

SUBSIDIARY LEGISLATION

***Regulations by His Majesty the Sultan and Yang Di-Pertuan in Council**

1. Public Officers (Appointments and Promotions) Regulations
2. Public Officers (Conduct and Discipline) Regulations

- (1) PUBLIC OFFICERS (APPOINTMENTS AND PROMOTIONS) REGULATIONS S.171/62
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*These Regulations were made under section 75 of the Constitution and are reproduced here for ease of reference.

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PUBLIC OFFICERS (APPOINTMENTS AND PROMOTIONS)
REGULATIONS

Commencement: 1st January 1962

1. These Regulations may be cited as the Public Officers (Appointment and Promotions) Regulations. Citation

2. These Regulations shall apply to all permanent and temporary appointments and promotions to posts and services within the purview of the Public Service Commission excluding only such appointments of daily rated officers as may from time to time be delegated by the Commission. Exclusion

3. In these Regulations — Definition
 - (a) the term “appointment” includes first appointment to the public service and appointment on transfer from one scheme of service to another for which there is no provision in the scheme in which the officer is serving;
 - (b) the term “promotion” includes promotion within a scheme of service and promotion to another scheme for which there is provision in the scheme in which the officer is serving;
 - (c) the term “Commission” means the Public Service Commission established under Part IX of the Constitution;
 - (d) the term “Secretary to the Commission” means the Secretary to the Public Service Commission appointed in pursuance of Section 72 of the Constitution;
 - (e) the term “Head of Department” means a head of department;
 - (f) the term “department” shall be deemed to include the Government Ministries;
 - (g) the term “Director” means the Director of Establishment.

A—APPOINTMENTS

4. (a) (i) Candidates on first appointment must, save as provided in subparagraph (ii), be subjects of His Majesty the Sultan and Yang Di-Pertuan or Brunei Nationality

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minors who, on attaining the age of majority, will be eligible to be registered as subjects by registration. Minors, other than minors who on attaining their majority will become subjects of His Majesty by operation of law, will be required by their Head of Department to apply for such registration within 2 months of the date on which they attain their age of majority and in the event of their failing so to apply for or to obtain such registration, their services may be terminated forthwith;

- (ii) applications for appointments from candidates who are not subjects of His Majesty may only be considered if sufficient suitable candidates with this qualification are not forthcoming and if it is not possible to leave the post vacant.

(b) If an officer loses his status as a subject of His Majesty, his appointment will be terminated with effect from the date thereof.

Re-employment of resigned officers

5. No person who has resigned from the public service in Brunei shall be re-employed in any capacity without the express sanction of the Commission.

Re-employment of dismissed officers

6. An officer who has been dismissed from the service or whose services have been terminated on the grounds of unsatisfactory work or conduct may only be re-employed in special and exceptional circumstances.

Advertisement of vacant posts

7.

(a) Vacant posts and vacancies in services which are within the purview of the Public Service Commission shall be advertised in the *Government Gazette* and in at least one local newspaper, provided that posts which are to be filled by Government officers in closed services may be advertised by Departmental Circular only and that posts which are to be filled by appointment of serving Government officers will be advertised in the *Government Gazette* only.

(b) A notice specifying posts vacant in Divisions IV and V will also be affixed to the Notice Board of the office or institutions in which the vacancy occurs and copies of this notice in Malay and English will be sent to the Education Department for distribution to appropriate schools not less than 2 weeks before the closing date for receipt of applications. Notifications of vacancies in Divisions IV and V should also be given to the Labour Exchange.

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(c) Advertisement in the newspapers should be as short as is consistent with clarity and should state;

- (i) title of post;
- (ii) salary scale;
- (iii) subject to regulation 4(ii), applicants must be subjects of His Majesty;
- (iv) such basic qualifications and duties as are not clear from the title of the post;
- (v) closing date for applications;
- (vi) address to which applications should be sent and from which further information can be obtained;
- (vii) the manner of submitting applications.

8. (a) A Head of Department shall notify the relevant Minister of any existing or impending vacancy in any post in his department which it is desired to fill and shall forward to him a draft advertisement in duplicate together with a schedule of particulars and documents as follows —

Appoint-
ments by
Commission

- (i) a statement that there is no Treasury objection to the filling of the vacancies;
- (ii) a list of vacancies and the dates on which they occur, the head and sub-head of the relevant items in the Estimates and the salary scale attaching to the posts;
- (iii) a statement of the number of reserves required to be nominated and the reasons therefor;
- (iv) a statement of the academic, professional and other qualifications and experience required as approved by Government where these are not specifically embodied in the scheme of service;
- (v) a statement of the duties and responsibilities attaching to the vacant posts.

(b) If it is proposed to amend the minimum qualifications specified in the relevant scheme of service the advertisement shall define the qualifications as amended and the Head of Department shall state the authority for such amendment when forwarding the schedule to the Minister.

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Applications

9. (a) Applications for appointments within the purview of the Commission shall be made on the appropriate form and addressed to the Minister or as otherwise directed in the advertisement. Applications from serving officers shall be submitted through the Head of Department who shall forward them together with up-to-date records of service and confidential reports written, as far as possible, with reference to the suitability or otherwise of the applicants for the vacancy.

(b) Selection of candidates will be made by the Commission but nothing herein contained shall be deemed to delegate the power of selection to any officer in the Public Service of Brunei or to a body of such officers.

Director to inform unsuccessful candidates

10. An unsuccessful candidate shall be informed of the result of his application by the Director.

Commission or Director to inform successful candidates

11. The Commission will forward an offer of appointment to a successful candidate through the Director.

Medical examination

12. Before appointment a candidate will be required to pass a medical examination by an approved Medical Officer.

Offers of appointment

13. (a) When forwarding the offer of appointment referred to in Regulation 11 the Director shall set out the terms and conditions of the appointment and, in the case of a candidate not already in the public service, shall forward statutory declaration and medical examination forms for completion. When he has undergone a medical examination, the candidate shall, if he accepts the offer, return the completed forms to the Director.

(b) When an appointment is made by the Commission, the Director shall forward the candidate's acceptance of the offer of appointment and, in the case of a candidate not already in the public service, the medical examination form and statutory declaration to the Commission and shall state the date of the candidate's assumption of duty.

Untrue declaration

14. If, at any time subsequent to the appointment of an officer, it is found that the statutory declaration made in accordance with Regulation 13 is in any respect untrue the Head of Department shall report the fact forthwith to the Commission through the Director. An

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officer who has made an untrue declaration will be liable to instant dismissal.

15. (a) Where an approved Medical Officer, when examining any candidate who will eventually become eligible for em-
placement on the pensionable establishment, has some doubt
as to the fitness of the candidate to give regular, efficient
service but whose condition does not justify outright rejec-
tion, he shall inform the Director accordingly. Appoint-
ments of
officers not
organically
sound
- (b) Such candidate may, at the discretion of the Commis-
sion, be appointed to the vacancy for which he has been
selected but on the conditions stated in Regulation 16.
- (c) An officer appointed on the terms set out in
Regulation 16 may re-submit himself for a medical examina-
tion at any time so that consideration may be given to his
emplacement on the pensionable establishment; in particular
he may re-submit himself for such further examination or
examinations upon attaining the optional age of retirement
or one year prior to attaining the age of compulsory retire-
ment.
- (d) Any officer appointed on the terms set out in
Regulation 16, who is either emplaced on the pensionable
establishment during his service or who is, at the time of his
optional or compulsory retirement, found to have been phy-
sically fit to perform the duties of his office, shall be permit-
ted to reckon the whole of his service as pensionable from
the date of such appointment.
16. Any candidate referred to in Regulation 15 may be appointed to Special
conditions
the public service on the same terms and conditions as would otherwise
have been applicable save that, for the purpose of retiring benefits, he
shall not be regarded as being the holder of a pensionable office.
17. (a) A birthday, where referred to in any scheme of service Birthdays
or advertisement, shall be deemed to be an anniversary of
the date of birth calculated according to the Gregorian
Calendar.
- (b) Where the exact date of birth is not known but only
the year, the date of birth shall be deemed to be the 31st day
of December of that year.

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(c) Where the month is known but not the day of the month, the date of birth shall be deemed to be the last day of the month.

(d) A candidate for appointment to the public service should provide himself with a birth certificate whenever possible.

Equivalent
educational
standards

18.

(a) Where an examination or an education qualification is specified in any scheme or service or advertisement it will be deemed to include an examination or qualification of a standard equivalent to, or higher than, the one specified, except that, unless specially provided for in any particular scheme of service or advertisement, no alternative examination will be accepted as providing exemption from the passing of examinations required to be taken at the end of a probationary period or in order to qualify for the passing of an efficiency bar.

(b) Except where specially provided for in the scheme of service or advertisement, the authority which shall determine whether any examination or qualification is of a standard equal to, or higher than, that specified, will be —

- (i) in the case of an examination or qualification in Agriculture or related sciences, the Director of Agriculture;
- (ii) in the case of an examination or qualification in Forestry or allied sciences, the Conservator of Forests;
- (iii) in the case of an examination or qualification in Medical Science or Pharmacy, the Director of Medical Services;
- (iv) in all other cases, a committee or officer appointed by the Director of Education.

(c) Where reference is made in a scheme of service to a school Form or Standard, it shall be deemed to refer to a Form or Standard in a school maintained from public funds or in a school certified by the Director of Education as being of equivalent standard to a school maintained from public funds. In lieu of a pass in a specified Form or Standard in such a school, a pass in the examination rated as equivalent by the Director of Education may be accepted.

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19. The Commission or other appointing authority reserves the right to appoint Government officers serving under other schemes of service, or serving in Government appointments not covered by a scheme of service, to posts governed by any scheme of service provided they are considered suitable even though they are not possessed of all the qualifications laid down for normal entry to the scheme of service or are above the normal age limit.

Appointment of serving officers

20. The Commission or other appointing authority reserves the right to appoint suitably qualified persons direct to any point in the timescale or to any class or grade. Officers so appointed may be required to serve on probation for a period equal to the normal probationary period under the scheme of service concerned.

Appointment above minimum salary

21. The appointment of an officer newly recruited to the public service will normally date from the day on which he assumes duty and he shall draw salary from that date.

Date of appointment

22. (a) The period in respect of which a first increment is drawn is normally calculated, subject to (b) below, as follows —

Incremental dates

- (i) if the date of appointment or promotion is the first working day of a month, from the first day of that month;
- (ii) in other cases from the first day of the next succeeding month:

Provided that in the case of officers in Divisions I and II, the incremental date is the anniversary of the date of appointment or promotion.

(b) When an officer is required to pass an examination before drawing an increment —

- (i) if the officer passes the examination within the prescribed period the increment due on passing will be drawn with effect from the normal incremental date:

Provided that where the first reasonable opportunity of appearing for the examination occurs after the expiration of the prescribed period, then the prescribed period shall be deemed to have been extended to the date on which the first reasonable opportunity occurred and the officer shall, if he passes, be granted the increment with effect from his normal incremental date;

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(ii) if the officer fails to pass the examination within the prescribed period, the increment due shall be deferred, in the case of an officer in Divisions I and II, until the day after he passes the examination and, in the case of any other officer, until the day after he passes the examination if this is the first working day of the month, and otherwise from the first day of the next succeeding month. If, however, the next examination is held more than one year after the examination which the officer failed to pass and the officer passes the latter examination, the increment shall not be deferred for more than one year after the date on which it would have been granted had the officer passed the former examination.

(c) The date of passing an examination shall be deemed to be the first day on which that examination is held.

Probation
on first
appointment

23.

(a) Save where otherwise provided in any scheme of service or in the conditions of his employment, every officer on first appointment to a pensionable office shall be required to serve on probation for 3 years before becoming eligible for confirmation and emplacement on the pensionable establishment.

(b) An officer appointed on probation who has failed to pass the prescribed examinations, if any, or who has failed either to complete successfully his probationary period or to obtain a recommendation for his confirmation from the Head of his Department, may have his appointment terminated in accordance with the procedure set out in paragraph (c) below.

(c) Where consideration is being given to the termination of the appointment of an officer on probation the officer will normally be informed of the grounds upon which such a course is contemplated and shall be permitted to submit such representations as he may wish, for which purpose he shall be allowed a reasonable period of not less than 14 days. The Disciplinary Authority as defined in Chapter B shall then take such action as may seem just.

(d) Notwithstanding the provisions of paragraph (c) above the appointment of an officer serving on probation may be terminated by the Commission or other appointing authority without any reason being assigned.

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(e) The period of probation specified in respect of any officer may be extended at the discretion of the Commission. An extension to the probationary period will normally only be given when there are adequate reasons in mitigation of the officer's failure to qualify for confirmation within the prescribed period and when, in the opinion of the Head of his Department, the officer would be likely to qualify if the probationary period were extended.

(f) A probationer whose period of probation is extended under the provisions of paragraph (e) above will normally have his increment deferred and draw throughout the extended period the emoluments which he was drawing at the conclusion of the normal probationary period.

(g) A probationer whose period of probation is extended under the provisions of paragraph (f) above shall on confirmation enter the scale of a confirmed officer on the date on which he qualifies for confirmation and shall rank as junior to all officers in the same grade who at that time have already been confirmed. Three years after the date on which the increment was deferred, the officer may apply for his salary to be reviewed. If the circumstances of the case are regarded as meriting it, the officer may be allowed to draw salary at the rate which he would have drawn if his confirmation had taken place at the proper time, but he shall not be restored to the seniority which he would otherwise have held nor shall his salary be adjusted retrospectively.

(h) An officer whose services are terminated under paragraph (c) above will not for that reason alone be debarred from appointment to another post in the public service.

24. An officer appointed on probation who has successfully completed the original or extended probationary period, has passed the examination or examinations, if any, specified for probationers, and is recommended by his Head of Department, will be eligible for confirmation in his appointment.

Confirmation

25. An officer who was already in the public service at the time of his appointment on probation and who fails to qualify for confirmation may be permitted to revert to his previous appointment or to a similar appointment at the point in his previous salary scale which he would normally have reached if he had not subsequently been appointed on probation:

Reversion to previous appointment

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Provided that, if this would place him above an efficiency bar which he has not passed in his previous scheme or under his previous conditions of employment, he may be so placed but shall not draw further increments until he satisfies the normal conditions for eligibility to pass the bar.

Procedure for confirmation

26. (a) The Head of Department shall forward to the Commission a recommendation for the confirmation and em- placement on the pensionable establishment of an officer on probation. This recommendation shall be forwarded not la- ter than 3 months before the officer concerned is to become eligible for confirmation and emplacement. The recom- mendation will be accompanied by —

(i) a medical certificate in the prescribed form, if this was not completed on the officer's original recruitment;

(ii) a certificate by the Head of Department as follows —

I hereby certify that a statement of whose service is attached, has performed his duties throughout his service with honesty, diligence and abil- ity and that I have satisfied myself by due enquiry that he is fitted by his character, conduct and ability for appointment to the pensionable establishment for which I recommended him.

(Signed) Head of Department

Dated: 19

(iii) a statement confirming that the officer concerned has passed the prescribed examinations and specifying the examinations in question and the dates on which they were passed.

(b) Notification of an officer's confirmation and emplace- ment on the pensionable establishment shall be conveyed by the Commission to the officer's Head of Department.

(c) Where it is decided to extend an officer's period of probation, with or without penalty, the officer concerned shall be so informed by the Commission through the Head of Department.

Liability to transfer

27. Unless otherwise provided in his terms and conditions of service an officer on the establishment of Brunei shall be liable for service anywhere in Brunei.

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28. Officers are required to discharge the usual duties of the office to which they are appointed and any other suitable duties which they may be called upon to perform by their Head of Department.

Liability to perform any work

29. An officer may be required to travel by such means as may be specified by his Head of Department in the performance of his duties.

Means of travel

30. (a) A woman officer may be required to resign her appointment on marriage but may be permitted to remain in the service when her continued employment is in the interests of the Department concerned.

Appointment of married women

(b) Resignation of any woman officer on account of marriage will not be a bar to further employment by Government but, except with the special permission of the Public Service Commission, a woman who has resigned or whose services have been terminated owing to marriage may only be re-employed on a temporary basis. Such a woman may be re-employed at the salary she was drawing on resignation if she is re-employed in a post under the same scheme of service and may receive increments in accordance with Regulation 22, the date of re-employment being used to calculate the incremental date; she may also be considered for promotion to higher appointments.

31. (a) An annual increment within a salary scale will be awarded for satisfactory work and conduct and it is the duty of a Head of Department to keep under review the work and conduct of each officer within his department. If it is necessary to withhold, stop or defer the increment of an officer, the Head of Department shall submit a report to the Commission to that effect.

Increments

(b) When the grant of an increment would bring an officer above an efficiency bar no such increment shall be granted until the Head of Department or other certifying officer has forwarded to the Minister responsible for finance a certificate to that effect.

32. Except where otherwise provided seniority shall be determined by the date of an officer's appointment to the class or grade in which he is serving.

Seniority

33. (a) An officer engaged on agreement, contract or letter of appointment for a definite period shall, in the absence of any provision to the contrary in the agreement, contract or letter

Officers employed on agreement

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of appointment, inform the Head of his Department in writing, at least 6 months before the expiry of that period, of the date on which his employment will end, and shall state whether he desires his engagement to be renewed. The Head of the Department shall then send a report to the Commission giving the following information:

- (i) the date of expiration of the officer's engagement;
- (ii) whether any certificate of service should be given to the officer at the end of engagement, and if so, the terms thereof;
- (iii) whether the officer is eligible for leave, and, if so, under what authority;
- (iv) whether, and, if so, on what grounds, it is recommended that the officer should be re-employed when his engagement ends, and upon what conditions as to duties, salary, and other terms of service such re-employment should be offered.

(b) When submitting the report referred to in paragraph (a) above, the Head of Department shall, at the same time, inform the Establishment Officer whether any allowance, gratuity, bonus or other payment will be due to the officer when his engagement expires, either under the terms of the agreement or contract or letter of appointment, or under any other authority, and whether any refund will be due from him.

Acting appointments

34. Proposals for acting appointments will be dealt with in accordance with instructions issued by the Commission.

Number of posts in a class

35. The number of posts in any class or grade will be determined by Government from time to time in accordance with the requirements of the department concerned. Reference in any scheme of service to a fixed percentage of posts in any class or grade shall not be regarded as more than a general working rule. Promotions will be made to vacancies only, but posts which fall vacant will not necessarily be filled. Reference in any scheme of service to any grade above the timescale does not guarantee the existence of such posts.

B—PROMOTIONS

Selection on merit

36. Officers will be selected for promotion on the basis of official qualifications, experience and merit. Only where 2 candidates are ad-

judged of equal merit will preference be given to the senior. In judging merit due consideration will be given to the general suitability of an officer for the post for which he is being considered.

37. When a vacancy arises in a Superscale post in Division I which it is desired to fill by promotion, the Commission shall submit its recommendations for the consideration of His Majesty for the filling of the vacancy. Such recommendations shall include a survey of all officers eligible to be considered.

Division I Superscale posts

38. In filling any other vacancy, the following procedure shall be adopted —

Filling of vacancies in other Divisions

(a) When a vacancy arises in a post which it is desired to fill by promotion, and for which officers serving in more than one department may be considered under their schemes of service, the Head of the Department in which the vacancy arises shall advertise the vacancy in the *Gazette*, and shall, in addition, notify the other departments concerned.

(b) When a vacancy arises in a post which it is desired to fill by promotion, and for which officers serving in one department only may be considered, the Head of Department shall call for applications from such officers as are eligible or shall secure consideration of all officers who are eligible.

39. The Head of Department on completion of action under Regulations 37 or 38 (a) or (b) shall forward to the Commission such documents as it may require.

40. On receipt of the particulars required under Regulations 37 or 38, arrangements will be made by the Commission for the selection of an officer to fill the vacancy.

41. If after selecting candidates for promotion, the Commission or other promoting authority finds that there are not enough suitable candidates within the promotion zone to fill all the vacancies, consideration shall be given to filling the remaining vacancies from suitable candidates within an extended promotion zone:

Extension of promotion zone

Provided that no promotion shall be made from the extended zone before notice of the intention to extend it has been given by the issue of a circular letter defining the temporary addition to the promotion zone and inviting applications from officers within it.

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Point of entry
on promotion
to higher
scale

42. Except in a case of promotion from a non-pensionable to a pensionable office, the following rules shall apply when an officer is promoted in the ordinary course to an office carrying salary on an incremental scale:

(a) If immediately prior to his promotion the salary of the officer was less than the minimum of the new office, he shall receive the minimum; but if he was qualifying for increment in his former office and had already earned such an amount of increment as would bring his salary up to the minimum of the scale of his new office, then any balance of the increment in his former scale shall, subject to (d) below, be taken into account in fixing the date of his first increment in his new scale.

(b) If his salary was not less than the minimum of the new office he shall, subject to (c) and (d) below, continue to receive his existing salary until by length of service at his new incremental rate he has earned such an amount of increment as will bring him to the next higher incremental step in his new scale. But, if he was qualifying for increment in his former office, the date of increment in his new scale shall, subject to (a) above, be advanced proportionately even though it may mean the immediate grant of one increment and the advancement of the normal date for a further increment.

(c) If the maximum or fixed salary of his former office was not less than the minimum of his new office and he has at the date of his promotion served at that salary for a period exceeding one year, then one half of such excess period shall, subject to (d) below, count towards an increment in his new scale, but in no case shall he be given more than one increment on this account.

(d) If his former office was one to which no duty, seniority, or similar non-pensionable allowance was attached, and he is promoted to an office carrying such allowance he shall serve for a full incremental period in the new office before becoming eligible for an increment.

The term "salary" in this Regulation shall include any personal or other allowance which is payable in money and which ranks as a pensionable emolument.