

Statutory Instrument 241 of 2023.

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Zimbabwe Human Rights Commission (Conditions of Service)
Regulations, 2023

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IT is hereby notified that the Minister, in terms of section 23 of the Zimbabwe Human Rights Commission Act [*Chapter 10:30*], after consultations with the Zimbabwe Human Rights Commission, made the following regulations:—

PART I

PRELIMINARY

Title

1. These regulations may be cited as the Zimbabwe Human Rights Commission (Conditions of Service) Regulations, 2023.

Interpretation

2. In these regulations—

“appointing authority” means the Commission or Executive Secretary as delegated;

“approved service” means service with a government, body or institution approved by the Commission;

“competitive selection procedure” means competition among members of staff within the same grade or performance appraisal exceeding key result indicators;

“confirmed member of staff” means a member who is confirmed in his or her appointment after a period of probation in terms of these regulations;

“contract employee” means an employee of the Commission employed on contract for a specified period of service;

“delegated authority” means any authority to which the Commission has, in terms of these regulations, delegated any of its functions;

“department” means any division of the Zimbabwe Human Rights Commission for which a head of department has been designated by the Commission;

- “disciplinary authority” means a disciplinary authority referred to in section 34;
- “disciplinary committee” means a disciplinary committee appointed in terms of section 35;
- “grade” means the position or grade which has been allocated to a post;
- “head of department” means a member of staff who heads a division within the Commission or any other member of staff the Commission may designate as a head of department for the purpose of these regulations;
- “junior grade” means any grade designated to be a junior grade by the Commission;
- “legal practitioner” means a person registered as such in terms of the Legal Practitioners Act [*Chapter 27:07*];
- “medical board” means a board of two or more medical practitioners appointed by the Commission for the purpose of these regulations;
- “middle grade” means any grade designated to be a middle grade by the Commission;
- “misconduct” means any act or omission by a member of staff which constitutes an act of misconduct specified in section 45;
- “pension scheme” means any pension scheme operated by or on behalf of the Commission;
- “part-time employee” means an employee of the Commission employed on a temporary basis to fill a casual vacancy or supernumerary post;
- “probation” means the period of employment before a member of staff is confirmed in his or her appointment;
- “senior grade” means a grade of or above the level of a Chief Human Rights Officer in the Commission;
- “serious offence” means any offence for the Commission of which a court inside or outside Zimbabwe convicted the offender to a term of imprisonment exceeding six

months without the option of fine, whether or not any portion of that term is suspended.

PART II

EMPLOYMENT BY COMMISSION

General principles applicable to recruitment, advancement, promotion and grading of employees

3. (1) In order to promote efficiency and effectiveness, the appointing authority shall, subject to subsection (2) recruit, advance, promote or grade those employees who in relation to the post in question, are the most suitable as regards—

- (a) knowledge about the task to be performed and ability to perform it; and
- (b) relevant experience; and
- (c) the requisite qualifications and qualities; and
- (d) where applicable, potential for training and development.

(2) The recruitment, advancement, promotion or grading of employees shall be based on merit as well as professional and moral standing.

(3) A person may be employed by the Commission as a full-time employee, contract employee; or as a part-time employee.

(4) The Commission may, from time to time, issue notices or circulars governing the appointment to any post or grade, including notices or circulars specifying qualifications with respect to knowledge, ability, professional attainment, aptitude and potential.

(5) Before making an offer of employment the appointing authority shall complete to its satisfaction all the checks necessary to confirm that the prospective employee is eligible for employment.

(6) No person shall be employed by the Commission—

- (a) unless such person—
 - (i) has attained the age of eighteen years; and
 - (ii) has been examined by a medical practitioner and has furnished a medical certificate to the Secretary; and

- (iii) has obtained security clearance from the official agency charged with vetting candidates for posts in sensitive areas of public employment; and
 - (iv) in the case of a person to be employed as a full-time employee, is below the age of fifty-five years: Provided that such a person may be employed as a contract employee; and
 - (v) subscribes to a declaration in the form required by the Commission prohibiting the unauthorised disclosure of information connected with his or her official duties; and
- (b) within the period of five years preceding the date of application for employment, has been convicted of a serious criminal offence, unless the Secretary expressly approves such appointment in writing.

(7) A person employed by the Commission as a full time employee may be re-employed—

- (a) if he or she had resigned, not earlier than one year after the date of his or her resignation;
- (b) if he or she had been discharged for misconduct, not earlier than two years after the date of his or her discharge;
- (c) if he or she had been retired on medical grounds, not earlier than four years after the date of such retirement, upon producing a medical certificate by a medical practitioner approved by the Commission certifying that the practitioner has examined the person and is of the opinion that he or she is fit to resume employment.

(8) A person employed by the Commission as a full-time employee shall—

- (a) place the whole of their time at the disposal of the Commission; and
- (b) be liable to be transferred by the Commission to any part of the country at any time; and
- (c) comply with all the conditions applicable to such service, as fixed from time to time by the Commission.

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(9) As regards a person employed or to be employed by the Commission as a contract employee shall—

- (a) not be appointed before the contract relating to him or her has been signed by the appointing authority; and
- (b) be bound by any notices or circulars respecting terms or conditions of service issued or to be by the Commission under subsection (4) to the extent that anything contained therein is not inconsistent with any other term of his or her contract.

(10) A person employed by the Commission as a part-time employee shall—

- (a) be appointed by means of a letter of appointment signed by the authority and the person in question; and
- (b) except as otherwise stated in the letter of appointment, be bound by all the conditions of service applicable to a full-time employee.

Probation and confirmation of employees

4. (1) On first appointment to the service of the Commission otherwise than as a contract employee, a person shall be appointed as an employee on probation for a period of twelve months from the date of assumption of duty.

(2) Where an employee on probation fails to perform his or her work to the satisfaction of the Commission, the Commission may extend the probationary period by a further period not exceeding six months.

(3) If at any time during the probationary period or any extension thereof granted under subsection (2) the appointing authority, after consulting the Executive Secretary, is of the opinion that the employee has not performed his or her work satisfactorily, the appointing authority shall notify the employee concerned in writing accordingly, and his or her employment shall cease with effect from the date of that notification:

Provided that where the appointing authority in question is the Executive Secretary, a delegated authority shall act in terms of this subsection after consulting the Commission.

(4) Subject to this section, an employee other than a contract employee shall become a confirmed employee upon the expiry of the probationary period or any extension thereof granted under subsection (2).

(5) The appointing authority shall, within a period not exceeding thirty days after date of expiry of an employee's initial probationary period, recommend through the officer responsible for personnel management to the Secretary that—

- (a) the employee has performed his or her work satisfactorily and should be confirmed; or
- (b) the employee has not performed his or her work satisfactorily and that—
 - (i) his or her probationary period should be extended in terms of subsection (2), whether in the same post or some other specified; or
 - (ii) he or she be confirmed subject to being assigned to a post more in keeping with the competence of the employee concerned; or
 - (iii) his or her performance is likely to improve after participation in a skills development course to enhance the efficiency and effectiveness of the employee concerned whether in the same post or some other specified post:

Provided that where the appointing authority in question is the Executive Secretary, delegated authority shall make the appropriate recommendation to the Commission.

Performance appraisal

5. (1) In order to review and improve the provision of services to the public, the performance, potential and development needs of all employees shall be assessed continually and final reports thereon shall be compiled and submitted at least once a year.

- (2) Every performance appraisal shall—
 - (a) be conducted by way of regular interviews with the employee concerned by the immediate supervisor of the employee; and

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- (b) be reported in the form specified by the Commission, which shall be signed by the employee and supervisor and countersigned by the Executive Secretary or his or her delegate; and
- (c) be kept in a personal file of the appraised employee; and
- (d) where the performance of the Executive Secretary or of any senior employee of a grade specified by Commission for this purpose is concerned, be conducted by the Commission by way of discussion with the relevant employee.

(3) At the conclusion of every performance appraisal, the Commission or Executive Secretary shall decide what action, if any, is to be taken on the basis of the appraisal, including—

- (a) advancement or promotion;
- (b) assignment to a post more in keeping with the competence of the employee concerned;
- (c) participation in a skills development course to enhance the efficiency and effectiveness of the employee concerned;
- (d) the granting or withholding of any performance award;
- (e) demotion or discharge subject to and in accordance with the disciplinary procedures provided in Part VIII.

(4) The Commission may issue circulars or notices governing the content and conduct of performance appraisals.

Advancement

6. (1) An employee shall be advanced when, having satisfied the conditions laid down in the relevant advancement procedures and subject to satisfactory performance appraisal, he or she is advanced within the grade or from one to another.

(2) An employee who is not advanced when first eligible may be considered for such advancement at a later date in terms of the relevant advancement procedures.

(3) The Commission may issue circulars or notices governing advancement procedures.

Promotion and transfer of employees

7.(1) An employee may subject to subsection (2) be promoted or transferred from the post which he or she occupies to any other post in the service of the Commission in accordance with the principles and conditions set out in the Second Schedule.

(2) An employee shall not without his or her consent—

- (a) suffer a reduction in his or her salary by reason of his or her transfer to another post; or
- (b) be transferred to a post the duties of which do not correspond to the duties which he or she could have been called upon to perform immediately before his or her transfer.

(3) An employee shall not be entitled as of right to promotion.

(4) Promotion to a higher post shall depend on suitability and good performance in current post.

(5) Promotion shall follow the progression of grades without any omission of intervening grades.

Secondment

8.(1) A member of staff may at any time, without his/her consent, be seconded by the Commission for a period determined by it to a post in an approved service.

(2) The terms and conditions of service of a member of staff while on secondment shall, subject to any policy directive issued by the Commission, be governed by the contract between the member of staff and the approved service concerned.

(3) A member of staff who, having been seconded from the Commission to an approved service—

- (a) resigns or retires therefrom; or
- (b) is discharged on account of misconduct or on the grounds that s/he is unfit or incapable of performing efficiently the duties of his or her post;

shall be deemed to have resigned, retired or been discharged from the Commission in similar circumstances with effect from the date that s/he resigned, retired or was discharged from the approved service unless the Commission reinstates that person in its service with effect from the day following the said date.

PART III

DUTIES AND EMOLUMENTS

Hours and days of attendance

9. (1) The normal hours of attendance for an employee shall be from 0800 hours to 1630 hours every day except for weekends and public holidays.

(2) An employee may be required by the Executive Secretary or a delegated authority to attend or be on duty on a working or non-working day at hours other than the normal hours specified in subsection (1).

(3) An employee who is required to be on duty on a day other than a working day or during hours other than the normal working hours in terms of subsection (2) may be paid such overtime allowance as the Executive Secretary, with the approval of the Commission, may determine:

Provided that no employee shall be entitled as of right to such an allowance.

Duties and conduct of employees

10. (1) No employee shall, without the consent of the Executive Secretary, engage in an occupation or undertaking or do an act which might in any way conflict with the proper performance of his or her duties as an employee or be inconsistent with his or her duties as an employee.

- (2) If an employee or his or her spouse—
- (a) acquire or holds a direct or indirect pecuniary interest in a contract which relates to matters connected with the service of the Commission; or

- (b) has a direct or indirect pecuniary interest in a firm or a company which results in his or her private interests coming into or appearing to come into conflict with his or her duties;

he or she shall forthwith report the fact to the Executive Secretary and thereafter comply with such directions in that regard as the Executive Secretary may from time to time give.

Salaries, advances and loans

11. (1) The Commission shall, with the concurrence of the Minister responsible for finance, fix the salaries, salary scales and entry points thereto for all posts and grades within the Commission.

(2) The commencing salary of an employee may be fixed by the Commission making reference to any one or more of the following—

- (a) academic, professional or technical qualifications;
- (b) training or relevant experience;
- (c) the competencies necessary for the efficient and effective execution of tasks attached to the post;
- (d) the grade attaching to a particular job description.

(3) Every employee, including a probationary employee, shall at the end of each month receive a written statement of salary and allowances paid and deductions made therefrom.

(4) Nothing in these regulations shall be construed as authorising a reduction in the fixed salary or salary scale applicable to any employee except where the employee has consented to such reduction or where the employee has consented to such reduction or where he or she has been found guilty of misconduct.

(5) A salary advance of one's month's salary calculated on the basis of net salary excluding all allowances may be granted on the authority of the Executive Secretary to an employee—

- (a) to cover periods of leave away from his or her home station or official travel; or
- (b) in other circumstances that are exceptional and compelling circumstances.

(6) Salary advances shall be deducted from the employee's salary.

(7) An employee, after serving for a period of not less than one year from date of appointment, may be considered for the following loan—

- (a) housing loan for the acquisition of personal accommodation;
- (b) vehicle loan for the acquisition of a personal motor vehicle;
- (c) training loan for the payment of tuition and other fees at an educational institution;
- (d) a loan to cover funeral and other expenses incidental to bereavement.

(8) The Commission may set up a revolving fund for the disbursement of loans or any class thereof referred to in subsection (7).

PART IV

ALLOWANCES

Acting allowances

12. (1) An employee who is called upon to temporarily assume the duties and responsibilities of a post in a grade immediately above his or hers may, with approval of the Commission or Executive Secretary as the case may be, be paid an acting allowance during the subsistence of his or her acting appointment.

(2) No acting allowance shall be paid to an employee referred to in subsection (1) unless he or she acts in the office for a continuous period of not less than thirty days.

(3) The Commission may grant to an employee who acts such acting allowance as the Commission may fix:

Provided that the acting allowance payable to an employee in terms of this section together with the salary payable to him or her immediately before he or she was appointed to act, shall not exceed the salary which would be payable to him or her if he or she were promoted to the office in which he or she is appointed to act.

(4) An acting allowance shall be payable with effect from the date on which an employee is appointed to act officially assumes the duties of the post until the day to the date on which the employee officially ceases to fulfil such duties.

(5) Except in special circumstances and on the authority of the commission, not more than one acting allowance shall be paid in respect of the absence of any one employee from duty or in respect of the absence of any one employee from duty or in respect of any one vacant post.

(6) If an employee who is being paid an acting allowance is absent from duty on leave or for any reason for a continuous period of fifteen days or more, such allowance shall not be paid to him or her for the period during which he or she was absent from duty.

Special responsibility allowance

13. (1) A special responsibility allowance shall be payable to an employee who acts for a continuous period of at least thirty days in a post or office at least two levels higher than his or her substantive post.

(2) A special responsibility allowance shall be calculated as seventy *per centum* of the normal acting allowance.

(3) If an employee who is being paid a special responsibility allowance is absent from duty on leave or for any reason for a continuous period of thirty days or more, such allowance shall not be paid to him or her for the period during which he or she is absent from duty.

Travelling and subsistence allowances

14. (1) The Commission shall authorise the payment to employees who travel on duty of such travelling and subsistence allowances and out of pocket expenses at rates prescribed by the Commission with the approval of the Minister responsible for finance.

(2) A mileage allowance shall be paid at the end of each month for motor vehicle travel on approval business to any employee who utilises his or her vehicle for this purpose at a rate consistent with

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Automobile Association of Zimbabwe rates or CMED full mileage rates, which is greater at the time of travel.

Other allowances

15. (1) An employee performing duties outside Zimbabwe may be paid external allowances as the Commission may fix having regard to—

- (a) the salary paid to the employee;
- (b) the cost of living in the country in which the employee is performing his or her duties;
- (c) the standard of living to be maintained by the employee in view of the nature of his or her duties.

(2) Representation, clothing, telephone (residence) and cell phone allowances may be payable to eligible grades as determined by the Commission.

Performance awards and other allowances

16. The Commission may by notice or circular fix the conditions applicable to the payment of performance awards and such other allowances to be paid to employees other than the allowances for which provision is made in sections 11 to 14 as the Commission, in consultation with the Minister responsible for finance, may deem necessary or expedient to fix.

PART V

INDEMNIFICATION OF DRIVERS

Interpretation in Part V

17. In this Part—

“authorised passenger” means any person—

- (a) whom a driver in charge of a vehicle is required to carry in or upon such vehicle in the normal course of the driver’s duties; or
- (b) whom a driver in charge of a vehicle is authorised by the Executive Secretary or a Delegated authority

to carry in or upon such vehicle in the course of the driver's duties; or

- (c) involved in an accident or other emergency whom a driver in charge of a vehicle may carry in or upon such vehicle for the purpose of obtaining medical or other assistance for such person;

“driver” means any person—

- (a) who is appointed as such by the Commission;
- (b) who is issued with a vehicle by the Commission which is driven by him or her;

and to whom authority over the use of a vehicle is given;

“medical practitioner” means a person registered as such in terms of the Health Professions Act [*Chapter 27:19*];

“third party” means any person or association of persons, but does not include the Commission;

“traffic accident” means any event or occurrence—

- (a) caused by or arising out of the use of a vehicle; and
- (b) which renders a driver liable to pay any sum in relation to any of the matters referred to in section 18 (1) (a) or (b).

Indemnification of drivers

18. (1) Subject to this Part where a driver is involved in a traffic accident while driving a vehicle which he or she has been authorised to drive by the Executive Secretary or a delegated authority to use for the purpose of the work of the Commission, the Commission shall indemnify such driver in respect of all sums which he or she may become legally liable to pay arising out of or in connection with the use of such vehicle for the purpose of the Commission in relation to—

- (a) the death or bodily injury to any person, other than the driver himself or herself, including any authorised passenger who was being carried in or upon such a

vehicle or was entering or getting onto a lighting from such a vehicle at the time of the traffic accident; or

- (b) any destruction or damage to property, excluding property belonging to the Commission or driver.

(2) The Commission shall indemnify a driver in terms of subsection (1) notwithstanding that no contract of indemnity has been entered into between the Commission and the driver.

Limitations of indemnification

19. (1) The Commission shall not indemnify a driver in terms of section 18—

- (a) in respect of any liability or proceedings arising from the death of or bodily injury to or damage to the property of any person who at the time of the accident was being carried in or upon the vehicle concerned and was not an authorised passenger; or
- (b) if at time of the traffic accident from which the driver's liability arises the driver did not hold a valid driver's licence for the class of vehicle being driven; or
- (c) if the driver knew or had reason to know that the vehicle was not in a road worthy condition or was overloaded; or
- (d) if the driver was not complying with any instruction given to him or her by the Executive Secretary or a delegated authority concerning the route he or she was to follow; or
- (e) if the driver was driving the vehicle while under the influence of intoxicating liquor or drugs.

(2) If a driver incurs any liability or costs arising out of the use by him or her of a vehicle for the purpose of the Commission and there is in existence a valid policy of insurance covering the use of that vehicle by the driver for the purpose of the Commission, the Commission shall not pay any sum to or on behalf of such driver in respect of any liability or costs which are covered by such policy of insurance.

(3) No payments in terms of this Part shall be made by the Commission to or on behalf of any driver in respect of any fine or other penalty of a criminal nature imposed upon the driver by any court.

(4) If a driver fails to give notice to the Executive Secretary or delegated authority immediately after—

- (a) the occurrence of any traffic accident; or
- (b) the receipt by him or her of any letter, claim, summons or process relating to any traffic accident; or
- (c) he or she receives knowledge of any pending prosecution, inquest or other proceedings arising out of any accident; or
- (d) he or she is convicted of any offence mentioned in paragraph (c);

the Executive Secretary may direct that no payment in terms of this Part shall be made by the Commission to or on behalf of such driver in respect of such accident.

(5) If any driver, without the written consent of the Executive Secretary, makes any admission, offer, promise or payment to any person in respect of any traffic accident in which a third party is involved, the Executive Secretary may direct that no payment in terms of this Part shall be made by the Commission to or on behalf of such driver in respect of such accident.

Right to recover

20. This Part shall not in any way compromise the right the Commission may have under any other law to recover from any driver—

- (a) the amount of any payment made by the Commission in respect of any death, injury or damage in pursuance of any order of court made against the Commission or such driver or pursuant to any settlement effected with any third party; and
- (b) the amount of any legal costs incurred by the Commission in any proceedings relating to any claims by a third party against the Commission or such driver.

PART VI

LEAVE

Vacation leave

21. (1) Vacation leave shall be accrued at the rate of three days per month or thirty-six days per year.

(2) Subject to this section, the Commission may —

- (a) grant to an employee such leave of absence from his or her duties as the exigencies of the service of the Commission may permit; and
- (b) authorise the payment, in the case of a confirmed full time employee or contract employee whose contract of service provides that he or she shall be subject to the same conditions governing the grant of leave as a confirmed full-time employee, of such cash sum in respect of the grant of vacation leave, journeys made pending or after retirement or vacation leave accrued at the date of retirement, resignation, discharge or death of the employee as the Commission may fix:

Provided that accrued vacation leave may only be commuted for cash if an equivalent number of leave days are taken by the person applying for such commutation.

(3) Leave of absence may be granted at any time after the employee has served for a continuous period of twelve months from date of appointment.

(4) No employee may accumulate vacation leave in excess of one hundred and eighty days:

Provided that, an employee is granted only a portion of the total vacation leave which may have accrued to him or her, he or she may be granted the remaining portion at a later date, together with any further vacation leave which may have accrued to him or her at that date, without forfeiting such accrued leave.

(5) An employee who is given or receives notice of termination of employment shall not be granted vacation leave during the period of such notice.

(6) The cash equivalent of any accrued vacation leave standing to an employee's credit shall be payable to the employee or his or her estate in the event of the employee's death, retirement, resignation or discharge from the service of the Commission:

Provided that the cash equivalent of any accrued vacation leave standing to an employee's credit for the purposes of this subsection shall not exceed one hundred and eighty days.

Annual leave

22. (1) Annual leave may be granted by a head of office during the calendar year in which it is accrued up to a maximum of twelve days to enable employees to take short breaks from work to attend to personal matters.

(2) Annual leave may be granted at the discretion of the head of office in conjunction with any other type of leave.

(3) All Saturdays, Sundays and *gazetted* public holidays falling within a period of annual leave shall not count as part of such leave unless such leave is taken in conjunction with vacation leave or such leave exceeds a period of five working days.

Sick leave

23. (1) Sick leave may be granted to an employee who is prevented from attending his or her duties because he or she is ill or injured or undergoes medical treatment.

(2) During one year period of service an employee may be granted a maximum of ninety days sick leave on full pay and ninety days sick leave on half pay.

(3) A head of office may grant sick leave not exceeding three days without the production of a medical certificate:

Provided that the employee shall notify the head of office prior to proceeding on such leave.

(4) The Executive Secretary may grant sick leave with pay for a continuous period not exceeding ninety days on production of a certificate in the prescribed form signed by a medical practitioner:

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Provided that if, in the opinion of the head of office, the illness is likely to exceed ninety days, the head of office concerned shall report the matter to the Executive Secretary twenty –one days before the expiry of the leave in order to facilitate the convening of a medical board.

(5) Sick leave on half pay which extends beyond the period of sick leave on full pay may only be granted by the Executive Secretary only if, in the opinion of a medical board, it is probable that the employee concerned will be able to resume duty after such further period of sick leave.

(6) If a medical board establishes that an employee will be unable to resume duty because of illness or injury, the head of office shall take steps to have the employee retired on the grounds of ill health.

(7) The Executive Secretary may grant an additional period of sick leave to an employee to cover the period between the hearing of a medical board which recommends the employee’s retirement on ill -health and the effective date of such retirement.

(8) An employee who has been granted sick-leave in terms of subsection (1) and who intends to seek medical treatment outside the country shall—

- (a) present to the Executive Secretary written approval for such treatment outside the country from the Executive Secretary for the Ministry responsible for health; and
- (b) if the employee expects to be unable for a period of at least ninety days to attend to his or her duties due to ill-health—
 - (i) make an undertaking in writing to the Executive Secretary that he or she will return within a period between the seventy-sixth and the ninetieth day of his or her sick leave to appear before a medical board; and
 - (ii) submit, upon his or her return from the treatment abroad, or at any rate no later than the seventy-sixth day of his or her absence from duty, a medical affidavit by a medical practitioner detailing the

extent of injury or illness preventing the employee from attending to his or her duties.

(9) A medical board shall be convened to consider any medical affidavit submitted in-terms of sub-section (8)(b)(ii) and make recommendations—

- (a) to the Executive Secretary on whether the employee should be discharged on medical grounds; or
- (b) be granted further sick leave on half pay.

(10) An employee who fails to comply with subsection (8) shall not be retired on medical grounds but shall, with effect from the ninetieth day of his or her absence from duty, be dismissed, and the benefits provided under the pensions scheme for retiring employees shall not apply to such employee.

Maternity leave

24. (1) Maternity leave may be granted for a period of ninety-eight days on full pay to a female full-time employee.

(2) On production of a medical certificate from a medical practitioner certifying that she is pregnant an employee may proceed on a maternity leave not earlier than forty-fifth and not later than the twenty-first day prior to the expected day of delivery.

(3) A female full-time employee shall be entitled to be granted a maximum of three periods of maternity leave during which she shall be paid her full salary:

Provided that paid maternity leave shall be granted only once during any period of twenty -four months calculated from the first day of any maternity leave last granted to the employee.

(4) Any female full-time employee who has served for less than one year and who requires maternity leave shall apply for ninety-eight days' vacation leave with pay.

(5) Any maternity leave requested in excess of the limits prescribed in this section may only be granted as unpaid maternity leave.

(6) Unless the Executive Secretary grants sick leave for medical reasons other than maternity, sick leave shall not be granted once paid maternity leave has begun or during a period of unpaid maternity leave.

(7) On resumption of duty a female employee shall retain the grade salary and conditions of service applicable to her prior to her proceeding on paid maternity leave or leave without pay for maternity purposes, and her eligibility for advancement and promotion shall not be affected by her absence on such leave.

(8) A female employee who is the mother of a suckling child shall during each working day for a period of six months, be granted two hours a day for breast feeding. Such an employee may combine the portion or portions of the time for breast feeding with other normal breaks so as to constitute longer periods that she may find necessary or convenient for the purpose of nursing the child.

(9) In the event of a medical abortion or death of the infant or a miscarriage, a female employee may opt to continue with maternity leave or apply for cancellation of her maternity leave.

Paternity leave

25. A male member of staff shall submit to the Commission or delegated authority, on confirmation of pregnancy of his wife to whom he is married according to any law or custom or of a woman with whom he ordinarily lives together as husband and wife although not married to each other, the necessary medical certificate indicating the expected date of confinement and not later than the last day of the calendar month in which six months of pregnancy have lapsed, apply for paternity leave subject to the following conditions—

- (a) paternity may be granted for a period of five (5) working days on full pay;
- (b) paternity leave shall not be accrued, converted into vacation leave or cash payment;
- (c) failure to take paternity leave within the maternity leave period shall result in forfeiture of the leave days.

Manpower development leave

26. (1) In this section manpower development leave means leave granted to an employee to engage in study or training through the medium of the following—

- (a) work exchange programmes;
- (b) work attachments;
- (c) short courses;
- (d) professional training;
- (e) academic courses and examinations above the secondary level of education;
- (f) training and development seminars, workshops and conferences;

for the purpose of enhancing the efficiency, effectiveness and motivation of such employees.

(2) The Commission shall train and develop its employees in order to—

- (a) impart knowledge and skills;
- (b) enhance existing skills;
- (c) inculcate appropriate values and attitudes;
- (d) motivate employees;
- (e) increase the productivity of its employees and improve the Commission's service delivery.

(3) For the purpose of this section, a head of department shall, each year by the 30th September, submit for the approval of the Executive Secretary through the officer responsible for personnel management a plan identifying its human resource development needs for the following year.

(4) Subject to subsection (5), manpower development leave may be granted by the Commission or a delegated authority—

- (a) in accordance with the criteria for eligibility for such leave set out in the Third Schedule;
- (b) to any employee who—

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- (i) is identified and recommended for such leave in a plan approved by the Commission in terms of subsection (3).

Provided that an employee not so identified or recommended may apply for such leave to the Commission or delegated authority empowered to grant it; and

- (ii) if required to be bonded in terms of subsection (9) agrees to be so bonded and signs the bonding agreement before going on such leave.

(5) An application for manpower development leave outside the country shall be approved by the Commission.

(6) Manpower development leave shall be granted—

- (a) By the Commission, on the recommendations of the Executive Secretary, in respect of—
 - (i) courses at degree level;
 - (ii) courses at masters' degree level undertaken inside or outside Zimbabwe;
 - (iii) courses at doctorate level;
 - (iv) courses of study or training of more than three months duration undertaken outside Zimbabwe;
- (b) by the Executive Secretary on the recommendations of the head of department in other deserving and critical skills areas.

(7) Subject to subsection (8), the salary and allowances of an employee on manpower development leave shall be determined by the Commission.

(8) An employee who, due to inadequate performance, does not successfully complete a course of study or training undertaken in connection with manpower development leave, may be granted a further period of manpower development leave without pay:

Provided that the Commission may grant further manpower development leave on full pay if the further period has been necessitated

by the employee's ill-health or such other reasonable grounds as the Commission may determine.

(9) The Commission reserves the right to request an employee to pay back the costs incurred in connection with the grant of manpower development leave if the failure to complete the training for which the leave was granted was due to the employee's wrongdoing.

(10) Any employee who goes on manpower development leave, whether continuously or on a part-time basis, for a period—

- (a) of three months or less, shall not be bonded unless the Commission considers this essential in the circumstances;
- (b) exceeding three months, shall be bonded for a period equal to the period of manpower development leave.

(11) An employee whose application for extension for manpower development leave is not approved shall be required to report for duty.

(12) An employee granted financial assistance only to undertake studies shall be bonded in accordance with the terms and conditions set out in the bonding agreement.

(13) No employee shall change a course of study for which manpower development leave has been granted without the authority of the Commission or the Executive Secretary, as the case may be.

(14) Manpower development leave without pay may be granted to an employee who does not meet the criteria for eligibility as specified in the Third Schedule.

(15) An employee shall not accrue vacation leave during any period of manpower development leave.

(16) An employee on manpower development leave for a period in excess of three months shall not be considered for promotion during the period of such leave.

(17) An employee who applies unsuccessfully to a delegated authority for manpower development leave pursuant to subsection (4)(b)(i) may appeal against the decision to the Commission.

(18) the Commission may fund fully or partly —

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- (a) courses undertaken by employees that are in line with their professional day to day duties;
- (b) membership or affiliation fees on behalf of confirmed employees for only one organisation promoting any profession or calling directly or indirectly relevant to the work of the Commission.

Special/Compassionate leave

27. Special leave on full pay not exceeding twelve days in a calendar year may be granted by the head of department to an employee—

- (a) to prepare for and sit for an examination required for his or her advancement in the service or which his or her head of department considers will increase his or her value to the department;
- (b) who is required to be absent from duty on the instructions of a medical practitioner because of contact with an infectious disease; or
- (c) who is subpoenaed to attend any court in Zimbabwe as a witness; or
- (d) who is required to attend as a delegate or office-bearer at a conference of a recognised association representing employees; or
- (e) who is detained for questioning by the police; or
- (f) on the death of a spouse, parent, child, or legal dependant; or
- (g) on any justifiable compassionate grounds.

PART VII

TERMINATION OF SERVICE OF EMPLOYEES AND BENEFITS ON DEATH

Resignation

28. (1) A full-time employee or (unless the contract provides otherwise) contract employee, may resign from the service of the Commission upon giving the appropriate notice in writing to the delegated authority in accordance with this section.

(2) Unless the Commission or the delegated authority waives all or part of such notice, the period of notice for—

- (a) an employee on probation shall be twenty-four hours;
- (b) a confirmed employee shall be one month.

(3) The Commission or delegated authority may, during the period of notice, permit an employee to withdraw his or her notice of resignation.

(4) During a period of notice given in terms of this section an employee shall not be permitted to take any amount of accrued vacation leave or any other leave standing to his or her credit.

(5) An employee who leaves the service of the Commission without having given the appropriate period of notice in terms of this section shall, in respect of his or her failure to do so, pay the Commission a sum equivalent to the period of notice not served.

(6) If, after the initiation of disciplinary proceedings against an employee, the employee resigns, such employee shall, unless the Commission or delegated authority is satisfied to the contrary, be deemed, for the purpose of the pension scheme, to have been dismissed.

Termination of contract or temporary employment

29. (1) Where it appears to the Commission or the Secretary that the employment of any part-time employee should be terminated, he or she shall inform the employee concerned in writing of the decision and terminate his or her employment in accordance with the letter of appointment.

(2) Where the Commission or the delegated authority is of the opinion that the contract employee should be terminated before the expiry of the period of service stipulated therein and the contract makes provision therefor, the Commission or delegated authority shall inform the employee in writing of its decision to terminate the contract in accordance with its terms.

Pensionable age and retirement

30. (1) Subject to section 3(6) of these regulations, a full-time employee shall have a pensionable age of sixty-five years.

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(2) The officer responsible to personnel management shall, on the 1st of June each year, provide the Executive Secretary or delegated authority with a list of employees who will reach the age of sixty-five during the ensuing year.

(3) The Commission may, when it is in the interest of the Commission to do so, permit an employee whose pensionable age is sixty-five to continue to serve beyond the age of sixty-five for any period or periods determined by it.

Retirement before reaching pensionable age

31. (1) An employee may, on giving one month notice of retirement, be permitted by the Commission to retire before pensionable age at any time after attaining the age of fifty-five.

(2) The Commission may, on giving the equivalent appropriate period of notice prescribed under section 27(2) for the resignation of an employee, require an employee to retire on or after the date on which such employee attains the age of fifty-five.

(3) The Commission may require an employee to retire if, after being required by the Commission to undergo a medical examination by a medical board, such employee is found permanently unfit to carry out the duties of his or her post.

(4) Subject to these regulations the Commission may require an employee to retire—

- (a) if the employee becomes inefficient or incapable, for a reason other than mental or physical deficiency or infirmity, of efficiently performing his or her duties; or
- (b) if the employee is not suitable or becomes unsuitable for the post he or she occupies or any other post to which he or she occupies or any other post to which he or she could be promoted or transferred to with his or her consent; or
- (c) if the employee has been employed for a continuous period of not less than twelve months in a post of a lower grade than his or her own grade and the Commission is satisfied that it is unable to transfer him or her within a reasonable period; or

- (d) owing to the abolition of an employee's post or the reduction or adjustment in the organisation of the Commission; or
 - (e) if at the termination of a period of secondment the employee has not been transferred to an approved service or appointed to a post in the Commission.
- (5) An employee whom it is intended to retire in terms of subsection (2), (3) or (4) shall—
- (a) be given notice of such intention by the Secretary or delegated authority; and
 - (b) be afforded an opportunity to make representations in writing concerning such intention to the Commission, which shall consider such representation before deciding on whether or not to retire the employee.

Death in service

32. (1) The Commission may establish or contribute to a Funeral Assistance Fund for its employees.

(2) If a Funeral Assistance Fund comes into existence, the Commission shall grant financial assistance from the fund towards the funeral expenses of any deceased employee, and such financial assistance may include among other things—

- (a) the purchase of a casket;
- (b) dressing of the body;
- (c) the provision of transport to and from the place of burial or cremation;
- (d) an amount of money determined by the Commission for expenditure on food for the mourners attending the funeral ceremonies of the deceased employee.

PART VIII

DISCIPLINARY PROCEDURE

Interpretation in Part VIII

33. In this Part—

“junior grade” refers to every employee other than one in a middle or senior grade, as determined by the Commission;

“middle grade” refers to a head of department, or other employee of equivalent grade by whatever title called as determined by the Commission;

“senior grade” refers to the Secretary, or other employee of equivalent grade by whatever title called as determined by the Commission.

Disciplinary authorities

34. The disciplinary authority for the purposes of sections 34, 37 and 38 shall be—

- (a) in the case of an employee of a senior grade, the Commission;
- (b) in the case of an employee of a middle grade, the Executive Secretary;
- (c) in the case of an employee of a junior grade, the head of department:

Provided that the Commission may determine that it shall be the disciplinary authority in any particular case referred to in paragraph (b) or (c)

Disciplinary committees

35. (1) The disciplinary authority shall appoint a disciplinary committee to hear allegations of misconduct against an employee and make appropriate recommendations to the disciplinary authority.

(2) A disciplinary committee shall consist of a chairperson and two other employees:

Provided that employees of the committee shall be of a grade that is equivalent to or higher than that of the employee who is alleged to have committed the act of misconduct.

Procedure before and immediately following allegation of misconduct

36. (1) Where an employee is suspected of having committed an act of misconduct, the disciplinary authority shall conduct or cause to be conducted investigations to determine whether the employee has committed an act of misconduct or not.

(2) If it is found that a charge of misconduct should be preferred against the employee, the disciplinary authority shall within seven days after the completion of the investigation —

- (a) prefer a charge of misconduct in writing to the employee detailing the nature of the allegation against him or her, and call upon the employee to submit a written reply to the allegation within fourteen working days;
- (b) where possible, furnish to the employee copies of material documentary evidence, if any, relating to the allegation of misconduct, and afford the employee an opportunity to peruse any such documentary evidence.

(3) The disciplinary authority shall, within seven days of receiving the employee's reply or, if no such reply has been received within seven days after the expiry of such period, determine whether the employee has a case to answer, and if it so determines it shall, within that period —

- (a) make a report in the form set out in the Fourth Schedule to—
 - (i) the Commission, in the case where the disciplinary authority is the Executive Secretary;
 - (ii) The Executive Secretary in the case where the disciplinary authority is a delegated authority;
- (b) subject to subsection (5), refer the matter to a disciplinary committee for hearing in accordance with section 36; and
- (c) make available to the disciplinary committee a copy of the report referred to in paragraph (a) and any material documentary evidence relating to the allegation of misconduct.

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(4) Subject to subsection (5), where the disciplinary authority is the Commission, the Commission shall within fourteen days of receiving a report from the Executive Secretary and all material documents, refer the matter to a disciplinary committee for hearing in accordance with section 36.

(5) Where there is no material dispute of fact and the employee so consents in writing, the disciplinary authority may proceed to determine the allegation without a hearing in terms of section 36:

Provided that such an employee shall not be deemed to have waived his or her right to appeal against any determination so made.

Hearing before a disciplinary committee

37. (1) Within seven days of receiving the documents referred to in section 35(3)(c) the disciplinary authority shall give the employee not less than seven days' notice to appear before it, to answer the allegation of misconduct levelled against him or her.

(2) No documentary evidence shall be used against an employee charged with misconduct unless the employee has been provided with a copy or unless he or she has been given access to such evidence before the day of the hearing.

(3) the hearing shall be conducted without the need to observe the rules of procedure and evidence ordinarily applicable in criminal or civil proceedings, provided, however, that the employee concerned is afforded the opportunity to respond to every allegation of misconduct and that substantial justice is done.

(4) At the hearing the employee and the disciplinary committee may, if either so wishes, be advised, and in the case of the employee, represented by a legal practitioner:

Provided a legal practitioner representing the employee or the disciplinary committee shall not be a member of the disciplinary committee.

(5) The disciplinary committee may proceed to consider the allegation of misconduct in the absence of the employee concerned if the employee fails to attend the hearing without reasonable cause after having been duly notified thereof.

(6) The chairperson of the disciplinary committee shall keep or cause to be kept an accurate record of the substance of the evidence led at the hearing.

(7) At the conclusion of the hearing or within fourteen days thereafter the chairperson of the disciplinary committee shall submit to the disciplinary authority—

- (a) a notification in writing of its findings and recommendations thereon, including a recommendation as to the penalty to be imposed upon the employee where it finds the employee guilty of misconduct; and
- (b) the record of evidence led at the hearing.

Determination of allegation of misconduct

38. (1) On receiving the documents referred to in section 36(6) the disciplinary authority may—

- (a) refer the matter back to the disciplinary committee for further hearing; or
- (b) proceed to determine whether or not the employee concerned is guilty of misconduct as alleged.

(2) Where the disciplinary authority determines that the employee is not guilty of misconduct, the disciplinary authority shall forthwith notify the employee and—

- (a) the Executive Secretary in the case where the disciplinary authority is the Head of Department; or
- (b) the Commission, in the case where the disciplinary authority is the Executive Secretary.

(3) Where the disciplinary authority determines that an employee is guilty of misconduct, the disciplinary authority shall—

- (a) proceed to determine the penalty to be imposed upon the employee; and
- (b) notify the employee and, where the disciplinary authority is not the Commission—
 - (i) the Executive Secretary, in the case where the disciplinary authority is the head of department;or

- (ii) the Commission, in the case where the disciplinary authority is the Secretary;

of its determination and the penalty imposed upon the employee; and take such consequential measures as may be necessary in the circumstances.

(4) It shall be competent for the disciplinary authority to find an employee guilty of an act of misconduct other than the act of misconduct which the employee was originally alleged to have committed, if the facts disclose such other act of misconduct:

Provided that, where the disciplinary committee has not made a finding that the employee is guilty of such other act of misconduct, the disciplinary authority shall refer the matter back for further hearing by the disciplinary committee.

Resignation to avoid discharge

39. If, after the initiation of disciplinary proceedings against an employee, the employee resigns, such employee shall, unless the Commission or delegated authority is satisfied to the contrary be deemed, for the purposes of the pension scheme, to have been dismissed.

Employee convicted of criminal offence

40. Where an employee is convicted of a criminal offence which may constitute an act of misconduct, the head of office or disciplinary authority shall endeavour to obtain a copy of the court record relating to the conviction of the employee from the Registrar or Clerk of Court concerned, and sections 34 to 38 shall thereafter apply:

Provided that where an employee is sentenced to a term of imprisonment, section 46 shall apply.

Imposition of suspension order

41. (1) A disciplinary authority may, at any time, by written notice, suspend from service an employee who is suspected of having committed an act of misconduct or is subject to a criminal

investigation or prosecution, if his or her continued attendance at work or continued performance of his or her duties or service, as the case may be would—

- (a) be conducive to unbecoming or indecorous behaviour or further instances of misconduct; or
- (b) seriously impart the proper administration of functioning of the Commission or department concerned; or
- (c) occasion prejudice to any money or property likely to be handled by the employee in the course of his or her work; or
- (d) enable the employee to hinder or interfere with any investigation or evidence relating to any alleged misconduct; or
- (e) be undesirable in the public interest or likely to lead to loss of public confidence in the Commission.

(2) Where a suspension order is imposed upon an employee—

- (a) the order shall specify the reasons for such order, the period of suspension and, where possible the nature of the allegations against the employee;
- (b) disciplinary procedures shall be instituted forthwith in terms of section 35 if they have not already been instituted.

(3) A copy of every suspension order issued by a disciplinary authority other than the Commission shall be sent to the Commission as soon as possible after it is issued.

(4) An employee who is under suspension may not leave the country without the written permission of the disciplinary authority and shall inform the disciplinary authority of any change of address.

Effect and cancellation of suspension order

42. (1) Where an employee is suspended from service, he or she shall—

- (a) not attend at his or her place of work or carry out any duty unless directed to do so, in writing, by the disciplinary

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authority, in which case he or she shall carry out such duties as directed;

- (b) not be entitled to his or her salary in respect of the period of suspension unless ordered to carry out other duties, in which case he or she shall continue to receive his or her salary;
- (c) be entitled, upon notifying the disciplinary authority, to take up other employment for the duration of his or her suspension unless ordered to carry out other duties, and shall furnish such particulars as may be required from him or her of such employment and the remuneration received therefrom.

(2) Notwithstanding subsection (1)(b), where the nature of the allegation of misconduct does not involve financial prejudice to the Commission, and the employee is not directed to carry out other duties, the employee under suspension may, pending the determination of the allegation, be given an allowance equal to half his or her gross salary per month up to three months:

Provided that the Commission may in exceptional circumstances authorise the payment of an allowance:

- (i) where the allegation involves financial prejudice to the Commission; or
 - (ii) for a period in excess of three months where the allegation has not been determined; or
 - (iii) in excess of half the employee's gross salary per month.
- (3) A suspension order—
- (a) may be cancelled at any time by the disciplinary authority;
 - (b) shall be deemed to be cancelled—
 - (i) where the employee is found not guilty of misconduct; or
 - (ii) after three months from the date of its imposition, if the allegation has not been determined, unless if the disciplinary authority, directs in writing that the

order remain in force for such period as he or she shall specify by written notice to the employee.

- (4) Where an employee—
- (a) is found guilty of misconduct and discharged, the Commission shall direct the recovery from the employee of the whole or any part of the allowance paid to the employee in terms of subsection (2);
 - (b) is not found guilty of misconduct, the Commission shall direct that the whole of the salary withheld from the employee, less any allowance paid in terms of subsection (2), be restored to the employee:

Provided that where such an employee was employed during the period of suspension or part thereof, the Commission shall determine the amount of allowances or salary and benefits to be paid to the employee, as the case may be.

Imposition of penalty by the disciplinary authority

43.(1) Where a disciplinary authority determines that an employee is guilty of misconduct the disciplinary authority may impose one or more of the following penalties—

- (a) discharge the employee from the Commission;
- (b) call upon the employee to resign with effect from a specified date, failing which the employee shall be deemed to have been discharged as from that date;
- (c) reduce the salary or the grade or the salary and the grade of the employee;
- (d) direct that the employee not be considered for promotion for a specified period;
- (e) fine the employee an amount not exceeding the equivalent of two months of his or her salary, which fine may be recovered by deductions from the salary of the employee;
- (f) direct that the employee's performance award be withheld for a specified period;

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- (g) direct that the full amount of any remuneration paid to the employee since the misconduct, or such part of that amount as the disciplinary authority may determine, be recovered from him or her;
- (h) direct that the full amount of any allowance paid to the employee in terms of section 41(2), or such part of that amount as the disciplinary authority may determine, be recovered from him or her;
- (i) transfer the employee to another department to such grade and on such salary as the disciplinary authority may determine;
- (j) if the employee was responsible for any deficiency in or improper payment from or loss or destruction of the moneys of the Commission, raise a surcharge against the employee in respect of such deficiency, improper payment, loss or destruction, as the case may be—
 - (i) as may be fixed by the disciplinary authority; or
 - (ii) as may be fixed by the Commission in consultation with the Minister responsible for finance and the Auditor-General;
- (k) if the employee was responsible for any deficiency in or destruction of or damage to Commission property, State property, private property, or the property of any statutory body, statutory fund or local authority, raise an order against the employee requiring him or her to pay an amount equal to the cost of replacement of or repairs to the property concerned, as the case may be or such portion of that cost as the disciplinary authority considers to be equitable in the circumstances;
- (l) reprimand the employee.

(2) The Audit Office Act [*Chapter 22:18*] shall apply, with the necessary modifications, in relation to the powers conferred upon the disciplinary authority in terms of subsections (i) (j) or (k), and any references in those provisions of that Act to the Auditor General or the Minister responsible for finance, as the case may be, shall, for the purpose of this code of conduct, be read and construed as a reference to the appropriate disciplinary authority.

(3) Where a disciplinary authority determines that an employee is guilty of misconduct and discharges the employee from the Commission, the disciplinary authority may direct that the payment of any terminal benefits to him or her shall be withheld until the extent of any deficiency, destruction, loss or damage referred to in subsections (i) (j) or (k) has been determined in terms of the Audit Office Act [*Chapter 22: 18*] or in accordance with these regulations.

Appeals to the Labour Court

44. (1) An employee who is aggrieved by—

- (a) a determination by the disciplinary authority other than the Commission that he or she is guilty of misconduct in terms of section 37;
- (b) any penalty imposed upon him or her in terms of section 42 by a disciplinary authority other than the Commission;

may, within fourteen days from the date on which the disciplinary authority informs him or her of the determination or penalty, appeal against the determination or penalty to the Labour Court or request the Commission in writing through the Executive Secretary to review the determination or penalty in terms of this section.

(2) the Commission may, within fourteen days after receiving an appeal confirm the determination or penalty or refer the matter back for—

- (a) further investigation by the disciplinary authority; or
- (b) redetermination or re-hearing by the disciplinary committee, whether generally or in respect of certain matters specified by the Commission; or

(3) The noting of an appeal in terms of this section shall not pending the determination of appeal or application for review, suspend the determination made or penalty imposed by the disciplinary authority or the Commission.

PART IX

GRIEVANCE PROCEDURE

Interpretation in Part IX

45. In this Part—

“aggrieved employee” means an employee who notifies a grievance in accordance with this Part;

“grievance” means any dissatisfaction or feeling of injustice on the part of an employee which is connected with his or her work or his or her contact with other persons in the work place.

Grievance procedures for employees

46. (1) An employee who has a grievance in which he or she is directly concerned shall notify the grievance in writing with his or her immediate supervisor who shall grant the employee an interview within three working days.

(2) In the interview the aggrieved employee shall clearly restate the nature of his or her grievance and the immediate supervisor shall respond to the grievance within five working days.

(3) If the supervisor fails to settle the issue to the satisfaction of the aggrieved employee, the employee shall bring the grievance to the attention of the supervisor next in rank above the immediate supervisor, who shall, within five working days call a meeting with the immediate superior and the aggrieved employee to attempt to resolve the grievance.

(4) If the grievance remains unsolved in terms of sub section (3) to the satisfaction of the aggrieved employee, the employee may, after expiry of ten working days, refer the matter in writing to his or her head of office or head of department, and notify his or her immediate superior accordingly in writing.

(5) Within ten working days after the grievance has come to his or her attention in terms of subsection (4), the head of department shall call a meeting with the head of office, the immediate superior the aggrieved employee concerned and any other senior employee in the department, at which the head of department shall—

- (a) present the grievance and ask every person attending the meeting to give their views on the grievance; and
- (b) attempt to reach an agreement on what action is to be taken to resolve the grievance; and
- (c) record the grievance and the action agreed for the purpose of resolving it or, if no such action is agreed, the reasons for failing to reach such agreement; and
- (d) forward a copy of the record mentioned in paragraph (c) to the Executive Secretary and the Commission.

(6) In case of a disagreement at a meeting called in terms of subsection (5) the Executive Secretary shall make a decision on the grievance and communicate the decision to all the parties concerned within a period of fourteen days.

(7) Where an aggrieved employee is a superior, or head of office, a reference to a superior or head of office in the foregoing subsections shall be construed as a reference to the appropriate officer next in rank above the superior or head of office, as the case may be.

(8) Any employee, supervisor or head of office aggrieved by the decision of the Executive Secretary in terms of subsection (7) may appeal to the Commission in writing within fourteen days of the decision.

(9) the Commission shall determine and communicate its decision upon an appeal received in terms of subsection (8) within fourteen days of receiving it.

PART X

GENERAL

Discharge of employees on the grounds of abscondment, etc

47. The Commission or Executive Secretary may discharge with effect from the date of abscondment, detention, restriction, deportation or imprisonment, as the case may be, an employee who—

- (a) has absented himself or herself from work to avoid arrest or prosecution for an offence; or

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- (b) has been subject, for a period of three months or more, to an order under any enactment providing for the detention of persons in time of emergency or for the preventive detention of persons; or
- (c) has been subject, for a period of three months or more, to an order made in terms of any enactment whereby he or she is required to remain within, or is prohibited from entering, a specified area in Zimbabwe; or
- (d) is deported or extradited from Zimbabwe; or
- (e) has been imprisoned in pursuance of a conviction of an offence and a sentence of imprisonment for an effective term of three months or more; or
- (f) has been absent from duty for a continuous period in excess of thirty days without having been granted leave of absence.

Suspension of salary of employee who is imprisoned, detained, restricted or deported

48. (1) An employee shall not be entitled to receive any salary in respect of any period during which he or she is—

- (a) has been absent from duty for a continuous period in excess of thirty days without having been granted leave of absence; or
- (b) has been sentenced to a term of imprisonment without the option of a fine, whether or not the execution of such sentence is suspended with effect from the date of sentence; or
- (c) undergoing a sentence of imprisonment or detained pending trial, deportation or extradition; or
- (d) detained in terms of any enactment providing for the detention of persons in time of emergency or for the preventive detention of persons; or
- (e) unable to perform his or her duties because—
 - (i) he or she is subject to an order made in terms of any enactment whereby he or she is required to

remain within, or is prohibited from entering, a specified area in Zimbabwe;

- (ii) he or she is absent from Zimbabwe following the execution of a deportation or extradition order.

(2) Notwithstanding subsection (1), the Commission may direct that an employee referred to in that subsection shall be paid such allowance, not exceeding the amount of his or her salary, as the Commission may determine, during the period that the employee is not entitled to receive his or her salary in terms of that subsection.

(3) Upon the release of an employee from prison, the lifting or expiry of any detention or restriction order or the return of an employee to Zimbabwe—

- (a) the employee shall not be entitled to the salary which was withheld from him or her in terms of subsection (1) unless the Commission determines otherwise;
- (b) the Commission may direct that the full amount of any allowance paid to him or her in terms of subsection (2) or such part of that amount as the Commission may determine be recovered from him or her.

Departures from VIII and IX in certain circumstances

49. Notwithstanding anything to the contrary contained in Part VIII or IX, the Commission may at any time—

- (a) depart from or authorise the departure from any provision of Part VIII or IX; or
- (b) condone any irregularity has not resulted or will not result in a substantial miscarriage of justice.

Participation in labour organisations

50. For the avoidance of doubt it is declared that every employee shall, as of right, be entitled to be a member of or hold office in a labour organisation formed to represent or advance the interests of employees generally or any class thereof.

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FIRST SCHEDULE (*Section 2*)

ACTS OF MISCONDUCT

1. Absence from duty without good cause, including any abuse of sick leave.
2. Failure to perform any work or duty properly assigned.
3. Improper, negligent, inefficient or incompetent performance of one's duties.
4. Failure to obey lawful instructions, including circulars, instructions or standing orders issued by the Commission, Executive Secretary or Treasury.
5. Improper, threatening, insubordinate or discourteous behaviour, including sexual harassment, during the course of duty towards any employee of the Commission or any member of the public.
6. Hindering or obstructing any employee of the Commission in the discharge of his or her duties.
7. Unbecoming or indecorous behaviour, including the consumption of intoxicating liquor or dangerous or prohibited drugs during the course of duty.
8. Improper association with minors, or unbecoming or indecorous behaviour at any time or place in any manner or circumstances likely to bring the Commission into disrepute or disrespect.
9. Theft or failure to take reasonable care of, or to account for or making improper or unauthorised use of Commission funds.
10. Theft of, or failure to take reasonable care of, or making improper or unauthorised use of Commission property, including motor vehicles, or the failure to take adequate steps to ensure that reasonable care is taken of any such property, or failure to report at the earliest opportunity any loss thereof or damage thereto.
11. Wilful damage to any Commission property.
12. Failure to repay, within the stipulated period of repayment, any moneys advanced by the Commission.
13. Unauthorised or improper disclosure or use of classified or confidential information.
14. Any act involving corruption or dishonesty, including—
 - (a) any contravention of Chapter IX of the Criminal Law Code or the Prevention of Corruption Act [*Chapter 9:16*];

- (b) making a false report, accusation or statement against any employee;
 - (c) wilfully giving false or incorrect evidence or information or failing to disclose material evidence in relation to any inspection, examination, investigation, inquiry or hearing in terms of these or other regulations made in terms of the Act;
 - (d) falsifying or attempting to falsify any document with fraudulent intent or uttering a forged document;
 - (e) making any false claim or return, including any claim for travel or subsistence;
 - (f) failing to disclose material information, whether personal or otherwise, in any application for employment in the Commission or giving false information for the purpose of gaining employment in the Commission.
15. Failure to report improper conduct on the part of any employee of the Commission.
 16. Failure to disclose to a superior any conflict of interest or other personal information relevant to any matter connected with the discharge of the employee's duties.
 17. The cession by an employee of his or her salary, allowances or other remuneration without the written consent of the Commission.
 18. Practising nepotism or any other form of favouritism in making or recommending any appointment or promotion to any post or office.
 19. Being or seeking to be an office –bearer in or addressing a meeting of any political party, political organisation or political movement without the Commission's approval.
 20. Proceeding on any period of leave without having obtained the prior approval of the Commission, the Executive Secretary, the head of department OR THE head of office, as the case may be.
 21. Becoming insolvent or assigning one's estate for the benefit of or compromising with one's creditor generally, or being issued with a writ of civil imprisonment, unless the employee shows that his or her financial difficulties have been caused by circumstances beyond his or her control.
 22. Engaging in illegal collective job action, including—
 - (a) incitement of employees to engage in such action; or
 - (b) damaging Commission property; or
 - (c) forcibly disrupting Commission business in furtherance of such action;
or

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- (d) calling for meetings at the workplace or during working hours in furtherance of such action.
23. An act or omission which is inconsistent with or prejudicial to the discharge of official duties, including the abuse of authority.
 24. Issuing any press statement or giving information to the media without the authority of the Executive Secretary.
 25. Knowingly wearing any badge or article of clothing that is or is reasonably likely to be associated with a political party or candidate contesting any election.
 26. Any form of sexual harassment as stipulated in the National Sexual Harassment Policy constitute an act of misconduct.

SECOND SCHEDULE (*Section 7(1)*)

PROMOTION PRINCIPLES AND CONDITIONS

1. If within the period of six months immediately following the promotion of an employee, the employee concerned gives notice of his or her intention to resign from the service of the Commission or retire in terms of the pensions scheme, his or her salary and allowances shall, for a period of thirty days retrospectively from the date on which he or she resigns or retire, be reduced to the level at which they would have been had he or she not been promoted, and be paid accordingly.
2. If the promotion of an employee is revoked in terms of paragraph 3, the Commission may reduce the employee's salary and allowances to the level at which they would have been had he or she not been promoted.
3. The period of six months immediately following the promotion of an employee to any post or grade shall be probationary and, subject to paragraph 4, the Commission may at any time during that period revoke the promotion of that employee by notice in writing to the employee concerned if it considers that the employee—
 - (a) Is unable to perform efficiently or has not performed efficiently the functions of the post or grade to which he or she has been promoted; or
 - (b) Is for any other reason unsuited to the post or grade to which he or she has been promoted.
4. Before revoking any such promotion in terms of paragraph 3, the Commission shall—

- (a) notify the employee concerned in writing that it is considering revoking the promotion; and
 - (b) invite the employee to make written representations to the Commission within such reasonable period as the Commission shall specify; and
 - (c) consider any representations made to it in terms of subparagraph (b).
5. An employee whose promotion has been revoked in terms paragraph 3, shall subject to paragraphs 1 and 6 be placed in such post or grade as the Commission may determine.
6. Where the Commission has revoked the promotion of any employee, it may place the employee on such lower step in the appropriate salary scale as it deems fit:
- Provided that such a step shall not be lower than the step on which the person would have been had he or she not been promoted.
7. Before the expiry of that period of probation referred to in paragraph 3, the Commission may, on written notice to the employee concerned, extend the period of probation for a further period not exceeding six months, and the employee concerned shall be informed of the reasons for such extension.

THIRD SCHEDULE (*Section 26 (1)(a)*)

ELIGIBILITY FOR MANPOWER DEVELOPMENT LEAVE

1. The programme or course in respect of which manpower development leave (“leave”) is sought shall be relevant to current duties or greater projected responsibilities within the Commission.
2. Save in exceptional circumstances approved by the Commission, only employees who have been employed by the Commission for more than a year are eligible for leave.
3. Leave may not be granted unless sponsorship is guaranteed.
4. Employees may not be granted manpower development leave if they leave their stations prior to the approval of their leave.
5. Employees on probation are not eligible for leave.
6. Save for exceptional circumstances permitted by the Commission, an employee with an existing bonding commitment may not be granted manpower development leave. An employee shall be entitled to make representations to the Executive Secretary in cases of delay in the approval of manpower development leave.

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FOURTH SCHEDULE (*Section 35(3)(a)*)

ZIMBABWE HUMAN RIGHTS COMMISSION (CONDITIONS OF
SERVICE) REGULATIONS, 2023

MISCONDUCT REPORT BY DISCIPLINARY AUTHORITY

1. PARTICULAR OF EMPLOYEE

Name:
Date of birth:
Employment No:
Address:
Telephone: Home:
Office: Cell:

2. DETAILS OF ALLEGED MISCONDUCT

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3. DETAILS OF ANY SUSPENSION

(include reference to relevant paragraph (s) of the First Schedule)

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.....
.....

Date:

Signature:.....

4. COMMENTS, WHERE APPROPRIATE, OF HEAD OF OFFICE, HEAD
OF DEPARTMENT OR THE EXECUTIVE SECRETARY

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Date:

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Signature (Head of Office):

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Date:

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Signature (Head of Office):

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Date:

.....

Signature (Executive Secretary)

5. OFFICER'S REPLY TO ALLEGATION
(Attach separately)

Date received:.....

.....

Signature of immediate supervisor of employee

6. RELEVANT DOCUMENTS AND STATEMENTS
(List and attach separately where necessary)

Date received:.....

.....

Signature of Disciplinary Authority

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