the list of representatives elected as follows:

Each category of staff shall elect two representatives within that category.

In no case shall the Disciplinary Committee comprise officers of lower seniority than the officer appearing before it, and it shall include at least one officer of the same grade.

In the case of an officer in the highest grade appearing before the Committee the staff representatives shall comprise:-

- the two elected representatives for that grade.
- two other officers of the same grade, selected by drawing lots.

Article 32 The procedure before the Disciplinary Committee shall be as follows:

On being informed by the Chief Personnel Officer of a recommendation for disciplinary action warranting punishment more serious than a reprimand, the Committee shall examine the evidence submitted, and inform the accused officer, requiring him to give a written reply to the charges made against him.

On receipt of his reply the Committee shall require the accused officer to appear before it for a hearing.

On completion of the hearing the Committee shall decide by simple majority.

Notwithstanding the provisions of Representative Assembly Resolution No.3 of 1978 providing for judicial reform, the decisions of the Disciplinary Committee may only be subject to appeal before the Joint Court, which shall decide whether the procedure followed by the Committee was in accordance with such rules as may apply.

Article 33 When the Disciplinary Committee decides that the public interest requires that an officer shall immediately cease to carry out his functions, it may suspend the officer forthwith. The suspended officer shall receive half salary during the period of suspension, but the total amount of family allowances to which he is entitled.

If the disciplinary procedure does not result in any punishment or if the punishment is a warning or a reprimand, the officer shall receive the salary withheld during his suspension.

Article 34 If any officer is charged to appear before a court of law the fact shall be reported by his head of department to the Chief Personnel Officer. The latter shall forward the information to the Disciplinary Committee which shall consider whether or not it should also take disciplinary action.

The Committee shall take no final action until the decision of the court is given and confirmed.

An officer who is imprisoned shall have all his rights suspended for the duration of his imprisonment.

CHAPTER VI

STATUS AND LEAVE

Article 35 The status of an officer may be one of the following:

- on active duty
- on sabbatical leave
- on leave without pay
- on secondment
- in retirement

The regulations governing sabbatical leave, leave without pay and secondment shall be fixed by decision of the Council of Ministers.

An officer elected in a representative capacity shall be allowed the necessary time in which to carry out the functions of his office.

An officer appointed to a post in a ministry shall be placed on sabbatical leave. He shall be automatically reintegrated into his post on the expiry of these functions.

Article 36 Serving officers shall be entitled to annual leave with salary of 30 calendar days for a completed year of service. Leave may be accumulated only over a period of two years. Leave may be taken in the course of the year in several parts.

An officer who has not completed a full year of service shall be entitled to leave proportional to the service completed.

Article 37 1. An officer is entitled to sick leave on full salary for a maximum period of 28 days in each consecutive period of twelve months, provided that each sickness necessitating an absence of more than 24 hours is covered by a medical certificate received within 48 hours of the absence. This period of 28 days may be extended to 42 days on full salary on medical advice. The Chief Personnel Officer may require the officer to be examined by a medical practitioner approved by the Administration.

2. Periods of absence due to sickness not covered by a medical certificate and exceeding 24 hours will be treated as absence without leave and shall be without pay.

3. Periods of absence due to sickness, other than those specified in paragraphs 2 and 4 of this Article will be treated as effective service and shall be leave-earning.

4. Periods of absence due to sickness exceeding 42 days in a period of 12 consecutive months will be treated as administrative leave and deducted from the officer's normal administrative leave except where the provisions of Article 38 below apply.

5. When an officer falls sick during his administrative leave he will be required to exhaust his leave before becoming eligible for sick leave.

Article 38 1. An officer absent from duty due to sickness for a period exceeding 42 consecutive days shall be examined by a medical board appointed by the Public Service Commission. The medical board may grant further sick leave within a limit of 138 days and on half pay.

2. On the expiry of the sick leave granted under the previous paragraph, the officer shall be re-examined by the medical board which shall report to the Public Service Commission on the officer's fitness to resume duty. The Public Service Commission shall decide whether the officer shall resume duty, be retired, or granted further sick leave without pay. Any sick leave without pay granted under this provision shall not count as effective service and shall not be leave earning.

3. Maternity leave of 12 weeks on full salary, of which at least 6 shall be taken after the estimated date of confinement will be granted to female officers on presentation of a medical certificate indicating the date of confinement. Maternity leave shall count as effective service. Any extension of maternity leave will be treated under the same rules as for sick leave.

4. Leave of 2 days on full salary shall be granted to officers on the occasion of their marriage, and 4 days on the death of a parent or child. Leave of 1 day on full salary shall be granted to a father on the occasion of the birth of his child.

Article 39 A decision of the Council of Ministers shall fix the extent to which the provisions of the Labour Regulation shall apply with regard to the leave to be granted following an accident at work or an illness arising from and directly attributable to an officer's work. In the meantime the provisions of Joint Decision No.18 of 1960 remain in force.

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CHAPTER VII

TRANSITIONAL PROVISIONS

Article 40        These Standing Orders may from time to time be augmented by decisions of the Council of Ministers.

Article 41        These Standing Orders repeal and replace Joint Standing Order No.3 of 1970, and any other provisions which are inconsistent with the provisions of these Orders.

Article 42        Permanent Officers, contract officers, and Group 1 Daily-Rated Employees of the present public service may, on application, be offered integration in the new Public Service, at a grade and salary taking into consideration their seniority and their efficiency in their present employment.

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STANDING ORDERS FOR THE PUBLIC SERVICE

PAY

Permanent officers and contract officers of the Public Service are divided into 7 categories based on the nature of their duties and responsibilities, the abilities required and the conditions of entry into the different jobs. A first table shows the definitions of the levels corresponding to the various categories.

A second table indicates the salary scales applicable to each category. For each category the service required on each salary point in order to qualify for an increment has been fixed as follows:

- 1 year on salary point 1
- 1½ years on salary points 2 and 3
- 2 years on salary points 4 and 5
- 2½ years on salary point 6
- 3 years on salary points 7 and 8

Promotion to a higher category in accordance with the provisions of Article 28 of the Standing Orders for the Public Service shall entail appointment to the salary point equal to that on which the officer is serving or if there is no equivalent salary point to the next higher point.

CATEGORY	WORK LEVEL	CHARACTERISTICS OF CATEGORY	QUALIFICATIONS AND ENTRY
VI	Exercise of some delegated authority. Implementation of working methods and general policy. Allocation of work. Promotion of training.	Confirmed Professional qualifications. Initiative. Supervision of work. Carrying out of special tasks under direction.	Diploma or licence or equivalent qualification; - or 4 years service in category V and having successfully completed the necessary training courses.
VII	Top line management. Exercise of judgement and ability to make decisions, or specialised knowledge.	Relevant experience in category VI. Interpretive skills and ability to organise a variety of activities.	University Degree or equivalent qualification necessary for entry into a profession; - or 4 years service in category VI and having successfully completed the necessary training courses.

