

Appeals by
certain classes of
officer excluded.

3. (1) No appeal shall lie to the Board at the instance of any public officer, who, at the date of the recommendation in respect of which it is sought to appeal, is the substantive holder of an office in the approved salary scales the emoluments of which do not exceed the following amounts —

office in Scale C	3,900 dollars;
office in Scale S or S1	4,100 dollars;
office in Scale N or N2	65,000 dollars;
any other office	5,000 dollars.

(2) For the purposes of this regulation any officer appointed upon monthly, weekly or hourly rates of pay shall be deemed to be the holder of an office the emoluments of which are equal to the annual value of his appointment.

Appeals against
certain penalties
excluded.

4. No appeal shall lie to the Board against any recommendation for the imposition upon any officer of any of the following penalties —

- (a) deferment of increment;
- (b) withholding of increment;
- (c) reprimand.

SI 90/1991

PUBLIC SERVICE BOARD OF APPEAL REGULATIONS, 1991

(ARTICLE 115)

[Commencement 1st November, 1991]

Citation.

1. These Regulations may be cited as the Public Service Board of Appeal Regulations, 1991.

Interpretation.

2. In these Regulations, unless the context otherwise requires —

“Article” means Article of the Constitution;

“authority” means —

- (a) any officer to whom power has been delegated in accordance with the provisions of Article 110; or

(b) any tribunal appointed in accordance with the provisions of subparagraph (b) of paragraph (3) of Article 120, or subparagraph (a) of paragraph (10) of Article 136;

“Board” means the Public Service Board of Appeal constituted by the provisions of paragraph (1) of Article 114;

“Chairman” means the person appointed in accordance with the provisions of subparagraph (a) of paragraph (1) of Article 114 as Chairman of the Public Service Board of Appeal and includes any person duly appointed to act as Chairman;

“emoluments” means gross salary but does not include any non-pensionable allowance;

“legal representative” has the meaning assigned thereto by subparagraph (a) of paragraph (6) of Article 124;

“notice of appeal” in Part II means any request for a hearing or any representation made by an applicant under subparagraph (a) of paragraph (3) of Article 124;

“Secretary” means the Secretary to the Board.

PART I APPEALS IN RESPECT OF DECISIONS IN DISCIPLINARY CASES

3. (1) Every appeal to the Board against a decision referred to in paragraph (1) of Article 115 shall be made in writing and be signed by the public officer concerned or by his Legal Representative.

Time and manner
of lodging
appeals

(2) Every notice of appeal shall be lodged at the office of the Secretary within the period of twenty-eight days after the date upon which the officer received written notice of the decision in respect of which the appeal is made.

(3) Every notice of appeal shall include an address for correspondence where the officer concerned may readily be contacted and shall, if possible, include a Post Office Box number.

4. Upon receipt of a notice of appeal lodged in accordance with regulation 3, the Secretary shall obtain from the Permanent Secretary of the Ministry of Public

Procedure on
receipt of notice
of appeal

Personnel, the personal file relating to the officer concerned and such other information as may be considered relevant and shall forward the same to the Chairman.

Notification of hearing.

5. (1) The Board shall sit at such time and in such places as may be convenient for the purpose of hearing any appeal and shall notify the officer in writing of the proposed time and place of the hearing at least seven days in advance thereof.

(2) Notification of the hearing shall be given to the officer by sending to him —

(a) by registered post to the address for correspondence specified under paragraph (3) of regulation 3, a notice signed by the Secretary and stating the time and place of the hearing; or

(b) where no postal address has been specified in care of the Ministry or department of the Government in which he was serving at the time when the decision was made, a notice signed by the Secretary and stating the time and place of the hearing.

(3) Receipt of the notification by the Ministry or department in care of which the notification was sent shall be deemed to be good service thereof upon the officer concerned unless the officer establishes to the satisfaction of the Board that he was unaware of the notice.

Fresh evidence.

6. Unless by leave of the Board and for good cause, shown, no fresh evidence which was not before the Public Service Commission upon their consideration of the matter shall be admitted at the hearing of an appeal.

Notification of decision of Board.

7. When the Board has heard and determined any appeal, the Secretary shall communicate the decision reached thereon to the Public Service Commission and to the officer concerned.

PART II

APPEALS IN RESPECT OF DECISIONS AFFECTING PENSION BENEFITS

Time and manner of lodging appeals under this Part.

8. (1) Every request to the Board made by the officer concerned or by his Legal or Personal Representative in accordance with subparagraph (a) of paragraph (3) of

Article 124 against a decision referred to in paragraph (1) of Article 124 shall be made in writing and signed by the officer concerned or by his personal Representative and shall —

- (a) specify the decision of the appropriate Service Commission or authority in respect of which the appeal is made;
- (b) contain a brief outline of the grounds upon which the officer intends to rely in support of his appeal;
- (c) state whether the officer concerned wishes to be heard in person or by his legal representative;
- (d) state whether the officer concerned wishes the Board to consider all documents that were available to the Commission or authority concerned and any further document relating to the case.

(2) Every notice of appeal shall be lodged —

- (a) in the case of a decision by the appropriate Service Commission, with the Secretary; and
- (b) in the case of a decision by an authority, at the office of that authority.

(3) Every notice of appeal shall be delivered to the Secretary within twenty-eight days of the date upon which the officer was notified of the decision in respect of which the appeal is made.

(4) Every notice of appeal shall include an address for correspondence, where the officer concerned may readily be contacted and shall, if possible, include a Post Office Box Number.

9. (1) Upon receipt of any notice of appeal lodged in accordance with subparagraph (a) of paragraph (2) or regulation 8, the Secretary shall obtain from the Permanent Secretary of the Ministry of Public Personnel, the personal file relating to the officer concerned and such other information as may be considered relevant and shall forward the same to the Chairman.

Procedure on receipt of notice of appeal under this Part

(2) Upon receipt of a notice of appeal lodged in accordance with subparagraph (b) of paragraph (2) of regulation 8, the authority shall forward the same to the Secretary together with the personal file relating to the officer concerned and such other information as may be considered relevant and the Secretary shall forward the same to the Chairman.

Notification of hearing under this Part.

10. (1) The Board shall sit at such time and in such places as may be convenient for the purpose of hearing any appeal and shall notify the officer concerned or his legal representative in writing of the proposed time and place of the hearing at least fourteen days in advance thereof.

(2) Notification of the hearing shall be given to the officer in the manner provided for in paragraph (2) of regulation 5 but where an officer to whom a pension has been granted is resident outside The Bahamas and that residential address cannot be ascertained, the notification may be sent to the address to which his pension is being sent.

(3) Notification shall be deemed to have been given to an officer to whom a pension has been granted and who is resident outside The Bahamas but whose residential address cannot be ascertained twenty-eight days after it has been sent by prepaid registered airmail post to the address to which his pension is being sent.

PART III GENERAL

Appeals against certain penalties excluded.

11. Subject to the provisions of Article 115 and 124 of the Constitution no appeal shall lie to the Board against any recommendation for the imposition upon any officer of either of the following penalties —

- (a) deferment of increment;
- (b) withholding of increment;
- (c) reprimand.

Procedure at hearing.

12. At the hearing of an appeal the officer concerned shall be entitled to be present and to be heard either in person or by a legal representative in support of his appeal.

Non-appearance of officer.

13. If an officer notifies the Board that he does not intend to be present in person or by his legal representative at the hearing of his appeal, or if he fails to appear and it is shown to the satisfaction of the Board that notification of the time and place of hearing has been duly served in accordance with regulations 5 and 10 the Board shall proceed with the hearing and determination of the appeal in his absence.

Amendment of notice appeal.

14. The Board shall if it deems fit grant the officer concerned or his legal representative leave to amend the notice of appeal.