

The Constitution of Barbados

CONSTITUTION (UNESTABLISHED STAFF) (DISCIPLINARY PROCEDURE) RULES, 1980

Authority: These rules were made on 15th May, 1980, by the Governor-General under section 63(2) of the Constitution.

Commencement: 15th May, 1980.

1. These rules may be cited as *Constitution (Unestablished Staff) (Disciplinary Procedure) Rules, 1980*. Citation.

2. For the purposes of these rules,

“deputy” means an officer who

- (a) is employed in a Ministry or Department in the public service;
- (b) is no less than 2 grades above that of the employee who has been charged with an offence; and
- (c) is authorised by a Head of that Ministry or Department to act on behalf of such Head;

Interpretation.

“Estimates” means the annual estimates approved by Parliament;

“Head of Department” means a Head of the Ministry or Department in which the employee charged with an offence is employed and includes a Permanent Secretary or the most senior public officer in a Ministry, but does not include the Head of a Section or Division of a Department;

“minor offence” means an offence other than that warranting the dismissal of the employee;

“misconduct” includes unpunctuality, corruption, dishonesty, a false claim against a Ministry or Department, negligence in the performance of duty, malingering, drunkenness while on duty, insubordination, falsification of accounts or records, failure to keep records with intent, suppression of records, negligence resulting in loss of, or damage to

government property, criminal conviction, absence without leave or satisfactory excuse, disobedience to lawful order of superior officer, or engaging in trade or political activity while on duty or on government premises;

“offence” means misconduct prejudicial to the discipline and proper administration of the public service;

“unestablished staff” means, in relation to an employee, a permanent full-time employee who holds or acts in an office scheduled in the Estimates but is not a public officer within the meaning of the *Constitution*.

Investigation of charges relating to offences.

3. (1) Where a Head of Department receives a report that an employee of his Department has committed an offence, he shall, within 7 days of the receipt thereof, carry out an investigation into that report.

(2) The Head of Department shall, within 7 days after the date of completion of the investigation, forward a written report on that investigation to the Chief Personnel Officer.

(3) Where the Chief Personnel Officer is satisfied that a charge against an employee is proved, he may impose a penalty on that employee and shall inform the employee in writing of the penalty imposed.

Copy of evidence to be given to employee.

4. A Head of Department must give to an employee who is charged with an offence, a copy of all the documentary evidence that is to be used in an investigation relating to that offence.

Penalties.

5. The penalties that may be imposed by the Chief Personnel Officer on an employee against whom a charge is proved are

- (a) a reprimand in writing;
- (b) a reduction in rank;
- (c) the withholding of an increment;

- (d) suspension from duty on reduced pay, being not more than half-pay, for a period not exceeding 4 weeks;
- (e) suspension from duty without pay for a period not exceeding 4 weeks; or
- (f) dismissal.

6. (1) An employee who is aggrieved by a decision of the Chief Personnel Officer may apply in writing within 7 working days after being informed of that decision, to the Chief Personnel Officer through the Head of Department for a review of the decision.

Review of
decision in
respect of an
offence.

(2) The Chief Personnel Officer shall, within 4 working days after the receipt by him of an application under paragraph (1), forward the application to the Head of the Civil Service together with a copy of the report referred to in rule 3(2).

(3) An application for a review must contain the grounds upon which that application is based, and must be heard within 14 days after it has been received.

(4) The decision of the Head of the Civil Service on the review is final.

(5) The decision of the Chief Personnel Officer has effect until the decision on the review is given.

(6) The Head of the Civil Service may, after reviewing the decision of the Chief Personnel Officer,

- (a) affirm, modify, amend or reverse the decision of the Chief Personnel Officer; or
- (b) make such other order for disposing of the matter as may be just and reasonable.

(7) Where the Head of the Civil Service affirms the decision of the Chief Personnel Officer he may, if the total period during which the employee is suspended does not exceed 3 weeks, impose an additional penalty in the form of a suspension of the employee on reduced pay, being not more than half-pay, or without pay for a period not exceeding 7 days.

(8) Where the Head of the Civil Service reverses the decision of the Chief Personnel Officer, notice of the reversal must be served in writing on the employee within 7 days thereof and the employee is entitled to the payment of all wages which would have been due to that employee had he not been suspended, dismissed, or had his increment withheld as the case may be.

Interdiction.

7. (1) Where a report against an employee for misconduct is being investigated or criminal proceedings have been or are about to be instituted against that employee the Chief Personnel Officer may interdict that employee from the performance of his duties orally or in writing.

(2) Where the Chief Personnel Officer has orally interdicted an employee the interdiction must be confirmed in writing within 7 days thereof.

(3) An employee interdicted in accordance with this rule is entitled, during the period of interdiction, to half the wages to which he would have been entitled had he not been interdicted.

Representation at request of employee.

8. An employee may, at his request, be represented by a friend or the representative of an accredited trade union in any proceedings under these rules.

Deputy to perform duties of Head.

9. Where, under these rules, a duty is imposed on a Head of Department, that duty may be performed on his behalf by his deputy.

Dismissal for series of minor offences.

10. An employee who has committed a series of minor offences that in the opinion of the Chief Personnel Officer have prejudiced the proper administration of the public service, is liable to dismissal.

Purpose of these rules.

11. These rules are for the guidance of unestablished employees in the public service and persons responsible for the conduct of disciplinary proceedings respecting those employees.

Non-applicability of these rules.

12. These rules do not apply to the Security Guard Service.