

Seventh Edition
of the PSMC (Public Service Management Code)
correct as on 31st December 2006

(To facilitate the updating, instructions are in bold-italic print, whereas actual text is in normal font.)

Replace the introduction with the introduction reproduced below:-

Introduction

Public Service Management Code

On the 7th January 2002, we published the PSMC (Public Service Management Code) for the first time, both in paper and electronic format. It is with pleasure that we are now issuing the seventh edition of the PSMC, again both in paper and electronic format, to facilitate reference to it.

The PSMC brings together in concise form all the standing regulations, circulars, policies on HR Management, in the fields of Employee Relations and Resourcing in the Public Service. This edition is correct as on 31st December 2006.

By means of the PSMC, the regulatory management aspect of the human resources function of the Public Service is constantly updated and communicated. The PSMC also enhances the customer care function both within the Public Service, and with clients and other persons outside the service. Public officers are urged to constantly refer to the PSMC as the handbook that guides them in Human Resources Management.

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Management and Personnel Office

December 2006

Chapter 1 – APPOINTMENTS, PROMOTIONS AND PROGRESSIONS

In paragraph 1.1.2.5. delete the following sentence:

In the case of departmental grades, departments are required to send to Management and Personnel Office the seniority list of staff domiciled in Gozo and who wish to be transferred there.

Insert new paragraphs 1.1.2.6., 1.1.2.7. and 1.1.2.8., as follows:

1.1.2.6 In the case of departmental grades, departments are required to maintain the seniority list of staff domiciled in Gozo and who wish to be transferred there, but such transfers to the Ministry for Gozo will still be authorised by the Management and Personnel Office.

1.1.2.7 Officers serving in Gozo who are promoted to a higher grade and who have served for a number of years in Malta, are allowed to remain in Gozo, even if they are juniors to either other Gozitan officers serving in Malta in the higher grade or to newly-appointed Gozitan officers in the same selection process.

1.1.2.8 Pregnant Gozitan officers performing duties in Malta may be temporarily transferred to Gozo until confinement, subject to a medical certificate which must be confirmed by a Medical Board convened by the Health Division. Cases regarding general service officers are processed centrally by the Management and Personnel Office whilst those of departmental grade officers are processed by the respective department.

Replace paragraph 1.1.4.2. with the following:

1.1.4.2. Recommendations for appointment are made by Heads of Department and addressed concurrently to Secretary, Public Service Commission and to the Principal Permanent Secretary in terms of Regulation 17 of the PSC Regulations, 1960. The form used for the verification of such recommendations is shown in Appendix I to this chapter. The recommendation is to be signed by the Head of Department making the recommendation and initialled by the Permanent Secretary concerned. Information should include the number of vacancies available in the grade and that funds are available under the personal emoluments component of the departmental vote and are in accordance with finance directives issued from time to time.

In paragraph 1.1.12.11., after the second sentence, insert the following sentence:

However, when the (notional) salary point of the substantive grade exceeds, through progression, the salary point of the contractual position, then the substantive appointment and the contractual appointment can only be retained concurrently till the termination of the contract in force at the time.

In paragraph 1.1.14.3. replace the words Policy and Planning Department ***with*** People Management Directorate.

Replace paragraph 1.2.1.1. with the following:

1.2.1.1 The rules set out in sub-paragraphs 1.2.1.2 to 1.2.1.14 apply to the selection procedure approved by the Public Service Commission. In addition to these paragraphs members of Selection Boards should follow the 'Public Service Commission Guidelines to Selection Boards' and be also guided by the guidelines of Panel Members appointed on Selection Boards entitled 'The Role of the Panel Member on Public Service Commission Selection Boards.'

Add the following at the end of paragraph 1.2.1.9.

- (iv) Cases such as those resulting in ties, or where the difference in ranking order is that of one/two marks or borderline failures, require specific scrutiny. Selection Boards are asked to exercise this scrutiny prior to coming to a final decision about marks and before forwarding their report to the Commission.

Renumber current paragraph 1.2.1.12. as 1.2.1.12.(A) and insert the following new paragraph 1.2.1.12.(B):

1.2.1.12 (B) If the selection process includes a Trade or Practical Test, the Result Sheets must show separately the marks obtained by each candidate in respect of the Trade/Practical Test and the Interview as well as the overall total.

The condition set that:

“candidates must obtain at least 50% of the marks allocated for the Trade/Practical Test in order to qualify for the interview.”

is to appear on the Result Sheets.

Applicants are also to be informed verbally that only those successful in the Trade/Practical Test qualify for the Interview.

Between the last and penultimate paragraph of 1.2.2.2. insert the following paragraph:

It is the responsibility of applicants, in possession of qualifications awarded by foreign Universities/tertiary education institutions, to produce a recognition statement on comparability of qualifications issued by the Malta Qualifications Recognition Information Centre (MQRIC) within the Ministry of Education, Youth and Employment or the designated authority, as applicable, which statement should be attached to the application and the original presented at the interview. Candidates not in possession of this statement may still apply, provided that they submit a copy of the statement, issued by the pertinent authority, to the receiving department as soon as available and, in any case, by not later than one month from the closing date of the call for applications.

At the end of paragraph 1.3.9.2. replace the words Permanent Secretary, Office of the Prime Minister **with** Principal Permanent Secretary.

Replace sub-section 1.3.10. with the following:

1.3.10. SENIORITY

1.3.10.1 Seniority amongst public officers is determined by the date of appointment/order of merit/precedence in:-

- (i) the current position/grade; and
- (ii) any previous positions/grades.

1.3.10.2 When a public officer holds concurrently appointments in a contractual position and in a substantive grade in terms of Section 1.3.6, seniority is reckoned firstly on the basis of the current position as established in Section 1.3.10.1 above. If the actual position does not form a determining factor, the current substantive grade and any previous positions/grades will be taken into account starting with the most recent appointments.

1.3.10.3 Sub-paragraph 1.3.10.1 is applicable if different nomenclatures are pegged to the same salary point/scale/band.

1.3.10.4 Age is finally taken into account. Seniority is not limited to the department in which officers are serving but is carried with officers in any transfer.

1.3.10.5 In the case of transfer on promotion, seniority is determined by the effective date of the promotion, which is normally the date on which the Prime Minister approves the appointment.

1.3.10.6 In establishing seniority amongst public officers to determine the order of merit amongst candidates who obtain the same marks in a selection process:

- (a) (i) if two candidates are appointed from outside the service, the elder candidate takes precedence (if they have the same date of birth, precedence is determined by ballot);
- (ii) if one of the two candidates is currently in the public service and the other is not, the serving officer takes precedence;
- (b) if two candidates are public officers:
 - (i) the candidate with the higher position/grade takes precedence;
 - (ii) if both candidates are in the same, or equivalent, position/grade, the candidate with the earlier date of appointment takes precedence;
 - (iii) if both candidates are in the same position/grade and have the same date of appointment, the senior of the two candidates in his/her present appointment will have precedence;
 - (iv) if both candidates are in an equivalent position/grade and have the same date of appointment, the candidate with the earlier date of appointment in the previous position/grade takes precedence, the same criteria being applied to establish such precedence.

At the end of sub-section 1.3.11. insert the following paragraph:

(D) Contractual Positions

1.3.11.16 In cases where the remuneration package of contractual positions involves progression to a higher scale, the same reporting requirements and standards outlined in paragraphs 1.3.11.12, 1.3.11.13 and 1.3.11.15 above are to be adopted.

Replace Appendix 1.XXXI.

Chapter 2 – PAY AND ALLOWANCES

At the end of paragraph 2.4.5.1. add the following sentences:

During such periods officers do not receive salary in respect of the substantive post. If the uninterrupted period exceeds 1 year and the salary scale of the post in which officers are acting is incremental, officers will be entitled to the normal increments.

Delete paragraph 2.4.5.2.

Re-number paragraphs 2.4.5.3. to 2.4.5.9. as 2.4.5.2. to 2.4.5.8.

In paragraph 2.5.1.3.(b), delete the words at least insofar as overseas calls are concerned **and insert the words** giving details of all local and international calls as well as any charges incurred for other services.

In paragraph 2.5.1.3.(c), after the words expenses incurred on, **insert the words** local and. **After the words** overseas calls **insert** and on any other services.

Insert new paragraph 2.5.1.3.(f) as follows:

- (f) New mobile phones, inclusive of any accessories, purchased for official use should not exceed Lm80. Should beneficiaries opt to purchase a mobile phone costing more than this amount, they should top up the capped amount, out of pocket.

Insert new paragraph 2.6.4.2. as follows:

2.6.4.2. *Donations to Dar tal-Providenza.* Officers may opt to donate 10c per week, directly from their salary, to *Dar tal-Providenza*. This donation is strictly on a voluntary basis. Employees who wish to make this donation are to fill in the form at Appendix 2.VIII and forward it to their respective corporate services departments or sections. The money donated will be deducted from the employees' salary and deposited, by direct credit transfer, into the Institutions bank account. The donation may be discontinued at any time by giving specific instructions to their corporate services departments or sections. However, the donation may not be resumed before the first payroll of the following year. No refund of donations will be allowed once deduction has been effected.

Re-number old paragraph 2.6.4.2. as 2.6.4.3.

In Appendix 2.VII under Diplomas, add Diploma in Social Work **and** Postgraduate Diploma in Social Work; **under General Degrees add** Bachelor in Tourism Studies; **under Honours Degrees add** Bachelor of Arts (Hons) Social Policy, Bachelor of Arts (Hons) Social Work **and in the brackets following B.Com (Hons) delete** Tourism **and insert** Private Sector Management; **under Post-graduate degrees add** (Executive) Master of Business Administration, (Executive) Master of Business Administration (e-Business), Master of Arts in Economics and Competition Law **and** Master of Arts in Public Policy.

Insert new Appendix 2.VIII entitled 10 Cents Donation in Favour of *Dar tal-Providenza*.

Chapter 3 – HOURS AND EXTRA DUTY

Replace paragraph 3.1.6.10. as follows:

3.1.6.10. *Reduced time-table.* Employees who are conditioned to a 40 hour working week, have the option to work on a reduced time-table of 20 hours or 25 hours or 30 hours per week. In the case of employees who are conditioned to an alternative timetable, three optional reduced time-tables, are allowed equivalent to 50%, 62.5% and 75% of their normal working hours.

Replace paragraph 3.1.6.11.(d) by the following:

- (d) retain all leave benefits but they are paid pro-rata. Vacation leave is to be calculated using the formula at paragraph 4.2.5.2. In the case of officers on reduced hours who opt to work a 4-day week while their full-time counterparts work a 5-day week, the following points should be adhered to:
- (i) If sick leave is taken at a stretch for a whole week, it is computed as 5 days. If, however, sick leave is taken on separate days, it is to be counted on a one day basis; and
 - (ii) if a public holiday falls on the off-day of the employee working on reduced hours no extra compensation is called for.

In the case of officers whose full-time counterparts work a 6-day week but who opt to spread their hours over 5 days, the number 5 should be substituted by 6 in (i).

Chapter 4 – LEAVE

At the end of paragraph 4.2.5.3., add the words and public officers on contract.

Insert new paragraphs 4.2.5.7. and 4.2.5.8. as follows:

4.2.5.7. The vacation leave entitlement of public officers who intend to avail themselves of any unpaid leave or are due to retire or resign, is on a pro-rata basis for the service given during that calendar year. They will be required to refund the salary received for any vacation leave that exceeds the pro-rata entitlement. All kinds of paid leave are considered as government service and should not affect the vacation leave entitlement.

4.2.5.8. Due to pre-retirement leave, where the date of retirement would not permit that employees avail themselves of the pro-rata vacation leave during the year of retirement, the start of the pre-retirement leave may be pre-dated by the number of hours equivalent to the pro-rata vacation leave, on the basis of the following formula:

$$\frac{\text{No of days in the calendar year up to date of retirement}}{365} \times \frac{\text{No of hours annual vacation leave}}{1}$$

Example: Officer retiring on 16th February 2007, who works a normal timetable

$$\text{No of days up to retirement} = \frac{46}{365} \times \frac{192 \text{ hours}}{1} = 24 \text{ hours}$$

Re-number old paragraph 4.2.5.7. as 4.2.5.9.

In paragraph 4.2.6.5. after 6.66 hours, insert the words for every 46.66 hours.

At the end of paragraph 4.3.9.1. add the following sentence:

Requests for accumulation of sick leave are to be approved by the Director responsible for the employees making the request.

At the end of paragraph 4.5.2.2., insert the following:

In the case of industrial grades, who prior to 1st January 1999, were only entitled to 15 days sick leave every calendar year, the qualification requirement for the years before 1999 will be computed as 50% of their sick leave entitlement. For periods after 1st January 1999, the requirement of an average of 15 days of unutilized sick leave shall apply.

In paragraph 4.7.1.1. change 4.7.4. with 4.7.3.

Replace sub-section 4.7.4. with the following:

4.7.4.* Unpaid Leave to take up Temporary Employment with Institutions, Bodies and Agencies of the European Union

4.7.4.1. *Eligibility.* Public officers who have been in the public service for at least twelve months.

4.7.4.2. *Duration.* A maximum period of three years or the length of the public officer's service, whichever is the shorter.

4.7.4.3. *Conditions.* Provided public officers respect the conditions and limitations of the granting of such special unpaid leave, they will:

- enjoy the right to return to their substantive grade held immediately before their contract with the EU;
- retain all rights and privileges applicable to their public office and those arising from the respective Classification Agreement;
- social security rights acquired under the Social Security Act (Cap. 318) will be safeguarded in line with the provisions of Council Regulation (EC) No. 1408/71.

Individuals availing themselves of special unpaid leave not on grounds of public policy should write to the Management and Personnel Office at least 30 days before the expiry of the unpaid leave requesting their re-integration into Government service. This period of 30 days is to be extended by an additional 30 days for every year of unpaid leave availed of by the individual.

Should the individual concerned terminate his or her employment with the European Institution, Body or Agency prior to the expiry of the approved period of unpaid leave, this individual shall be required to immediately write to the Management and Personnel Office, requesting re-integration into Government service and the termination of their unpaid leave. Individuals who fail to do so within 30 days of the termination of their employment with the EU Institution, Body or Agency will be considered to have resigned from the public service. In these situations the public officer's re-integration into Government service and the termination of the special unpaid leave will be deemed to have taken place 30 days following receipt of such request by the Management and Personnel Office; provided that these 30 days shall be extended by a further 30 days for every year of consecutive unpaid leave availed of by the individual.

Individuals on special unpaid leave not on grounds of public policy have to submit a new application if they wish to be considered for special unpaid leave on grounds of public policy as a result of their changed circumstances.

* Public Sector: This paragraph also applies to employees of Government entities.

Special unpaid leave not on grounds of public policy to work with one of the EU Institutions, Bodies or Agencies may only be availed of once, irrespective of the duration which in any case can never exceed the maximum period of 3 years mentioned above. However requests for extension of the unpaid leave period for work with the same institution may be considered so long as the three year capping is respected.

When public officers receive confirmation of their employment with the EU Institution, Body or Agency, they are to obtain the clearance of their Permanent Secretary before applying to the Management and Personnel Office for special unpaid leave **not** on grounds of public policy. A notice period of three months shall have to be respected, provided that where the individual is in a post that carries a longer notice period, whether by contract or otherwise, it is the longer **contractual** notice period that shall have to be respected.

4.7.4.4. *General.* Individuals on special unpaid leave shall inform the Management and Personnel Office of all posts they hold within EU Institutions, Bodies and Agencies as well as any changes in their employment circumstances. Such individuals are obliged to provide at least an annual statement containing such details. Failure to provide such information or the provision of inaccurate information will be considered as a resignation of the individual from Government service.

Individuals on special unpaid leave may terminate their unpaid leave at any time, if it is to take up a post with the Government as a result of a call for applications to which they are eligible or a post at Government scales 1, 2, 3 or 4 or a post in a Ministerial Secretariat, or the EU Secretariat within the Prime Minister's Office.

Persons who are engaged on contract in Ministries and departments of Government and who are selected and take up an engagement with the EU are expected to resign, but they will retain the right to return and to complete the remaining period of contract of engagement with Government provided they do so within six months from the effective date of commencement of their employment with the EU Institutions, Bodies or Agencies.

4.7.4.5. Substitute officers may be engaged to replace officers on unpaid leave.

In paragraphs 4.8.1.1. and 4.8.1.2. replace 4.8.9. by 4.8.12.

In paragraph 4.9.1.1. delete to 4.9.6. and insert 4.9.3., 4.9.4. and 4.9.6.

Replace sub-section 4.9.5. with the following:

4.9.5.[†] Unpaid Leave to take up Temporary Employment with Institutions, Bodies and Agencies of the European Union

4.9.5.1. *Eligibility.* Public officers who have been in the public service for at least twelve months and who are employed by an EU Institution, Body or Agency in one of the following categories will be eligible to be granted special unpaid leave on grounds of public policy:

- (1) *Cabinet* or similar positions of trust with Commissioners, Judges (European Court of Justice and Court of First Instance), members of the Court of Auditors, President of the Parliament, President of the European Economic and Social Committee and the President of the Committee of the Regions.
- (2) A16, A15, A14, A13, posts with EU Institutions, Bodies or Agencies.
- (3) A12, A11, A10, A9 posts with the EU Institutions, Bodies or Agencies.

4.9.5.2. *Duration.* The following periods of unpaid leave will apply respectively to the categories defined above as follows:

- (1) A maximum period of five years.

[†] Public Sector: This paragraph also applies to employees of Government entities.

- (2) A maximum period equivalent to the duration of the terms of office of the posts they may hold.
- (3) A maximum period of five years provided that, if the public officer has been in the public service for more than ten years, the maximum period may be extended to ten years, limited however to duration of the terms of office of the posts they hold.

4.9.5.3. *Conditions.* Provided public officers respect the conditions and limitations of the granting of such special unpaid leave, they will:

- enjoy the right to return to their substantive grade in the public service;
- be eligible for progression or promotion in the same stream;
- retain all rights and privileges applicable to their public office and those arising from the respective Classification Agreement ;
- have their service with the EU reckonable as service with the Government, also for pension purposes.
- pensionable officers will have their service with the EU deemed as service given to the Government of Malta for pension purposes under the Pensions Ordinance;.
- social security rights acquired under the Social Security Act (Cap. 318) will be safeguarded in line with the provisions of Council Regulation (EC) No. 1408/71.

Individuals whose special unpaid leave is granted under category (1), above, should write to the Management and Personnel Office at least one year prior to the expiry of their special unpaid leave requesting re-integration into the public service.

Individuals whose special unpaid leave is granted under categories (2) and (3), above, and who wish to terminate that unpaid leave may write to the Management and Personnel Office requesting re-integration into the public service twelve months before they wish this re-integration to take effect.

Individuals on special unpaid leave on grounds of public policy under one of the categories listed above are eligible to apply to change the category under which their special unpaid leave has been granted. Where applicable, however, the time spent in one category has to be counted as forming part of the special unpaid leave granted in terms of the new category. Individuals that have benefited from special unpaid leave on grounds of public policy are not eligible to apply for special unpaid leave not on grounds of public policy with the EU Institutions, Bodies or Agencies.

When public officers receive confirmation of their employment with the EU Institution, Body or Agency, they are to obtain the clearance of their Permanent Secretary before applying to the Management and Personnel Office for special unpaid leave on grounds of public policy. A notice period of six months shall have to be respected, provided that where the individual is in a post that carries a longer notice period, whether by contract or otherwise, it is the longer contractual notice period that shall have to be respected.

4.9.5.4. *General.* Individuals on special unpaid leave shall inform the Management and Personnel Office of all posts they hold within EU Institutions, Bodies and Agencies as well as any changes in their employment circumstances. Such individuals are obliged to provide at least an annual statement containing such details. Failure to provide such information or the provision of inaccurate information will be considered as a resignation of the individual from Government service.

Individuals on special unpaid leave may terminate their unpaid leave at any time, if it is to take up a post with the Government as a result of a call for applications to which they are eligible or a post at Government scales 1, 2, 3 or 4 or a post in a Ministerial Secretariat, or the EU Secretariat within the Prime Minister's Office.

Persons who are engaged on contract in Ministries and departments of Government and who are selected and take up an engagement with the EU are expected to resign, but they will retain the right to return and to complete the remaining period of contract of engagement with

Government provided they do so within six months from the effective date of commencement of their employment with the EU Institutions, Bodies or Agencies.

4.9.5.5. Substitute officers may be engaged to replace officers on unpaid leave.

Chapter 6 – TREASURY PENSION ARRANGEMENTS

In paragraph 6.2.7.2. insert the following sub-paragraph (d):

(d) Ambassador, High Commissioner or other principal representative of Malta in any other country, when appointed from the Public Service in terms of the proviso of Article 111 (1) of the Constitution of Malta and provided that, prior to such appointment, the holder of any of the said offices was eligible for appointment as a Head of Department of Government in terms of Article 92 (4) of the Constitution.

Chapter 7 – CONDUCT

In paragraph 7.1.3.5. insert the following sentence at the end of the paragraph They also have the duty to report any wrongdoing committed by any other person whilst this person is on government property

Delete paragraph 7.1.3.6.

Re-number paragraphs 7.1.3.7. and 7.1.3.8. as 7.1.3.6. and 7.1.3.7. respectively.

In newly-renumbered paragraph 7.1.3.7., after the first sentence, insert the following sentence.

If the premises of the club is to be used for any business activity, the provisions of paragraph 7.3.3.3. shall apply.

In the same re-numbered paragraph 7.1.3.7. replace the words sub-section 7.2.2. ***with*** sub-section 7.2.2.4.(a).

Insert new sub-section 7.1.10. as follows:

7.1.10. Sexual Harassment

7.1.10.1. Preventing sexual harassment is an essential aspect of good management. Such behavior may have a negative impact on the general well being of public officers and/or clients as well as on the work environment as a whole.

7.1.10.2. The Public Service is committed to promote a dignified working environment and a harmonious relationship amongst all public officers, irrespective of their gender. Consonant with this commitment a document entitled 'The Public Service: Guidelines on what constitutes sexual harassment and on the procedures to be adopted in cases of sexual harassment', has been published.

7.1.10.3. The procedures outlined in this document are intended to serve as guidelines for both Heads of Department and public officers on how sexual harassment cases should be tackled in a fair, consistent and expeditious manner while ensuring standards of good practice, natural justice and utmost confidentiality.

7.1.10.4. This document may be viewed on MPO's website <http://www.mpo.gov.mt/sexualharassment.html> and also at <http://intra.gov.mt/genericdata.asp?pagecode=23&SubCategory=177&Data=3273>

In paragraph 7.3.2.1. after the words their official duties, ***insert the following sentence:***

The request should be made on the form at Appendix 7.1.

Insert new paragraphs 7.3.2.3. and 7.3.2.4. as follows:

7.3.2.3. If during the period of approval to perform private work, a public officer is transferred, promoted or progresses to a higher scale, permission to perform private work shall be deemed as having been withdrawn automatically, and a fresh approval shall be sought.

7.3.2.4. When the Director, Corporate Services informs a public officer of the approval to perform private work, he shall draw the officers' attention to the fact that the particulars relating to his part-time work are being sent to the Commissioner of Inland Revenue.

Re-number old paragraph 7.3.2.3. as 7.3.2.5.

Replace the title of sub-section 7.3.4. by Applications and record keeping of permits.

Insert new Appendix 7.I. entitled Request to Perform Private Work.

Chapter 8 – TRANSPORT AND SUBSISTENCE

In paragraph 8.2.10.1. replace 7c5 with 10c and 12c with 16c.

Add new paragraph 8.2.10.5. as follows:

8.2.10.5. *Green Travel Plans.* Moreover, Heads of Department should pursue, wherever possible, Green Travel Plans, such as pooling of resources to promote environment-friendly initiatives.

In paragraph 8.4.1.2. (a) replace (d) and (e) by (a) and (b).

In paragraph 8.4.1.2. (b) replace (b) by (d) and (c) by (e)..

In paragraph 8.4.1.2. (c) replace (c) by (e), (d) by (c) and (e) by (d).

Insert new paragraph 8.7.1.6. as follows:

8.7.1.6. Departments can now purchase e-tickets to Air Malta destinations, through the Head Office. The 50% rebate Letter of Authority covering flights for e-ticket destinations should be sent to Air Malta either via e-mail on govt@airmalta.com.mt or by fax. E-tickets and invoices will be sent to the respective departments via e-mail. Letters of Authority in respect of tickets not issued under the e-ticketing system should be presented at the Air Malta office in Valletta at the time of collection of the ticket.

Chapter 9 – STAFF WELFARE

Replace paragraph 9.1.1.1. with the following:

9.1.1.1. Heads of Department shall ensure that, whenever necessary, all circulars (including office orders and/or memoranda) are brought to the immediate attention of the public officers falling under their responsibility.

Insert new paragraph 9.1.1.3.

9.1.1.3. Directors, Corporate Services shall ensure that all the relevant OPM and MPO circulars are distributed to non-public officers working in the entities falling within their Ministry's portfolio. They should also ensure that other relevant documents which may be published on the intranet are made available to these non-public officers who have no direct access to the intranet.

Re-number the old sub-section 9.1.2. with the title 'Government Websites' as section 9.6.

Insert the following new sub-section 9.6.1. in the re-numbered section 9.6.:

9.6.1. Design of Government Websites

9.6.1.1. Departments today have an on line presence whether due to a full-fledged website or a webpage. These websites are the Ministries and Departments shopwindows and they serve an important function in keeping the local public and the rest of the world informed about the running of Government and about the provision of government services.

9.6.1.2. Heads of Department shall therefore ensure that the websites/webpages pertaining to their respective Department are kept updated by co-coordinating with the Webmaster who is the person responsible for the websites/webpages. This is important because inaccurate information may lead for action for damages by the injured party. Even Permanent Secretaries shall ascertain that all the websites/webpages of the Departments falling within their Ministry are kept accurate and updated.

9.6.1.3. In order to accommodate the needs of disabled persons where reasonably possible, Heads of Department shall ensure that their websites abide by a set of special standards entitled 'Website standard' and which are specifically tested to Web Accessibility Initiative (WAI) Section/web accessibility specifications. Parts of these standards ensure that websites are fully accessible to users with visual impairment and include not only the requirement that these can be fully read by programmes such as 'Window-Eyes screen reader' (and others) but also ensure that the colour schemes used are acceptable. The Website Standard is available at http://ictpolicies.gov.mt/docs/CIMU_S0051_Website-Standard_v3.1.pdf.

9.6.1.4. Heads of Department are also expected to provide alternative formats, where possible and where requested, of information that is available to their employees and to the general public. This can be achieved through one of the following:

- (i) provide the written communication in large print;
- (ii) provide the written communication in electronic format;
- (iii) assign an employee to read the circular to those who need this.

9.6.1.5. Disabled employees shall be made aware that they may request that circulars and/or other documents of relevance to them be provided in large print, electronic or audio format; and that such requests shall be addressed to the Head of Department. The Foundation for IT Accessibility (FITA) has published a set of general guidelines on how information can be made more accessible and on alternative formats. These are available on http://www.knpd.org/mittsfita/dokumenti/sd_accessible_media.pdf.

Insert a new paragraph 9.6.2. with the sub title 'Use of e-mail and internet'.

Re-number paragraphs 9.1.2.1. to 9.1.2.5. as 9.6.2.1. to 9.6.2.5..

In the newly re-numbered paragraph 9.6.2.1. replace the word CIMU with MITTS.

Replace proviso (h) of the newly re-numbered paragraph 9.6.2.5. with the following:

(h) Public officers shall for their guidance, consult the publication entitled Government of Malta Computer Misuse Handbook. This Handbook is available at <http://mitts.gov.mt/default.aspx?partid=43&id=32>.

The last proviso of the newly-renumbered paragraph 9.6.2.5. be numbered as new paragraph 9.6.2.6.

Re-number the old sub-section 9.1.3. as sub-section 9.1.2. and the paragraphs 9.1.3.1 and 9.1.3.2. as 9.1.2.1. and 9.1.2.2..

Re-number the old sub-section 9.1.4. as sub-section 9.1.3. and the paragraphs 9.1.4.1. to 9.1.4.7 as 9.1.3.1. to 9.1.3.7..

Re-number the old sub-section 9.1.5. as sub-section 9.1.4. and the paragraphs 9.1.5.1. to 9.1.5.4. as 9.1.4.1 to 9.1.4.4..

Insert a new section 9.7. as follows:

9.7. GOVERNMENT FORMS

9.7.1. General

9.7.1.1. Heads of Department shall ensure that all forms used in their Departments are standardized to cater for both males and females. Where discriminatory wording is essential an explanatory note shall be inserted.

Chapter 10 - DISCIPLINE

Replace Chapter 10 with the following:

10.1. GENERAL

10.1.1. Disciplinary regulations

10.1.1.1. In this Chapter, unless otherwise stated, "the 1999 Regulations" shall refer to the Public Service Commission (Disciplinary Procedure) Regulations, 1999 (L.N. 186 of 1999), as emended by Legal Notice 67 of 2006.

10.1.1.2. *Application of regulations.* Disciplining of public officers is regulated by the 1999 Regulations which came into effect on the 1 February 2000 and amendments which came into effect on 27 March 2006. The provisions of the 1999 Regulations and amendments apply to disciplinary or criminal cases where disciplinary action was initiated on or after the 1 February 2000 and are applicable to officers recruited in the Public Service in terms of Section 110 of the Constitution. This also applies to officers who migrate to entities.

10.1.1.3. Where disciplinary proceedings have been commenced under the Public Service Commission (Disciplinary Procedure) Regulations, 1977 they should be continued and completed under those Regulations, as if they were still in force.

10.1.2. Delegation and jurisdiction

10.1.2.1. By means of an Instrument of Delegation, dated 1 November 1999, the Prime Minister, in terms of Section 110 of the Constitution, delegated to Heads of Department the authority to exercise disciplinary control over public officers under their jurisdiction in accordance with the 1999 Regulations.

10.1.2.2. This delegation of powers is intended to expedite the disciplinary process, reinforce the concept of accountability and enable managers to manage better. The expanded disciplinary powers given to Heads of Department are in many respects consonant with the best practice in the private sector.

10.1.2.3. The Schedule to the Instrument of Delegation lists the public officers or authorities that have the power to exercise disciplinary control in accordance with the 1999 Regulations, in respect of public officers forming part of or attached to their area of jurisdiction. The list of those officers and authorities and their area of jurisdiction is given at Appendix 10.1.

10.1.2.4. *Vacancy of post of Director or Director General.* Where the office of a Director General or a Director is vacant and no acting appointment has been made, the delegated officer shall be the Permanent Secretary or Director General, as the case may be, under whose direct jurisdiction the vacant office falls.

10.2. PRELIMINARY

10.2.1. Powers of the Commission.

10.2.1.1. The Public Service Commission may, at its discretion, enquire into the exercise of disciplinary control by any Head of Department.

10.2.1.2. Notwithstanding anything in these provisions the Commission shall have power to take or to refrain from taking such action as it may deem appropriate to take or not to take in the circumstances, and any request or directive by the Commission to any public officer, Board or other authority, other than the Prime Minister, performing functions under these regulations or otherwise under the authority or on behalf of the Commission shall be complied with by any such public officer, Board or authority.

10.2.1.3. Where the Commission considers that a Head of Department has abused or misused his delegated authority or has failed to exercise proper disciplinary control in his department, it shall conduct such enquires as it may consider necessary in order to establish whether the delegated authority has actually been abused or misused or disciplinary control has been properly exercised and may recommend to the Prime Minister that the instrument of delegation in respect of that Head of Department be withdrawn or amended and, where appropriate, that disciplinary action be taken in terms of these provisions.

10.2.1.4. Where the Commission is satisfied that a public officer, Board or other authority, other than the Prime Minister, performing functions under these provisions has failed to comply with any request made or directive given by the Commission for the purposes paragraph 10.2.1.2., or has failed to observe any of these provisions, or has failed to perform satisfactorily the functions required of him under these regulations, or has failed to comply with any requirement thereof or any prohibition contained therein, it may recommend to the Prime Minister that disciplinary action be taken in respect of the defaulting officer, Board or other authority in terms of these provisions.

10.2.1.5. Nothing in these provisions shall prevent the Commission with the consent of the Prime Minister from issuing instructions and guidelines to Heads of Department and other officers concerning the interpretation and operation of these provisions.

10.2.2. Official conduct and liability to disciplinary proceedings.

10.2.2.1. An officer shall become liable to proceedings under these provisions for conduct that brings the public service into disrepute, or for misconduct, or for any breach of discipline or code of ethics, or for unsatisfactory work and, without prejudice to the generality of the foregoing:

- (a) for any breach of, or failure to comply with, any laws, rules, regulations or codes governing from time to time the public service, or the conduct of public officers, or the transaction of government business; or
- (b) for any breach of, or failure to comply with, any lawful order, direction or instruction, whether written or verbal, that may properly be given by a superior officer or authority.

10.2.3. Offences to be reported without delay

10.2.3.1. An officer shall report to the Head of Department any misconduct or breach of discipline committed by an officer of whom he is in charge immediately the offence becomes known to him, and in no case later than five working days after he becomes aware of the offence, unless he has taken action in terms of

10.2.3.2. An officer against whom a serious offence under these provisions has been committed (the victim) shall be entitled to file a formal complaint in writing with his Head of Department not later than six months from the date when the alleged offence is committed. The Head of Department shall decide whether or not to initiate disciplinary proceedings in terms of these provisions against the officer against whom the complaint is made, after carrying out a preliminary investigation which is to be concluded not later than fifteen working days from when the Head of Department receives the written complaint.

Provided that, in cases where the victim and the offender do not fall under the responsibility of the same Head of Department, the two Heads of Department concerned shall consult each other before any further action in terms of these provisions is taken by the Head of Department of the alleged offender.

10.2.4. Rights of an officer answering disciplinary charges

10.2.4.1. Prior to the commencement of the hearing of the case, an officer charged with offences indicated in sub-section 10.2.2. shall be entitled to know the whole case against him, shall have adequate opportunity of making his defence and shall have access to all documentary evidence. Any documentary evidence produced after the commencement of the hearing of the case shall not be used against the officer unless the officer has been previously supplied with a copy thereof or given access thereto and given reasonable time to consider and reply thereto.

10.2.4.2. An officer answering disciplinary charges shall be entitled to the assistance of a person of his choice in the preparation and presentation of his case and at every stage of any hearing before a Disciplinary Board or before the Commission, including any hearing on appeal.

10.2.4.3. An officer answering disciplinary charges shall be entitled, as soon as possible but not later than twenty working days from the date when the Head of Department or the Commission, as the case may be, takes the final decision about the guilt or otherwise of the officer concerned, to know the decision on any report or charge and the penalty, if any, imposed upon him. Such information shall be communicated in writing by the Head of Department or the Secretary to the Commission, as the case may be.

10.2.5. Department representatives in disciplinary hearings

10.2.5.1. A Head of Department preferring charges of misconduct or breach of discipline against an officer shall be entitled to be represented by any person of his choice, at every stage of any hearing before a Disciplinary Board or before the Commission, including any hearing on appeal.

10.2.6. Proceedings by Head of the Public Service

10.2.6.1. Whenever the public officer against whom disciplinary proceedings are to be taken happens to be a Head of Department, or a Director to whom powers to exercise disciplinary action has been delegated, the Head of the Public Service shall take such action as a Head of Department is empowered to take under these provisions.

10.2.6.2. Where the Head of the Public Service considers that there exist justifiable reasons or circumstances which make it inadvisable for a Head of Department to involve himself in disciplinary action relating to a particular officer under his charge, the Head of the Public Service shall take such action as that Head of Department is empowered to take under these provisions.

10.2.7. Proceedings against a public officer not serving in a department of government

10.2.7.1. Whenever the public officer against whom disciplinary proceedings are to be taken happens to be serving in an office or establishment which does not form part of any department of Government, the Head of the Public Service shall take such action as a Head of Department is empowered to take under these provisions:

Provided that the Prime Minister acting on the recommendation of the Public Service Commission may delegate such power to a senior officer of such office or establishment under such conditions as may be specified in the instrument of delegation.

10.2.8. General powers of supervision

10.2.8.1. Nothing in these provisions shall be deemed to detract from the power and duty of any officer to draw the attention of any officer under his charge as to his conduct, the observance of regulations and instructions and the proper manner of carrying out his duties.

10.3. SUSPENSION AND INTERDICTION

10.3.1. Summary suspension

10.3.1.1. Whenever a Head of Department considers it necessary that an officer should be suspended on grounds of alleged misconduct or breach of discipline or for disobeying lawful orders, whether written or verbal, or for the purpose of properly carrying out investigations into an alleged offence, he may summarily suspend the officer for two working days which may be extended up to five working days.

10.3.1.2. An officer under suspension shall have the right to report back to work immediately the period of suspension in terms of paragraph 10.3.1.1. expires and if the Head of Department fails to initiate disciplinary proceedings against the officer in accordance with sub-section 10.5.4. or 10.6.1. the officer shall receive the full amount of salary withheld during the period of suspension. No record of the suspension shall be entered in the officer's record of service.

10.3.1.3. Where disciplinary action has been taken against a suspended officer under these provisions and the officer is subsequently found guilty of the charge, the period of suspension shall be taken into account in determining the penalty to be imposed and adjustments to his salary shall be made, as and where appropriate. Where, however, an

officer is acquitted, he shall receive the full amount of salary withheld during the period of suspension.

10.3.2. Suspension and interdiction during disciplinary proceedings

10.3.2.1. Where, in the case of an alleged serious offence, the Head of Department considers it necessary in the public interest that the officer should be interdicted from the exercise of the powers and functions of his office, he shall, concurrently with action taken under sub-section 10.5.4. or 10.6.1., make a recommendation to the Commission for the interdiction of the officer, giving reasons in justification of his opinion.

10.3.2.2. The Commission shall consider the opinion of the Head of Department and shall recommend to the Prime Minister whether or not the officer should be interdicted.

10.3.2.3. The Head of Department may suspend the officer from the exercise of the powers and functions of his office pending the decision of the Prime Minister acting on the recommendation of the Commission.

10.3.2.4. In the event that the request for interdiction is not authorised, the officer under suspension shall be immediately recalled for duty and shall be refunded any salary withheld during the period of suspension.

10.3.2.5. Any decision ordering the suspension of an officer shall be communicated forthwith to the officer concerned by the Head of Department and any decision authorising the interdiction of an officer shall be communicated forthwith to the Head of Department who shall immediately inform the officer concerned.

10.3.2.6. A public officer who is interdicted shall receive half salary unless the Prime Minister, after consulting the Commission, approves that he receives a higher proportion of the salary.

10.3.2.7. If the disciplinary proceedings do not result in the dismissal or other punishment of the officer, he shall be entitled to the full amount of salary which he would have received if he had not been interdicted. If the punishment is other than dismissal, he may be refunded such proportion of the salary withheld as a result of his interdiction as the Prime Minister acting on the recommendation of the Commission may think fit. If the punishment is dismissal, the officer shall forfeit the salary withheld as a result of his interdiction.

10.3.2.8. Where an officer against whom disciplinary or criminal action has been taken and is pending, retires or resigns from the service before the conclusion of such action, any salary withheld as a result of his interdiction shall not be refunded unless he is acquitted of the charges brought against him. If the officer dies when proceedings are still pending, any salary withheld as a result of his interdiction is refunded to his heirs.

10.3.2.9. An officer who is under interdiction shall not have access to any official premises and shall not remove, destroy or add to, or cause to be removed, destroyed or added to, any official document, instrument or matter.

10.3.2.10. An officer who is under interdiction may not leave Malta without the written permission of the Head of the Public Service and any such officer who leaves Malta without such permission shall be liable to dismissal.

10.3.2.11. Notwithstanding the provisions of paragraphs 10.3.2.6. and 10.3.2.7. if an officer is in prison under preventive custody or serving a court sentence, no salary shall be due to the officer during the period of imprisonment whether such officer is subsequently found guilty of the offence with which he is charged or otherwise.

10.4. CRIMINAL OFFENCES

10.4.1. Head of Department to consult Attorney General whether prosecution or disciplinary action should be taken.

10.4.1.1. When it comes to the notice of a Head of Department that a criminal offence likely also to warrant disciplinary proceedings may have been committed by a public officer, the Head of Department shall consult the Attorney General as to whether a prosecution should be instituted or, if the latter does not advise a prosecution, as to whether disciplinary action should be taken under these provisions. In the latter case, the charges framed against the officer shall be approved by the Attorney General before the officer is required to answer them or before any disciplinary proceedings are instituted.

10.4.2. Action pending criminal proceedings

10.4.2.1. If criminal proceedings are being taken against a public officer in any Court, the officer and the Commissioner of Police shall severally report the fact to the Head of Department.

10.4.2.2. If the Head of Department considers that any criminal proceedings which have been instituted against a public officer in any Court are of a nature likely to warrant disciplinary action, he shall forthwith report the facts to the Commission with a recommendation giving reasons as to whether the officer should or should not be interdicted from the exercise of his powers and functions. No disciplinary proceedings against such an officer upon any grounds involved in the criminal charge shall be taken until the conclusion of the criminal proceedings and the determination of any appeal.

10.4.2.3. Where the Head of Department has recommended to the Commission that the officer should be interdicted, he may suspend the officer from the exercise of the powers and functions of his office pending the decision of the Prime Minister acting on the recommendation of the Commission.

10.4.2.4. The provisions of paragraphs 10.3.2.4 and 10.3.2.5. shall also apply in the case of suspension and interdiction made in connection with a criminal offence dealt with under this paragraph.

10.4.3. Disciplinary action after acquittal of criminal charge.

10.4.3.1. No action should be taken against an officer in connection with a criminal case before it is ensured that there is no pending appeal before the courts.

10.4.3.2. A public officer acquitted of a criminal charge in any Court shall not be dismissed or otherwise punished on any charge upon which he has been acquitted, but nothing in this provision shall prevent his being dismissed or otherwise punished on any other charge arising out of his conduct in the matter, unless the charge raises substantially the same issues as those on which he has been acquitted. If the Head of Department proposes to take disciplinary action against such officer, before the officer is required to answer any charges or before any disciplinary proceedings are instituted, the charges formulated against the officer shall be approved by the Attorney General.

10.4.3.3. Where a public officer has been acquitted of a criminal charge, the Head of Department shall inform the Commission of the outcome of the criminal proceedings and whether he proposes to take or not to take disciplinary action against the officer in accordance with the preceding paragraph.

10.4.4. Disciplinary action after conviction on criminal charge.

10.4.4.1. If a public officer has been found guilty of a criminal charge, the findings of the Court on such charge shall be referred by the Head of Department to the Commission.

10.4.4.2. The Commission, after considering the findings of the Court, and of the Court of Appeal, if any, the nature of the misconduct and whether such misconduct has a direct or indirect relation to the duties of the officer concerned, shall make a recommendation to the Prime Minister as to the penalty, if any, to be imposed.

Provided that if the Commission considers that the appropriate penalty following conviction on a criminal charge shall be dismissal or a warning of dismissal or the forfeiture of any salary, in whole or in part, withheld during any period of suspension or interdiction, it shall inform the officer of his right to make written representations to the Commission within a period of ten working days from such notification and the Commission shall consider such representations and may give the officer the opportunity of an oral hearing before making a recommendation to the Prime Minister.

10.5. DISCIPLINARY PROCEEDINGS UNDER DELEGATED AUTHORITY

10.5.1. Application where disciplinary powers have been delegated

10.5.1.1. The provisions of this section shall only apply where the exercise of disciplinary powers and control have been delegated to a Head of Department or other officer or authority by the Prime Minister in accordance with article 110 of the Constitution, and shall only so apply to the extent specified.

10.5.2. Admonition

10.5.2.1. An officer shall have the power to admonish another officer of whom he is in charge for minor misconduct or breach of discipline or unsatisfactory work, after giving the officer the opportunity to exculpate himself. A record of any such admonition shall be retained by the officer administering it, but shall be cancelled at the expiration of six months from the date it is administered. A specimen of the letter of admonishment is at Appendix 10.II

10.5.2.2. An officer shall report to the Head of Department whenever another officer of whom he is in charge has been admonished for minor misconduct or unsatisfactory work on three occasions in any period of six months.

10.5.3. Summary discipline

10.5.3.1. When in the opinion of a Head of Department the penalty appropriate to minor misconduct or breach of discipline or of unsatisfactory work by an officer in his department is no more than a warning, he may communicate to such officer in writing his intention to administer a warning, stating the grounds therefor and giving the officer an opportunity to reply. If the officer fails to reply within ten working days from the date the Head of Department communicates his intention to administer a warning or if in his reply the officer admits the facts, or if the officer does not admit the charge and the Head of Department does not consider that the officer has exculpated himself, the Head of Department shall administer the warning. A specimen of the written warning is at Appendix 10.III.

10.5.3.2. Every warning administered under this provision shall be entered in the record of service of an officer and the officer shall be informed accordingly: but this warning shall be cancelled at the expiration of twelve months from the date that it is administered.

10.5.3.3. Whenever a second case of minor misconduct or breach of discipline or unsatisfactory work by an officer takes place within twenty-four months from the commission of a previous minor disciplinary offence treated under sub-section 10.5.4., the latter case shall not be treated summarily under this provision, but shall be treated under sub-section 10.5.4..

10.5.4. Commencement of disciplinary proceedings

10.5.4.1. Where it appears to a Head of Department that a criminal offence may have been committed by an officer under his jurisdiction, the procedure under sub-section 10.4.1. to 10.4.4. shall be adopted.

10.5.4.2. Whenever it comes to the notice of a Head of Department that an officer in his department may be guilty of misconduct or breach of discipline the following provisions shall apply:

- (a) The Head of Department shall, as expeditiously as practicable and in no case later than thirty working days from the date when the alleged offence comes to his notice, or not later than three calendar months from the date of the signing of a report made in terms of the Inquires Act, prepare a written statement of charges against the officer concerned, setting out particulars of the evidence relied upon to support the charge or charges. The Head of Department shall also inform the officer whether in his opinion the charge or charges constitute a minor or a serious offence and whether the offence could lead to dismissal. A specimen charge sheet is at Appendix 10.IV.
- (b) This statement shall be delivered personally to the officer by a responsible official of the department concerned. The officer shall reply in writing to the charge or charges made against him, stating any grounds on which he relies to exculpate himself, before the lapse of ten working days from the date on which the statement is delivered to him.
- (c) If after considering the officer's reply, the Head of Department is satisfied that the officer has exculpated himself, he shall so inform the officer. A complete report on the case shall be entered in the officer's personal file but not in his record of service.
- (d) If the officer admits the charge or charges, the Head of Department shall communicate to the officer charged his decision on the charge or charges and the penalty, if any.
- (e) If the officer does not furnish a reply within the period specified, or does not in the opinion of the Head of Department exculpate himself, the Head of Department shall, within twenty working days from the receipt of the reply or from the date on which such a reply was due, refer the case to a Disciplinary Board appointed under sub-section 10.5.5..

10.5.4.3. Notwithstanding the provisions of 10.5.4.2.

- (a) no action shall be taken in respect of a minor offence which has occurred earlier than twelve months from the time when the alleged minor offence comes to the notice of the Head of Department;
- (b) irrespective of whether or not the case had already been investigated by a Disciplinary Board, a Head of Department may, for sufficient justifiable reasons, change his original decision and issue a written warning in terms of sub-section 10.5.2. instead of proceeding in terms of this paragraph.

Provided that, where the Head of Department had given notice to the officer charged that the charges, if proved, could lead to dismissal, the implementation of any such change of decision shall require the approval of the Commission.

10.5.5. Disciplinary Boards.

10.5.5.1. The Disciplinary Board for the purpose of paragraph 10.5.4.2. (e) shall be appointed by the Head of Department and shall consist of a Chairperson and two members appointed as follows:

- (a) The Chairperson shall be an officer of the department not below salary scale 10 and not connected with the case of discipline to be heard by the Board and not less than two salary scales above the officer charged, and not in the same grade as the officer charged.
- (b) Two other officers of the department not connected with the case of discipline and at least one salary scale above the officer charged, and are not in the same grade as the officer charged:

Provided that where the Head of Department has informed the officer that the alleged offence could lead to dismissal, the Chairperson of the Disciplinary Board shall be, at least an officer at Assistant Director level or analogous grade.

10.5.5.2. Where the Head of Department considers that officers of suitable grade and/or not connected with the case of discipline are not available in his department, he may ask the Permanent Secretary supervising his department to nominate suitable officers for appointment as Chairperson and/or members of the Board.

10.5.5.3. Where serious objections are raised by the officer charged or by his representative that the chairperson and, or any of the members of the Disciplinary Board are in some way prejudiced against him, the officer charged may petition the Commission and shall send a copy of the petition to his Head of Department. Pending the decision of the Commission on the petition, the disciplinary proceedings shall be suspended.

10.5.5.4. If the Commission accepts the petition, it shall appoint a fresh Disciplinary Board or make appropriate changes to the Board. The officer and the Head of Department shall be informed accordingly.

10.5.6. Functions and powers of Disciplinary Boards.

10.5.6.1. Every Disciplinary Board appointed under sub-section 10.5.5. to investigate the case, shall establish the facts and communicate its findings to the Head of Department and to the officer charged as early as practicable and in no case later than thirty working days from the date on which the case is referred to it.

10.5.6.2. The Board shall have the power to seek expert advice whenever it considers such advice to be necessary or expedient, and to summon any person to appear before it and give evidence or to produce any document.

10.5.6.3. The Board may direct that any evidence given before it be confirmed by an affidavit.

10.5.6.4. The period of thirty working days specified paragraph 10.5.6.1. may on good cause being shown, be extended by the Head of Department up to a maximum of another thirty working days.

10.5.6.5. Where serious and justifiable reasons exist which, in the opinion of the Head of Department, preclude the Board from making a report of its findings earlier than the prescribed period of thirty days and any extension thereof, the Head of Department shall refer the matter to the Commission for its direction.

10.5.7. Procedure at Disciplinary Hearings.

10.5.7.1. In exercising its functions under these provisions, a Disciplinary Board shall afford a fair opportunity to both sides to present their case, but shall dispense with all undue formalities and ensure that justice is done expeditiously and according to the substantive merits of the case.

10.5.7.2. Notice of not less than ten working days shall be given of the time and place of the hearing to the Head of Department and to the officer charged. Every notice shall be signed by the chairperson and served by registered mail or by hand.

10.5.7.3. If the Board is satisfied that notice of the hearing has been given, it may proceed with the case notwithstanding the absence of the officer charged if, taking all circumstances into account, including the requirements of sub-section 10.5.7. the Board is of the opinion that it ought so to proceed with the case.

10.5.7.4. The following procedure shall apply to the hearing by a Board:

- (a) the hearing shall be held in private;
- (b) the officer summoned to appear at the hearing shall be given full opportunity to defend himself and to produce witnesses;
- (c) the officer or his representative may cross-examine the witnesses called in support of the case against him.

10.5.7.5. Subject to this provision the Board may regulate its own procedure at the hearing.

10.5.7.6. The Board may seek the opinion of, or a directive by, the Commission on questions of procedure.

10.5.8. Disclosure of *prima facie* grounds for additional charges.

10.5.8.1. Where a Disciplinary Board hearing evidence against an officer is of the opinion that such evidence discloses other *prima facie* misconduct or breach of discipline, the following procedure shall apply:

- (a) the Disciplinary Board shall report the matter to the Head of Department and to the officer charged, and shall thereupon suspend its proceedings;
- (b) if the Head of Department thinks fit to proceed against the officer charged on the additional grounds disclosed, the Head of Department shall furnish the officer with fresh charges and the procedure described in paragraph 10.5.4.2. (a), (b), (c), (d) and (e).

10.5.8.2. The provisions of the preceding paragraph shall not be invoked when the additional grounds constitute a minor offence that would have lapsed after twelve months.

10.5.9. Communication of findings

10.5.9.1. At the conclusion of its investigation, the Board shall communicate its findings to the Head of Department and to the officer charged.

10.5.9.2. A report on the findings shall comprise:

- (a) a summary of such parts of the evidence as the Board considers relevant;
- (b) the findings of the investigation on material questions of fact;

- (c) a statement whether in the Board's opinion the accused officer has or has not committed the offence or offences charged and a brief statement of the reasons for that opinion;
- (d) details of any matters which alleviate or aggravate the gravity of the case.

10.5.9.3. The report of the Board shall not include any recommendation regarding the penalty that may be imposed.

10.5.10. Decisions and representations on findings of Disciplinary Board

10.5.10.1. After the findings of the Board are communicated to the Head of Department and to the officer charged, the following procedure shall apply in all cases, except where the Head of Department had given notice to the officer charged that the charges, if proved, could lead to dismissal:

- (a) the officer charged may make written representations or ask for an appointment to make oral representations to the Head of Department, within ten working days from the date on which the findings of the Board are communicated to him, and such representations shall clearly state the grounds on which they are based;
- (b) the Head of Department shall consider any representations made to him by the officer charged and shall, as soon as practicable, communicate to the officer his decision on the charge or charges, including, in minor cases, on whether he accepts the Board's finding of guilt, and on the penalty, if any, that he has imposed.

Provided that if an officer charged with a minor offence is found not guilty by a Board and the Head of Department subsequently disagrees with the Board's findings, the Head of Department shall immediately inform the officer of his intention to change the findings of the Board, giving specific reasons why he disagrees with the Board's findings. The officer is also to be informed of his right to make written or oral representations which are to be made to the Head of Department within ten working days from the date of receipt of the letter from his Head of Department informing the officer of his intention to change the Board's conclusions;

- (c) whenever it results from the findings of the Board that the offence, contrary to what was originally stated by the Head of Department, was not of a serious nature the Head of Department may award a lesser penalty than that applicable for serious offences, provided that in such cases the Head of Department shall enter a note in the records of the case specifying the reasons why he accepted the findings of the Board and consequently awarded a penalty applicable to a minor offence;
- (d) whenever an officer admits a charge or fails to make any representations to the Head of Department within the period specified in paragraph (a), the Head of Department shall communicate, as soon as practicable, to the officer charged his decision on the charge or charges and the penalty, if any, that the Head of Department has imposed.

10.5.10.2. In the case of an offence where the Head of Department had given notice to the officer charged that the charges, if proved, could lead to dismissal, the following procedure shall apply:

- (a) upon receipt of the Board's report, the Head of Department shall, as soon as practicable, send a copy of the report to the Commission;

- (b) in giving consideration to the Board's findings, the Commission shall give an opportunity to the officer charged and to the Head of Department to make oral representations;
- (c) after considering the findings of the Board and the representations made to it, the Commission shall make its recommendation to the Prime Minister both as to the guilt or otherwise of the officer charged and as to the penalty, if any.

10.5.11. Records of proceedings

10.5.11.1. The record of any disciplinary proceedings shall include the following:

- (a) any written report made against an officer, or a written record of any verbal report;
- (b) any statement of charge;
- (c) any written representations made by the officer charged by way of reply to the charge or charges or otherwise in the course of proceedings;
- (d) copies of all documents, papers and files received by the Disciplinary Board from any party in connection with the proceedings;
- (e) notes of evidence taken by the Disciplinary Board;
- (f) any decision taken or any recommendation made by a Head of Department regarding the guilt or otherwise of an officer, and the penalty or penalties, if any, awarded;
- (g) any written representations made by the officer charged in regard to the findings of a Disciplinary Board, or in regard to any penalty awarded.

10.5.11.2. Any attempt to tamper with or to destroy the record of proceedings shall be considered as a serious offence.

10.5.11.3. A Head of Department shall comply with any instructions that may be issued by the Head of the Public Service, with the concurrence of the Commission, with regard to the custody of the records relating to disciplinary proceedings.

10.6. DISCIPLINARY PROCEEDINGS WHEN DISCIPLINARY POWERS HAVE NOT BEEN DELEGATED

10.6.1.1. Where disciplinary control has not been delegated to a Head of Department or another officer or authority in accordance with article 110 of the Constitution, the following provisions and procedures shall apply:

- (a) Whenever it comes to the knowledge of a Head of Department that an officer in his department may be guilty of misconduct or breach of discipline, the provisions of paragraph 10.5.4.2. (a) and (b) shall apply.
- (b) If the officer admits the charge or charges, the Head of Department shall refer a copy of the charge or charges and of the officer's reply to the Commission and the Commission shall make its recommendation to the Prime Minister as to the penalty, if any, to be imposed on the officer.
- (c) If the officer charged does not admit the charge or charges or does not furnish a reply within the period specified, the Head of Department shall, within twenty working days from the receipt of the reply or from the date on which such a reply was due, refer the case to a Disciplinary Board appointed in terms of sub-section 10.5.5.

- (d) The Board appointed under the preceding shall communicate its findings to the Head of Department, to the officer charged and to the Commission, and the Head of Department and the officer charged may, within ten working days from the date on which the findings of the Board are communicated to him, make representations in writing to the Commission in respect to such findings or ask for an appointment to make oral representations. A copy of any representations so made shall be communicated to the other side by the Commission.
- (e) After considering the findings of the Board and any representations made to it, the Commission shall make its recommendation to the Prime Minister both as to the guilt or otherwise of the officer charged and as to the penalty, if any.

10.7. OFFENCES AND PENALTIES

10.7.1. Categorisation of offences and penalties

10.7.1.1. A broad categorisation of offences and of corresponding penalties that may be imposed by the Prime Minister acting on the recommendation of the Commission, or by a Head of Department to whom disciplinary control has been delegated in accordance with article 110 of the Constitution are listed at Appendix 10.V and 10.VI.

Provided that with regard to Police officers, the penalties applicable shall be those set out in article 20 of the Malta Police Ordinance.

10.8. APPEALS FROM DISCIPLINARY DECISIONS AND REVIEW OF PAST RECOMMENDATIONS OF THE COMMISSION

10.8.1. Appeals

10.8.1.1. A public officer shall have a right of appeal to the Commission in accordance with this provision against a finding of guilt and any corresponding penalty imposed by the Head of Department in any of the following circumstances:

- (a) when the charge or charges of which the officer has been found guilty had been considered as a serious offence in terms of paragraph 10.5.4.2. (a);
- (b) where the penalty imposed by the Head of Department is or includes a "Warning of Dismissal";
- (c) where the officer can prove that there has been a gross disregard of the procedures laid down in these provisions and such disregard had prejudiced the interests of the officer.

10.8.1.2. Notice of appeal under paragraph 10.8.1.1., setting out the grounds of the appeal, shall be forwarded to the Secretary of the Commission in writing by registered post or delivered to him by hand not later than ten working days from the date on which the decision was notified to the officer concerned. A copy of the notice of appeal shall concurrently be sent by the officer to the Head of Department.

10.8.1.3. On receiving a copy of a notice of appeal, the Head of Department shall immediately transmit to the Commission the full documentation relating to the case, including the Board's findings and report.

10.8.1.4. The Secretary of the Commission shall acknowledge the receipt of the notice of appeal made under this provision and any appeal received after ten working days from the date on which the decision of the Head of Department was communicated to the officer concerned, shall not be considered by the Commission.

10.8.1.5. When an appeal is lodged, the Commission shall deal with the matter in its absolute discretion as if no delegation of authority was in force in respect of that matter.

10.8.1.6. Without prejudice to any other powers which it may have under the Constitution and under these provisions, the Commission, in giving consideration to an appeal, shall give an opportunity to the Head of Department and to the appellant to make oral representations.

10.8.1.7. The Commission, after considering the grounds for appeal, the record of the proceedings, and any oral representations shall proceed to recommend to the Prime Minister either that he should confirm the decision of the Head of Department as to the guilt of the appellant and/or the penalty imposed, or that he should amend or revoke it.

10.8.1.8. If the matter is not referred back to the Commission within two months or action on the recommendation of the Commission is not taken within the same period, the Commission shall inform the appellant of the recommendation it had made to the Prime Minister.

10.8.1.9. Nothing in this provision shall prevent the Commission, either before the hearing or at any time during the hearing of an appeal, from summarily dismissing or disallowing an appeal without hearing it or without hearing it any further as the case may be, on the grounds that an appeal is frivolous or vexatious or one that should not otherwise have been brought or made.

10.8.2. Suspension of penalty pending appeal

10.8.2.1. A penalty imposed by a Head of Department acting under a delegated authority shall not be put into effect before the lapse of at least ten working days from the date on which the officer was notified of the penalty by the Head of Department and, if an appeal has been lodged, the penalty shall not be put into effect pending a decision by the Prime Minister acting on the recommendation of the Commission.

10.8.3. Representations by Head of Department who is dissatisfied with findings of Disciplinary Board

10.8.3.1. A Head of Department who is dissatisfied with the proceedings or findings of a Disciplinary Board appointed under sub-section 10.5.5. may make representations to the Commission, provided that the proceedings or findings of the Board relate to:

- (a) a disciplinary charge which the Head of Department had considered to be a serious offence in terms of paragraph 10.5.4.2. (a).
- (b) a case which the Head of Department had considered to warrant a warning of dismissal;
- (c) a case where the Head of Department can prove that there has been a gross disregard of the procedures laid down in these provisions and such disregard had prejudiced the case.

10.8.3.2. Any representations under paragraph 10.8.3.1. shall be made in writing to the Secretary of the Commission not later than ten working days from the date on which the findings of the Board were notified to the officer concerned. A copy of such representations shall concurrently be sent to the officer by the Head of Department.

10.8.3.3. Without prejudice to any other powers which it may have under the Constitution and under these regulations, the Commission, in giving consideration to representations made by a Head of Department under paragraph 10.8.3.1., shall give an opportunity to the Head of Department and to the officer concerned to make oral representations.

10.8.3.4. The Commission, after considering the representations made, may at its discretion:

- (a) refer the findings of the Board back to the Head of Department for appropriate action in terms of these provisions;
- (b) refer the findings back to the Board for further investigations and to report back to the Commission;
- (c) annul the findings of the Board and appoint a fresh Disciplinary Board consisting of members not connected with the case or the department concerned to hear the case again and to report its findings to the Head of Department;
- (d) report any defaulting member or members of the Board to the Head of the Public Service for any action he may deem appropriate.

10.8.3.5. Where a Disciplinary Board is appointed by the Commission under paragraph 10.8.3.4. (c) of this provision, the following provisions shall apply:

- (a) the Board shall have the same powers and shall follow the same procedures as a Disciplinary Board appointed by a Head of Department under subsection 10.5.5., *mutatis mutandis*;
- (b) the Board shall communicate its findings to the Head of Department, to the officer charged and to the Commission;
- (c) the officer charged may, within ten working days from the date on which the findings of the Board are communicated to him, make representations in writing to the Commission in respect of such findings or ask for an appointment to make oral representations;
- (d) after considering the findings of the Board and any representations made to it, the Commission shall make its recommendation to the Prime Minister both as to the guilt or otherwise of the officer charged and as to the penalty, if any.

10.8.4. Review of past Recommendations of the Commission

10.8.4.1. Any person who is or has been a public officer and who had been penalized under these provisions or under the 1977 Regulations may petition the Commission to review his case for the purpose of revoking or amending the recommendation which the Commission had tendered against him.

10.8.4.2. The petition shall be made in writing and addressed to the Secretary of the Commission who shall acknowledge the receipt of the petition.

10.8.4.3. The Commission shall thereupon send a copy of the petition to the Prime Minister for any comments he may wish to make within one month from the receipt of that copy. On the expiration of that time, the Commission shall thereupon proceed to examine the petition.

10.8.4.4. The Commission may allow a review of the case if, in its discretion, it is satisfied that there was a *prima facie* case of gross disregard of these provisions or a serious miscarriage of justice resulting in a violation of natural justice or fundamental rights.

Provided that the Commission shall not consider a petition for a review of its past recommendation if the petitioner had already made a similar request which had been rejected on the merits of the case.

10.8.4.5. The Commission shall not allow any new evidence to be produced whenever it is reviewing its past recommendation unless it is satisfied that such evidence was unknown to or could not be produced by the petitioner when his case was first heard.

10.8.4.6. The Commission, after hearing the oral representations of the petitioner and of the Head of the Department concerned, or their respective representatives or assistants, shall proceed to recommend to the Prime Minister either that he should confirm its original recommendation or that he should amend or revoke it.

10.8.4.7. If the matter is not referred back to the Commission within two months or action on the recommendation of the Commission is not taken within the same period, the Commission shall inform the petitioner of the recommendation it had made to the Prime Minister.

10.9. REMOVAL FROM OFFICE

10.9.1. Grounds for removal from office

10.9.1.1. The appointment of an officer may be terminated for the following reasons:

- (a) in the public interest; or
- (b) for absence without leave; or
- (c) on dismissal or removal in consequence of criminal or disciplinary proceedings:

Provided that nothing in these provisions shall restrict the power of the Prime Minister acting on the recommendation of the Public Service Commission to:

- (a) terminate an officer's probationary appointment during the period of probation; or
- (b) terminate the services of an officer on a temporary appointment; or
- (c) terminate any contract or agreement in accordance with a term or condition contained therein.

10.9.2. Retirement on grounds of public interest

10.9.2.1. Notwithstanding any other provision, if a Head of Department considers that an officer should be retired from the service in the public interest he shall report the fact to the Head of the Public Service who shall –

- (a) obtain from the Heads of the Departments in which the officer has served during the previous twelve years, or since the date of first appointment, whichever is less, reports as to his work and conduct;
- (b) allow the officer an opportunity of considering all reports and other documentation that shall be used by the Head of the Public Service in justification of the officer's retirement, in order to allow the officer to show cause why he should not be retired from the service.

10.9.2.2. If the Head of the Public Service, after considering the reports and the officer's statement and having regard to all the circumstances of the case, is of the opinion that the officer should be retired from the service in the public interest, he shall forward to the Commission the reports of the Heads of Department and the statement of the officer together with his own recommendation, which shall be copied to the officer's Head of Department and to the officer concerned.

10.9.2.3. Notwithstanding any other provision if the Head of the Public Service, on information which has come to his knowledge in any manner, is of the opinion that an officer should be retired from the service in the public interest, he shall observe the procedure prescribed in paragraphs 10.9.2.1. (a), 10.9.2.1. (b), 10.9.2.2..

10.9.2.4. The Commission shall give the officer against whom proceedings are being taken, and his representative every opportunity to make oral representations before the Commission.

10.9.2.5. The Commission, after making such further enquiry as it deems necessary, shall then recommend to the Prime Minister the action, if any, that it considers should be taken against the officer.

10.9.3. Absence without leave

10.9.3.1. Whenever a Head of Department is satisfied that a public officer has absented himself without leave for a period of not less than ten consecutive working days, the Head of Department shall notify the officer that unless justifiable reasons are given within ten working days from the date of such notification, the officer shall be considered as having resigned from the public service with effect from the eleventh working day of unauthorised absence. A specimen of the letter of notification is at Appendix 10.VII.

10.9.3.2. If an officer who has absented himself without leave as stated in paragraph 10.9.3.1. of this regulation reports for duty before the date of notification by the Head of Department, or before the expiration of the ten working days referred to in paragraph 10.9.3.1., he is to be allowed to resume duties without prejudice to any disciplinary action which the Head of Department may take in accordance with these regulations.

10.10. MISCELLANEOUS

10.10.1. Procedure followed when officer leaves the service while disciplinary proceedings are still pending.

10.10.1.1. When an officer against whom disciplinary proceedings are pending, ceases to be a public officer upon resignation, retirement or otherwise, before such proceedings are concluded, the Head of Department shall ask the officer charged to state, within ten working days, whether he wishes that the disciplinary proceedings be continued in order that he may have the opportunity to exculpate himself. If the officer opts to continue with the proceedings, and he is eventually found guilty, no penalty shall be imposed, but a record of the findings of the Disciplinary Board is entered in the officer's record of service. If the officer opts to discontinue the case, he should confirm this in writing and a record shall be entered in his record of service stating that at the time of his leaving the service the officer had a pending disciplinary case. If the officer does not, within the stipulated time, make his option, the case is discontinued and a note entered in his record of service that at the time of his leaving the service, the officer had a pending disciplinary case.

10.10.2. Procedure followed when officer leaves the service while criminal proceedings are still pending.

10.10.2.1. When an officer against whom criminal proceedings are pending, ceases to be a public officer upon resignation, retirement or otherwise, before such proceedings are concluded, no related disciplinary action in terms of these provisions may be taken or penalty imposed. However, the Head of Department shall follow the case so that a record of the court decision is entered in the officer's record of service.

10.10.3. Forfeiture of pension, etc., after dismissal

10.10.3.1. Subject to the provisions of article 114 of the Constitution and of any other law, a public officer who is dismissed from the service shall forfeit all rights and claims to a pension, gratuity or other retirement award. A public officer who is dismissed shall also forfeit any rights or claims he enjoys in regard to leave at the public expense.

10.10.4. Secrecy

10.10.4.1. No member of the Commission, nor the Secretary, nor any member of the staff of the Commission, nor any public officer, Board or Authority, charged with powers and functions under these provisions, nor any other person shall, without the written permission of the Prime Minister, publish or disclose to any person, otherwise than in exercise of his official function, the contents of any document, communication or information whatsoever relating to any action taken under these provisions which has come to his notice or knowledge. Failure to comply with the provisions of this paragraph shall, in the case of a public officer, constitute misconduct and, or a breach of discipline.

10.10.5. Time

10.10.5.1. The periods specified in these provisions may, on good cause being shown, be extended by the Commission provided the request is made before the expiration of the period in question.

10.10.6. Annual reports, etc

10.10.6.1. The Head of the Public Service and every Head of Department to whom disciplinary control is delegated shall submit reports on disciplinary matters to the Commission with such frequency, and in such form and covering such matters as the Commission may from time to time direct. Moreover, Heads of Department shall ensure that a separate list is given in the report for each category of offence (serious, minor, summary, criminal).

10.10.6.2. The Commission may, at its discretion, publish annual disciplinary reports as well as reports of inquiries into the exercise of disciplinary control, together with its remarks on any matter connected therewith or incidental thereto.

10.10.7. Saving

10.10.7.1. Where disciplinary proceedings have been commenced under and in accordance with the 1977 Regulations, repealed by 1999 Disciplinary Regulations, those proceedings shall be continued and completed under and in accordance with the 1977 Disciplinary Regulations aforesaid as if those regulations were still in force.

10.10.7.2. Where a petition for review of a past recommendation of the Commission has been submitted under and in accordance with regulation 23A of the 1977 Disciplinary Regulations before the coming into force of the 1999 Disciplinary Regulations, such petition shall be considered by the Commission as a petition submitted under and in accordance with the 1977 Regulations, as if those regulations were still in force.

10.11. WITHHOLDING OF TREASURY PENSION

10.11.1 Grounds for withholding pension

10.11.1.1. A Head of Department shall inform MPO whenever a pensionable officer under his charge who is due to retire from the Public Service (either on medical grounds or on superannuation) has a fourth minor case or a serious disciplinary case or a criminal case still pending against him. The Head of Department shall also submit to MPO information whether

the officer opted for a commuted or an uncommuted pension. At this stage, the Head of Department shall hold the pension papers of the retiring officer in abeyance.

10.11.1.2. MPO shall seek the concurrence of the PSC in accordance with Section 114(1) of the Constitution if it considers that the nature of the alleged criminal or disciplinary offence warrants the withholding of the Treasury pension or part of it of the officer concerned.

10.11.1.3. When the concurrence of the PSC is obtained, MPO shall inform the Head of Department who shall then process the relative pension papers on form GP 61. The Head of Department shall indicate at Section 15 of the GP 61, the advice of the PSC.

10.11.1.4. *Conclusion of case.* When the disciplinary or criminal case is concluded the Head of Department shall inform MPO on the outcome of the case. If the officer is found guilty MPO shall again seek the concurrence of the PSC in terms of Section 114(1) of the Constitution as to whether the pension or that part of it that was withheld is to be restored or otherwise. MPO shall then inform the Head of Department concerned in order that the necessary action may be taken accordingly. If the officer is acquitted the right to a full pension shall be restored.

10.12. DISCIPLINARY FILES

10.12.1. Commencement of Disciplinary Case.

10.12.1.1. A Departmental disciplinary file with a yellow cover should be opened as soon as disciplinary proceedings are initiated against a public officer and all correspondence relating to that particular case shall be dealt with in that file. The reference number of the discipline file shall be the same as of the personal file of the officer concerned, preceded by the letters "DISC". Correspondence issued from disciplinary files shall also bear as reference the abbreviated name of the Department.

10.12.2 Pending Disciplinary Case.

10.12.2.1. The file of a pending disciplinary case shall not be attached to the personal file of the officer concerned and its movement shall be handled with the strictest confidentiality, as specified in the procedure for "Movement of Personal Files" stipulated in the document [Data Protection - HR Corporate Procedures](http://intra.gov.mt/downloadfile.asp?file=hr_procedures_draft_ver_1_3.pdf&site=1) http://intra.gov.mt/downloadfile.asp?file=hr_procedures_draft_ver_1_3.pdf&site=1

10.12.2.2. When the disciplinary case is still pending, a note shall be attached in the officer's personal file indicating that there is a disciplinary case and it is still pending. This note shall be placed on the left-hand side, on top of the last minute-sheet. This note shall be removed and destroyed when the case in the discipline file is closed. It shall contain:

- (a) the officer's ID number and discipline file number;
- (b) the type of the pending disciplinary case, that is, whether it is a minor or serious disciplinary case; or a criminal case; and
- (c) a warning to delete this note when the case in discipline file is closed.

10.12.2.3. If there are any pending issues in the personal file, while the disciplinary case is still pending, a note shall be attached in the officer's discipline file accordingly. This note shall be placed on the left-hand side, on top of the last minute-sheet of the discipline file. This note shall be removed and destroyed when the case in the personal file is closed. It shall contain:

- (a) the officer's ID number and personal file number;
- (b) a brief description of the pending issue in the personal file; and

(c) a warning to delete this note when the case in the personal file is closed.

10.12.2.4. While the disciplinary case is still pending, no reference to the case shall be made on the minute sheet of the personal file, in the Personal Record Sheet (GP46) and in the Service and Leave Record (GP 47) of the officer concerned.

10.12.3. Conclusion of the Disciplinary Case

10.12.3.1. On the conclusion of a disciplinary case, the discipline file shall be sealed in an envelope by the officer responsible for HR matters in the Department or his delegate, who shall sign along the flap of the sealed envelope. The discipline file shall be attached to the officer's personal file.

10.12.3.2. During the period of retention, the sealed discipline files shall be retained in the HR Unit of the Department and they shall only be opened or referred to an officer performing duties outside the HR Unit with the authorisation of the Head of Department of the disciplined officer, or of his delegate on such matters or of an officer acting on his behalf.

10.12.3.3. If the officer is acquitted of the charge against him, the discipline file shall be detached from the personal file and it shall be destroyed after two years from the conclusion of the disciplinary proceedings or from the determination of any appeal therefrom, as the case may be.

10.12.3.4. When the officer is acquitted from the charge issued against him, no reference to the case shall be made in the minute sheet of the personal file, in the Personal Record Sheet (GP46) and in the Service and Leave Record (GP 47) of the officer concerned.

10.12.3.5. If the officer is found guilty of the charge issued against him the sealed disciplinary file shall remain attached to the personal file. An entry shall be made of the outcome of the disciplinary case in the minute sheet of the personal file, in the Personal Record Sheet (GP46) and in the Service and Leave Record (GP47) of the officer concerned.

10.13. REPORTING OF DISCIPLINARY CASES

10.13.1. Compilation of data

10.13.1.1. Heads of Department are to forward their data on the disciplinary cases initiated/concluded in their Department to the respective Directors, Corporate Services who shall then transmit the data of all the Departments and entities falling within their Ministry to the Secretary, PSC. This data shall also be sent to Director, Employee Relations.

10.13.1.2. The forms that are to be used may be downloaded from the Government intranet at <http://intra.gov.mt/linktree.asp?pagecode=29>.

10.13.1.3. Returns should be submitted within a month from the end of the 6-month period. Nil returns should also be submitted. Guidelines on how these forms are to be submitted are shown at Appendix 10.VIII.

10.13.1.4. Notwithstanding the provisions of this sub-section Heads of Department are reminded of the importance of keeping their own appropriate records on criminal and disciplinary cases.

10.14. GUIDELINES

Chairpersons and Members of Disciplinary Boards and Departmental Representatives

10.14.1. Officers appointed as Chairpersons and members of Disciplinary Boards or as Departmental Representatives in disciplinary proceedings are advised to consult the publication Guidelines for Chairpersons and Members of Disciplinary Boards and

Departmental Representatives which may be downloaded from
http://intra.gov.mt/downloadfile.asp?file=guidelines_for_boards_and_reps.doc&site=1.

APPENDIX 10.I
(para. 10.1.2.3.)

DELEGATED OFFICER AND AREA OF JURISDICTION

Delegated officer	Area of jurisdiction
Attorney General	• Public Officers in the Attorney General's Office
Permanent Secretaries	• Public Officers in the Office of the Permanent Secretary
	• Public Officers in the Private Offices of Ministers and Parliamentary Secretaries
	• Public Officers with Authorities, Boards, Committees or other entities falling within the portfolio of the respective Ministry, unless otherwise provided by this Schedule or by Instrument of Delegation.
Auditor General	• Public Officers in the National Audit Office
Directors General	• Public Officers in the Office of the Director General and other offices falling directly under their jurisdiction and responsibility
Other Heads of Department and Directors (holding appointment as Directors under a Performance Agreement)	• Public Officers in Departments, Directorates and other offices falling directly under their jurisdiction and responsibility
Chairperson, Public Transport Authority	• Public Officers attached to the Public Transport Authority
Chief Executive, Water Services Corporation	• Public Officers attached to the Water Services Corporation
Director of Planning, Malta Environment and Planning Authority	• Public Officers attached to the Planning Authority
Commanding Officer, Armed Forces of Malta	• Public Officers attached to the Armed Forces
Officers in a supervisory capacity (in respect of Regulation 18 only)	• Public Officers under their charge

Where the office of a Director General or Director is vacant and no acting appointment has been made, the delegated officer shall be the Permanent Secretary or Director General, as the case may be, under whose jurisdiction the vacant office falls.

APPENDIX 10.II
(para 10.5.2.1.)

SPECIMEN LETTER OF ADMONISHMENT

(Maltese Version)

Data:

Isem:

Grad:

Bi ħsiebni nagħtik ċanfira skond Regolament 18 tar-Regolamenti tal-1999 tal-Kummissjoni dwar is-Servizz Pubbliku (Proċedura ta' Dixxiplina) talli:

[dettalji ta' l-akkuża]

Qed nagħtik 10 ijiem ta' xogħol żmien minn meta tircievi din l-ittra sabiex tiskolpa ruġek minn din l-akkuża.

Regolament 18 jgħid li jekk int ma tiskolpax ruġek, rekord ta' din iċ-ċanfira jinżamm għandi, iżda dan jiħassar ma' egħluq is-6 xhur mid-data ta' din l-ittra.

[firma]

Ufficjal responsabbli

(English version)

Date:

Name:

Grade:

I intend to admonish you in terms of Regulation 18 of the Public Service Commission (Disciplinary Procedure) Regulations, 1999, for:

[details of offence]

You are being given 10 working days from the day you receive this letter to exculpate yourself.

Regulation 18 provides that if you do not exculpate yourself a record of this admonishment will be kept by me but this shall be cancelled at the expiration of 6 months from the date it is administered.

[signature]

Supervisory Officer

APPENDIX 10.III

(para. 10.5.3.1.)

SPECIMEN WRITTEN WARNING
(Maltese version)

Data:

Isem:

Grad:

Bi f'isiebni nagħtik twiddiba bil-miktub skond Regolament 19 tar-Regolamenti ta' l-1999 tal-Kummissioni dwar is-Servizz Pubbliku (Proċedura ta' Dixxiplina) talli:

[dettalji ta' l-akkuża]

Qed nagħtik 10 ijiem ta' xogħol żmien minn meta tirċievi din l-ittra sabiex tiskolpa ruħek minn din l-akkuża.

Regolament 19 jgħid li jekk tonqos li twieġeb għal din l-ittra, jew jekk inti tammetti l-akkuża miġjuba kontrik, jew jekk ma tammettix din l-akkuża u jien inkun tal-fehma li bir-raġunijiet li ġibt int ma neħhejtx il-ħtija minn fuqek, din it-twiddiba tiddaħħal fir-rekord tas-Servizz tiegħek.

Jekk tingħata din it-twiddiba, din titħassar ma' egħluq it-12-il xahar mid-data li fiha tkun ingħatat.

[firma]

Kap tad-Dipartiment

(English version)

Date:

Name:

Grade:

I intend to give you a written warning in terms of Regulation 19 of the Public Service Commission (Disciplinary Procedure) Regulations, 1999, for:

[details of offence]

You are being given 10 working days from the day you receive this letter to exculpate yourself.

Regulation 19 provides that if you fail to reply to this letter, or if you admit to the facts, or if you do not admit to the charge but I consider that you did not exculpate yourself, this warning will be entered in your record of service.

If you are given this warning it shall be cancelled at the expiration of 12 months from the date that it is administered.

[signature]

Head of Department

APPENDIX 10.IV
(para. 10.5.4.2)

SPECIMEN CHARGE SHEET
(Maltese version)

Data:

Isem:

Grad:

Bi f'isiebni nieħu passi dixxiplinarji kontrik skond Regolament 20 (2) tar-Regolamenti tal-1999 tal-Kummissjoni dwar is-Servizz Pubbliku (Proċedura ta' Dixxiplina) talli:

[dettalji ta' l-akkuża]

Għaldaqstant int qed tiġi akkużat li:

[ara l-iSkeda tal-Offizi]

Fl-opinjoni tiegħi dan huwa reat

[minuri / serju / li jista' jwassal għat-tkeċċija tiegħek mis-Servizz]

Għaldaqstant qed nagħtik 10 ijiem ta' xogħol mid-data li tircievi din l-ittra biex tgħidli bil-miktub ir-raġunijiet li bihom tħoss li m'intix ħati ta' dan ir-reat.

[firma]

Kap tad-Dipartiment

(English version)

Date:

Name:

Grade:

I intend to take disciplinary action against you in terms of Regulation 20 (2) of the Public Service Commission (Disciplinary Procedure) Regulations, 1999, for:

[details of offence]

Therefore you are being charged with:

[see Schedule of Offences]

In my opinion this offence is:

[minor / serious / one that could lead to your dismissal from the Service]

You are being given 10 working days from the day you receive this letter to reply in writing, stating the reasons why you believe you are not guilty of these charges.

[signature]

Head of Department

APPENDIX 10.V
(para. 10.7.1.1.)

CATEGORISATION OF OFFENCES

Minor Offences (without serious consequences):

- (a) habitual late attendance;
- (b) absence from office or work area without leave or permission;
- (c) idling at place of work;
- (d) disobeying superior instructions or insubordination;
- (e) disregard of or failure to obey rules and regulations;
- (f) fighting or causing a disturbance at place of work;
- (g) concealing one's defective work;
- (h) being on duty while under the influence of drink or drugs;
- (i) negligence in the performance of duties or shoddy or defective work or work output below standard;
- (j) use of foul language;
- (k) giving wrong information;
- (l) malingering.

Serious Offences (when no criminal proceedings are instituted):

- (a) conduct which discredits the department or, more generally, brings the public service into disrepute;
- (b) arrogant, abusive or violent behaviour towards the public or other public officers;
- (c) failure to exercise proper supervisory functions;
- (d) disobeying superior instructions or insubordination with serious consequences;
- (e) serious neglect or dereliction of duties;
- (f) violent or threatening behaviour or use of offensive or foul language towards a superior;
- (g) damage to government property;
- (h) immoral, indecent or disgraceful conduct at place of work;
- (i) misuse of government funds, property or equipment;
- (j) gross negligence at work;
- (k) tampering with or misuse of attendance sheets and records (including punch cards\clocks);
- (l) falsification or misuse of or tampering with official documents;
- (m) divulging of secret or confidential information;
- (n) unauthorised absence of more than one day\shift;
- (o) sexual harassment;
- (p) misuse of electronic equipment;
- (q) victimization of witness or an officer\person lodging a report or doing his duty under the regulations;
- (r) other offences indicated under “Minor Offences” but having serious consequences.

APPENDIX 10.VI
(para. 10.7.1.1.)

Penalties

The penalties that may be imposed following disciplinary action shall be as follows:

10. Penalties for Minor Offences

First Disciplinary Case	Written Warning
Second Disciplinary Case	Suspension without pay up to three (3) days
Third Disciplinary Case	Suspension without pay up to five (5) days and a "Warning of Dismissal"
Fourth Disciplinary Case	Dismissal

Provided that in determining whether the disciplinary charge is a first, second, third or fourth case no account should be taken of cases which occurred prior to 24 months from the date of the case under investigation, including cases which were dealt with under regulation 25 of the 1977 Regulations.

Provided also that a written warning will lapse after twelve months if no other offence is committed within that period.

11. Penalties for Serious Offences (including criminal conviction)

- (a) Suspension without pay for a period not exceeding five (5) days, or
- (b) Suspension without pay for a period not exceeding five (5) days and a "Warning of Dismissal", or
- (c) Dismissal:

Provided that the penalty in paragraph (a) that is "suspension without pay not exceeding five days" may not be awarded in respect of more than two serious disciplinary cases:

Provided also that in the case of an officer who had been interdicted, the provisions of paragraphs 10.2.2.5., 10.2.2.6. and 10.2.2.7. shall also apply:

Provided also that in the case of a public officer found guilty of a criminal charge in any Court, the PSC may, where appropriate, at its discretion recommend to the Prime Minister other penalties for serious offences in addition to or instead of those listed in this paragraph..

APPENDIX 10.VII
(para. 10.9.3.1.)

SPECIMEN LETTER FOR ABSENCE WITHOUT LEAVE
(Maltese version)

-POSTA REGISTRATA-

Data:

Isem:

Grad:

Indirizz:

Jirriżulta li inti nqast li tirraporta għax-xogħol mill- [data] mingħajr awtorità jew mingħajr ma ġġustifikajt dawn l-assenzi tiegħek b'xi mod jew ieħor.

Għaldaqstant qed nagħtik 10 ijiem ta' xogħol minn meta tircievi din l-ittra biex tgħarrafni bil-miktub bir-raġunijiet li jista' jkollok biex tiġġustifika dawn l-assenzi.

Skond Regolament 36 tar-Regolamenti tal-1999 tal-Kummissjoni dwar is-Servizz Pubbliku (Proċedura ta' Dixxiplina) jekk tonqos li tagħti raġunijiet ġustifikati għall-assenza tiegħek inti tiġi kkunsidrat b'ala li rriżenjajt mis-Servizz Pubbliku b'se mill- [data].

[firma]

Kap tad-Dipartiment

(English version)

-REGISTERED MAIL-

Date:

Name:

Grade:

Address:

You have failed to report for work from ___[date]___ without authorisation or without your justifying your absences in any way.

You are therefore being given 10 working days from the day you receive this letter to inform me in writing of any reasons you may have to justify these absences.

In terms of Regulation 36 of the Public Service Commission (Disciplinary Procedure) Regulations, 1999, if you fail to give justifiable reasons for your absence you will be considered as having resigned the Public Service with effect from ___[date]___.

[signature]

Head of Department

APPENDIX 10.VIII
(para. 10.13.1.3.)

Guidelines For The Collection Of Data On Discipline

1. Information related to the Public Service Commission (Disciplinary Procedure) Regulations 1999 is collected in three categories:

- (a) Reg 18 (Admonishments) and Reg 19 (Summary discipline);
- (b) Reg 20 (Minor disciplinary cases); and
- (c) Reg 20 (Serious disciplinary cases).

There are standard forms for each, category available from the Public Service intranet (<http://intra.gov.mt>) in the “Management Resources” section.

2. DCSs are required to collect filled forms from the Departments and Entities falling within their Ministry and send them in batches to the Secretary, PSC copied to the Director, Employee Relations at OPM. Two batches are to be sent in a calendar year, the first covering the period 1 January to 30 June, the second covering the period 1 July to 31 December). Batches are to be sent within a month from the end of the period they cover.

Should there be no cases in any category DCSs are still required to send in “nil” returns.

A filled return form should also be sent for cases which are discontinued.

3. **In cases dealt with under Reg. 18 and 19 (Admonishments and Summary discipline)** the DCS is to send a single form for all the departments and entities falling within the Ministry, covering a six-month period and recording the number of admonishments and summary disciplinary warnings actually given to officers.

4. **In cases dealt with under Reg. 20 (Minor disciplinary cases) and Reg. 20 (Serious disciplinary cases)** a filled return form is to be sent for each individual case when a Disciplinary Board is appointed and again when a case is concluded from the Department’s end (i.e. when the Head communicates his decision to the officer charged or when a case that could lead to dismissal is referred to the PSC). Whenever these happenings fall within the same six-month period only one return for that individual case need be filled and sent.

These cases are considered as concluded from the Department’s end either when the Head of Department decides on the case in terms of Regulation 26 (1) (where the case cannot lead to dismissal) or when the Head of Department refers the case to the PSC in terms of Regulation 26 (2)(a) (where the case could lead to dismissal).

Reference to Departments of Corporate Services is taken to refer also to Departments of Finance and Administration as applicable.

ADDRESSES

Director, Employee Relations
(Attn: Ms Marie Gravino)
Office of the Prime Minister
Auberge de Castille
Valletta CMR 02

The Secretary
Public Service Commission
The Palace
Valletta CMR 02

Eighth Edition
of the PSMC (Public Service Management Code)
correct as on 31st May 2007

(To facilitate the updating, instructions are in bold-italic print, whereas actual text is in normal font.)

Replace the introduction with the introduction reproduced below:-

Introduction

Public Service Management Code

On the 7th January 2002, we published the PSMC (Public Service Management Code) for the first time, both in paper and electronic format. It is with pleasure that we are now issuing the eighth edition of the PSMC.

The PSMC brings together in concise form all the standing regulations, circulars, policies on HR Management, in the fields of Employee Relations and Resourcing in the Public Service. This edition is correct as on 31st May 2007.

Apart from the updates linked to the policies issued in the last five months, the eighth edition displays all monetary amounts in Euros apart from Malta Liri, in accordance with standing instructions.

By means of the PSMC, the regulatory management aspect of the human resources function of the Public Service is constantly updated and communicated. The PSMC also enhances the customer care function both within the Public Service, and with clients and other persons outside the service. Public officers are urged to constantly refer to the PSMC as the handbook that guides them in Human Resources Management.

Anna Caruana Colombo
Director, Employee Relations
Management and Personnel Office

May 2007

Chapter 1 – APPOINTMENTS, PROMOTIONS AND PROGRESSIONS

Replace sub-paragraph 1.2.8.1. with the following:

1.2.8.1. Appointments for posts in the public service are invariably to be subject to a period of probation performing the duties pertaining to the substantive appointment to the particular post, which is usually of one year's duration. Officers availing themselves of special unpaid leave and/or work on reduced hours during the probationary period would be required to:

- a) compensate for any **special unpaid leave** by working under probation the corresponding number of days utilised as unpaid leave;

and/or

- b) compensate for **work on reduced hours** by working under probation the corresponding number of days in proportion to their working schedule.

In all other cases, officers will be confirmed in their post when they actually perform the duties pertaining to their substantive appointment for a period equivalent (in aggregate) to the duration of the probationary period.

Chapter 2 – PAY AND ALLOWANCES

Add the word /Progression to the title of sub-section 2.2.2.

Replace paragraph 2.2.2.1. with the following:

2.2.2.1. Starting salary of employees who are **promoted** in the normal course from one grade to another should not be less than the third step of the new scale.

In the case of **progressions**, the starting salary of employees who progress from one scale to another within the same grade on the basis of years of satisfactory service should not be less than the third step of the new scale.

However, where serving officers enter a higher scale as a result of academic achievement or on obtaining a warrant and not on account of years of (satisfactory) service, such employees are to be placed at the minimum of the new scale tied to the level of qualifications/warrant obtained.

Provided that where the previous salary is higher than the minimum of the new scale, such serving officers are to be assimilated into the higher scale by carrying their previous salary, and if resulting out of step, be placed on the next higher step and the incremental date will be retarded or advanced proportionately, subject to the provisions of paragraphs 2.3.2.1 and 2.2.2.7.

Chapter 4 – LEAVE

Replace the last sentence of paragraph 4.3.4.3. with the following:

If the medical board recommends an extension of sick leave, the officer may be allowed half-pay, subject to the provisions of paragraph 4.3.4.6.

Delete the whole sub-section 4.4.2.

Insert new paragraph 4.6.1.5., as follows:

4.6.1.5. Officers in teaching grades who avail themselves of unpaid leave are allowed to resume duty by the end of February, or in September, at the end of the scholastic year, including the summer holidays. This is intended to minimize as much as possible the disruption of classes.

Re-number old paragraphs 4.6.1.5. and 4.6.1.6. as 4.6.1.6. and 4.6.1.7., respectively.

Replace paragraph 4.8.1.3. with the following:

4.8.1.3. If officers resume duty after unpaid leave, on the summer time-table, they should be paid for the hours worked, unless they opt to compensate for the shortfall in hours by working longer hours on the winter time-table.

Insert new sub-section 4.9.7. as follows:

4.9.7. Paid Leave for Development Work Abroad

4.9.7.1. *Entitlement – Paid Leave.* Full time Public Officers on a substantive appointment, who have completed at least 1 year's service, may be released on special leave with pay on grounds of public policy, for 1 year (renewable for successive periods of 1 year) to perform overseas development work in countries that are recipients of Official Development Assistance (ODA).

4.9.7.2. Public Officers on contract or a performance agreement may still benefit from this policy on condition that they relinquish their contract or performance agreement and revert to their substantive grade.

4.9.7.3. The number of officers to be posted on paid leave abroad will depend on Malta's ODA budget, to be calculated annually with the Ministry of Foreign Affairs and the Ministry of Finance. The paid leave will be on the basis of assignments. Unpaid leave (not on grounds of public policy) for voluntary service/missionary work in countries that are not recipients of ODA may still continue to be granted by the employee's Director, and in terms of PSMC 4.8.11.

4.9.7.4. Whether paid under this scheme or unpaid under Section 4.8.11, the leave for development work abroad may not exceed an overall maximum of eight (8) years leave. Applications accompanied by documentary evidence are to be submitted for approval to Director, Employee Relations at the MPO, through the officer's Head of Department. The Head of Department will give his/her views as to whether the officer may be released. Every year, officers on paid leave must send a report to their Head of Department, with details and documentary evidence regarding the assignment being undertaken. Heads of Department will then submit copies to the Employee Relations Department at the MPO, the Ministry of Foreign Affairs, the Ministry of Finance and the Ministry for Family and Social Solidarity (NGOs).

Chapter 6 – TREASURY PENSION ARRANGEMENTS

Add the words and creditable performance **after** Good conduct **in the title of sub-section 6.1.2.**

At paragraph 6.1.2.1., add the words and creditable performance **after the words** meritorious service **at the end of the first sentence.**

Replace paragraph 6.2.7.1. with the following:

6.2.7.1. The pensionable emoluments of Officers who retire from the offices referred to at paragraph 6.2.7.2 after having served for at least twelve months in such an office or retires from the public service after having served for a term of 3 years in such office, shall be those attached to the salary scale at the date of the officers' retirement, of the highest or higher of the offices referred to at paragraph 6.2.7.2 held by such officers at any time before their retirement.
