

PUBLIC SERVICE (DISCIPLINARY) REGULATION

SECTION	CONTENTS
PART I PRELIMINARY	
1	<i>(Repealed)</i>
2	Interpretation
2A	Chief Executive may appoint designated persons
PART II CATEGORY A OFFICERS	
3	Disciplinary procedures applicable to Category A Officers
4	<i>(Repealed)</i>
5	Inquiry under section 9 of the Order
6	Inquiry under section 10 of the Order
7	Procedure for inquiry
8	Hearings
9	Reference back
10	Change of proceedings from section 9 to section 10 of the Order
PART III CATEGORY B AND OTHER OFFICERS	
11	Disciplinary procedures applicable to Category B Officers
12	Service etc. of documents
13	Officers charged with criminal offences
14	Salary to be withheld on conviction
15	Disciplinary proceedings
16	Punishment
17	Fines for minor offences committed by officers remunerated on the MOD I Pay Scale
18	Absence without leave; liability to dismissal
19	Certain officers excluded from the application of this Part
PART IV MISCELLANEOUS	
20	Provisions transitional to the enactment of the Public Service (Disciplinary)(Amendment) Regulation 2000

Schedule

PUBLIC SERVICE (DISCIPLINARY) REGULATION

PART I

PRELIMINARY

1. *(Repealed by Public Service (Disciplinary) (Amendment) Regulation 2002 ("PS(D)(A)R 2002") s.1)*

2. Interpretation

In this Regulation--

"designated person" (指定人士) means an officer appointed under section 2A; *(Added by PS(D)(A)R 2002 s.2)*

"Directorate Pay Scale" (首長級薪級表) means the scale under the heading "Directorate Pay Scale" in the Civil Service Pay Scales published by the Secretary; *(Added by PS(D)(A)R 2002 s.2)*

"legally qualified officer" (具有法律專業資格的人員) means any officer who is a solicitor or barrister within the meaning of section 2 of the Legal Practitioners Ordinance (Cap. 159);

"Master Pay Scale" (總薪級表) means the scale under the heading "Master Pay Scale" in the Civil Service Pay Scales published by the Secretary;

"MOD I Pay Scale" (第一標準薪級表) means the scale under the heading "Model Scale I" in the Civil Service Pay Scales published by the Secretary;

"Order" (《命令》) means Public Service (Administration) Order; *(Amended by PS(D)(A)R 2000 s.3)*

"Secretary" (局長) means the Secretary for the Civil Service.

2A. Chief Executive may appoint designated persons

The Chief Executive may appoint an officer to be a designated person for the purposes of this Regulation, and the appointment may be made either generally or specifically –

- (a) in respect of certain sections or certain powers or functions to be exercised under a section;
- (b) in respect of certain officers or classes of officers;
- (c) in respect of certain matters or classes of matters; or
- (d) in respect of any combination of such sections, powers, functions, officers or matters.

(Added by PS(D)(A)R 2002 s.3)

PART II

CATEGORY A OFFICERS

3. Disciplinary procedures applicable to Category A Officers

This Part applies to Category A Officers only.

4. *(Repealed by PS(D)(A)R 2000 s.4)*

5. Inquiry under section 9 of the Order

- (1) An inquiry ordered by the Chief Executive for the purpose of section 9 of the Order shall be conducted by an inquiry officer appointed by the Chief Executive.
- (2) An inquiry officer appointed pursuant to subsection (1) shall be a public servant who is senior to the officer who is the subject of the inquiry.

(Amended by PS(D)(A)R 2000 s.5)

6. Inquiry under section 10 of the Order

- (1) An inquiry ordered by the Chief Executive for the purpose of section 10 of the Order shall be conducted by an inquiry committee appointed by the Chief Executive.
- (2) An inquiry committee appointed pursuant to subsection (1) shall consist of 2 or more public servants who are senior to the officer who is the subject of the inquiry.

(Amended by PS(D)(A)R 2000 s.6)

7. Procedure for inquiry

- (1) An inquiry ordered by the Chief Executive for the purpose of section 9 or 10 of the Order shall be conducted--
 - (a) in accordance with the procedures as set out in this Regulation and the Schedule and any directions given by the Chief Executive under section 21(3) of the Order;
 - (b) where the procedures in this Regulation and the Schedule cannot be applied, in accordance with such procedures as the inquiry officer or the inquiry committee, as the case may be, shall determine.
- (2) The inquiry officer or inquiry committee shall, on the completion of inquiry, make a report to the Chief Executive, which shall contain--
 - (a) a record of the proceedings in written, taped or video-taped form;
 - (b) such findings of fact as the inquiry officer or inquiry committee may consider relevant; and
 - (c) the opinion of the inquiry officer or inquiry committee as to whether or not the facts amount to misconduct.

- (3) For the avoidance of doubt, the Schedule is made and may be amended by the Chief Executive under section 21(1) of the Order.

(Amended by PS(D)(A)R 2000 s.7)

8. Hearings

- (1) The inquiry officer or the chairman of an inquiry committee, carrying out an inquiry for the purpose of section 9 or 10 of the Order shall, by written notice to the officer--
- (a) require the officer to appear before the inquiry officer or inquiry committee at the time and place specified in the notice;
 - (b) require the officer to produce at the time and place specified in the notice any witnesses and other evidence whom or which he wishes to present in his defence; and
 - (c) inform the officer of the alleged misconduct in respect of which the inquiry is to be held.
- (2) The officer, for the purpose of an inquiry under section 9 or 10 of the Order, shall--
- (a) be entitled to know the whole case against him;
 - (b) be afforded an adequate opportunity of making his defence, either orally or in writing, as he may prefer;
 - (c) be given an adequate opportunity to question any witnesses.
- (3) The officer may be assisted in his defence by--
- (a) another public servant, other than a legally qualified officer, who may be a representative member of a staff association represented on the Senior Civil Service Council; or
 - (b) such other person as the Chief Executive may authorize.
- (4) The inquiry officer or inquiry committee may enquire into any matter and admit and take into account any evidence or information which the inquiry officer or inquiry committee considers relevant, and shall not be bound by any rules of evidence.
- (5) The enquiries should not be conducted with undue formality and while there is no standard practice which would be applicable to every case, it is emphasised that the inquiry officer or inquiry committee is not exercising a legal function, but rather ascertaining the facts.
- (6) If an officer under inquiry fails to attend as required by a notice issued under subsection (1), and at such other subsequent times and places as the inquiry officer or inquiry committee may require, orally or in writing, the inquiry may continue in his absence and the provisions of subsection (2) shall be deemed to have been complied with.
- (7) In this section, "Senior Civil Service Council" (高級公務員評議會) means the central consultative forum consisting of representatives from the Administration and representatives from staff associations namely the Hong Kong Chinese Civil Servants' Association, the Senior Non-Expatriate Officers' Association and the Association of Expatriate Civil Servants of Hong Kong.

(Amended by PS(D)(A)R 2000 s.8)

9. Reference back

The Chief Executive may, after considering a report submitted by an inquiry officer or inquiry committee, without prejudice to his power to inflict punishment under section 9 or 10 of the Order--

- (a) require the inquiry officer or inquiry committee to make such further inquiry as the Chief Executive may order; or
- (b) require the inquiry officer or inquiry committee to answer such questions or ascertain such facts as the Chief Executive may require.

(Amended by PS(D)(A)R 2000 s.9)

10. Change of proceedings from section 9 to section 10 of the Order

If during or after an inquiry for the purpose of section 9 of the Order, the Chief Executive considers that proceedings should be taken under section 10 of the Order, the Chief Executive may direct that the inquiry under section 9 of the Order should be discontinued and that proceedings under section 10 of the Order should be instituted.

(Amended by PS(D)(A)R 2000 s.10)

PART III

CATEGORY B AND OTHER OFFICERS

11. Disciplinary procedures applicable to Category B Officers

- (1) This Part applies to Category B Officers only.
- (2) Sections 12 to 14, in addition to applying to Category B Officers also apply to other public servants.

12. Service etc. of documents

Any notice or other document required to be served on or given to an officer in connection with any inquiry into allegation of misconduct may be served or given by being--*(Amended by PS(D)(A)R 2000 s.11)*

- (a) given to him personally;
- (b) sent by registered post to his last known address; or
- (c) left at his last known address.

13. Officers charged with criminal offences

- (1) Subject to subsection (4), an officer against whom criminal proceedings are being instituted shall forthwith report the fact to the Head of his Department. In the case of

an officer who is himself the Head of Department, he shall report the proceedings to the Secretary. *(Amended by PS(D)(A)R 2009 s.2(1))*

- (2) Subject to subsection (4), the Head of Department shall forthwith inform the Secretary of the institution of criminal proceedings against any officer of his department, unless the offence, in his opinion, is of a minor nature and-- *(Amended by PS(D)(A)R 2009 s.2(2))*
 - (a) does not reflect adversely on the character of the officer; and
 - (b) is not likely to bring the public service into disrepute, and in the period of 12 months immediately preceding the date of institution of criminal proceedings the officer has either not been convicted or been convicted once only of a similar offence.
- (3) The Secretary may, with the prior approval of the Chief Executive, promulgate -
 - (a) exemptions from the application of this section; and
 - (b) any alteration, suspension, resumption or cancellation of such exemptions. *(Added by PS(D)(A)R 2009 s.2(3))*
- (4) If an exemption promulgated under subsection (3)(a) is in force in respect of an officer, subsections (1) and (2) shall not, to the extent of that exemption, apply in relation to the officer. *(Added by PS(D)(A)R 2009 s.2(3))*

14. Salary to be withheld on conviction

- (1) Subject to subsection (5), the salary of an officer who is convicted of a criminal offence shall be withheld from the date of conviction--
 - (a) if the officer has been sentenced to imprisonment, whether or not he lodges an appeal; or
 - (b) if, in the opinion of the Secretary or a designated person, the conviction may lead to the dismissal of the officer. -- *(Amended by PS(D)(A)R 2002 s.4)*
- (2) An officer's Head of Department shall notify the Secretary of the result of any criminal proceedings taken against the officer.
- (3) Subject to subsection (5), the Director of Accounting Services shall withhold the salary of an officer, pending further consideration of the officer's case, if the Secretary informs him--
 - (a) that the officer has been sentenced to imprisonment; or
 - (b) that the officer has been convicted of a criminal offence and that the conviction, in the opinion of the Secretary or a designated person, may lead to dismissal of the officer. *(Amended by PS(D)(A)R 2002 s.4)*
- (4) An officer whose salary has been withheld under this section shall cease to perform any duties of his office.
- (5) An officer whose salary has been withheld under this section may be allowed to receive such portion of his salary as the Secretary or a designated person shall think fit. *(Amended by PS(D)(A)R 2002 s.4)*

15. Disciplinary proceedings

- (1) An officer to whom this section applies shall, with regard to disciplinary proceedings and matters connected therewith, be dealt with--

- (a) in accordance with the terms of any contract between the officer and the Government; and
 - (b) insofar as the terms of such a contract do not so provide, in accordance with sections 7 to 18 of the Order and any regulations made by the Chief Executive in relation to such proceedings and matters.
- (2) The Secretary may, either generally or as regards the particular case, modify the sections and regulations referred in subsection (1)(b).

16. Punishment

- (1) Where the substantive salary of any officer to whom this section applies is -
- (a) if he is paid on the Directorate Pay Scale, at or above point D1 on that scale; or
 - (b) in any other case, equal to or more than the amount pertaining to point D1 on the Directorate Pay Scale,
- then in respect of the officer -
- (c) the Secretary may impose any punishment; and
 - (d) a designated person may impose any punishment other than dismissal. *(Amended by P(D)(A)R 2002 s.5(a))*
- (2) In respect of any officer to whom this section applies whose substantive salary is -
- (a) if he is paid on the Master Pay Scale, at or above point 34 on that scale; or
 - (b) in any other case, equal to or more than the amount pertaining to point 34 on the Master Pay Scale but less than the amount pertaining to point D1 on the Directorate Pay Scale,
- the Secretary of a designated person may impose any punishment. *(Amended by PS(D)(A)R 2002 s.5(a))*
- (2A) Where the substantive salary of any officer to whom this section applies is -
- (a) if he is paid on the Master Pay Scale, at or above point 14, but below point 34, on that scale; or
 - (b) in any other case, equal to or more than the amount pertaining to point 14, but less than the amount pertaining to point 34 on the Master Pay Scale,
- then in respect of the officer -
- (c) the Secretary of a designated person may impose the punishment of dismissal; and
 - (d) the Head of Department of the officer may impose any punishment other than dismissal. *(Added by P(D)(A)R 2002 s.5(a))*
- (2B) In respect of any officer to whom this section applies whose substantive salary is
- (a) if he is paid on the Master Pay Scale, below point 14 on that scale; or
 - (b) in any other case, less than the amount pertaining to point 14 on the Master Pay Scale,
- the Head of Department of the officer may impose any punishment."; *(Added by P(D)(A)R 2002 s.5(a))*
- (3) The powers conferred on a Head of Department in subsections (2A)(d) and (2B) may not be delegated without the approval in writing of the Secretary or a designated person. *(Amended by PS(D)(A)R 2002 s.5(b))*
- (4) *(Repealed by PS(D)(A)R 2002 s.5(c))*

17. Fines for minor offences committed by officers remunerated on the MOD I Pay Scale

- (1) In addition to the powers conferred by section 16, a Head of Department may without formal inquiry impose fines, for the following minor offences, on officers remunerated on the MOD I Pay Scale--(*Amended by PS(D)(A)R 2000 s.12*)

<u>Offence</u>	<u>Maximum fine</u>
Unpunctuality	An amount equivalent to half-day's salary
Absence without reasonable excuse	An amount equivalent to the salary normally due for the time of absence, not exceeding a total equivalent to two days' salary at any one time

- (2) If the amount of a fine imposed on an officer is not paid within 1 month from the date upon which a demand note for the amount is issued, the Head of Department may authorize its deduction from the officer's salary or from any other sums due from the Government to him or his estate.
- (3) A Head of Department may delegate in writing the powers conferred by subsections (1) and (2) to such officers as may be approved by the Secretary or a designated person. -- (*Amended by PS(D)(A)R 2002 s.6*)

18. Absence without leave; liability to dismissal

- (1) If an officer to whom this section applies--
- (a) is absent from duty without reasonable cause;
 - (b) wilfully refuses to perform his duty; or
 - (c) wilfully omits to perform his duty,
- in such circumstances that the Secretary is satisfied that the officer has or has effectively vacated his post without permission, whether permanently or temporarily, the officer may be summarily dismissed by the Secretary with effect from the date of the beginning of his absence or of his wilful refusal or omission.
- (2) In the case of an officer to whom this section applies whose substantive salary is -
- (a) if he is paid on the Master Pay Scale, at or above point 34 on that scale; or
 - (b) in any other case, equal to or more than the amount pertaining to point 34 on the Master Pay Scale but less than the amount pertaining to point D1 on the Directorate Pay Scale,
- the powers conferred on the Secretary by subsection (1) may be exercised by a designated person. (*Amended by PS(D)(A)R 2002 s.7(a)*)
- (2A) In the case of an officer to whom this section applies whose substantive salary is -
- (a) if he is paid on the Master Pay Scale, below point 34 on that scale; or
 - (b) in any other case, less than the amount pertaining to point 34 on the Master Pay Scale,

the powers conferred on the Secretary by subsection (1) may be exercised by the Head of Department of the officer. *(Added by PS(D)(A)R 2002 s.7(a))*

- (3) The powers conferred on a Head of Department in subsection (2A) may not be delegated without the approval in writing of the Secretary or a designated person. *(Amended by PS(D)(A)R 2002 s.7(b))*

19. Certain officers excluded from the application of this Part

This Part does not apply to officers belonging to any bureau or department of the Government of HKSAR whose conduct is governed by any Ordinance.

PART IV

MISCELLANEOUS

20. Provisions transitional to the enactment of the Public Service (Disciplinary) (Amendment) Regulation 2000

- (1) To avoid doubt, it is declared that this Regulation as amended applies in relation to an investigation begun and conducted in accordance with this Regulation as applying before amendment and which has not been completed before the commencement date, as it applies in relation to an inquiry begun and conducted on or after the commencement date in accordance with this Regulation as amended, and, accordingly, on and after the commencement date -
- (a) such an investigation or anything done in relation to such an investigation shall be deemed to be an inquiry or done in relation to an inquiry, as the case may be, begun and conducted in accordance with this Regulation as amended; and
 - (b) the investigating officer or investigating committee appointed to conduct such an investigation under this Regulation as applying before amendment shall be deemed to be the inquiry officer or inquiry committee, as the case may be, appointed under this Regulation as amended.

- (2) In this section -

“commencement date” (生效日期) means the date on which the Public Service (Disciplinary) (Amendment) Regulation 2000 comes into operation;

“Regulation as amended” (《經修訂規例》) means this Regulation as it applies on or after the commencement date;

“Regulation as applying before amendment” (《修訂前規例》) means this Regulation as it applied immediately before the commencement date.

(Added by PS(D)(A)R 2000 s.13)

SCHEDULE

[S.7]

PART A

INQUIRIES UNDER SECTION 9 OF THE ORDER

I

Preliminary

1. The officer alleged to have been guilty of misconduct ("the officer") shall be given--
 - (a) a copy of Part A of this Schedule; and
 - (b) a copy of any document which it is proposed to put in evidence to support the charge.
2. No document shall be put in evidence against the officer unless a copy has been given to him or he has had access to it.

II

Procedure

The following procedure shall be followed--

3. The inquiry officer records--
 - (a) the attendance of any officer appointed by the Secretary or a designated person to assist the inquiry officer ("the assisting officer"); (*Amended by PS(D)(A)R 2002 s.8(a)*)
 - (b) the attendance of--
 - (i) a public servant who is not a legally qualified officer; or
 - (ii) other person authorized by the Chief Executive, to assist the officer in his defence ("the friend of the officer"). (*Amended by PS(D)(A)R 2000 s.14*)
4. The inquiry officer reads the charge. (*Amended by PS(D)(A)R 2000 s.14*)
5. The officer is informed--
 - (a) that he may admit or deny the whole or part of any charge;
 - (b) that he or the friend of the officer will have an opportunity of questioning any witness;
 - (c) that he may make an oral or written statement and call witnesses;
 - (d) that he or the friend of the officer will have an opportunity to address the inquiry officer at the end of the proceedings. (*Amended by PS(D)(A)R 2000 s.14*)

6. Without prejudice to the power of the inquiry officer to ask questions at any time during the inquiry, the inquiry officer may, after the officer has been informed of the matters referred to in paragraph 5, ask the officer whether he admits particular facts (for example, that he was a public servant at the material time, that photographs or other documents are accurate). Any such admission shall be recorded by the inquiry officer. *(Amended by PS(D)(A)R 2000 s.14)*
7. The witnesses against the officer are called by the assisting officer and they are questioned by the assisting officer and the officer or the friend of the officer, and further questioned by the assisting officer.
8. The evidence of any witness may, at the discretion of the inquiry officer, be taken by showing the witness a statement made by him, asking him whether it is correct and whether he wishes to alter any part of it or add to it. The statement shall then be admitted in evidence and any corrections noted on it by the inquiry officer. The witness may then be questioned by the officer, or the friend of the officer, and thereafter further questioned by the assisting officer. *(Amended by PS(D)(A)R 2000 s.14)*
9. At the conclusion of the evidence in support of the charge, the officer is asked by the inquiry officer if he wishes to make an oral or written statement in his defence. Any oral statement so made shall be recorded by the inquiry officer. The officer may then be questioned by the assisting officer. *(Amended by PS(D)(A)R 2000 s.14)*
10. The witnesses for the officer are called by the officer and they are questioned by the officer or the friend of the officer and the assisting officer, and further questioned by the officer or the friend of the officer.
11. At the conclusion of the evidence--
 - (a) the assisting officer may address the inquiry officer if the inquiry officer so requests; and
 - (b) the officer or the friend of the officer shall have the right to address the inquiry officer orally or in writing. *(Amended by PS(D)(A)R 2000 s.14)*
12. Thereafter the inquiry officer prepares the report to be submitted to the Chief Executive. The inquiry officer may add to his report recommendations regarding departmental procedures if he considers such recommendations to be warranted. *(Amended by PS(D)(A)R 2000 s.14)*

III

Miscellaneous

13. The evidence of witnesses shall not be taken on oath.

14. It is the function of the inquiry officer to examine the charge and all the circumstances surrounding it thoroughly. For this purpose the inquiry officer shall put such questions as he may think fit to the officer, any witness or the assisting officer. *(Amended by PS(D)(A)R 2000 s.14)*
15. The inquiry officer may--
 - (a) call such witnesses, and
 - (b) require the production of such documents, as he thinks fit. *(Amended by PS(D)(A)R 2000 s.14)*
16. The inquiry officer shall make a record of the proceedings which may be in written, taped or video-taped form and include it as part of the report which he is required to submit to the Chief Executive under this Regulation. *(Amended by PS(D)(A)R 2000 s.14)*
17. The inquiry officer shall ensure that any evidence given in a language which the officer does not understand is interpreted to him. The inquiry officer may record evidence in the language in which it is given or may record it in English or Chinese and shall certify it to be correct. *(Amended by PS(D)(A)R 2000 s.14)*
18. If during the inquiry, further grounds of misconduct are disclosed, the inquiry officer shall adjourn the proceedings and refer them to the Chief Executive. If the Chief Executive decides that an inquiry into these grounds shall be carried out by the inquiry officer, the officer shall be furnished with a written statement of the grounds and the procedure outlined in the foregoing paragraphs shall apply with such modifications as are necessary. *(Amended by PS(D)(A)R 2000 s.14)*
19. The inquiry officer may--
 - (a) on his own motion; or
 - (b) at the request of the officer if the inquiry officer considers it reasonable, adjourn the inquiry for such period as he thinks fit. *(Amended by PS(D)(A)R 2000 s.14)*
20. The report of the inquiry officer shall be sent to the Secretary or a designated person who shall arrange for a copy of the report to be sent to the officer. *(Amended by PS(D)(A)R 2002 s.8(a))*

PART B

INQUIRIES UNDER SECTION 10 OF THE ORDER

I

Preliminary

1. The officer alleged to have been guilty of misconduct ("the officer") shall be given--
 - (a) a copy of Part B of this Schedule; and
 - (b) a copy of any document which it is proposed to put in evidence to support the charge.
2. No document shall be put in evidence against the officer unless a copy thereof has been given to him or he has had access thereto.

II

Procedure

The following procedure shall be followed--

3. The inquiry committee assembles and records--
 - (a) the attendance of any officer appointed by the Secretary or a designated person to assist the inquiry committee ("the assisting officer"); (*Amended by PS(D)(A)R 2002 s.8(b)*)
 - (b) the attendance of--
 - (i) a public servant who is not a legally qualified officer; or
 - (ii) other person authorized by the Chief Executive,to assist the officer in his defence ("the friend of the officer"). (*Amended by PS(D)(A)R 2000 s.14*)
4. The Chairman of the inquiry committee ("the Chairman") reads the charge. (*Amended by PS(D)(A)R 2000 s.14*)
5. The officer is informed--
 - (a) that he may admit or deny the whole or part of any charge;
 - (b) that he or the friend of the officer will have an opportunity of questioning any witness;
 - (c) that he may make an oral or written statement and call witnesses;
 - (d) that he or the friend of the officer will have an opportunity to address the inquiry committee orally or in writing at the end of the proceedings. (*Amended by PS(D)(A)R 2000 s.14*)
6. Without prejudice to the power of the inquiry committee to ask questions at any time during the inquiry, the Chairman may, after the officer has been informed of the matters

referred to in paragraph 5, ask the officer whether he admits particular facts (for example, that he was a public servant at the material time, that photographs or other documents are accurate). Any such admission shall be recorded by the Chairman. *(Amended by PS(D)(A)R 2000 s.14)*

7. The witnesses against the officer are called by the assisting officer and they are questioned by the assisting officer and the officer or the friend of the officer, and further questioned by the assisting officer.
8. The evidence of any witness may, at the discretion of the Chairman, be taken by showing the witness a statement made by him, asking him whether it is correct and whether he wishes to alter any part of it or add to it. The statement shall then be admitted in evidence and any corrections noted on it by the Chairman. The witness may then be questioned by the officer or the friend of the officer, and thereafter further questioned by the assisting officer.
9. At the conclusion of the evidence in support of the charge, the officer is asked by the Chairman if he wishes to make an oral or written statement in his defence. Any oral statement so made shall be recorded by the Chairman. The officer may then be questioned by the assisting officer.
10. The witnesses for the officer are called by the officer and they are questioned by the officer or the friend of the officer and the assisting officer, and further questioned by the officer or the friend of the officer.
11. At the conclusion of the evidence--
 - (a) the assisting officer may address the inquiry committee if the inquiry committee so requests; and
 - (b) the officer or the friend of the officer shall have the right to address the inquiry committee orally or in writing. *(Amended by PS(D)(A)R 2000 s.14)*
12. Thereafter the inquiry committee prepares the report to be submitted to the Chief Executive. The report is signed by the Chairman and each member of the inquiry committee. If there is a difference of opinion, the Chairman and each member shall furnish separate reports. The inquiry committee may add to its report or reports recommendations regarding departmental procedures if it considers such recommendations to be warranted. *(Amended by PS(D)(A)R 2000 s.14)*

III

Miscellaneous

13. The evidence of witnesses shall not be taken on oath.
14. It is the function of the inquiry committee to examine the charge and all the circumstances surrounding it thoroughly. For this purpose the Chairman and the member of the inquiry

committee shall put such questions as they may think fit to the officer, any witness or the assisting officer. *(Amended by PS(D)(A)R 2000 s.14)*

15. The inquiry committee may-- *(Amended by PS(D)(A)R 2000 s.14)*
 - (a) call such witnesses; and
 - (b) require the production of such documents, as it thinks fit.
16. The inquiry committee shall make a record of the proceedings which may be in written, taped or video-taped form and include it as part of the report or reports which it is required to submit to the Chief Executive under this Regulation. *(Amended by PS(D)(A)R 2000 s.14)*
17. The inquiry committee shall ensure that any evidence given in a language which the officer does not understand is interpreted to him. The inquiry committee may record evidence in the language in which it is given or may record it in English or Chinese and shall certify it to be correct. *(Amended by PS(D)(A)R 2000 s.14)*
18. If during the inquiry further grounds of misconduct are disclosed, the inquiry committee shall adjourn the proceedings and refer them to the Chief Executive. If the Chief Executive decides that an inquiry into these grounds shall be carried out by the inquiry committee, the officer shall be furnished with a written statement of the grounds and the procedure outlined in the foregoing paragraphs shall apply with such modifications as are necessary. *(Amended by PS(D)(A)R 2000 s.14)*
19. The inquiry committee may--
 - (a) on its own motion; or
 - (b) at the request of the officer if the inquiry committee considers it reasonable, adjourn the inquiry for such period as it thinks fit. *(Amended by PS(D)(A)R 2000 s.14)*
20. The report or reports of the inquiry committee shall be sent by the Chairman to the Secretary or a designated person who shall arrange for a copy of the report or reports to be sent to the officer. *(Amended by PS(D)(A)R 2002 s.8(b))*

Explanatory Note
Public Service (Disciplinary)(Amendment) Regulation 2000

1. The Public Service (Disciplinary) Regulation (“Principal Regulation”) has been amended by the Public Service (Disciplinary)(Amendment) Regulation 2000 (“Amendment Regulation”). The amendments will come into operation on 17 April 2000.

2. For ease of reference, editorial notes setting out the sources of amendments have been inserted to the provisions of the revised Principal Regulation where amendments have been made. These notes are in *italic*.

3. The major amendments introduced by the Amendment Regulation are as follows.

- (a) Section 4 of the Principal Regulation is repealed. Under that section, officers are called upon to make representations to exculpate themselves before formal investigations.
- (b) Paragraph 16 of Part A and B of the Schedule and section 7 of the Principal Regulation are amended so that record of proceedings of investigations may be kept in written, tape or video-taped form.
- (c) Transitional provisions are inserted to provide for transitional arrangements relating to the making of the Amendment Regulation.
- (d) All references to “investigation”, “investigating officer” and “investigating committee” in the Principal Regulation are replaced with “inquiry”, “inquiry officer” and “inquiry committee” respectively.

Explanatory Note
Public Service (Disciplinary)(Amendment) Regulation 2002

1. The Public Service (Disciplinary) (Amendment) Regulation 2002 amends the Public Service (Disciplinary) Regulation (as amended by the Public Service (Disciplinary) (Amendment) Regulation 2000) so that certain disciplinary powers and functions may be exercised by an officer appointed by the Chief Executive or exercised by Heads of Departments in relation to certain classes of officers. The powers and functions relate to –

- (a) the withholding of salary of an officer on his criminal conviction;
- (b) the imposition of punishment;
- (c) the approval of delegation of powers by a Head of Department;
- (d) the summary dismissal of an officer for his absence without leave; and
- (e) the appointment of an officer to assist in an inquiry and the receipt of a report on an inquiry.

2. The amendments will come into operation on 1 November 2002.

Explanatory Note
Public Service (Disciplinary) (Amendment) Regulation 2006

This Regulation amends the Public Service (Disciplinary) Regulation (as amended by the Public Service (Disciplinary) (Amendment) Regulation 2000 and further amended by the Public Service (Disciplinary) Regulation 2002) to remove the provision for fines imposable for “Other minor disciplinary offences” upon officers remunerated on the Model Scale 1 in the Civil Service Pay Scales.

Explanatory Note
Public Service (Disciplinary) (Amendment) Regulation 2009

Section 13 of the Public Service (Disciplinary) Regulation provides for the reporting of institution of criminal proceedings against an officer.

2. The Public Service (Disciplinary) (Amendment) Regulation 2009 amends that section so that the Secretary for the Civil Service may promulgate, with the prior approval of the Chief Executive, exemptions from the requirements under that section and any alteration, suspension, resumption or cancellation of such exemptions.