

SAINT CHRISTOPHER AND NEVIS

STATUTORY RULES AND ORDERS

No. 10 of 2014

PUBLIC SERVICE CODE OF DISCIPLINE

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IN EXERCISE of the powers conferred upon the Minister by section 53 of the Public Service Act, this Code of Discipline is hereby made.

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1 Citation.

This Code may be cited as the Public Service Code of Discipline, 2013.

2. Interpretation.

In this Code, unless the context otherwise requires,

“Act” means the Public Service Act, No. 19, 2011;

“Chief Personnel Officer” means the Permanent Secretary, Human Resources department;

“Code” means the Public Service Code of Discipline;

“misconduct of a minor nature” means conduct that does not warrant dismissal, and, without prejudice to the generality of the foregoing, includes the following:

- (a) use of obscene, or abusive or insulting language while on duty;
- (b) malingering on duty;
- (c) failure to maintain official records as required;
- (d) insubordination;
- (e) unpunctuality without just cause;
- (f) loss of or damage to property of the Crown other than that considered as a misconduct of a serious nature;
- (g) misuse of the Government’s intranet, the internet and any other information technology network;
- (h) disorderly conduct;

“misconduct of a serious nature” means improper or unprofessional conduct that may warrant the dismissal of a public officer found guilty of such conduct, and, without prejudice to the generality of the foregoing, such conduct, in addition to the misconduct specified in section 49 of the Public Service Code of Conduct and Ethics, include the following:

- (a) absence from duty without leave or approval for a period of five days;

- (b) conviction of a criminal offence punishable by a term of imprisonment;
- (c) unauthorised disclosure of information pertaining to the Government;
- (d) habitual intoxication or possession, use or distribution of illegal drugs while on duty;
- (e) reporting for duty or performing duties while under the influence of alcohol or illegal drugs;
- (f) failure to observe any laws, orders, rules or regulations governing the Public Service;
- (g) falsification of accounts or records, either manual or electronic;
- (h) wilful mutilation, alteration or destruction of property including official documents or records, either manual or electronic;
- (i) failure to report or disclose any information that ought reasonably to be reported or disclosed where the consequence of that failure amounts to a grave injustice;
- (j) threatening of a fellow officer or any person or threatening the destruction of any property while on duty;
- (k) causing of grievous bodily harm;
- (l) unauthorised possession of a firearm or other device that can be considered an offensive weapon;
- (m) acceptance of bribes or other inducements;
- (n) misappropriation of public funds;
- (o) major loss of or damage to property of the employer;
- (p) failure to perform the duties assigned to the office;
- (q) negligence in the performance of duty;
- (r) sexual harassment;
- (s) failure to maintain official records where the consequence amounts to a grave injustice;
- (t) misconduct involving three or more of the matters listed herein as matters of misconduct of a minor nature in paragraphs (a) to (h) within a period of two years;

“officer” includes a temporary employee;

“sexual harassment” has the meaning assigned to it by section 52.(2) of the Public Service Code of Conduct and Ethics.

3. **Purpose of the code.**

The purpose of this Code is to ensure

- (a) that standards of conduct laid down in the Act, in any regulations made under the Act or in the Public Service Code of Conduct and Ethics are observed;
- (b) the existence of general principles that guide the disciplinary process including:

- (i) procedural fairness;
- (ii) determining each case on its merits;
- (iii) indicating the factors to be taken into account; and
- (iv) the powers and responsibilities of the investigating officer.

4. Criminal investigation.

(1) Notwithstanding the fact that an officer is under investigation in respect of the commission of an offence leading to criminal charges or has been charged with an offence, disciplinary proceedings or action may be instituted or continued under this Code in relation to a breach of this Code or the Code of Conduct and Ethics.

(2) Where the investigation referred to under subsection (1) or an investigation into any other misconduct has been or is about to be instituted, and the Permanent Secretary or Head of Department is of the opinion that the public interest requires that the officer should forthwith cease to perform the functions of his or her office, the Chief Personnel Officer may recommend to the Commission that the officer be interdicted.

(3) An officer who is under interdiction from duty may not leave Saint Christopher and Nevis without the permission of the Governor-General granted on the recommendation of the Commission

5. Adjudication of minor offences.

(1) A senior Human Resource officer or other officer of a similar or a higher grade in the Public Service deputed by the Chief Personnel Officer, shall conduct the necessary enquiry into any charge relating to misconduct of a minor nature by a public officer.

(2) The person who conducts an enquiry referred to in subsection (1) shall be at a grade that is higher than that of the officer who is charged.

- (3) The person who conducts the hearing of a charge shall at the end of the hearing,
- (a) decide whether the officer committed the offence for which he or she is charged; and
 - (b) recommend to the Chief Personnel Officer, a penalty which is permissible under this Code if the officer is found to have committed the offence.

(4) The enquiry shall be conducted within a period of ten working days.

(5) The decision of the person who is conducting the enquiry and any penalty recommended shall be conveyed to the person charged in writing within seven working days of the completion of the enquiry.

6. Adjudication of misconduct of a serious nature.

(1) The Commission may set up a Committee of Enquiry of not more than three persons, to conduct the necessary enquiry into any charge against an officer for the commission of misconduct of a serious nature.

(2) Any officer in a panel deputed to conduct an enquiry referred to in subsection (1) shall be a holder of an office which is at a grade higher than that of the officer against whom the charge is brought, but in any case shall not be below the level of senior personnel officer.

(3) The Chief Personnel Officer shall, within seven days of becoming aware of a breach

of Public Service Code of Conduct and ethics on the part of an officer, bring a charge against that officer for the breach.

(4) An officer who is charged under subsection (3) may be suspended from duty by the Chief Personnel Officer.

(5) Notice of suspension of the officer shall be in writing, and shall be sent to the Commission and the concerned officer as soon as practicable, except that suspension shall be subject to the confirmation of the Commission.

(6) An officer who is suspended pursuant to the provisions of subsections (4) and (5) shall be entitled, during the period of suspension, to such reduced pay as the Commission may determine in the circumstances.

(7) The reduction in a person's rate of pay made pursuant to the provisions of subsection (6) shall not exceed one half of the salary to which the officer would have been entitled had he or she not been suspended, and the reduction shall be for a period not exceeding six months after which period the officer will revert back to his or her normal salary.

(8) A charge brought against an officer pursuant to the provisions of subsection (3) shall be defined in a written statement, in which statement the nature of the case to be answered shall be set out, together with

- (a) an individual statement signed by the officer, if any;
- (b) signed statements from all witnesses, supervisors, and any other relevant parties; and
- (c) advice to the officer that he or she may be assisted, if he or she so wishes throughout the hearing by a trade union representative, an attorney-at-law or a friend.

(9) A copy of the statements and all documentary evidence which is to be used in an enquiry relating to a charge of misconduct of a serious nature shall be given to the officer who is charged.

(10) The officer who is charged shall be given ten working days after receipt of the statements and documentary evidence supplied in accordance with the provisions of subsection (9) to reply to the charges, and to make any observations he or she may wish in writing in respect of the charge.

(11) The Committee of Enquiry that has conducted an enquiry into a misconduct of a serious nature shall submit a report of the hearing to the Chief Personnel Officer not more than ten working days after completion of the enquiry, giving the opinion of the panel as to

- (a) whether the person is guilty as charged;
- (b) the reasons for its opinion; and
- (c) the maximum penalty that ought to be recommended for the misconduct by the Commission.

(12) The Chief Personnel Officer, shall, within five working days of receiving a report relating to a disciplinary charge, convey in writing his or her decision and any recommendation as to the penalty to be imposed for consideration by the Commission.

(13) The Commission shall conclude its deliberations on the matter within twenty-eight days of the receipt of the information pursuant to the provisions of subsection (12) of this section.

7. Penalties.

(1) The penalties that may be imposed on an officer against whom a disciplinary charge constituting misconduct of a minor nature is proved, are as follows:

- (a) an oral warning; or
- (b) reprimand in writing.

(2) The penalties that may be imposed on an officer against whom a disciplinary charge constituting misconduct of a serious nature is proved are as follows:

- (a) suspension on half pay for a period not exceeding six months;
- (b) reduction in rank;
- (c) suspension of future increments for a period not exceeding two years;
- (d) compulsory retirement; or
- (e) dismissal.

Dated this 9th day of May, 2014.

DENZIL L DOUGLAS

Minister responsible for the Public Service