

THE MUNICIPAL SERVICE COMMISSION ACT

REGULATIONS
(under section 14)

The Municipal Service Commission (Disciplinary Proceedings) Regulations, 1956 L.N. 190/56
11/59
54/59
233/60
28a/81

The Municipal Service Commission Regulations *Second
Schedule
to Act.*

THE MUNICIPAL SERVICE COMMISSION ACT

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(under section 14)THE MUNICIPAL SERVICE COMMISSION (DISCIPLINARY PROCEEDINGS)
REGULATIONS, 1956

(Made by the Governor in Council on the 10th day of September,
1956.)

L.N. 190/56
Amdt.:
L.N. 11/59
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1. These Regulations may be cited as the Municipal Service Commission (Disciplinary Proceedings) Regulations, 1956.

2.—(1) In these Regulations the expression “principal Regulations” means the *Municipal Service Commission Regulations.

(2) Any expression appearing in these Regulations which is defined in the principal Regulations shall have the meaning assigned to that expression in the principal Regulations unless the context otherwise requires.

3. If the Town Clerk of the Kingston and St. Andrew Corporation becomes aware that a municipal officer in the employ of the Kingston and St. Andrew Corporation is incompetent or unfit to perform the duties of his office (otherwise than by reason of ill health) or has committed any act or default which is of such a nature as to warrant his dismissal or the imposition of any penalty of a disciplinary nature upon such officer the Town Clerk shall forthwith report the matter to the Commission and inform the Mayor of the Council of the action taken by him.

4.—(1) Upon the receipt of the report, the Commission, if they consider that the circumstances warrant such action—

- (a) shall cause to be prepared charges against such officer setting out the matters by reason of or the respects in which the officer appears to be unfit or incompetent to perform his duties or the acts or defaults alleged to have been committed by the officer which warrant his dismissal or the imposition of any penalty of a disciplinary nature as the case may be; and

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- (b) shall by notice in writing require the officer, within such period not being less than fourteen days from the date of such notice as may be specified in such notice, to reply in writing setting out any grounds upon which he relies to exculpate himself from such charges; and
- (c) may interdict such officer from the exercise of his duties until the determination of the proceedings against him and shall thereupon notify the Council accordingly.

(2) Where an officer has been interdicted from duty pursuant to the provisions of sub-paragraph (c) of paragraph (1), the Council may request the Commission to reconsider their decision, but—

- (a) if the Commission adhere to their decision that decision shall be final; or
- (b) if the Commission reverse their decision, then the officer shall be entitled to receive the portion of his salary withheld during the period of his interdiction.

(2A) Where there have been or are about to be instituted criminal proceedings against any officer, the Commissioner on receipt of a report from the Town Clerk, may, if the Commission consider that the circumstances warrant the interdiction of such officer, interdict such officer pending the conclusion of the proceedings of the criminal court.

(3) During the period that such officer is interdicted pursuant to the provisions of sub-paragraph (c) of paragraph (1) or paragraph (2A) he shall be entitled to receive not less than one-half of the emoluments of the office which he was entitled to receive immediately prior to the date of his interdiction, so, however, that if at the determination of the proceedings against the officer pursuant to these Regulations the officer is not dismissed or otherwise punished he shall be entitled to be paid the difference between the emoluments which he would have received if he had not been interdicted pursuant to the provisions of this regulation and any emoluments which he has in fact received in respect of the period of his interdiction.

(4) If any municipal officer having been required in accordance with the provisions of sub-paragraph (b) of paragraph (1) to reply to any charges fails without reasonable excuse to reply within the period specified in the notice referred to or any extension thereof which may be granted by the Commission, the Commission shall in the absence of

such reply and after any further enquiry that the Commission may think necessary, make such recommendations to the Council regarding the disciplinary action, if any, to be taken against such officer as the Commission think fit.

5. Where any municipal officer having been required by notice under sub-paragraph (b) of paragraph (1) of regulation 4 to reply to charges so replies within the period specified in such notice or extension thereof as may be granted by the Commission, the Commission shall consider such reply and—

- (a) if they are satisfied that such reply exculpates the officer, shall notify the officer and the Council accordingly; or
- (b) if they are not so satisfied, they shall so notify the officer and the Council and proceed to hold an inquiry into the charges against the officer.

6.—(1) Pursuant to the provisions of paragraph (b) of regulation 5 the Commission shall appoint a day, time and place for the holding of the inquiry into the charges against the officer and shall give not less than fourteen days' notice in writing to him and to the Council of the day, time and place so appointed.

(2) At any time between the date of the notice referred to in sub-paragraph (1) and the conclusion of the hearing of the evidence given at an inquiry under these Regulations the chairman of the Commission may adjourn such inquiry to such day, time and place other than that appointed in such notice, so, however, that if the chairman adjourns the hearing of any inquiry at any time other than the time when the hearing of the evidence before such inquiry is in progress he shall give reasonable notice in writing to the Council and to the officer, of the day, time and place to which such inquiry is adjourned.

7. Upon the day and at the time and place appointed under regulation 6 for the holding of any inquiry into charges the Commission shall examine such witnesses and inspect such documents as they consider relevant to establish the charges and shall afford to the officer the opportunity of giving evidence and of calling witnesses and tendering any documents on which he relies in refutation of the charges and of cross-examining any witnesses called and inspecting any documents tendered before the Commission in support of the charges:

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Provided, however, that any such officer who so desires shall be entitled to have the services, at his own expense, of a legal or other representative not being a Councillor of the Kingston and St. Andrew Corporation, who shall be accorded the same privileges in defending the officer, as if such a representative were the officer charged:

Provided further that such officer may be given the opportunity before the inquiry, of examining and taking copies of any documents to be tendered before the Commission in support of the charges.

8.—(1) So soon as may be after the conclusion of the hearing of the evidence at an inquiry the Commission shall make a report to the Council upon such inquiry and in such report shall specify in relation to each of the charges against the officer whether or not the Commission find such charge to be established and shall accordingly—

- (a) recommend the dismissal of such officer or the imposition of such lesser penalty than dismissal upon him, as they may think fit; or
- (b) recommend that the officer be informed that the proceedings have terminated in his favour.

(2) Where pursuant to the provisions of the principal Regulations and of these Regulations it has been decided to dismiss an officer, the Council shall notify the officer in writing that he has been suspended from his office without pay from the date of the notice and that if he fails within fourteen days of the date of the notice to give notice of his intention to appeal against the decision his dismissal will have effect from the date of his suspension.

(3) If within the time specified in paragraph (2) the officer gives notice of his intention to appeal from the decision to dismiss him he shall within twenty-eight days of the date of such notice submit the grounds of his appeal to the Council for transmission to the Privy Council and the office held by him shall not be declared vacant unless the Privy Council rejects the appeal and so advises the Governor-General who shall then act in accordance with that advice. If the Privy Council allows the appeal the officer shall be reinstated in his office on full salary as from the date of his interdiction or suspension as the case requires.

(4) If within the time specified in paragraph (3) the officer fails to submit the grounds of his appeal to the Council for transmission to the Privy Council he shall be deemed to have abandoned the appeal:

Provided, however, that the Privy Council may, where it considers it expedient to do so, hear the appeal notwithstanding that the grounds of appeal were not submitted within the time specified in paragraph (3).

9. If a municipal officer is convicted on a criminal charge, the Commission may consider the proceedings of the criminal court on such charge, and if they are of the opinion that such officer should be dismissed or subjected to some lesser penalty on account of the offence for which he has been convicted, the Commission may thereupon recommend to the Council the dismissal of such officer or the imposition upon him of such lesser penalty than dismissal as they may think fit, without any of the proceedings prescribed in regulations 4 to 7 and paragraph (1) of regulation 8 being taken.

10. Notwithstanding anything in these Regulations no municipal officer shall be dismissed or reprimanded or subjected to any disciplinary punishment in respect of any charge which the Commission shall have held not to be established.

11.—(1) Where a member of the Council becomes aware that the Town Clerk is incompetent or unfit to perform the duties of his office (otherwise than by reason of ill health) or has committed any act or default which is of such a nature as to warrant his dismissal or the imposition of any penalty of a disciplinary nature upon him, it shall be lawful for such member to move a formal motion at any meeting of the Council that disciplinary action shall be taken against the Town Clerk in accordance with these Regulations.

(2) Where pursuant to the provisions of paragraph (1) a resolution has been passed by the Council that disciplinary action shall be taken against the Town Clerk, the Mayor shall forthwith report the full circumstances of the case to the Commission for the recommendations of the Commission.

(3) Upon the receipt of such report any disciplinary action contemplated shall proceed in accordance with these Regulations in like manner as if a report had been made under regulation 3.