



## **What is the PSC and what is its role?**

- The PSC is an independent body established by the Constitution of Malta (Chapter 10)
- Its fundamental role is to make recommendations and to tender advice to the Prime Minister in:
  - the making of appointments to public offices
  - the exercise of discipline over public officers
  - the removal from public office



## **PSC's Guiding Principles**

- In fulfilling its role, the Commission is guided by the principles of:
  - merit
  - equality of opportunity
  - impartiality
  - non-discrimination
  - the exclusion of patronage (political or otherwise)
  - fair competition.



## **THE PROCEDURES OF THE COMMISSION ARE GOVERNED BY:**

- The Constitution of Malta
- The Public Service Commission Regulations, 1960
- The Public Service Commission (Disciplinary Procedure) Regulations, 1999



## **APPOINTMENTS AND PROMOTIONS**

- The Health Division has an HR Branch which caters for appointments and promotions
- A Director should channel his/her request for additional staff etc. to Director (Corporate Services) through his/her Director General
- Staff vacancies should be those shown on the manpower plan of the Ministry



# Public Service Commission

## Action in terms of the Public Service Commission (Disciplinary Procedure) Regulations 1999

**CRIMINAL OFFENCES**

Action in terms of  
Regulations 13 -16

**MISCONDUCT AND  
BREACH OF  
DISCIPLINE**

Action in terms of  
Regulations 18 -32



## Public Service Commission

### **CRIMINAL OFFENCES** (*Reg 13*)

When it comes to the notice of a Head of Department that a criminal offence may have been committed by an officer, the Head of Department shall consult the Attorney General to advise whether:

- no action is to be taken; or
- a prosecution is to be instituted; or
- disciplinary action should be taken. In this case the draft charge/s are to be approved by the Attorney General



## CRIMINAL OFFENCES *(Reg 14)*

### **If criminal proceedings are being taken against an officer:**

- The officer and the Commissioner of Police shall severally report the fact to the Head of Department;
- The Head of Dept. should report the facts to the PSC with a recommendation giving reasons as to whether the officer should or should not be interdicted from the exercise of the powers and functions of her/his office;
- If the Head of Dept recommends interdiction, s/he may suspend the officer pending the PM's approval of PSC's recommendation. **However**, if interdiction is not authorized, the officer concerned should be recalled for duty and refunded any salary withheld.



## **CRIMINAL OFFENCES**

### **If an officer is interdicted from work:**

- S/he shall receive half salary. However, no salary shall be due during any period of imprisonment/preventive custody when bail is not granted.
- S/he shall not have access to any official premises and documents.
- S/he may not leave Malta without the written permission of the Head of the Public Service.
- If s/he leaves the service before conclusion of case, the amount of salary withheld is not refunded before the conclusion of the court case. If s/he dies, the amount of salary withheld is refunded to heirs.
- No further disciplinary action on the case should be taken until the termination of the criminal proceedings.
- The Head of Department should follow up the case and keep the PSC informed of any development on the case.



## **CRIMINAL OFFENCES** *(Reg 15)*

### **If an officer is acquitted of criminal charge/s:**

- No action should be taken before it is ensured that there is no pending appeal before the Courts;
- No penalty should be imposed by the PSC on any charge upon which the officer has been acquitted;
- However, disciplinary action may be instituted in respect of any other misconduct arising out of the case, unless it is related to the issue/s as those on which s/he has been acquitted. In this case, the charge/s should be approved by the Attorney General;
- The Head of Dept. shall keep the Commission informed of the outcome of the criminal proceedings and of whether or not s/he intends to take any further action.



## **CRIMINAL OFFENCES** *(Reg 16)*

### **If an officer is found guilty of criminal charge/s:**

- The Head of Department should submit to the Commission, the Court sentence together with a statement on whether or not any appeals have been filed;
- No further action should be taken by the Head of Department. The PSC will decide on the penalty to be given to the officer concerned.
- If the PSC considers that the penalty could be dismissal or a warning of dismissal or forfeiture of salary withheld during suspension/interdiction, the officer concerned will be given the right to make written submissions on the case. The PSC may also give her/him an opportunity of an oral hearing.



## **MISCONDUCT AND BREACH OF DISCIPLINE**

### **(Regulation 18 - *Admonition*)**

- A Supervisory Officer has the power to admonish (*in writing*) other officers, of whom s/he is in charge, for minor breach of discipline.
- A record is kept by the Supervisory Officer (*not in the Personal File of the admonished officer*) and is cancelled after six months.
- A Supervisory Officer shall report to the Head of Dept. whenever the same officer has been admonished on three occasions in any period of six months.



## **MISCONDUCT AND BREACH OF DISCIPLINE (Offences to be reported without delay – Reg 5)**

- A Supervisory Officer shall report to a Head of Dept. any breach of discipline committed by an officer of whom s/he is in charge, immediately the offence becomes known to her/him, and in no case later than **five working days** s/he becomes aware of the offence, **unless s/he has taken action in terms of Regulation 18.**
- A victim of an offence may report **within six months.** In such cases, the Head of Dept. should make a preliminary investigation **within fifteen days** and decide whether or not disciplinary proceedings should be instituted against the officer against whom the complaint has been made.



## **DISCIPLINE**

### **(Regulation 19 – *Summary Discipline*)**

- In a case of minor breach of discipline, a Head of Dept. may inform (*in writing*) the officer concerned that s/he intends administering a warning.
- The officer concerned is given the opportunity to exculpate her/himself (*within ten working days*) and if s/he fails to exculpate her/himself the Head of Dept. shall administer the warning. The warning is entered in the record of service of the officer concerned, but is cancelled after twelve months.



## **DISCIPLINE**

### **(Action under Regulation 20)**

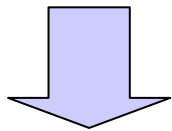
- Head of Dept. to issue the charge sheet to the officer concerned:
  - within **thirty working days** from the date the alleged offence comes his her/his notice; or
  - not later than **three calendar months** from the date of the signing of a report made in terms of the Inquiries Act.
  
- The officer concerned is given **ten working days** to state any grounds on which s/he relies to exculpate her/himself.



## DISCIPLINE

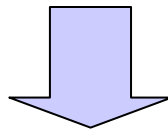
(After the issue of the charge sheet)

If the accused officer exculpates her/himself



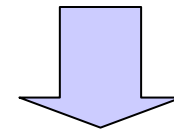
Head of Dept shall inform the accused officer and insert a complete report in his/her Personal File

If the accused officer admits the charge/s



Head of Dept shall communicate his decision on the charge/s and the penalty, if any

If the accused officer does not reply within 10 days **or** does not exculpate her/himself



Head of Dept shall appoint a Disciplinary Board in terms of Regulation 21



## **DISCIPLINARY BOARDS**

*(Appointed by Head of Dept in terms of Regulation 21)*

The Board shall consist of a **Chairperson** and **two members**:

- not below salary scale 10;
- not less than two salary scales above the officer charged;
- not in the same grade as the officer charged;
- not be connected with the case.

- at least one salary scale above the officer charged;
- not in the same grade as the officer charged;
- not be connected with the case.

**Provided that** if the Head of Dept. has informed the officer that the alleged offence could lead to dismissal, the Chairperson shall be at least an officer at Assistant Director Level or analogous grade.



## Public Service Commission

### **THE ROLE OF DISCIPLINARY BOARDS AND HEADS OF DEPARTMENT IN THE DISPLINARY PROCEEDINGS**

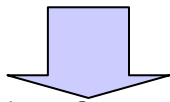
- The Board shall establish the facts and communicate its findings to the Head of Department and to the officer charged **by not later than 30 working days** from the date the case is referred to it.
- For serious and justifiable reasons, the Head of Dept. may extend the 30-days time limit up to a maximum of another **30 working days**. Head of Dept. should seek PSC approval for further extensions.



# Public Service Commission

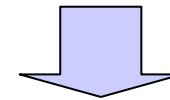
## THE ROLE OF THE HEAD OF DEPT. AFTER RECEIVING THE DISC. BOARD'S REPORT

If the charge sheet included the statement that *“the charge, if proved, could lead to dismissal”*



- The Head of Department should submit a copy of the Board's report to the PSC for its consideration;
- The PSC gives an opportunity to the officer and to the Head of Dept. for an oral hearing, before deciding on the case.

In other cases, the Head of Department should:



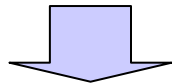
- allow the officer to make written or oral representation to the Head of Dept. within 10 working days;
- inform the officer of his decision on the findings of the Board and on the penalty, if any, that he imposed.



# Public Service Commission

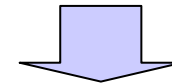
## PENALTIES THAT MAY BE IMPOSED FOLLOWING DISCIPLINARY ACTION

### PENALTIES FOR MINOR OFFENCES



- First Disciplinary Case ➤ Written Warning (*This will lapse after 12 months if no further offence is committed*)
- Second Disciplinary Case ➤ Suspension without pay up to 3 days
- Third Disciplinary Case ➤ Suspension without pay up to 5 days and a warning of dismissal
- Fourth Disciplinary Case ➤ Dismissal (*always after reference to the PSC*)

### PENALTIES FOR SERIOUS OFFENCES



- Suspension without pay up to 5 days; or
- Suspension without pay up to 5 days and a warning of dismissal; or
- Dismissal

*Provided that the first penalty may not be awarded in respect of more than two serious cases.*



# Public Service Commission

## APPEALS IN RESPECT OF DISCIPLINARY CASES

**An officer may appeal against finding of guilt/penalty imposed**

- IF: (a) the charge was serious; (b) penalty included a “Warning of Dismissal”; (c) there has been a gross disregard of regulations.
- To PSC within 10 days - copy to be sent to Head of Dept.
- The Head of Dept. should submit the full documentation to the PSC.
- The penalty should not be put into effect before the appeal is decided.

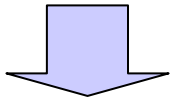
**The Head of Dept. may be dissatisfied with the findings of the Disc. Board**

- IF: (a) the charge was serious; (b) penalty included a “Warning of Dismissal”; (c) there has been a gross disregard of regulations.
- To PSC within 10 days - copy to be sent to the officer concerned.
- The PSC will give an oral hearing both to the Head of Dept and to the officer concerned, before taking a final decision on the case.



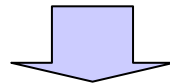
## REMOVAL FROM OFFICE

### AS A RESULT OF CRIMINAL OR DISCIPLINARY PROCEEDINGS



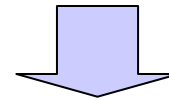
The whole procedure has already been outlined in previous slides. Further details are available in Regulations 17-28

### IN THE PUBLIC INTEREST (Reg. 35)



- Head of Dept shall report the fact to the Pr. Perm. Sec. who will seek the officer's comments.
- The matter will be submitted to the PSC which will allow the officer to make oral submissions.

### FOR ABSENCE WITHOUT LEAVE (Reg. 36)



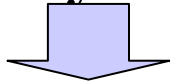
When an officer absents her/himself without leave for ten days, the Head of Dept. shall inform her/him to justify her/his absence, within 10 days, or else s/he shall be considered as having resigned from the public service.



# Public Service Commission

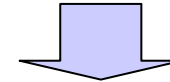
## WHEN AN OFFICER LEAVES THE SERVICE WHILE S/HE HAS A PENDING CASE

### In case of pending Disciplinary Proceedings



- The Head of Department should ask the officer charged to state, within 10 days, whether he wishes the case to continue.
- If the officer opts to continue with the case and is found guilty, no penalty shall be imposed but the result of case is kept in her/his records.
- If the officer opts not to continue with the case or does not reply a note that s/he had a pending case should be entered in the records.

### In case of pending Criminal Proceedings



- No related disciplinary action in terms of the Disciplinary Regulations may be taken nor a penalty imposed.
- However, the Head of Department shall follow the case so that a record of the Court decision is kept in the officer's record of service.
- An officer who is dismissed shall forfeit all rights and claims to a pension.