

THE STATUTORY BODIES (CONDUCT AND DISCIPLINE) REGULATIONS 1995

In exercise of the powers conferred by section 5(1) of the Statutory Bodies (Disciplinary Provisions) Enactment 1994, the Yang di-Pertua Negeri Sabah hereby makes the following regulations:

PART I PRELIMINARY

Short title and commencement.

1. These Regulations may be cited as the Statutory Bodies (Conduct and Discipline) Regulations 1995 and shall come into force on such date as the Chief Minister may, by notice in the *Gazette*, appoint.

Application.

2. These Regulations shall apply to an employee throughout the period of his service. The breach of any provision of these Regulations shall render an employee liable to disciplinary action.

Interpretation.

3. In these Regulations unless the context otherwise requires –

"convicted" or "conviction" includes a finding or an order involving a finding of guilt by a criminal court in Malaysia or elsewhere, or by a competent body conferred with the power to conduct summary investigation under any written law that the person charged or accused has committed an offence;

"Disciplinary Authority" means the appropriate statutory body and includes a committee to which the statutory body delegates its power under these Regulations;

"Division" includes a unit;

"employee" means an employee of the statutory body whether on contract, permanent or temporary employment;

"general manager" includes the chief executive officer of a statutory body by whatever name called.

Code of Conduct.

4. The following is the code of conduct of employees of statutory body. The breach of any of the provisions of this code by an employee renders him liable to disciplinary action under these Regulations:

(1) An employee shall at all times and on all occasions give his undivided loyalty and devotion to the Yang di-Pertuan Agong, Yang di-Pertua Negeri Sabah, Federal Government, State Government, the Country and the Statutory Body.

(2) An employee shall not –

- (a) subordinate his official duty to his private interests;
- (b) conduct himself in such manner as is likely to bring his private interests into conflict with his official duty;
- (c) conduct himself in any manner likely to cause a reasonable suspicion that –
 - (i) he has allowed his private interests to come into conflict with his official duties so as to impair his usefulness as employee;
 - (ii) he has used his official position for his advantage;
- (d) conduct himself in such manner as to bring the statutory body into disrepute or to bring discredit thereto;
- (e) lack efficiency or industry;

- (f) be dishonest;
- (g) be irresponsible;
- (h) bring or attempt to bring any form of outside influence or pressure to support or advance any official claim relating to the statutory body whether the claim is his individual, or that of other employees of the statutory body;
- (i) be insubordinate, or conduct himself in any manner which can reasonably be construed as being insubordinate.

Outside employment.

5. (1) Save insofar as he is required in the course of his duty or is expressly authorised by the statutory body to do so, an employee shall not –

- (a) take part directly or indirectly in the management or proceedings of any commercial, agricultural or industrial undertaking;
- (b) undertake for reward any work for any institution, company, firm or private individual;
- (c) as an expert, furnish any report or give expert evidence, whether gratuitously or for reward; or
- (d) function as an executor, administrator or receiver.

(2) An employee may nonetheless apply for permission to undertake specified services of the type mentioned in sub-regulation (1) of this regulation for the benefit of himself or his close relatives or for any non-profit making body of which he is an office holder.

(3) In considering whether or not permission should be granted, the statutory body shall have regard to the code of conduct laid down in regulation 4 and, in particular, shall ensure that by such permission –

- (a) the outside employment shall not in any way tend to impair his usefulness as an employee; and

(b) the occupation or undertaking does not in any way tend to conflict with the interest of the statutory body or be inconsistent with his position as an employee.

(4) An employee on leave including leave prior to retirement shall not accept any private employment for reward without prior written permission of the statutory body.

(5) Save insofar as it may otherwise be prescribed, all sums received by any employee by way of remuneration for rendering any of the services mentioned in sub-regulation (1) of this regulation shall be paid into the statutory body as deposit pending its decision as to the amount, if any, which may be retained by the employee personally and by members of his staff.

Presents, etc.

6. (1) Subject to the provisions of this regulation, and regulation 7, an employee shall not receive or give, nor shall be allowed his spouse, children (if any, including adopted children), parents, relatives or any person to receive or give on his behalf, directly or indirectly any present from or to any person –

(a) whether or not the receipt or the giving of such present is in any way connected with the performance of the employee's official duties; and

(b) whether or not such present is in the form of cash, goods, articles, free passages, travel facility, service, entertainment, or any other benefits whatsoever tangible or otherwise.

(2) An employee shall not receive from any person, association, body or group of persons, or from any other employee any token of value but the statutory body may permit the employee to receive an address from any of them, on the occasion of the employee's retirement or transfer provided that such address is not enclosed in any receptacle of value.

(3) Permission may be granted by the statutory body to enable the collection of spontaneous subscriptions by employees or private uncanvassed collections from amongst the said employees, for the purpose of making a presentation to an employee on the

occasion of the said employee's retirement, transfer or marriage or the marriage of the said employee's child or any other appropriate occasion.

(4) Where the circumstances make it difficult for an employee to refuse a present or token of value the receipt of which is prohibited by this regulation (for example where no previous notice or intention to offer a present has been given) it may formally be accepted but he shall as soon as practicable submit the present or token together with a report in writing to the General Manager containing the full description and estimated value of the present or token and the circumstances under which it was received, and the General Manager shall forward the report with his comments to the Disciplinary Authority. Pending the decision of the Disciplinary Authority, the General Manager shall be responsible for the safe custody of the present or token.

(5) Upon receipt of the report under sub-regulation (4) of this regulation the Disciplinary Authority shall decide either –

- (a) to permit the employee to retain the present; or
- (b) to direct that the present be returned to the giver through the General Manager.

Entertainment.

7. An employee shall not give or accept entertainment of any description to or from any person, organization, or group of persons where such entertainment could in any manner influence the performance of his official duties as an employee in favour of the interest of any person, organisation, or group, or as being in any way inconsistent with the provision of the code of conduct laid down in regulation 4.

Ownership of movable or immovable property.

8. (1) An employee appointed into the service of the statutory body shall upon his appointment declare to the Disciplinary Authority through the General Manager all property, whether movable or immovable (excluding moveable property which is reasonably in actual and current use by him, his spouse, or his children), belonging to him or held by any person on his behalf or on behalf of his spouse or children or if there is no such property he shall

report accordingly. The General Manager shall cause this fact to be recorded in the Employee's Confidential Record of Service Book.

(2) Where, after making a declaration under sub-regulation (1) an employee or his spouse or children acquires any property, whether movable or immovable either directly or indirectly (excluding movable property which is reasonably required for personal use by him, his spouse or children) he shall report immediately such acquisition to the Disciplinary Authority through the General Manager.

(3) Where an employee or his spouse or child proposes to acquire any property, either directly or indirectly, whether movable or immovable, and the proposed acquisition is inconsistent with the provisions of regulation 4 the acquisition shall not be made without the employee having first obtained the permission in writing from the statutory body.

(4) In deciding whether or not to grant permission under sub-regulation (3) of this regulation the statutory body shall have regard to the following:

- (a) the size, amount or value of the holding, investment, house, land or property in relation to the employee's official emoluments and any legitimate private means;
- (b) whether the acquisition or holding thereof will or is likely to conflict with the interest of the statutory body or in any way inconsistent with the code of conduct laid down in regulation 4;
- (c) the opinion of the General Manager or the Chairman, if the former is the employee involved;
- (d) any other factor which the statutory body may consider necessary for upholding the integrity and efficiency of the statutory body.

(5) In this regulation –

"property" includes property of any description as may be prescribed by the statutory body from time to time;

"child" includes an adopted child but does not include a child who is not dependent on the employee.

Living beyond official emoluments and legitimate private means.

9. (1) Where the Disciplinary Authority is of the opinion that an employee is or appears to be –

- (a) maintaining a standard of living which is beyond his official emoluments and other legitimate private means, if any; or
- (b) in control or in possession of pecuniary resources or property, movable or immovable, the value of which is disproportionate to, or which could not reasonably be expected to have been acquired by the employee with his official emoluments and legitimate private means,

the Disciplinary Authority shall, by letter, call upon the employee to explain in writing within a period of 30 days from the receipt of such letter how he is able to maintain the said standard of living or how he came by his pecuniary resources or property.

(2) Upon receipt of the explanation from the employee concerned or if the employee fails to give any explanation, the Disciplinary Authority may thereupon take disciplinary action against the employee with a view to dismissal in accordance with regulation 26 or take such steps as it may deem fit.

Borrowing money.

10. (1) No employee may borrow from any person or stand as surety or guarantor to any borrower, or in any manner place himself under any pecuniary obligation to any person –

- (a) who is directly or indirectly subject to his official authority;
- (b) with whom the employee has or is likely to have official dealings;
- (c) who resides or possesses land or carries on business within the local limits of his official authority; or
- (d) who carries on the business of money lending.

For the purpose of this regulation the word "person" shall include a body corporate or unincorporated.

(2) An employee may, however, borrow from banks, insurance companies, co-operative societies, or borrowing companies licensed under the Banking and Financial Institutions Act 1989 [Act 372] or incur debt through acquiring goods by means of hire purchase agreements provided that –

- (a) such banks, insurance companies, co-operative societies or borrowing companies from which the employee borrows are not directly subject to his official authority;
 - (b) such borrowings shall not lead to public scandal or be construed that the employee has abused his official position to his private advantage; or
 - (c) the aggregate of his debts does not or is not likely to cause him serious pecuniary indebtedness as defined under regulation 11.
- (3) Subject to sub-regulation(2), an employee may incur the following debts:
- (a) sums borrowed on the security of land charged or mortgaged, where the said sums do not exceed the value of the said land;
 - (b) overdrafts allowed by banks;
 - (c) sums borrowed from insurance companies on the security of policies;
 - (d) sums borrowed from the Government, the statutory body or cooperative societies;
 - (e) sums due on goods acquired by means of hire-purchase agreements.

Serious pecuniary indebtedness.

11. (1) For the purpose of these Regulations the expression "serious pecuniary indebtedness" means the state of an employee's indebtedness which, having regard to the amount of debts incurred by him, has actually caused serious financial hardship to him; and

without prejudice to the general meaning of the said expression, an employee shall be deemed to be in serious pecuniary indebtedness –

- (a) where he is a judgment debtor and the judgment debt has not been settled within one month of the date of the judgment; or
- (b) where he is a bankrupt or an insolvent wage earner, as the case may be, for so long as any judgment against him in favour of the Official Assignee remains unsatisfied.

(2) Serious pecuniary indebtedness from whatever cause other than the result of unavoidable misfortune not contributed to in any way by the employee himself shall be regarded as bringing the statutory body into disrepute and shall render him liable to disciplinary action.

(3) If serious pecuniary indebtedness which has occurred is the result of unavoidable misfortune, the statutory body may give the employee such assistance as the circumstances appear to warrant.

(4) If an employee finds that his debts cause or are likely to cause serious pecuniary indebtedness to him, he shall forthwith report this fact to the statutory body.

(5) An employee who fails or delays in reporting his serious pecuniary indebtedness or who reports the same but fails to disclose its full extent or gives false or misleading account thereof, shall be guilty of a serious breach of discipline (whatever the first cause of the indebtedness may be), and shall render himself liable to disciplinary action.

(6) As long as an employee is in serious pecuniary indebtedness he may be disqualified for promotion or acting in a higher appointment or covering another post in addition to his duties.

(7) Where an employee's debts amount to serious pecuniary indebtedness but he has not been adjudged a bankrupt or an insolvent wage earner, his case shall be reviewed annually by the statutory body.

Report of serious pecuniary indebtedness, etc. from courts or Official Assignee.

12. (1) The General Manager shall obtain report from the Registrar or Senior Assistant Registrar of the High Court in respect of proceedings in the High Court and Registrar of the Subordinate Courts in respect of proceedings in the Sessions and Magistrates Courts on every case of an employee –

- (a) who, being a judgment debtor, does not appear from the file of the suit to have settled the debt within one month from the date of judgment;
- (b) who has filed his own petition in bankruptcy or for a wage earner's administration order; or
- (c) against whom a creditor's petition in bankruptcy has been presented.

(2) The General Manager shall obtain report from the Official Assignee as soon as the latter has sufficiently investigated the affairs of an employee who is a bankrupt or an insolvent wage earner, on the following:

- (a) the Statement of Affairs filed by the bankrupt or an insolvent wage earner in accordance with the bankruptcy law in force from time to time;
- (b) the amount of instalment order proposed or made;
- (c) whether or not the Official Assignee proposes to initiate any further proceedings and, if so a brief indication of their nature;
- (d) the main cause of the bankruptcy;
- (e) whether in his opinion the case involves unavoidable misfortune, dishonourable conduct or any other special circumstances, favourable or unfavourable to the employee;
- (f) any other matter which in his discretion he thinks it proper to mention.

(3) On consideration of the report under sub-regulation (2) of this regulation and a report by General Manager on the employee's work and conduct before and since he has

been in serious pecuniary indebtedness the Disciplinary Authority shall decide whether to take disciplinary action, and if so, what action to be taken.

(4) If the punishment imposed under sub-regulation (3) of this regulation takes the form of a stoppage or deferment of increment, the Disciplinary Authority may, on the expiry of the said stoppage or deferment of increment, order that an amount equivalent to the restored increment be added to the instalments payable to the Official Assignee or any judgment creditor.

(5) An employee who obtains annulment of his bankruptcy may be treated as having fully restored his credit.

Lending money.

13. An employee shall not lend money at interest whether with or without security, provided that placing money on fixed deposit in any bank or in an account in any bank or in any borrowing company licensed under the Banking and Financial Institutions Act 1989 [Act 372], or in any security or stocks issued by the Government or by any statutory body, shall not be regarded as lending money at interest.

14. (Omitted).

Raffles and lotteries.

15. An employee shall not hold raffles or lotteries of his private property.

Publication of books.

16. An employee shall not publish or write any book, article or other works which is based on classified official information.

Prohibition of public statements.

17. (1) An employee shall not, either orally or in writing or in any other manner, make any public statement detrimental to any policy or decision of the statutory body nor shall he circulate any such statement whether made by him or any one else.

(2) An employee shall not, either orally or in writing or in any other manner make any public statement or comment on any matter relating to the work of the statutory body –

(a) where such statement or comment may reasonably be regarded as indicative of the policy of the statutory body except with the permission of the General Manager; or

(b) where such statement or comment may embarrass the statutory body.

(3) For the purpose of this regulation, "public statement" includes the making of any statement or comment to the press or to the public or in the course of any public lecture or speech or in any broadcast by sound or vision.

Prohibition on acting as editor, etc. of newspapers etc.

18. (1) An employee shall not act as the editor, or take part directly or indirectly in the management of any publication, including newspaper, magazine or journal except the following:

(a) department or staff publications;

(b) professional publications; and

(c) publications of non-political voluntary organisations:

Provided the prior written permission of the statutory body is obtained.

Political activities.

19. (1) For the purpose of participating in political activities employees are divided into two groups as follows:

(a) Group 'A' - This group comprises of the employees who are holding appointments requiring a University Degree or professional qualifications as the entry qualification.

(b) Group 'B' - This group comprises of employees not in Group 'A'.

(2) Except as provided in sub-regulation (4), an employee in Group 'A' shall be prohibited from taking part in or carrying on political activities or wearing any emblem of a political party. Such employee shall not express any view in any political matters, and in particular he shall not –

- (a) make a statement in public orally or in writing, so as to adopt a partisan view on any matter which is an issue between political parties;
- (b) publish or circulate books, articles or leaflets setting forth his partisan views on matters pertaining to a political party;
- (c) engage in canvassing in support of any candidate at an election to any office in any political party; or
- (d) act as an election agent or a polling agent or in any capacity for or on behalf of candidate at an election to the Dewan Rakyat or any State Legislative Assembly.

(3) An employee in Group 'B' may be appointed as committee member of any political party after first obtaining the written approval of the statutory body.

- (4) (a) An employee who is on leave prior to retirement may participate actively in political activities provided –
 - (i) he has obtained prior written approval of the statutory body to participate in such activities; and
 - (ii) by being so engaged he does not contravene the provisions of the Official Secrets Act 1972 [Act 88].
- (b) An application for permission to participate actively in political activities may be made at any time before he goes on leave prior to retirement.

Institution of legal proceedings and legal aid.

20. (1) Where an employee desires legal aid as provided under sub-regulation (3) of this regulation he shall not institute legal proceedings in his own personal interests in

connection with matters arising out of his official duties without the prior consent of the statutory body.

(2) An employee who receives a notice of the intended institution of legal proceedings against him in connection with matters arising out of his official duties or who receives any process of court relating to the said legal proceedings shall immediately report the matter to the General Manager for instruction as to whether and how the notice or the process of the court, as the case may be, is to be acknowledged, answered or defended.

(3) An employee who desires legal aid to retain and instruct an advocate and solicitor for the purpose of legal proceedings in connection with matters arising out of his official duties may make an application to the statutory body. The said application shall contain all the facts and circumstances of the case together with the considered opinion of the relevant Head of Division as to the nature of the employee's involvement.

(4) On receipt thereof the statutory body may after having considered the advice of legal counsel as to –

- (a) the amount of legal aid to be approved;
- (b) the advocate and solicitor to be retained and instructed by the employee;
or
- (c) any other conditions which the legal counsel may consider advisable,

approve or reject the said application subject to an implied condition that in the event of the employee being awarded cost by the court at the conclusion of the said legal proceedings, no payment in respect of the legal aid so approved will be made by the statutory body unless the amount of cost so awarded to him is insufficient to meet charges for retaining and instructing an advocate and solicitor.

(5) Charges for employing an advocate and solicitor retained and instructed by or on behalf of an employee in legal proceedings in connection with matters arising out of his official duties otherwise than by virtue of approval by the statutory body will not be paid for from the statutory body's funds.

Absence without leave.

21. (1) Absence without leave or prior permission or without reasonable cause shall render an employee liable to disciplinary action.

(2) For the purpose of this regulation, "absence" includes failure to be present for any length of time whatsoever at a time and place where the employee is required to be present for the performance of his duties.

(3) Where an employee is absent for a period not exceeding seven working days in any calendar month, upon report by the Head of Division, the Disciplinary Authority concerned in cases where it is not considered justifiable to initiate disciplinary action with a view to dismissal, may deal with the employee in accordance with regulation 25 and impose such punishment as it may deem fit and in that event, he shall not be entitled to any salary or remuneration for the period of his absence.

(4) Where an employee is absent for a period exceeding seven working days in any calendar month, or exceeding seven working days consecutively, that fact shall forthwith be reported by the Head of Division concerned to the Disciplinary Authority together with the dates and the circumstances of the absence and any further information which may be required concerning the employee. Upon consideration of the said report, the said Disciplinary Authority may then institute disciplinary action against the employee in accordance with regulation 26 with a view to dismissal or reduction in rank. Pending the decision of the Disciplinary Authority, the employee shall not be entitled to any salary or remuneration for the period of his absence.

(5) Where an employee is absent and cannot be traced, the Head of Division shall cause to be sent to the employee's last known address an "A.R." (Acknowledged of Receipt) registered letter requiring him to give an explanation as to his absence at the same time directing him to report for duty at once. If within seven days after the receipt of the letter the employee reports for duty, the Disciplinary Authority shall institute disciplinary action either under sub-regulation (3) or (4) of this regulation. If seven days after the receipt of the letter by the employee, he is still absent or nothing is heard of or from him, the Head of Division concerned shall proceed to submit a report to the Disciplinary Authority as required under sub-regulation (4). Upon consideration of the said report the Disciplinary Authority shall institute disciplinary action either under sub-regulation (3) or (4) of this regulation, but in case

where the said letter is returned undelivered, the Disciplinary Authority shall take steps to notify in a local newspaper the fact of the employee's absence and his untraceability.

(6) If despite notification in the local newspaper the employee fails to return for duty within a period of seven days from the date of the publication in the newspaper, the employee shall be deemed to have been dismissed from the service with effect from the date of his absence.

(7) If within seven days after the publication in the newspaper the employee reports for duty, the Disciplinary Authority shall institute disciplinary action either under sub-regulation (3) or (4) of this regulation.

Reporting unsatisfactory work or conduct.

22. (1) It is the duty of every employee to report to the Head of Division in every case of the breach of any of the provisions of these Regulations including unsatisfactory work or conduct.

(2) Failure to do so shall deem the employee guilty of inefficiency and renders him liable to disciplinary action.

PART II

DISCIPLINARY PROCEDURE

Condition for dismissal or reduction in rank.

23. In all disciplinary proceedings under this Part no employee shall be dismissed or reduced in rank unless he has been informed in writing of the grounds on which it is proposed to take action against him and has been afforded in a reasonable opportunity of being heard:

Provided that this regulation shall not apply to the following cases:

- (a) where the Disciplinary Authority is satisfied that for some reason, to be recorded by it in writing, it is not reasonably practicable to carry out the requirements of the regulation; or

- (b) where the Yang di-Pertuan Agong or the Yang di-Pertua Negeri is satisfied that in the interest of the security of the Federation or any part thereof it is not expedient to carry out the requirements of this regulation.

Disciplinary Authority to determine nature of offence.

24. In every case of an alleged breach of discipline by any employee except as provided for under regulation 27(1) (a) and (b), the Disciplinary Authority shall in the first instance, before commencing any disciplinary proceeding in the matter consider whether the breach of discipline complained of is a nature which merits a punishment of dismissal or reduction in rank or a punishment lesser than dismissal or reduction in rank.

Procedure in cases meriting punishment lesser than dismissal or reduction in rank.

25. (1) Where the Disciplinary Authority decides under regulation 24 that the breach of discipline alleged merits punishment lesser than dismissal or reduction in rank, the employee shall be informed in writing of the facts of the breach of discipline alleged against him and be given an opportunity of making a representation in writing against the allegation.

(2) After considering the representation under sub-regulation (1) the Disciplinary Authority shall determine whether or not the employee is guilty of the alleged breach of discipline and if it determines that he is guilty thereof it shall impose any one or more of the punishments specified in regulation 36.

Procedure in cases meriting punishment of dismissal or reduction in rank.

26. (1) Where it is represented to, or is found by, the Disciplinary Authority that an employee is guilty of unsatisfactory work or misconduct and such work or misconduct, in the opinion of the Disciplinary Authority, merits dismissal or reduction in rank, the following provisions shall apply.

(2) The Disciplinary Authority shall, after considering all the available information in its possession that there is a *prima facie* case for dismissal or reduction in rank, cause to be sent to the employee a statement in writing, prepared, if necessary with the aid of the legal counsel, of the ground or grounds on which it is proposed to dismiss the employee or reduce him in rank and shall call upon him to make within a period of not less than fourteen days

from the date of receipt of the *letter* a representation explaining grounds upon which he relies to exculpate himself.

(3) If after consideration of the said representation, the Disciplinary Authority is of the opinion that the unsatisfactory work or conduct of the employee is not serious enough to warrant dismissal or reduction in rank, the Disciplinary Authority may impose upon the employee such lesser punishment as it may deem fit.

(4) If the employee does not furnish any representation within the specified time, or if he furnishes a representation which fails to exculpate himself to the satisfaction of the Disciplinary Authority, it shall then proceed to consider and decide on the dismissal or reduction in rank of the employee.

(5) Where the Disciplinary Authority considers that the case against the employee requires further clarification, it may institute an inquiry into the matter.

(6) The employee shall be informed that, on a specified day, an inquiry into the question of his dismissal or reduction in rank will be conducted and that he will be allowed, and, if the Disciplinary Authority shall so determine, shall be required to appear before the Disciplinary Authority and exculpate himself.

(7) If witnesses are examined by the Disciplinary Authority, the employee shall be given an opportunity to be present and to question the witnesses on his own behalf and no documentary evidence shall be used against him unless he has previously been supplied with a copy thereof or given access thereto.

(8) The Disciplinary Authority may, permit the statutory body or the employee to be represented by an employee of the statutory body or, in exceptional cases, by an advocate and solicitor and may at any time, subject to such adjournment as is reasonably necessary to enable the employee to present his case in person, withdraw such permission:

Provided that where the Disciplinary Authority permits the statutory body to be represented, it shall also permit the employee to be similarly represented.

(9) If, during the course of the inquiry, further grounds for dismissal are disclosed, and the Disciplinary Authority thinks fit to proceed against the employee upon such grounds,

the employee shall be furnished with a written statement thereof and the same steps shall be taken as are prescribed above in respect of the original grounds.

- (10) If, at the end of the inquiry the Disciplinary Authority is of the opinion –
- (a) that the employee should be dismissed or reduced in rank, it shall forthwith direct accordingly;
 - (b) that the employee does not deserve to be dismissed or reduced in rank, but deserves some lesser punishment, it may inflict upon the employee such lesser punishment as it may deem fit; or
 - (c) that the proceedings disclose sufficient grounds for requiring him to retire in the public interest, it shall order accordingly. The question of pension will be dealt with under the relevant pension law.

Criminal proceedings against an employee.

27. (1) Where criminal proceedings are instituted against an employee, the Head of Division concerned shall obtain from the Registrar or the Senior Assistant Registrar of the Court in which the said proceedings are instituted, a report containing the following information:

- (a) at the commencement of the said proceedings –
 - (i) the charge or charges against the employee;
 - (ii) if arrested, the date and time when the employee was arrested;
 - (iii) whether or not he is on bail;
 - (iv) other relevant information; and
- (b) at the conclusion of the said proceedings, the judgment of the court.

(2) Upon receipt of the report, the Head of Division shall forward it to the Disciplinary Authority together with his recommendation as to whether or not the employee should be interdicted from duty.

(3) Upon consideration of the said report and the recommendation of the Head of Division, the Disciplinary Authority may, subject to regulation 30, interdict the employee from the exercise of his duty.

(4) Where criminal proceedings against the employee result in his conviction, the Disciplinary Authority shall suspend the employee from the exercise of his duties from the date of his conviction pending its decision under regulation 33.

(5) Where criminal proceedings against the employee result in his acquittal and no appeal is lodged against the said acquittal by or on behalf of the Public Prosecutor, the employee shall be allowed to resume duty and he shall be allowed to receive the unpaid portion of his emoluments withheld from him whilst under interdiction. But where an appeal is lodged against the said acquittal, the Disciplinary Authority shall decide whether or not the employee should continue to remain under interdiction until the said appeal is finally disposed of.

In this regulation, the term "acquittal" includes a discharge not amounting to acquittal.

No disciplinary proceedings during the pendency of criminal proceedings.

28. Where criminal proceedings are being instituted against an employee, no proceedings for his dismissal upon any ground involved in the criminal charged may be taken against him pending the conclusion of the criminal proceedings, but nothing in this regulation shall prevent disciplinary action from being taken against him during the said proceedings on any other ground arising out of his conduct in the performance of his duties.

Consequences of acquittal.

29. An employee who is acquitted shall not be dismissed on the charge upon which he is acquitted but nothing in this regulation shall prevent disciplinary action from being taken against the employee on any other grounds arising out of his performance of his duties provided that the said grounds do not raise substantially the same issues as that on which he is acquitted.

Interdiction.

30. (1) The Disciplinary Authority may, if it thinks fit, interdict from the exercise of his duty –

- (a) an employee against whom proceedings are being instituted as provided for in regulation 27 and such interdiction may be made effective from the date of his arrest or the date on which summonses are served on him; or
- (b) an employee against whom disciplinary proceedings with a view to dismissal are about to be taken and such interdiction may be made effective from the date as specified in the interdiction order.

(2) The Disciplinary Authority may interdict an employee in the following cases:

- (a) when the nature of the offence with which he is charged is directly related to his duties;
- (b) when his presence in the office would hamper investigation; or
- (c) when he may be a source of embarrassment of the statutory body if allowed to carry on his usual duties and responsibilities.

(3) An employee who has been interdicted shall, unless and until he is suspended or dismissed, be allowed to receive such portion of the emoluments of his office, not being less than one half as the Disciplinary Authority may think fit.

(4) An employee under interdiction if allowed to resume duty by the Disciplinary Authority shall be allowed to receive the unpaid portion of the emoluments which had been withheld from him whilst under interdiction.

Suspension.

31. (1) An employee who is suspended from the exercise of his duties under regulation 34 shall not be allowed to receive any of unpaid portion of his emoluments withheld from him whilst under interdiction, nor shall he be allowed to receive any emoluments from the date of his suspension.

(2) If the disciplinary proceedings result in his dismissal he shall not be entitled to any unpaid portion of his emoluments, but if the punishment is other than dismissal, he may be refunded such portion of the emoluments withheld from him as the Disciplinary Authority may think fit.

Leaving the country whilst under interdiction or suspension.

32. (1) An employee who is under interdiction or suspension shall not leave the State without the permission of the Disciplinary Authority, and if the said employee is overseas, he shall be recalled to the State forthwith and pending the reinstatement or dismissal, he shall not leave the State without the permission of the Disciplinary Authority.

(2) If criminal proceedings are being taken against an employee in a foreign country, the employee shall be interdicted in accordance with regulation 30 and shall be placed in the custody of the Malaysian mission in that country and he shall not be allowed to leave that country.

PART III
SPECIAL PROVISIONS

Procedure in case of conviction.

33. Where criminal proceedings against an employee result in his conviction, or where his appeal against his conviction has been dismissed, the Head of Division concerned shall apply to the Registrar or Senior Assistant Registrar of the relevant Court for a copy of the judgment of the Court. Upon receipt of the said judgment, the Head of Division shall submit the same to the Disciplinary Authority together with full particulars of the employee's past record of service and recommendation of the General Manager as to whether the employee should be dismissed from the service or otherwise dealt with depending on the nature and gravity of the offence committed in relation to the degree of disrepute which it brings to the statutory body.

Procedure in case of detention, banishment etc.

34. (1) Where there has been made against an employee an order of detention, supervision, restricted residence, banishment or deportation, or where there has been an order imposing upon such employee any form of restriction or supervision by bond or otherwise under any law relating to the security of the Federation or any part thereof, prevention of crime, preventive detention, restricted residence, banishment, immigration or protection of women and girls, the Head of Division concerned shall apply for a copy of the order from the appropriate authority and upon receipt thereof, shall submit a report together with full particulars of the employee's past record of service to the Disciplinary Authority and the Head of the Division concerned shall recommend to the Disciplinary Authority whether the employee should be dismissed from the service, reduced in rank or otherwise dealt with depending on the degree of disrepute which the employee brings to the statutory body.

(2) Upon receipt of the report from the Head of Division the Disciplinary Authority shall forthwith suspend the employee from the exercise of his duties.

Power of Disciplinary Authority in cases of conviction, detention, etc.

35. (1) Notwithstanding anything in regulation 23, if after considering the report and documents submitted by the Head of Division in regulations 33 or 34 (1), the Disciplinary Authority is of the opinion that the employee merits dismissal or reduction in rank, it may forthwith direct accordingly; or if it is of the opinion that the employee should be inflicted with a lesser punishment or otherwise dealt with, the Disciplinary Authority may forthwith inflict upon the employee such lesser punishment or deal with him in such manner as it may deem fit.

(2) If as a result of the lesser punishment the employee is not dismissed, the question of his emoluments during the period of his suspension shall be at the discretion of the Disciplinary Authority.

PART IV
PUNISHMENT

Disciplinary punishment.

36. The Disciplinary Authority may impose on an employee any one or any combination of two or more of the following punishments:

- (a) warning;
- (b) reprimand;
- (c) fine;
- (d) forfeiture of salary;
- (e) stoppage of increment;
- (f) deferment of increment;
- (g) reduction of salary;
- (h) reduction of rank;
- (i) dismissal.

Fine or forfeiture of salary.

37. Where the Disciplinary Authority considers that an employee should be punished by payment of a fine or forfeiture of salary, it may do so in accordance with the following provisions:

- (a) any fine imposed on any one occasion shall not exceed an amount equal to three days' basic salary of the employee concerned, and if an employee is fined on more than one occasion in any single month, the aggregate of the fine imposed on him in that month shall not exceed an amount equal to fifteen per centum of his monthly basic salary;

- (b) forfeiture of salary imposed on an employee for being absent without leave or reasonable cause or occurring under regulations 21(3) and 31 (2) shall not be considered as fine under this rule and, therefore, shall not be governed by paragraph (a) above relating to the maximum amount of fine on any particular occasion or in any particular month. The amount of salary forfeited for being absent without leave or reasonable cause unless otherwise decided by the Disciplinary Authority shall be calculated with reference to the actual period in which the employee had absented himself;
- (c) all fines or forfeiture shall be deducted from the monthly emoluments of the employee concerned and shall be paid or transferred for credit to a fund known as the Fund of the statutory body to be administered and disbursed as the statutory body shall direct.

Withholding of increment.

38. (1) An increment may be withheld by the General Manager in the first instance for a period not exceeding three months in case of unsatisfactory work or conduct. An increment may be withheld without prior warning, on the ground of inefficient work, but warning must be given in writing, at the time when it is withheld, that it will be stopped or deferred if the employee's work does not improve during the period that the increment is withheld. At the end of the period, the increment will be reinstated with effect from the date it was withheld or the matter is reported to the Disciplinary Authority.

(2) Where withholding of increment is imposed upon an employee, he shall not, during the period in which it is effective, be entitled to receive any increment that may be due to him. At the end of the said period, however, he shall be entitled to receive the increment which was due to him but has been withheld from him unless on the direction of the Disciplinary Authority his increment has been stopped or deferred.

Stoppage of increment.

39. (1) The punishment of stoppage of increment may be imposed by the Disciplinary Authority for any period and when imposed upon an employee, he shall not, for and during the period in which the punishment is effective, be entitled to any increment and at the end of

the said period, however, he will draw his salary at the rate which would have been payable to him if his increment had not been so stopped.

(2) This punishment does not alter the incremental date of the employee upon whom it is imposed nor does it entail any loss of seniority of that employee.

Deferment of increment.

40. (1) The punishment of deferment of increment may be imposed by the Disciplinary Authority for any period of not less than three months and when imposed upon an employee, he shall not for and during the period in which the punishment is effective, be entitled to any increment.

(2) This punishment shall also have the following consequences upon the employee on whom it is imposed:

- (a) his incremental date shall be altered to the date in which the punishment expires;
- (b) his incremental date shall continue to be the same as has been altered under paragraph (a) until he reaches the maximum of his scale; and
- (c) the employee shall suffer the loss of seniority by a period equal to that of the punishment.

Remission of deferment of increment.

41. (1) An employee upon whom the punishment of deferment of increment is imposed may, however, apply to the Disciplinary Authority for a remission of the punishment. The said application may be made at any time not earlier than three years from the date on which the punishment expires.

(2) To earn a remission, it shall be necessary for the work and conduct to have so improved as to have earned a positive recommendation from the Head of Division to the Disciplinary Authority that the remission applied for should be approved.

(3) Under no circumstances shall any remission of this punishment restore any loss of seniority to the employee.

Reduction of salary.

42. (1) Where an employee has reached the maximum of the salary scale of his grade, the Disciplinary Authority may impose upon an employee the punishment of reduction of salary for such period as it may think fit:

Provided that the punishment shall not be more than three increments in the salary segment in which he is at the time when this punishment is imposed.

(2) The consequences of this punishment shall have the same effect as in regulation 40.

Punishment to be entered into the employee's Record of Service.

43. For every punishment imposed on an employee under these Regulations, the General Manager shall cause to be entered in the Confidential Record of Service Book a note containing particulars of the punishment.

PART V

TERMINATION IN PUBLIC INTEREST

Termination of employment in the public interest.

44. (1) Notwithstanding these Regulations, where it is represented to or is found by the Disciplinary Authority that it is desirable that any employee should be required to retire from the statutory body in the public interest or on grounds which cannot suitably be dealt with by the procedure laid down in these Regulations, the Disciplinary Authority may call for a full report from the General Manager. The said report shall contain particulars relating to the work and conduct of the employee and the comments, if any, of the Head of Division.

(2) If after considering the report, the Disciplinary Authority is satisfied that having regard to the conditions of the service, the usefulness of the employee thereto, the work and conduct of the employee and all the other circumstances of the case, it is desirable in the public interest so to do, the Disciplinary Authority may terminate the service of the employee with effect from such date as the Disciplinary Authority shall specify.

(3) It shall be lawful for the Disciplinary Authority to require an employee to retire from the statutory body in the public interest notwithstanding that any disciplinary proceeding has or has not been carried out under any of the provisions of these Regulations and the service of the employee should be so terminated. For the purpose of clearing any doubt, the provision of the sub-regulation (4) of this regulation shall apply in respect of termination of service of such employee under this sub-regulation.

(4) Notwithstanding anything in these Regulations, and any other laws to the contrary, in terminating the service of any employee in the public interest under this regulation, such employee may not be given any opportunity of being heard and an employee whose service has been terminated in the public interest under this regulation shall not be regarded as having been dismissed regardless of whether such termination of service of the employee involved an element of punishment and/or connected, either wholly or partly, with his conduct in relation to his office which the statutory body regards as unsatisfactory of blameworthy.

PART VI MISCELLANEOUS

Service of document, notice, etc.

45. (1) Every employee shall furnish to the General Manager whichever is relevant the address for residence or any change thereof which shall be his address for the purpose of serving on him notice or document whatsoever under these Regulations or for the purpose of communication with him in any matter in relation to these Regulations.

(2) Any document, notice or communication left at or posted by ordinary post to the address for service supplied under sub-regulation (1) shall be deemed to have been duly served upon or communicated to the employee.

Made this 1st day of March, 1995.

By Command,

DATUK STEPHEN K.S. FOO,
State Attorney-General.

Sabah LawNet