



REPUBLIC OF NAURU

PUBLIC SERVICE (DISCIPLINARY) REGULATIONS 2020

SL No. 14 of 2020

Notified: 24th June 2020

Table of Contents

PART 1 - PRELIMINARY	3
1 Citation	3
2 Commencement.....	3
3 Objectives.....	3
4 Application of Regulations	3
5 Interpretation.....	4
PART 2 – CHIEF SECRETARY TO DEAL WITH MISCONDUCT	4
6 Powers of the Chief Secretary and Heads of Departments.....	4
7 Refusal by Head of Department to exercise power.....	4
PART 3 –MISCONDUCT	5
8 Misconduct.....	5
9 Multiplicity of disciplinary offences.....	5
PART 4 – PROCEDURE FOR COMPLAINTS AGAINST EMPLOYEES EXCEPT HEADS OF DEPARTMENTS OR CHIEF SECRETARY	5
10 Complaint.....	5
11 Head of Department may initiate investigation	5
12 Complaint against Head of Department and Chief Secretary	6
13 Complaint against an employee of the department of Chief Secretary	6
PART 5 – DECISION TO INVESTIGATE	6
14 Complaints with no merit.....	6
15 Complaints warranting investigation	6
16 Employee admits to complaint	6

17	Employee denies complaint	7
18	Investigation report to be provided to Chief Secretary	7
19	Formal charges	7
20	Employee admits charge	8
21	Employee denies charge	8
22	Committee to recommend.....	8
23	Chief Secretary to consider the penalty	8
24	Penalties.....	9
25	Failure of employee to respond or attend to any hearing	10
26	Notification of decision.....	10
27	Suspension.....	10
28	Chief Secretary to determine charge	11
	PART 6 - MISCELLANEOUS.....	11
29	Resignation pending disciplinary proceeding	11
30	Resignation pending criminal proceeding	11
31	Forms	11
32	Rules of evidence.....	11
33	Rules of natural justice	11
34	Repeal of Public Service (Disciplinary Procedure) Regulations 2016.....	12
35	Disciplinary proceedings under repealed Regulations to continue	12
	SCHEDULE 1.....	13
	SCHEDULE 2.....	15

Cabinet makes the following Regulations under *Section 97* of the *Public Service Act 2016*:

PART 1 - PRELIMINARY

1 Citation

These Regulations may be cited as the *Public Service (Disciplinary) Regulations 2020*.

2 Commencement

These Regulations come into effect on the day they are notified in the Gazette.

3 Objectives

The objectives of these Regulations are to:

- (a) foster professional employment relations in the public service;
- (b) promote mutual respect between employees and between employer and employees;
- (c) provide a framework for acceptable conduct in the workplace and the consequences of deviating from acceptable conduct;
- (d) ensure there is mutual knowledge and understanding between the employer and employees of the application of the disciplinary procedure and penalty for misconduct by an employee; and
- (e) provide a fair and impartial determination of any misconduct at the workplace.

4 Application of Regulations

- (1) These Regulations apply to all persons employed in the public service which include:
 - (a) public service employees;
 - (b) temporary employees;
 - (c) contract employees;
 - (d) Heads of Departments as specified in the Act and these Regulations;
 - (e) foreign service employees; and
 - (f) service providers whose terms and conditions of engagement is subject to the Act.
- (2) These Regulations may not apply to any persons employed under a written law which specifically provides for the terms and conditions of such employment.

5 Interpretation

In these Regulations:

'Code of Conduct' refers to the Code of Conduct in Section 8 of the Act;

'disciplinary proceedings' means the process of receiving complaint, investigation, hearing and determination of a misconduct;

'employee' includes persons referred to in Regulation 4;

'legal practitioner' has the same meaning it has in the *Legal Practitioners Act 2019*;

'Minister' means the Minister responsible for the Public Service unless stated otherwise;

'misconduct' has the meaning given to it in Regulation 8;

'relevant Head of Department' refers to the Secretary or person in charge of a Department in which a particular employee is employed.

PART 2 – CHIEF SECRETARY TO DEAL WITH MISCONDUCT

6 Powers of the Chief Secretary and Heads of Departments

- (1) Subject to subregulation (2), the Chief Secretary shall exercise disciplinary control over persons employed in the public service under the Act or any written law.
- (2) Subregulation (1) shall not apply to an employee whose employment is specifically governed by a written law, which provides for its own disciplinary procedure, process or penalty.
- (3) The Chief Secretary may in writing delegate powers to the Heads of Departments to exercise disciplinary control over employees.
- (4) The delegation of powers under subregulation (3) shall not prohibit the Chief Secretary from exercising such powers independent of the Head of Department, subject to an employee's right to protection under the principle of double jeopardy.
- (5) The Head of Department shall not exercise powers delegated to him or her under subregulation (3), where the Chief Secretary has already exercised or is in the process of exercising such powers.

7 Refusal by Head of Department to exercise power

Where the Chief Secretary reasonably believes that the Head of Department wilfully fails or neglects to exercise the power delegated to him or her under the Act or these Regulations, the Chief Secretary may:

- (a) direct the Head of Department to exercise such power and where the Head of Department fails to do so, the Chief Secretary may discipline the Head of Department and submit a report to the Minister; and

- (b) concurrently exercise such power himself or herself.

PART 3 – MISCONDUCT

8 Misconduct

A misconduct consists of:

- (a) a breach of the Code of Conduct;
- (b) a commission of a disciplinary offence in Schedule 1; or
- (c) a combination of both (a) and (b).

9 Multiplicity of disciplinary offences

- (1) Where misconduct may constitute a number of breaches of the Code of Conduct or disciplinary offences, the employee may be charged with the most serious of the disciplinary offences.
- (2) Where an employee is charged with multiple disciplinary offences arising from the same facts or conduct, the penalty shall reflect the most serious of the charges so that the penalty imposed is reasonably appropriate for the gravity or impact of such offence or offences.

PART 4 – PROCEDURE FOR COMPLAINTS AGAINST EMPLOYEES EXCEPT HEADS OF DEPARTMENTS OR CHIEF SECRETARY

10 Complaint

- (1) Any person may lodge a complaint in respect of an employee:
 - (a) to the relevant Head of Department in relation to an alleged misconduct of an employee; or
 - (b) to the Chief Secretary.
- (2) Where a complaint is lodged with the Chief Secretary, against an employee other than that of the Department of Chief Secretary, he or she shall refer the complaint to the relevant Head of Department for his or her consideration.
- (3) The complaint, insofar as practicable, shall be in writing and accompanied by available supporting evidence.
- (4) A complaint made under subregulation (1) or (2) shall be acknowledged in writing by the Head of Department or the Chief Secretary respectively.

11 Head of Department may initiate investigation

Notwithstanding Regulation 10, a Head of Department may initiate an investigation for any alleged misconduct in relation to any one or more of the employees in his or her Department, without a formal complaint.

12 Complaint against Head of Department and Chief Secretary

- (1) A complaint against a Head of Department may be made to the Chief Secretary in writing and accompanied by available supporting evidence.
- (2) A complaint against the Chief Secretary may be made to the Minister in writing and accompanied by available supporting evidence.

13 Complaint against an employee of the Department of Chief Secretary

For the purposes of investigating or considering a complaint against an employee of the Department of Chief Secretary, the reference to Head of Department in these Regulations, where applicable refers to the Chief Secretary.

PART 5 – DECISION TO INVESTIGATE

14 Complaints with no merit

Where a complaint against an employee is received by a Head of Department, he or she:

- (a) may summarily dismiss the complaint, with or without investigation, where it lacks merit;
- (b) shall inform the complainant of the decision; and
- (c) provide a copy of the decision to the Chief Secretary.

15 Complaints warranting investigation

- (1) Where a Head of Department is of the opinion that a complaint be investigated, he or she shall provide to the respective employee:
 - (a) a summary of the complaint including the alleged misconduct;
 - (b) where practicable, a copy of the complaint made against the employee including available supporting evidence; and
 - (c) a directive that the employee shall within 7 days from the date of the service of the documents provide a written response admitting or denying each and every allegation.
- (2) In providing the information under subsection (1), the Head of Department shall:
 - (a) inform the employee that based on the complaint and the response, disciplinary charges may be laid against him or her; and
 - (b) inform the employee that the employee may represent in person or be assisted by another person or a legal practitioner at any stage of the investigation, hearing or determination of a complaint.

16 Employee admits to complaint

- (1) Where the allegation is admitted by the employee, he or she shall:

- (a) admit the respective facts provided with or without any variations; and
 - (b) provide information or matters in Regulation 23, which the Chief Secretary may take into account as mitigation, when considering an appropriate penalty.
- (2) The Head of Department shall provide a report to the Chief Secretary.

17 Employee denies complaint

- (1) Where an allegation is denied, the employee shall:
- (a) provide detailed reasons of the denial of the allegations;
 - (b) submit available supporting evidence including any statement of a person he or she may rely on for the purposes of paragraph (a); and
 - (c) provide name, telephone, email or any other form of contact of any person he or she has obtained a statement from under paragraph (b).
- (2) Where necessary, the Head of Department may refer a summary of the employee's response to the complainant for any clarification.

18 Investigation report to be provided to Chief Secretary

The Head of Department within 7 days of the receipt of the employee's response in Regulation 17 shall provide to the Chief Secretary:

- (a) the complaint;
- (b) the response from the employee;
- (c) a report in Form 4 of Schedule 2 containing the following:
 - (i) a summary of the complaint and response;
 - (ii) the opinion of the Head of Department on the merits of the complaint;
 - (iii) the relevant employment records of the employee, if any, kept by the Department;
 - (iv) the alleged misconduct committed by the employee;
 - (v) the possible outcome of the complaint; and
 - (vi) the recommended penalty.

19 Formal charges

- (1) Upon receipt of the report in Regulation 18, and where the Chief Secretary is of the opinion that a misconduct has allegedly been committed, he or she shall formally charge the employee for such misconduct in Form 5 in Schedule 2.

- (2) The Chief Secretary shall cause the charge to be served to the employee within 10 days from the receipt of the report in Regulation 18.
- (3) The Chief Secretary shall provide to the relevant Head of Department a copy of the charge in subregulation (1).

20 Employee admits charge

Where the employee admits the allegations in the formal charge, the Chief Secretary shall:

- (a) subject to Regulation 16(1)(b), require the employee to provide any submissions on any matters in Regulation 23 he or she may consider for the purposes of penalty, if the same was not earlier provided; and
- (b) on receipt of any submissions, proceed to imposing an appropriate penalty under Regulation 24.

21 Employee denies charge

- (1) Where the employee denies the allegations in the formal charge:
 - (a) the Chief Secretary may consider the allegations on the report and accompanying documents provided by the Head of Department in Regulation 18 and find the employee guilty or not guilty on one or more of the charges; or
 - (b) the Chief Secretary, may establish a committee comprising of no more than 3 members to hear and recommend to the Chief Secretary on the formal charges.
- (2) The committee in subregulation (1)(b) shall, insofar as practicable, consist of a member who has at least 5 years of legal practice.

22 Committee to recommend

- (1) The committee shall hear and provide a report with a recommendation of its decision to the Chief Secretary no later than 10 days from the receipt of the directive in Regulation 21(1)(b) by the Chief Secretary.
- (2) On receiving the report from the committee, the Chief Secretary may consider all information and report of the committee, to make a determination as to whether the employee is guilty or not guilty of misconduct.

23 Chief Secretary to consider the penalty

- (1) Where an employee admits any allegation of misconduct or is found to have committed misconduct, the Chief Secretary in considering the penalty may direct the respective employee to provide mitigation submissions within 5 days, where the employee has not earlier provided the same under these Regulations.
- (2) In determining the penalty, the Chief Secretary may take into account one or more of the following matters:

- (a) nature of misconduct in particular, fraudulent conduct, politicising public service, bringing disrepute to the Executive, Judiciary or Legislature;
- (b) malice with which the employee acted;
- (c) time and place of misconduct;
- (d) the employee taking advantage of his or her official position;
- (e) taking advantage of the unique position of the victim;
- (f) use of Government property to commit the offence;
- (g) habituality or frequency of the commission of misconduct, despite counselling and irrespective of whether charged or not;
- (h) a first time offender;
- (i) education or qualification;
- (j) competence in the performance of work;
- (k) length of public service;
- (l) physical or mental impairment or illness; and
- (m) any other matters.

24 Penalties

- (1) Where an employee is found guilty of misconduct, the Chief Secretary may impose one or more of the following penalties:
 - (a) caution or reprimand the employee;
 - (b) reduce the salary payable to the employee within the applicable salary band;
 - (c) surcharge with mandatory deduction from salary by way of restitution any sum of money for the loss or damage caused by the employee to any Government property or consequential loss or damage to other property or person to which the Government may become liable to pay;
 - (d) forfeit any remuneration for the period of suspension without any remuneration before reinstating the employee;
 - (e) freeze any increments in the remuneration for a specified period of time;
 - (f) freeze any promotion in the public service for a specified period of time;
 - (g) impose a monetary fine;
 - (h) demote the employee;

- (i) suspend the employee for a specified period of time not exceeding 6 months without remuneration and such period shall include any period of suspension prior to the determination of the misconduct;
 - (j) transfer the employee to any other Department or position in the public service;
 - (k) offer an opportunity to the employee to resign in lieu of being terminated;
 - (l) terminate the employment;
 - (m) retire the employee in the public interest;
 - (n) a combination of one or more of the penalties; and
 - (o) any other penalty that the Chief Secretary may deem necessary.
- (2) Where an employee:
- (a) was suspended with half pay or without any remuneration;
 - (b) was demoted following the determination of the disciplinary offence for which he or she was suspended; and
 - (c) is entitled to receive any remuneration which was not paid during the period of suspension,
- he or she shall be paid remuneration based on the demoted position from the date of such suspension.

25 Failure of employee to respond or attend to any hearing

Where an employee, who has received a formal charge under Regulation 19 fails to respond to any request or direction by the Chief Secretary, the Chief Secretary may after the lapse of the specified time determine the charge and the appropriate penalty respectively.

26 Notification of decision

- (1) The Chief Secretary shall notify the employee in writing of his or her decision on the misconduct or penalty or both.
- (2) The decision of the Chief Secretary shall be kept as a record in the personal records of the employee kept by the Department of Chief Secretary, whether or not the employment is terminated.

27 Suspension

- (1) Where a Head of Department causes an investigation as to the conduct of an employee for breach of the Code of Conduct or commission of a disciplinary offence, he or she may suspend such employee with half pay pending investigation or final determination of the disciplinary proceeding.

- (2) Where the employee is suspended under subregulation (1) and the disciplinary proceeding has commenced, the Chief Secretary may, on the recommendation of the relevant Head of Department vary the suspension to be without remuneration pending the final determination of the disciplinary proceeding.
- (3) The Chief Secretary may suspend an employee, with or without remuneration, where the employee in the first instance was not suspended by the relevant Head of Department pending an investigation and the final determination of the disciplinary proceeding.
- (4) An employee may request the Chief Secretary to review the decision of suspension without remuneration, where no formal charges have been served to the employee or disciplinary proceeding has not commenced within 60 days of the date of suspension.

28 Chief Secretary to determine charge

- (1) The Chief Secretary shall within 90 days from the date of suspension or the service of the charge on an employee, whichever occurs first, make a final determination on such charge and penalty.
- (2) Where the Chief Secretary fails to comply with subregulation (1), the employee may be permitted to resume duties, pending final determination of the disciplinary proceeding.

PART 6 - MISCELLANEOUS

29 Resignation pending disciplinary proceeding

Where an employee resigns pending final determination of a disciplinary proceeding, such proceeding shall cease forthwith.

30 Resignation pending criminal proceeding

Where an employee resigns pending final determination of a criminal proceeding, any disciplinary proceeding arising out of or related to such criminal proceeding, if commenced, shall cease forthwith.

31 Forms

The forms in Schedule 2 may be modified as may be necessary.

32 Rules of evidence

- (1) The strict rules of evidence shall not apply to disciplinary proceedings.
- (2) Subject to Regulation 33, a disciplinary proceeding shall not be void for any want of form or procedure.

33 Rules of natural justice

- (1) A disciplinary proceeding conducted under these Regulations shall be in compliance with the rules of natural justice.

- (2) Where an employee is given the right to natural justice and if he or she fails to exercise such right, it shall not constitute a breach of the rules of natural justice.

34 Repeal of Public Service (Disciplinary Procedure) Regulations 2016

The *Public Service (Disciplinary Procedure) Regulations 2016* are hereby repealed.

35 Disciplinary proceedings under repealed Regulations to continue

Where disciplinary proceedings have been commenced under the *Public Service (Disciplinary Procedure) Regulations 2016*, such proceedings shall continue and be completed under these Regulations.

SCHEDULE 1
DISCIPLINARY OFFENCES

[Regulation 8]

The disciplinary offences which constitute misconduct are:

1. Habitual late attendance to work or official functions;
2. Absence from work without prior leave or permission;
3. Disobeying instructions of superiors or insubordination;
4. Failing to exercise proper supervisory functions;
5. Concealing defective or substandard work;
6. Malingering at the work place or inefficient use of time;
7. Verbal and physical fighting at the work place;
8. Use of indecent or vulgar language;
9. Giving wrong information for official purposes;
10. Neglect or dereliction of duties;
11. Failure to follow or obey written laws and public service policies;
12. Breach of trust and confidence;
13. Theft, fraud, irregularity, embezzlement, bribery, corruption or misappropriation of funds;
14. Breach of duty of official secrecy under the *Official Information Act 1976*;
15. Failure to protect or wilfully divulging information contained in data protection mechanisms including in electronic mails, cloud or other digital or electronic storage programs, laptops, iPads, phones and computers;
16. Falsification of records or violation or misuse of official information;
17. Misuse of electronic equipment including unauthorised access to computers and other records and files;
18. Reporting to work under the influence or consuming alcohol or illicit drugs at the work place;
19. Discrimination, bullying, harassment including sexual harassment;
20. Nepotism;

21. Failing to comply with the requirements of all different types of leave under Part 6 of the Act;
22. Failure to disclose conflicts of interest;
23. Damage to Government property including motor vehicles;
24. Arrogant, abusive or violent behaviour towards the members of the public or other employees;
25. Breach of *Public Service (Government Vehicles) Regulations 2017*;
26. Digital or electronic publishing, posting or messaging in social or mass media of any political, misleading or false information or any information which is likely to bring disrepute to the Government, President, Ministers or other employees;
27. Uttering, recording or livestreaming of any official information without prior approval of the Head of Department by means of social or mass media or any other electronic or digital form;
28. Immoral, indecent or disgraceful conduct at the work place;
29. Tampering with or entering of false entries into the attendance register;
30. Failure to promptly answer or respond to telephone calls to 557 numbers, electronic mails, IMO, messenger, hang outs, whatsapp, viber, text messages.

SCHEDULE 2

Form 1

[Regulation 15]

[COMPLAINT FOR ALLEGED MISCONDUCT]

[Insert Letterhead]

MEMORANDUM

FROM : Secretary for [insert Department]
TO : [insert name of employee] [insert position of employee]
DATE : [insert date]
RE : **COMPLAINT FOR ALLEGED MISCONDUCT**

1. This memorandum is issued to you under *Regulation 15* of the *Public Service (Disciplinary) Regulations 2020*. Pursuant to this Regulation, I am formally informing you of a complaint made against you for an alleged misconduct under the *Public Service Act 2016* and *Public Service (Disciplinary) Regulations 2020*.
2. It is alleged that on [insert date], you [insert actual allegations].
3. A copy of the complaint and supporting documents are attached [or a summary of the complaint is as follows...].

[NOTE: a summary is only necessary if the complaint cannot be attached for reasons of confidentiality or at the request from the complainant.]

4. Pursuant to *Regulation 15(2)*, you are required within 7 days from the date on which you were served or received this memorandum, [and the attached documents (if any)] to provide a response in writing to each of the allegations.
5. **TAKE NOTICE** that based on the complaint and any response by you, this complaint may be referred to the Chief Secretary for the commencement of disciplinary proceedings. If you fail to respond, the allegations will be referred to the Chief Secretary, who shall then proceed to deal with the matter under the *Public Service (Disciplinary) Regulations 2020*. A copy of the list of disciplinary offences contained in Schedule 1 of the *Public Service (Disciplinary) Regulations 2020* is attached for your information. Therefore, it is in your interest to timely respond to the allegations.

[insert name of Head of Department]
Secretary for [insert Department]

Attached:

Form 2

[Suspension by Head of Department]

[Regulation 27(1)]

[Insert Letterhead]

MEMORANDUM

FROM : Secretary for [insert Department]
TO : [insert name of employee] [insert position of employee]
DATE : [insert date]
RE : **SUSPENSION FOR ALLEGED MISCONDUCT**

1. This memorandum is issued pursuant to *Regulation 27(1)* of the *Public Service (Disciplinary) Regulations 2020*. By virtue of the powers vested to me under *Regulation 27*, I suspend you from work pending the investigation [or final determination of any contemplated disciplinary proceedings]. You will be paid 50% of your basic salary [or wages].
2. You are to hand over all the office equipment, passwords, keys to [*insert name of officer to whom the hand over is to be given*]. During the period of suspension, you will have no access to the office as such you must remove all your personal belongings from the office.
3. Whilst on suspension, you may be contacted by [*insert name of officer*] for the purposes of investigation.
4. Your suspension without remuneration shall continue until it is revoked by the Chief Secretary. In the event you are charged for a disciplinary offence, your suspension without remuneration shall continue unless you seek to have the decision to suspend remuneration reviewed by the Chief Secretary under *Regulation 27(4)* after a lapse of 60 days from the date of suspension.

[insert name of Head of Department]
Secretary for [insert Department]

Attached:

NOTE: Regulation 27(4) provides: 'An employee may request the Chief Secretary to review the decision of suspension without remuneration, where no formal charges have been served to the employee or disciplinary proceeding has not commenced within 60 days of the date of suspension.'

Form 3

[Suspension by Chief Secretary]

[Regulation 27(3)]

[Insert Letterhead of Department of Chief Secretary]

MEMORANDUM

FROM : Chief Secretary
TO : *[insert name of employee] [insert position of employee]*
DATE : *[insert date]*
RE : **SUSPENSION FOR ALLEGED MISCONDUCT**

1. This memorandum is issued pursuant to *Regulation 27(3)* of the *Public Service (Disciplinary) Regulations 2020*. By virtue of the powers vested to me under the *Regulation 27(3)*, I suspend you from work pending the investigation [or final determination of any contemplated disciplinary proceedings]. You are suspended without any salary [or you will be paid 50% of your basic salary (or wages)].
2. You are to hand over all the office equipment, passwords, keys to *[insert name of officer to whom the hand over is to be given]*. During the period of suspension, you will have no access to the office as such you must remove all your personal belongings from the office.
3. Whilst on suspension, you may be contacted by *[insert name of officer]* for the purposes of investigation.
4. Your suspension shall continue until it is revoked by me. In the event you are charged for a disciplinary offence, your suspension without remuneration shall continue, unless you seek to have the decision to suspend remuneration reviewed by me under *Regulation 27(4)* after a lapse of 60 days from the date of suspension.

[insert name of Chief Secretary]

Chief Secretary

Attached:

***NOTE: Regulation 27(4) provides:** ‘An employee may request the Chief Secretary to review the decision of suspension without remuneration, where no formal charges have been served to the employee or disciplinary proceeding has not commenced within 60 days of the date of suspension.’*

[INVESTIGATION REPORT]

[Insert Letterhead of Department of Chief Secretary]

MEMORANDUM

FROM : Secretary for [insert name of Department]
TO : Chief Secretary
DATE : [insert date]
RE : INVESTIGATION REPORT FOR ALLEGED MISCONDUCT – [insert name of employee]

Pursuant to Regulation 18(c) of the Public Service (Disciplinary) Regulations 2020, find enclosed herewith is a duly completed form containing the following:

- (i) ...
- (ii) ...
- (iii) ...
- (iv) ...
- (v) ...
- (vi) ...
- (vii) ...
- (viii) ...

[insert name of Head of Department]
Secretary for [insert Department]

Attached:

Complete and attach this Form

<p>FULL NAME OF EMPLOYEE:</p> <p>POSITION:</p> <p>Department of[insert name of Department]</p>
<p>SUMMARY OF COMPLAINT:</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p>

.....
.....
.....

SUMMARY OF EMPLOYEE’S RESPONSE:
.....
.....
.....
.....
.....
.....
.....

OPINION ON THE MERITS OF THE COMPLAINT:
.....
.....
.....
.....
.....
.....

RELEVANT EMPLOYMENT RECORDS OF EMPLOYEE: *[Attach separately if needed]*
.....
.....
.....
.....
.....
.....

NATURE OF ALLEGED MISCONDUCT: *[Tick the applicable misconduct]*

- Breach of code of conduct
- Habitual late attendance to work or official functions
- Absenteeism without prior leave or permission
- Disobeying instructions of superiors or insubordination
- Failing to exercise proper supervisory functions
- Concealing defective or substandard work
- Malingering at the work place or inefficient use of time
- Verbal and physical fighting at the work place
- Use of indecent or vulgar language
- Giving wrong information for official purposes
- Neglect or dereliction of duties
- Failure to follow or obey written laws and public service policies
- Breach of trust and confidence
- Theft, fraud, irregularity, embezzlement, bribery, corruption or misappropriation of funds

- Breach of duty of official secrecy under the *Official Information Act 1976*
- Failure to protect or wilfully divulging information contained in data protection mechanisms including in electronic mails, cloud or other digital or electronic storage programs, laptops, iPads, phones and computers
- Falsification of records or violation or misuse of official information
- Misuse of electronic equipment including unauthorised access to computers and other records and files
- Reporting to work under the influence or consuming alcohol or illicit drugs at the work place
- Discrimination, bullying, harassment including sexual harassment
- Nepotism
- Failing to comply with the requirements of all different types of leave under Part 6 of the Act
- Failure to disclose conflicts of interest
- Damage to Government property including motor vehicles
- Arrogant, abusive or violent behaviour towards the members of the public or other employees
- Breach of *Public Service (Government Vehicles) Regulations 2017*
- Digital or electronic publishing, posting or messaging in social or mass media of any political, misleading or false information or any information which is likely to bring disrepute to the Government, President, Ministers or other employees
- Uttering, recording or livestreaming of any official information without prior approval of the Head of Department by means of social or mass media or any other electronic or digital form
- Immoral, indecent or disgraceful conduct at the work place
- Tampering with or entering of false entries into the attendance register
- Failure to promptly answer or respond to telephone calls to 557 numbers, electronic mails, IMO, messenger, hang outs, whatsapp, viber, text messages

POSSIBLE OUTCOME OF THE COMPLAINT:

.....

RECOMMENDED PENALTY: *[Tick the recommended penalty or penalties]*

- Caution or reprimand the employee
- Reduce the salary payable to the employee within the applicable salary band
- Surcharge with mandatory deduction from salary by way of restitution any sum of money for the loss or damage caused by the employee to any Government property
- Forfeit any remuneration for the period of suspension without any remuneration before reinstating the employee
- Freeze any increments in the remuneration for a specified period of time
- Freeze any promotion in the public service for a specified period of time
- Impose a monetary fine
- Demote the employee
- Suspend the employee for a specified period of time not exceeding 6 months without remuneration and such period shall include any period of suspension prior to the determination of the misconduct
- Transfer the employee
- Offer an opportunity to the employee to resign in lieu of being terminated
- Terminate the employee
- Retire the employee in the public interest

ANY OTHER PENALTY: *[state below any other penalty you may wish to recommend to the Chief Secretary]*

.....
Head of Department [<i>Insert name</i>]:
Signature: Date:

Form 5

[DISCIPLINARY CHARGE]

[Regulation 19]

[Insert Letterhead of Department of Chief Secretary]

MEMORANDUM

FROM : Chief Secretary
TO : [insert name of employee] [insert position of employee]
DATE : [insert date]
RE : **DISCIPLINARY CHARGES FOR MISCONDUCT**

1. I have considered the complaint, [response if provided], information provided by the Secretary for [insert Department]. Based on the powers vested in me under *Regulation 19*, I am of the opinion that the complaint constitutes an alleged misconduct.
2. Pursuant to the powers vested in me under *Regulation 19(1)* of the *Public Service (Disciplinary) Regulations 2020*, I formally charge you for the following disciplinary offence [offences] under the *Public Service (Disciplinary) Regulations 2020*:

Statement of Offence

MISCONDUCT contrary to *Section 8* of the *Public Service Act 2016*, *Regulation 8* and *Schedule 1* of the *Public Service (Disciplinary) Regulations 2020*.

Particulars of Offence

[Insert name of the employee], it is alleged against you as a public service employee serving as the [insert position of the employee] in the Department of [insert name of the Department] that on or about [insert date], you [insert details of the alleged misconduct].

3. This disciplinary charge is served to you under *Regulation 19(2)* of the *Public Service (Disciplinary) Regulations 2020*.
4. *Regulation 20* provides you with an opportunity to admit the charge. You may also deny the charge under *Regulation 21*. You are required to provide your response either admitting or denying the charge to me within 7 days of the receipt of this formal charge. You may also provide any information, evidence or facts which in your view is necessary for my deliberation.
5. After receiving your response, I will deliberate upon the charges. You may be required to attend in person before me or I may deliberate on the charges based on the information already provided.

6. Pursuant to *Regulation 21(1)(b)*, I may exercise my discretion to refer the charges to a committee for a recommendation.
7. If you are found guilty of any disciplinary offence, you will be informed of the same under *Regulation 26*.
8. In the event you admit the charges, you may make submissions for mitigation as to the penalty which I may impose. *Regulation 23* provides for matters which I must consider for the purposes of the penalty.
9. **TAKE NOTICE** that if you fail to respond under *Regulation 20* or *Regulation 21*, I will proceed to deliberate upon the disciplinary charges based on the information already provided to me. Therefore, it is in your interest and in compliance with the requirements of natural justice under *Regulation 33* for you to provide all the information that you deem appropriate.

[insert name of the Chief Secretary]

Chief Secretary

FORM 6

[Regulation 21]

[NOTICE OF HEARING]

[Insert Letterhead of Department of Chief Secretary]

MEMORANDUM

FROM : Chief Secretary
TO : *[insert name of employee] [insert position of employee]*
DATE : *[insert date]*
RE : **NOTICE OF HEARING**

TAKE NOTICE that the disciplinary proceedings commenced against you will be heard before me *[committee]* on *[insert date]*. You are required to attend the hearing.

Please note that you may defend yourself in person or engage the services of a legal practitioner or another person. During the hearing, you are also allowed to call witnesses, tender documents and make submissions which you intend to be considered for the decision.

It is in your interest to attend the hearing as I will make a decision under *Regulation 25* even if you fail to attend the hearing.

[insert name of Chief Secretary]
Chief Secretary

NOTE: Regulation 25 provides: *'Where an employee, who has received a formal charge under Regulation 19 fails to respond to any request or direction by the Chief Secretary, the Chief Secretary may after the lapse of the specified time determine the charge and the appropriate penalty respectively.'*

FORM 7

[Regulation 28]

[DECISION ON DISCIPLINARY CHARGES]

[Insert Letterhead of Department of Chief Secretary]

MEMORANDUM

FROM : Chief Secretary
TO : [insert name of employee] [insert position of employee]
DATE : [insert date]
RE : **DECISION ON DISCIPLINARY CHARGES**

Pursuant to the powers vested in me under *Regulation 28* of the *Public Service (Disciplinary) Regulations 2020* and based on the information or evidence provided by the [insert names of any persons] and you, I have reached the following conclusion:

- (a) I find you not guilty and acquit you on all counts; or
- (b) I find you guilty on counts XXX and not guilty on counts YYY, as such acquit you on counts YYY and proceed to considering the penalty on count XXX.

I am attaching a copy of my decision and the reasons for the same.

[insert name of Chief Secretary]
Chief Secretary

Attached: Decision on disciplinary charges.

NOTE: *You have been found guilty of XX offence. You have the right to appeal the decision but this right can only be exercised after the penalty has been given.*

FORM 8

[Regulation 24]

[DECISION ON PENALTY]

[Insert Letterhead of Department of Chief Secretary]

MEMORANDUM

FROM : Chief Secretary
TO : *[insert name of employee] [insert position of employee]*
DATE : *[insert date]*
RE : **DECISION ON PENALTY**

After considering the matters which I am required to under *Regulation 23* and pursuant to the power vested in me under *Regulation 24* of the *Public Service (Disciplinary) Regulations 2020*, I impose the following penalties:

[insert the penalties]

I am attaching a copy of my decision and the reasons for the same.

[insert name of Chief Secretary]
Chief Secretary

Attached: Decision on penalty.

NOTE: Pursuant to Part 8 of the Act, you have the right to appeal within 14 days of the decision being made.

FORM 9

[Section 82A]

[SUMMARY TERMINATION]

[Insert Letterhead of Department of Chief Secretary]

MEMORANDUM

FROM : Chief Secretary
TO : [insert name of employee] [insert position of employee]
DATE : [insert date]
RE : **SUMMARY TERMINATION**

Pursuant to *Section 82A* of the *Public Service Act 2016*, you committed a [insert offence] for which you are liable to be summarily terminated.

Based on the following information [insert list of information], you are formally dismissed from employment with immediate effect.

You will be paid your accrued benefits and entitlements under the *Public Service Act 2016*.

[insert name of Chief Secretary]
Chief Secretary