

PROPOSED AMENDMENT TO THE PSC Civil Service Regulations 2015

Ref:	PSC 15-128
Re:	CS Reg B1 – B20: Discipline
Proposal:	To amend the CS Regs in line with the harmonisation of the PSC CS and PSC M&C Disciplinary Procedure

Existing Regulation:

Discipline B1-B20

B1 Public Services Commission Act 2015

The aim of these disciplinary procedures is to ensure that civil servants achieve high standards of conduct, attendance and job performance and these procedures provide a way of dealing with alleged breaches and deficiencies which have caused a reduction in those standards, in a manner which is both consistent and fair.

Further information on Conduct – the required standards can be found in the Civil Service Regulations Handbook. Attendance is covered in Section E and Job Performance (inefficiency/capability) can be found at Regulations B41 to B57.

B2 Disciplinary powers

The Minister (or Board) is responsible for all actions carried out by civil servants in the performance of their duties and therefore, a civil servant is accountable for his conduct and actions through his senior officers to his Minister (or Board).

In practice, however, responsibility for discipline in the Civil Service is delegated to Accounting Officers who may then delegate this responsibility via appropriate formal delegations of authority.

In cases where potential gross misconduct is alleged, the delegation of authority from the Accounting Officer will be to an officer graded SEO (or equivalent) or above.

Last updated: 17 January 2012 – Ref: 11-009

B3 Requirements of the disciplinary procedures

1. If a complaint is made against a civil servant he **must** be made aware of it and the investigation procedures that shall follow.
2. Civil servants **must** be advised as to who shall be responsible for dealing with the different stages in the disciplinary procedures set out in Annex B2.
3. Civil servants **must** be advised how to obtain reasonable access to a copy of the procedures and to whom they can apply if dissatisfied with any disciplinary decision affecting them, (this is a requirement of the Employment Act 1991).
4. No civil servant shall be disciplined unless and until the complaint made

against him has been fully investigated in accordance with the procedures at Annex B2.

5. When the investigation has been completed the civil servant shall be notified in writing of the outcome of the investigation which shall be that either:
 - i. the investigation has identified that there is no evidence of misconduct to justify formal disciplinary action and that no further action will be taken under the disciplinary procedures in respect of the alleged offence and that no record of the allegation will be held on his personal file **or**
 - ii. that the investigation has identified that there is sufficient evidence of misconduct to justify the matter being progressed to disciplinary hearing and that a hearing will be arranged in accordance with the provisions of this Section. The civil servant **must** be given details, in writing, of the venue, the date and time of the hearing, and of any adjourned hearing(s), and provided with full details of the alleged offence(s), together with a copy of the investigation report.
6. At every stage of the formal procedure, the civil servant shall be advised of his right to be accompanied if he wishes by a friend of his choice (who may be either a work colleague or a staff association representative) during the disciplinary interview.
7. Where an allegation of gross misconduct is made against a civil servant, consideration must be given to suspending the civil servant with pay (see Regulations B9-11) while the matter is investigated. Normally, in such circumstances, the period of such suspension will not exceed 10 working days but it may be extended if it has been decided to await the decision of the Courts in relation to an alleged breach of the law. The Secretary of the Public Service Commission must be notified of the suspension in writing as soon as possible but no later than 2 working days of the civil servant being suspended. A Precautionary Suspension from Duty Model Letter can be found in the Civil Service Regulations Handbook.
8. If a complaint is proven, the civil servant shall be given the opportunity to make a plea in mitigation before a penalty is awarded.
9. Where a civil servant is warned about his future conduct or performance he should be given a specified period in writing in which to meet the required standard and his conduct or performance (as the case may be) should be monitored carefully throughout that period.
10. No civil servant should be dismissed for a first breach of discipline except in the case of gross misconduct (see Regulation B6 – Gross misconduct) when the penalty may be summary dismissal without notice or payment in lieu of notice.
11. A civil servant will have a right of appeal against any disciplinary penalty imposed to an individual or body higher than that taking the disciplinary action. A civil servant who is dismissed by the Public Service Commission may appeal against the decision to an independent tribunal (see Regulations B12-15).

12. If disciplinary action is reconsidered and then withdrawn, any written reference to it should be removed from the civil servant's personal file, wherever held, and disregarded for disciplinary purposes. The civil servant should be notified accordingly.

13. Different procedures apply to Accounting Officers and these are set out at Regulation B11.

Last updated: 15 January 2008 – Ref: 07-041

B4 Criminal offences

A clear distinction must be drawn between allegations which may lead to criminal proceedings and those which, although so serious that they may constitute gross misconduct and lead to the dismissal of the offender, are not of a criminal nature.

In any case where preliminary enquiries give grounds for believing that a criminal offence may have been committed, the early advice of the Attorney General must be sought by the Accounting Officer. Equally, if there is any doubt about whether a possible criminal offence has been committed, the Attorney General should be consulted immediately. The Secretary of the Public Service Commission should be informed and, if public funds are involved, the Chief Financial Officer should also be notified.

Any other cases should be investigated and, provided no evidence is forthcoming during the investigation that a criminal offence may have been committed, dealt with on a disciplinary basis.

If it appears that a criminal offence may have been committed in addition to the alleged disciplinary offence which is being considered then, after consultation with the Attorney General, the disciplinary offence may be dealt with and the civil servant informed that the question of prosecution will be considered independently.

Further guidance, Criminal Proceedings, can be found in the Civil Service Regulations Handbook.

Last updated: 28 February 2012 - Amendment No. 11-015

B5 Officials of the recognised Staff Association

The required standards regarding conduct, attendance and performance apply equally to officials of the recognised staff association. However, no disciplinary action beyond a formal oral warning (as detailed at Regulation B7.1 – Range of disciplinary options), should be taken against such an official until the circumstances of the case have been discussed in general terms by an appropriate manager with a full-time official of the staff association. The Secretary of the Public Service Commission should also be informed.

B6 Gross misconduct

A civil servant may be summarily dismissed without notice or payment in lieu of notice by the Public Service Commission in cases constituting gross misconduct. The following list, which is not exhaustive, contains examples of actions which may be

regarded as gross misconduct:

- fighting and violent behaviour (including assault on another person)
- deliberately ignoring health and safety at work rules and thereby endangering own or another's physical well-being or risking unacceptable loss or damage
- obscene behaviour
- intoxication induced by alcohol or drugs (not prescribed by a medical practitioner) while on duty or liable to be called for duty
- fraud (including fraudulent clocking offences and falsification of records)
- wilful damage to any Government property, or unauthorised use of the same (eg. purchasing, acquiring or installing computer software or hardware which has not been authorised, in writing, by the Government Technology Services Division of the Cabinet Office)
- stealing property belonging to Government or another employee
- conduct by word or deed detrimental to the public service
- wilful disobedience of reasonable instructions
- criminal conviction arising from an offence committed within or outside of normal working hours and where the offence is of a nature so as to render the employee unsuitable for the type of work employed or unacceptable to other employees
- an offence of unlawfully possessing a controlled drug will be deemed in all cases to be an offence as described in 10) above
- deliberate unauthorised disclosure of confidential information obtained by virtue of a civil servant's employment as a civil servant.

B7 The range of the disciplinary options

Minor faults and incidents (eg isolated infringements of rules and discourtesy not amounting to insubordination), shall be dealt with informally and promptly by the line manager. In all other instances, the formal procedure set out below must be followed and Managers **must** also follow the Disciplinary Procedures at [Annex B2](#).

7.1 Oral Warning - for a 1st offence which is not gross misconduct

If following a disciplinary hearing the conduct or performance of a civil servant has been found not to meet acceptable standards, the civil servant

- a. shall be given a formal oral warning by the appropriate manager and advised of the reason for it
- b. shall be informed of the reason for the warning in writing if the civil servant requests it
- c. shall be advised that it is the first stage of the disciplinary procedure
- d. shall be advised of his right of appeal, the right to be accompanied if he wishes by a friend of his choice (who may be either a work colleague or staff association representative), how to make it and to whom
- e. shall be told that a record will be kept of the oral warning – that his conduct and performance will be monitored; and also told of the period of satisfactory conduct and performance after which the warning will be disregarded for disciplinary purposes

- f. shall be advised that the commission of a similar act, or of a subsequent different offence, may result in further disciplinary action. Normally, the warning will be kept on file for 12 months and then disregarded for disciplinary purposes.

7.2 Written Warning - further or serious offence

If following the disciplinary hearing the offence is a serious one or a further offence is alleged to have been committed during the currency of an earlier oral warning, the civil servant

- a. shall normally be given a written warning by the appropriate manager specifying the reasons for it, details of the complaint, the improvement required and over what period of time his conduct and/or performance will be monitored and the improvement will be expected
- b. shall be advised in writing that this is the second stage of the disciplinary procedure and that action under the third stage will be considered if there is no satisfactory improvement within the above timescale
- c. shall be advised of his right of appeal, how to submit it and to whom, and his right to be accompanied by a friend of his choice, if he wishes, (who may be either a work colleague or a staff association representative) at any appeal hearing
- d. shall be told that a copy of the written warning will be kept on his personal file for 12 months and then disregarded if there has been no repetition and
- e. told also of the period of satisfactory conduct and performance after which it will be disregarded for disciplinary purposes.

7.3 Final Written Warning - further repeat offence or serious or gross misconduct

If after the disciplinary hearing there continues to be a failure to improve and conduct or performance is still unsatisfactory, or if the misconduct is sufficiently serious to warrant only one written warning but insufficiently serious to justify dismissal, or if the conduct is sufficiently serious to warrant dismissal (even though it may not come under the heading of gross misconduct) or if gross misconduct is proven but there may be strong mitigating circumstances, the civil servant:

- a. shall be given a final written warning (which may also be the first written warning) by the manager including the reasons for it and details of the complaint, shall be told that his conduct and/or performance will be monitored, and informed that failure to demonstrate a satisfactory improvement within a reasonable specified period or if a further offence is committed (not necessarily a repeat of the original offence), will lead to dismissal (ie. the fourth stage of the disciplinary procedure)
- b. may be suspended without pay as a disciplinary penalty for up to a maximum of 5 working days in addition to a final written warning, (but the likely effect of such a suspension on the civil servant should be considered carefully before this course is decided upon)

- c. shall be advised of his right of appeal, how to submit it and to whom, and his right to be accompanied by a friend of his choice, if he wishes, (who may be either a work colleague or a staff association representative) at any appeal hearing
- d. shall be told that a copy of the final written warning (and a note of any other penalty imposed) will be kept but that, in the case of the warning, it will be disregarded for disciplinary purposes after a specified period of satisfactory conduct and performance, normally between 12 and 18 months although this can be extended in exceptional circumstances.

Last Updated: 22 September 2015 – Amendment PSC CS 15-002

7.4 Dismissal - further offence or gross misconduct

If after the disciplinary hearing conducted by a senior officer with delegated disciplinary authority, the conduct or performance continues to be unsatisfactory or the civil servant still fails to meet the prescribed standards in spite of the warning(s) or if a case of gross misconduct is proved, the senior officer with disciplinary powers must consider any mitigating circumstances. Having taken into consideration any mitigating circumstances, the senior officer shall inform the civil servant that either:

- a) one or more of the following disciplinary penalties will be imposed:
 - i. a final written warning (unless one has been given under Stage 3)
 - ii. stoppage of a future increment, or forfeiture of an increment already earned
 - iii. monetary payments, either by way of a fine or by way of restitution (in whole or in part) of loss or damage caused by the civil servant
 - iv. suspension from duty without pay
 - v. down-grading, including removal from a post attracting additional pay or allowances or
 - vi. dismissal

In the case of any of the penalties specified above the civil servant will have a right of appeal against the decision in accordance with Regulation B12 – Right of appeal.

Last Updated: 22 September 2015 – Amendment PSC CS 15-002

Previous Amendment: 15 May 2012 - Amendment No. 12-011

7.5 Blank

[Previously 'Recommendation to Dismiss - Referral to the Civil Service Commission']

Deleted 22 September 2015: Amendment PSC CS 15-002

Previous Amendment: 15 May 2012 - Amendment No 12-012

7.6 Blank

[Previously 'The Commission's Decision']

Deleted: 22 September 2015 – Amendment PSC CS 15-002

Previous amendment: 15 May 2012 - Amendment No. 12-017

Note: Regulation B8 is blank.

B9 Withholding pay during suspension

Only in cases where there is strong prima facie evidence relating to the misappropriation of public funds or where a civil servant has been charged and remanded in custody awaiting trial, or the civil servant has been convicted of a criminal offence, should pay be withheld, in whole or in part, when suspension occurs under this paragraph. The level of pay to be withheld under this paragraph may not exceed the civil servant's basic pay (defined as that which would be paid during the first 6 months of sickness absence).

B10 Suspension while an investigation is conducted

Where a civil servant has been suspended with pay in accordance with Regulation B3 (7), while an investigation is conducted:

- a. the suspension will be terminated and the civil servant shall receive all monies to which he would have been entitled but for the suspension (excluding overtime) in the event of it being adjudged that he was not blameworthy
- b. if the civil servant is adjudged blameworthy but is allowed to continue in employment, the Accounting Officer will have discretion whether to make up the wages paid during the period of suspension to the level of earnings he would have achieved (excluding overtime) had he not been suspended
- c. if the civil servant is dismissed, he will not be entitled to wages other than the sum (if any) due up to the date of suspension (subject to the provisions of Regulation A22 in respect of the recovery of public funds) but will be allowed to retain any sum already paid to him under the provisions of Regulations B3(7) and B9, during the period of suspension.

A link to the relevant section in the Regulations Handbook.

Note This paragraph does **not** apply where a civil servant is suspended as a disciplinary penalty.

Last updated: 8 May 2012 - Amendment No. 12-018

B11 Disciplinary procedures following complaints made against accounting officers

Note: This Regulation only applies to Accounting Officers who are civil servants.

Where a complaint is made against an Accounting Officer, the provisions of these procedures (Section B) will apply, as appropriate, subject to the following specific modifications:

- a. An investigation in accordance with the procedures at Annex B2 may be

carried out only by an independent person (which can include a senior civil servant from a different Department, Board or Office) appointed by the Public Services Commission for that purpose.

- b. If, following an investigation, it is determined that formal action is required a disciplinary hearing will be conducted by a panel of at least 3 members of the Commission.
- c. Appeals against a disciplinary penalty shall be considered by a panel of 3 persons appointed by the Chief Minister for that purpose and conducted in accordance with Section B15 – Appeals procedure below.

Last Updated: 22 September 2015 – Amendment PSC CS 15-002

Previously updated: 6 September 2013 - Amendment No. 13-012

B12 Right of appeal against a disciplinary decision

A civil servant has a right of appeal against any disciplinary decision against him and the appeal shall be heard either by an authority higher than that which took the decision or by an independent person or body.

Who will hear the appeal?

Other than in cases of appeals against dismissal, the decision as to who will hear an appeal depends on who decided on the disciplinary penalty, as follows:

- a. Normally, the next senior manager will hear the appeal, (either sitting alone or with not more than 2 other appropriate managers) unless the disciplinary decision against which the appeal is lodged was taken by that person. If the next senior manager is the Accounting Officer, he will hear the appeal provided he has had no previous involvement in the decision against which the appeal has been lodged.

If the Accounting Officer has had previous involvement in the decision he may delegate this authority to another senior officer with delegated disciplinary authority, who has had no previous involvement in the case. In cases where the decision relates to gross misconduct, the delegation of authority from the Accounting Officer will be to an officer graded SEO (or equivalent) or above.

If all senior officers have had previous involvement in the decision, the provisions within (b) below should be followed.

- b. Where the appeal is against a disciplinary decision short of dismissal made by the Accounting Officer in accordance with Regulation B7.4 details of the appeal must be sent to the Secretary of the Public Services Commission who will appoint another Accounting Officer to hear the appeal (either sitting alone or with not more than 2 other appropriate managers, who have had no previous involvement in the decision being appealed against).
- c. Where a person has been dismissed, he shall have a right of appeal in accordance with Regulation B13 – Appeals against dismissal – below.

Last Updated: 22 September 2015 – Amendment PSC CS 15-002

Previously updated: 15 May 2012 – Amendment No. 12-006

B13 Appeals against dismissal

- a) Appeals against dismissal shall be notified to the Secretary of the Commission who will arrange for it to be heard by a Panel of three persons, comprising Government employees from a different Department, Board or Office (or a combination thereof), than the one in which the civil servant is deployed.
- b) The Appeal Panel will be drawn from separate lists of 'hearing officers' maintained by the Secretary of the Commission and comprising:
- i. a list of persons to act as Panel Chair, who must be graded Senior Executive Officer or above (and equivalent)
 - ii. a list of persons occupying management roles within Government
 - iii. a list of persons occupying any role within Government, serving on the panel to provide an independent perspective
- c) Persons appointed to the lists of 'hearing officers' may self-nominate or, with their consent, be nominated by a third party.
- d) The Appeal Panel may, at its discretion, seek independent legal advice should it consider this necessary when considering the appeal.

The Appeal Panel will, in all cases, be advised by a representative of the Office of Human Resources.

New Regulation: 22 September 2015 – Amendment PSC CS 15-002

Note: Regulation B14 is blank.

B15 Appeals procedure

Appeals, stating the grounds upon which they are based, must be lodged in writing with the person or body which is to hear the appeal within 3 working days of a formal oral warning being given or within 5 working days of the date of the written notification of any other penalties.

The person or body hearing the appeal shall give at least 3 working days' notice to the civil servant (and to the Accounting Officer or other officer, as appropriate) of the date and venue of the hearing.

The procedure to be followed at the hearing of an appeal against a disciplinary penalty (other than the penalty of dismissal from the Service) shall be in accordance with the model procedure set out at Annex B3.

Last Updated: 22 September 2015 – Amendment PSC CS 15-002

Proposed Regulation:

Discipline B1 – B20

The Disciplinary Procedure is contained within Annex B2

Last Updated October 2020 Amendment Reference 15-128

~~Discipline B1-B20~~

~~B1 Public Services Commission Act 2015~~

~~The aim of these disciplinary procedures is to ensure that civil servants achieve high standards of conduct, attendance and job performance and these procedures provide a way of dealing with alleged breaches and deficiencies which have caused a reduction in those standards, in a manner which is both consistent and fair.~~

~~Further information on Conduct—the required standards can be found in the Civil Service Regulations Handbook. Attendance is covered in Section E and Job Performance (inefficiency/capability) can be found at Regulations B41 to B57.~~

~~B2 Disciplinary powers~~

~~The Minister (or Board) is responsible for all actions carried out by civil servants in the performance of their duties and therefore, a civil servant is accountable for his conduct and actions through his senior officers to his Minister (or Board).~~

~~In practice, however, responsibility for discipline in the Civil Service is delegated to Accounting Officers who may then delegate this responsibility via appropriate formal delegations of authority.~~

~~In cases where potential gross misconduct is alleged, the delegation of authority from the Accounting Officer will be to an officer graded SEO (or equivalent) or above.~~

Last updated: 17 January 2012 — Ref: 11-009

~~B3 Requirements of the disciplinary procedures~~

~~11. If a complaint is made against a civil servant he **must** be made aware of it and the investigation procedures that shall follow.~~

~~12. Civil servants **must** be advised as to who shall be responsible for dealing with the different stages in the disciplinary procedures set out in Annex B2.~~

~~13. Civil servants **must** be advised how to obtain reasonable access to a copy of the procedures and to whom they can apply if dissatisfied with any disciplinary decision affecting them, (this is a requirement of the Employment Act 1991).~~

~~14. No civil servant shall be disciplined unless and until the complaint made~~

against him has been fully investigated in accordance with the procedures at Annex B2.

15. When the investigation has been completed the civil servant shall be notified in writing of the outcome of the investigation which shall be that either:

i. — the investigation has identified that there is no evidence of misconduct to justify formal disciplinary action and that no further action will be taken under the disciplinary procedures in respect of the alleged offence and that no record of the allegation will be held on his personal file ~~or~~

ii. — that the investigation has identified that there is sufficient evidence of misconduct to justify the matter being progressed to disciplinary hearing and that a hearing will be arranged in accordance with the provisions of this Section. The civil servant **must** be given details, in writing, of the venue, the date and time of the hearing, and of any adjourned hearing(s), and provided with full details of the alleged offence(s), together with a copy of the investigation report.

16. At every stage of the formal procedure, the civil servant shall be advised of his right to be accompanied if he wishes by a friend of his choice (who may be either a work colleague or a staff association representative) during the disciplinary interview.

17. Where an allegation of gross misconduct is made against a civil servant, consideration must be given to suspending the civil servant with pay (see Regulations B9-11) while the matter is investigated. Normally, in such circumstances, the period of such suspension will not exceed 10 working days but it may be extended if it has been decided to await the decision of the Courts in relation to an alleged breach of the law. The Secretary of the Public Service Commission must be notified of the suspension in writing as soon as possible but no later than 2 working days of the civil servant being suspended. A Precautionary Suspension from Duty Model Letter can be found in the Civil Service Regulations Handbook.

18. If a complaint is proven, the civil servant shall be given the opportunity to make a plea in mitigation before a penalty is awarded.

19. Where a civil servant is warned about his future conduct or performance he should be given a specified period in writing in which to meet the required standard and his conduct or performance (as the case may be) should be monitored carefully throughout that period.

20. No civil servant should be dismissed for a first breach of discipline except in the case of gross misconduct (see Regulation B6 — Gross misconduct) when the penalty may be summary dismissal without notice or payment in lieu of notice.

12. A civil servant will have a right of appeal against any disciplinary penalty imposed to an individual or body higher than that taking the disciplinary action. A civil servant who is dismissed by the Public Service Commission may appeal against the decision to an independent tribunal (see Regulations B12-15).

~~14. If disciplinary action is reconsidered and then withdrawn, any written reference to it should be removed from the civil servant's personal file, wherever held, and disregarded for disciplinary purposes. The civil servant should be notified accordingly.~~

~~15. Different procedures apply to Accounting Officers and these are set out at Regulation B11.~~

Last updated: 15 January 2008 — Ref: 07-041

B4 Criminal offences

~~A clear distinction must be drawn between allegations which may lead to criminal proceedings and those which, although so serious that they may constitute gross misconduct and lead to the dismissal of the offender, are not of a criminal nature.~~

~~In any case where preliminary enquiries give grounds for believing that a criminal offence may have been committed, the early advice of the Attorney General must be sought by the Accounting Officer. Equally, if there is any doubt about whether a possible criminal offence has been committed, the Attorney General should be consulted immediately. The Secretary of the Public Service Commission should be informed and, if public funds are involved, the Chief Financial Officer should also be notified.~~

~~Any other cases should be investigated and, provided no evidence is forthcoming during the investigation that a criminal offence may have been committed, dealt with on a disciplinary basis.~~

~~If it appears that a criminal offence may have been committed in addition to the alleged disciplinary offence which is being considered then, after consultation with the Attorney General, the disciplinary offence may be dealt with and the civil servant informed that the question of prosecution will be considered independently.~~

~~Further guidance, Criminal Proceedings, can be found in the Civil Service Regulations Handbook.~~

Last updated: 28 February 2012 — Amendment No. 11-015

B5 Officials of the recognised Staff Association

~~The required standards regarding conduct, attendance and performance apply equally to officials of the recognised staff association. However, no disciplinary action beyond a formal oral warning (as detailed at Regulation B7.1 — Range of disciplinary options), should be taken against such an official until the circumstances of the case have been discussed in general terms by an appropriate manager with a full-time official of the staff association. The Secretary of the Public Service Commission should also be informed.~~

B6 Gross misconduct

~~A civil servant may be summarily dismissed without notice or payment in lieu of notice by the Public Service Commission in cases constituting gross misconduct. The following list, which is not exhaustive, contains examples of actions which may be~~

~~regarded as gross misconduct:~~

- ~~• fighting and violent behaviour (including assault on another person)~~
- ~~• deliberately ignoring health and safety at work rules and thereby endangering own or another's physical well being or risking unacceptable loss or damage~~
- ~~• obscene behaviour~~
- ~~• intoxication induced by alcohol or drugs (not prescribed by a medical practitioner) while on duty or liable to be called for duty~~
- ~~• fraud (including fraudulent clocking offences and falsification of records)~~
- ~~• wilful damage to any Government property, or unauthorised use of the same (eg. purchasing, acquiring or installing computer software or hardware which has not been authorised, in writing, by the Government Technology Services Division of the Cabinet Office)~~
- ~~• stealing property belonging to Government or another employee~~
- ~~• conduct by word or deed detrimental to the public service~~
- ~~• wilful disobedience of reasonable instructions~~
- ~~• criminal conviction arising from an offence committed within or outside of normal working hours and where the offence is of a nature so as to render the employee unsuitable for the type of work employed or unacceptable to other employees~~
- ~~• an offence of unlawfully possessing a controlled drug will be deemed in all cases to be an offence as described in 10) above~~
- ~~• deliberate unauthorised disclosure of confidential information obtained by virtue of a civil servant's employment as a civil servant.~~

B7 The range of the disciplinary options

~~Minor faults and incidents (eg isolated infringements of rules and discourtesy not amounting to insubordination), shall be dealt with informally and promptly by the line manager. In all other instances, the formal procedure set out below must be followed and Managers **must** also follow the Disciplinary Procedures at Annex B2.~~

7.7 Oral Warning – for a 1st offence which is not gross misconduct

~~If following a disciplinary hearing the conduct or performance of a civil servant has been found not to meet acceptable standards, the civil servant~~

- ~~a. shall be given a formal oral warning by the appropriate manager and advised of the reason for it~~
- ~~b. shall be informed of the reason for the warning in writing if the civil servant requests it~~
- ~~c. shall be advised that it is the first stage of the disciplinary procedure~~
- ~~d. shall be advised of his right of appeal, the right to be accompanied if he wishes by a friend of his choice (who may be either a work colleague or staff association representative), how to make it and to whom~~
- ~~e. shall be told that a record will be kept of the oral warning—that his conduct and performance will be monitored; and also told of the period of satisfactory conduct and performance after which the warning will be disregarded for disciplinary purposes~~

- f. shall be advised that the commission of a similar act, or of a subsequent different offence, may result in further disciplinary action. Normally, the warning will be kept on file for 12 months and then disregarded for disciplinary purposes:

7.8 Written Warning – further or serious offence

If following the disciplinary hearing the offence is a serious one or a further offence is alleged to have been committed during the currency of an earlier oral warning, the civil servant

- a. shall normally be given a written warning by the appropriate manager specifying the reasons for it, details of the complaint, the improvement required and over what period of time his conduct and/or performance will be monitored and the improvement will be expected
- b. shall be advised in writing that this is the second stage of the disciplinary procedure and that action under the third stage will be considered if there is no satisfactory improvement within the above timescale
- c. shall be advised of his right of appeal, how to submit it and to whom, and his right to be accompanied by a friend of his choice, if he wishes, (who may be either a work colleague or a staff association representative) at any appeal hearing
- d. shall be told that a copy of the written warning will be kept on his personal file for 12 months and then disregarded if there has been no repetition and
- e. told also of the period of satisfactory conduct and performance after which it will be disregarded for disciplinary purposes:

7.9 Final Written Warning – further repeat offence or serious or gross misconduct

If after the disciplinary hearing there continues to be a failure to improve and conduct or performance is still unsatisfactory, or if the misconduct is sufficiently serious to warrant only one written warning but insufficiently serious to justify dismissal, or if the conduct is sufficiently serious to warrant dismissal (even though it may not come under the heading of gross misconduct) or if gross misconduct is proven but there may be strong mitigating circumstances, the civil servant:

- a. shall be given a final written warning (which may also be the first written warning) by the manager including the reasons for it and details of the complaint, shall be told that his conduct and/or performance will be monitored, and informed that failure to demonstrate a satisfactory improvement within a reasonable specified period or if a further offence is committed (not necessarily a repeat of the original offence), will lead to dismissal (ie. the fourth stage of the disciplinary procedure)
- b. may be suspended without pay as a disciplinary penalty for up to a maximum of 5 working days in addition to a final written warning, (but the likely effect of such a suspension on the civil servant should be considered carefully before this course is decided upon)

~~c. shall be advised of his right of appeal, how to submit it and to whom, and his right to be accompanied by a friend of his choice, if he wishes, (who may be either a work colleague or a staff association representative) at any appeal hearing~~

~~d. shall be told that a copy of the final written warning (and a note of any other penalty imposed) will be kept but that, in the case of the warning, it will be disregarded for disciplinary purposes after a specified period of satisfactory conduct and performance, normally between 12 and 18 months although this can be extended in exceptional circumstances.~~

Last Updated: 22 September 2015 — Amendment PSC CS 15-002

~~7.10 Dismissal—further offence or gross misconduct~~

~~If after the disciplinary hearing conducted by a senior officer with delegated disciplinary authority, the conduct or performance continues to be unsatisfactory or the civil servant still fails to meet the prescribed standards in spite of the warning(s) or if a case of gross misconduct is proved, the senior officer with disciplinary powers must consider any mitigating circumstances. Having taken into consideration any mitigating circumstances, the senior officer shall inform the civil servant that either:~~

~~b) one or more of the following disciplinary penalties will be imposed:~~

- ~~i. a final written warning (unless one has been given under Stage 3)~~
- ~~ii. stoppage of a future increment, or forfeiture of an increment already earned~~
- ~~iii. monetary payments, either by way of a fine or by way of restitution (in whole or in part) of loss or damage caused by the civil servant~~
- ~~iv. suspension from duty without pay~~
- ~~v. down-grading, including removal from a post attracting additional pay or allowances or~~
- ~~vi. dismissal~~

~~In the case of any of the penalties specified above the civil servant will have a right of appeal against the decision in accordance with Regulation B12 — Right of appeal.~~

Last Updated: 22 September 2015 — Amendment PSC CS 15-002

Previous Amendment: 15 May 2012 — Amendment No. 12-011

~~7.11 Blank~~

~~[Previously 'Recommendation to Dismiss — Referral to the Civil Service Commission']~~

~~Deleted 22 September 2015: Amendment PSC CS 15-002~~

Previous Amendment: 15 May 2012 — Amendment No 12-012

~~7.12 Blank~~

~~[Previously 'The Commission's Decision']~~

~~Deleted: 22 September 2015 — Amendment PSC CS 15-002~~

Previous amendment: 15 May 2012—Amendment No. 12-017

Note: Regulation B8 is blank.

~~B9 Withholding pay during suspension~~

~~Only in cases where there is strong prima facie evidence relating to the misappropriation of public funds or where a civil servant has been charged and remanded in custody awaiting trial, or the civil servant has been convicted of a criminal offence, should pay be withheld, in whole or in part, when suspension occurs under this paragraph. The level of pay to be withheld under this paragraph may not exceed the civil servant's basic pay (defined as that which would be paid during the first 6 months of sickness absence).~~

~~B10 Suspension while an investigation is conducted~~

~~Where a civil servant has been suspended with pay in accordance with Regulation B3 (7), while an investigation is conducted:~~

- ~~a. the suspension will be terminated and the civil servant shall receive all monies to which he would have been entitled but for the suspension (excluding overtime) in the event of it being adjudged that he was not blameworthy~~
- ~~b. if the civil servant is adjudged blameworthy but is allowed to continue in employment, the Accounting Officer will have discretion whether to make up the wages paid during the period of suspension to the level of earnings he would have achieved (excluding overtime) had he not been suspended~~
- ~~c. if the civil servant is dismissed, he will not be entitled to wages other than the sum (if any) due up to the date of suspension (subject to the provisions of Regulation A22 in respect of the recovery of public funds) but will be allowed to retain any sum already paid to him under the provisions of Regulations B3(7) and B9, during the period of suspension.~~

~~A link to the relevant section in the Regulations Handbook:~~

~~**Note** This paragraph does **not** apply where a civil servant is suspended as a disciplinary penalty.~~

Last updated: 8 May 2012—Amendment No. 12-018

~~B11 Disciplinary procedures following complaints made against accounting officers~~

~~**Note:** This Regulation only applies to Accounting Officers who are civil servants.~~

~~Where a complaint is made against an Accounting Officer, the provisions of these procedures (Section B) will apply, as appropriate, subject to the following specific modifications:~~

- ~~d. An investigation in accordance with the procedures at Annex B2 may be~~

~~carried out only by an independent person (which can include a senior civil servant from a different Department, Board or Office) appointed by the Public Services Commission for that purpose.~~

~~e.—If, following an investigation, it is determined that formal action is required a disciplinary hearing will be conducted by a panel of at least 3 members of the Commission.~~

~~f.—Appeals against a disciplinary penalty shall be considered by a panel of 3 persons appointed by the Chief Minister for that purpose and conducted in accordance with Section B15— Appeals procedure below.~~

~~Last Updated: 22 September 2015— Amendment PSC CS 15-002~~

~~Previously updated: 6 September 2013— Amendment No. 13-012~~

~~B12 Right of appeal against a disciplinary decision~~

~~A civil servant has a right of appeal against any disciplinary decision against him and the appeal shall be heard either by an authority higher than that which took the decision or by an independent person or body.~~

~~Who will hear the appeal?~~

~~Other than in cases of appeals against dismissal, the decision as to who will hear an appeal depends on who decided on the disciplinary penalty, as follows:~~

~~d.—Normally, the next senior manager will hear the appeal, (either sitting alone or with not more than 2 other appropriate managers) unless the disciplinary decision against which the appeal is lodged was taken by that person. If the next senior manager is the Accounting Officer, he will hear the appeal provided he has had no previous involvement in the decision against which the appeal has been lodged.~~

~~If the Accounting Officer has had previous involvement in the decision he may delegate this authority to another senior officer with delegated disciplinary authority, who has had no previous involvement in the case. In cases where the decision relates to gross misconduct, the delegation of authority from the Accounting Officer will be to an officer graded SEO (or equivalent) or above.~~

~~If all senior officers have had previous involvement in the decision, the provisions within (b) below should be followed.~~

~~e.—Where the appeal is against a disciplinary decision short of dismissal made by the Accounting Officer in accordance with Regulation B7.4 details of the appeal must be sent to the Secretary of the Public Services Commission who will appoint another Accounting Officer to hear the appeal (either sitting alone or with not more than 2 other appropriate managers, who have had no previous involvement in the decision being appealed against).~~

~~f.—Where a person has been dismissed, he shall have a right of appeal in accordance with Regulation B13— Appeals against dismissal—below.~~

~~Last Updated: 22 September 2015— Amendment PSC CS 15-002~~

Previously updated: 15 May 2012—Amendment No. 12-006

~~B13 Appeals against dismissal~~

~~e) Appeals against dismissal shall be notified to the Secretary of the Commission who will arrange for it to be heard by a Panel of three persons, comprising Government employees from a different Department, Board or Office (or a combination thereof), than the one in which the civil servant is deployed.~~

~~f) The Appeal Panel will be drawn from separate lists of 'hearing officers' maintained by the Secretary of the Commission and comprising:~~

- ~~i. a list of persons to act as Panel Chair, who must be graded Senior Executive Officer or above (and equivalent)~~
- ~~ii. a list of persons occupying management roles within Government~~
- ~~iii. a list of persons occupying any role within Government, serving on the panel to provide an independent perspective~~

~~g) Persons appointed to the lists of 'hearing officers' may self-nominate or, with their consent, be nominated by a third party.~~

~~h) The Appeal Panel may, at its discretion, seek independent legal advice should it consider this necessary when considering the appeal.~~

~~The Appeal Panel will, in all cases, be advised by a representative of the Office of Human Resources.~~

New Regulation: 22 September 2015—Amendment PSC-CS 15-002

Note: Regulation B14 is blank.

~~B15 Appeals procedure~~

~~Appeals, stating the grounds upon which they are based, must be lodged in writing with the person or body which is to hear the appeal within 3 working days of a formal oral warning being given or within 5 working days of the date of the written notification of any other penalties.~~

~~The person or body hearing the appeal shall give at least 3 working days' notice to the civil servant (and to the Accounting Officer or other officer, as appropriate) of the date and venue of the hearing.~~

~~The procedure to be followed at the hearing of an appeal against a disciplinary penalty (other than the penalty of dismissal from the Service) shall be in accordance with the model procedure set out at Annex B3.~~

Last Updated: 22 September 2015—Amendment PSC-CS 15-002

Agreed and authorised by:

Signed on behalf of
Prospect

M. C. Hewel

Date: 28-10-2020

Signed on behalf of Unite
the Union

J Halsall

Date: 28-10-2020

Signed on behalf of the
Commission

[Signature]

Date: 28/10/2020

.....

For Office of Human Resources Use Only

Instruction for implementation:

Passed to Bryan Douglas

By [Signature]

Date 28/10/2020

An IOM Government All Staff Notice prior to implementation is*~~is not~~* required (*please delete as appropriate)

Signed [Signature]
Head of Industrial Relations and Policy Section

Date CS Regs updated:

Website [Signature]

Date 30-10-2020

Previous PSC CS Reg amendment reference (if any) :	
--	--

<u>Notes/Special Instructions:</u> Communication to Pay Sections required
--