

STATUTORY INSTRUMENTS

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STATUTORY INSTRUMENTS 2012 No. 51.

THE EDUCATION SERVICE COMMISSION REGULATIONS, 2012

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STATUTORY INSTRUMENTS

2012 No. 51. The Education Service Commission Regulations, 2012.

(Under Section 31 of the Education Service Act, 2002)

In exercise of the powers conferred upon the Education Service

Commission by section 31 of the Education Service Act, 2002, these

Regulations are made this 24th day of July, 2012.

Part I—Preliminary

Title.

These Regulations may be cited as the Education Service Commission

Regulations, 2012.

Interpretation.

In these Regulations, unless the context otherwise requires—

“Act” means the Education Service Act, 2002;

“Chairperson” means the Chairperson of the Education Service Commission;

“Commission” means the Education Service Commission established by article 167 of the Constitution of the Republic of Uganda, 1995;

“Deputy Chairperson” means Deputy Chairperson of the Education Service Commission;

“disability” means a substantial functional limitation of daily life activities caused by physical, mental or sensory impairment and environmental barrier resulting in limited participation;

“education service personnel” includes a teacher and other professional, administrative and support staff as may be appointed by the Commission;

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“impairment” refers to any loss or abnormality of psychological, physical, neurological or anatomic function or structure;

“member” means a member of the Education Service Commission;

“Ministry” means the Ministry responsible for Education;

“officer” means a public officer who constitutes the Education Service under section 3 of the Act;

“public officer” means a person holding or acting in an office in the public service;

“public service” means any service in any civil capacity of the Government the emoluments for which are payable directly from the Consolidated Fund or directly out of monies appropriated by Parliament;

“responsible officer” means—

the permanent secretary of the ministry responsible for education;

the chief administrative officer at the district; and

the town clerk at the city and municipal council;

“responsible Permanent Secretary” means the Permanent Secretary responsible for public service;

“salary” means basic salary;

“scheme of service” means the scheme of service for teaching personnel in the education service issued by the Commission in 2008;

“Secretary” means the Secretary to the Commission appointed under section 9 of the Act;

“statutory office” means an office specified under article 171 of the Constitution of the Republic of Uganda, 1995;

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“teacher” means a person who has successfully completed a course of training approved by the Ministry responsible for education and has been entered on the register of teachers;

“teacher with disability or impairment” means a teacher with an impairment or a disability;

“unauthorized person” means a person without approval or permission of the relevant authorities.

Part II—Meetings And Other Matters Related To The Commission.

Presiding at meetings.

Every meeting of the Commission shall, be presided over by the Chairperson or in his or her absence the Deputy Chairperson, or in the absence of both the Chairperson and the Deputy Chairperson by a Member designated by the President to act as Chairperson under article 167(8), of the Constitution of the Republic of Uganda, 1995.

Quorum and validity of proceedings.

Four members of the Commission including the Chairperson shall constitute a quorum.

The validity of any proceedings of the Commission shall not be affected by a vacancy in its membership or by any defect in appointment or qualifications of a member or by reason that a person not entitled took part in its proceedings.

Record of meetings.

The Secretary shall keep a record of the members present and of the business transacted at every meeting of the Commission.

Decision by circulation of papers.

Except in the case of matters relating to appointment, discipline, reviewing and making recommendations on the terms and conditions of service in the Education Service, decisions may be made by the Commission without a meeting, by circulation of the relevant papers among members of the Commission and the expression of their views in writing.

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(2) Without prejudice to sub-regulation (1), any member may request the Commission to defer the decision until the subject matter has been considered at a meeting of the Commission and upon such request, the decision shall stand deferred.

Dissent.

A member shall be entitled to dissent from a decision of the Commission and to have his or her dissent and his or her reasons set out in the records of the Commission.

Powers to co-opt.

The Commission may co-opt any person who, in the opinion of the Commission has expert knowledge concerning the function of the Commission, or who is likely to be of assistance to the Commission to attend and take part in the proceedings of the Commission.

A person attending a meeting under this regulation may take part in any discussion at the meeting on which his or her advice is required but shall not have any right to vote at that meeting.

Decision of the Commission.

Decisions of the Commission shall be communicated to the responsible officer in form of minutes.

In the case of Heads of Departments, the decision shall be communicated to the Responsible Permanent Secretary.

The Commission shall not communicate reasons for its decisions.

Consultations and selection board.

In exercising its powers in connection with the appointment of an officer, the Commission may—

consult with any other person or persons; or

seek the advice of selection boards constituted by the Chairperson of the Commission.

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Obligation to hear responsible officer.

The Commission shall at the request of a responsible officer—

hear from the responsible officer personally in connection with any recommendation by him or her to the Commission; or

receive written representations, the responsible officer may make on any matter relating to the performance by the Commission or its functions.

Irregular presentations.

The Commission shall not, in the performance of its functions, take into account any submissions made to it other than in accordance with these Regulations.

Relevant documents to be submitted.

A public officer who submits a matter for consideration to the Commission shall ensure that all relevant documents are made available to the Commission.

Where the Commission requires a police report, it shall request for the report through the responsible officer.

The responsible officer shall submit the request to the Inspector General of Police.

Where the Commission requires the production of any other documents or information relevant to the matter under consideration, the relevant documents or information shall be submitted to the Commission by the responsible officer.

Correspondence.

All correspondences and documents for the Commission shall be addressed to the

Secretary.

Documents submitted for consideration by the Commission shall be forwarded in triplicate unless otherwise directed by the

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Secretary.

Submission of documents.

Documents submitted to the Commission by an officer, shall be sent through the responsible officer.

Documents submitted to the responsible officer shall unless otherwise prescribed in these Regulations be sent directly to the Commission.

Part III—Appointment, Confirmation And Promotion.

Appointment.

The Commission shall, in exercising its functions in regard to appointment in the Education Service—

have regard to the maintenance of a high standard of efficiency and transparency necessary in the public service; and

give due consideration to qualified personnel serving in the Education Service.

In case of promotion of personnel in the Education Service, the Commission shall take into account qualifications, experience and merit before seniority in the Education Service.

Where a post cannot be filled either by—

the appointment or promotion of an officer; or

by the appointment of a suitable person who has successfully

completed a course of study or training acceptable to the Commission,

the Commission shall advertise the post.

Where a post is to be advertised under sub-regulation (3), the Commission may—

restrict the circulation of an advertisement to persons who are already in the Education Service; or

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advertise outside Uganda.

The Commission shall determine the form of the advertisement to be used under this regulation.

Procedure and application forms.

The Commission shall determine the procedure to be followed in dealing with applications for appointment to the Education Service.

The Commission shall determine the format of the application forms to be used in connection with the discharge of its functions.

Filling of vacancies.

Where a vacancy occurs or if it is known that a vacancy shall occur in any public office within the Education Service, the responsible officer shall notify the Secretary of the vacancy.

Where the responsible officer recommends that the vacancy should be filled by the appointment of an officer, he or she shall, when reporting the vacancy to the Secretary—
forward a list of all eligible officers qualified for the appointment, accompanied by their record of service and three most recent annual appraisal reports of each candidate; and
recommend one of the officers to fill the vacancy giving reasons for the recommendation.

Recruitment outside Uganda.

Where a responsible officer is informed by the Secretary that the Commission has decided that a particular vacancy should be filled by recruitment from outside Uganda, he or she shall prepare the appropriate form and transmit it to the Secretary who shall verify the particulars.

Acceptance of offer of appointment.

The responsible officer shall notify the successful candidate and

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issue him or her with a letter of appointment within two months from the date of appointment.

The appointee shall in writing notify the responsible officer of his or her acceptance or refusal of the offer, within thirty days after the date of receipt of the letter of appointment, failure of which the offer shall automatically be withdrawn.

The appointee shall notify the responsible officer and copy to the Secretary his or her acceptance or refusal of the appointment.

Where the appointee does not report for duty within sixty days after receiving the letter of posting, the responsible officer shall report the case and declare the vacancy to the Secretary.

Where the responsible officer receives notification under subregulation (2), he or she shall notify the Commission of the vacancy.

Probationary appointment.

Appointment to a pensionable office in the Education Service shall be preceded by a six months probationary period which shall count from the date of assumption of duty.

The responsible officer shall, within one month before the expiration of the period of probation of an officer, consider whether—

the officer should on the expiration of the probation, be confirmed in a pensionable office;

the officer should be subjected to a further period of probationary service; or

the officer's service be terminated.

Where the responsible officer, after considering the matters referred to in sub-regulation (2) is of the opinion—

that an officer should be confirmed in a pensionable office, he

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or she shall forward to the Secretary his or her recommendation that the officer be confirmed; or

that the work and conduct of an officer has been of a standard to justify confirmation in a pensionable office but, the officer has not completed the examinations required for his or her confirmation, the responsible officer shall forward a report to the Secretary together with his or her recommendations as to the period of further probationary service which the officer should serve in order to pass the required examination.

Where the responsible officer, after considering the matters referred to in sub-regulation (2) is of the opinion that the work or conduct of an officer has not been satisfactory, he or she shall inform the officer in writing and indicate what he or she proposes to recommend.

The responsible officer shall, when providing an officer with the information specified in sub-regulation (4), inform the officer of his or her entitlement to make submissions to the responsible officer within a period of twenty-one days after the date of receiving the statement of allegations.

On the expiration of the period of twenty-one days under subregulation (5), the responsible officer shall forward to the Secretary—

a report on the officer;

a copy of the letter to the officer;

a copy of any submissions made by the officer;

his or her comments on the matter under subregulation (6) (c) if any; and

a recommendation whether the period of probationary service should be extended or that the officer should not remain in the Education Service.

Where the responsible officer is of the opinion that an officer's

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probation should be terminated, the procedure under sub- regulations , (5) and (6) shall apply.

Where, after considering a recommendation made by the responsible officer under the provisions of this regulation, the Commission is of the opinion that it requires, further information it may refer the matter back to the responsible officer for a further report.

Where the responsible officer fails to forward to the Secretary his or her recommendation on the officer holding a probationary appointment and who has served the mandatory period without adverse reports, the officer shall be free to appeal directly to the Commission for confirmation of the appointment.

Acting appointments in statutory offices.

Where for any sufficient reason, there is no officer available to perform the functions of an officer holding a statutory office, the responsible officer shall report the matter to the Secretary recommending for consideration by the Commission, the name of an officer for appointment to act in that office.

Where an appointment is recommended under sub-regulation

, the responsible officer shall inform the Secretary of his or her reasons for recommending that officer to act in that post.

All acting appointments by the responsible officer shall be approved by the Commission within three months after they are made.

Where an acting appointment has been authorised by the Commission, the acting appointment shall be for a period not exceeding six months after which the acting officer may be considered for substantive appointment to the post, renewal of acting appointment or reversion to his or her former appointment.

Renewal of Contracts.

Where an officer is serving under a contract for a specified period, the responsible officer shall forward to the Secretary, two months before the officer's contract expires notification of the date of expiration of the

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contract and his or her recommendation whether or not the contract should be renewed.

Promotion of Teachers.

A teacher in the Education Service shall, be promoted within his or her rank and administrative posts in accordance with the scheme of service for teaching personnel in the Education Service, 2008.

A teacher who wishes to be considered for promotion shall apply to the Commission when the Commission advertises posts by completing the prescribed form.

A teacher who has had a disciplinary case and is found guilty shall not be considered for promotion until he or she has completed two years of service after the guilty verdict.

Appointment on transfer.

An officer may be appointed on transfer within service in accordance with the Uganda Public Service Standing Orders, 2010.

Part IV—Discipline.

Misconduct.

An act done without reasonable excuse by an officer, which amounts to failure to perform a duty assigned to him or her, or which contravenes any conduct of the Education Service or brings the Education Service into disrepute shall constitute misconduct.

A person commits an act constituting misconduct where he or she—

conducts himself or herself in any manner prejudicial to the good image and reputation of the Government or the Education Service;

practices favouritism, nepotism or any other form of corruption whether for personal advantage or gain or that of his or her relatives or friends;

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does not observe punctuality or is absent from duty without permission;

is insubordinate, rude or uncooperative;

is lazy or produces work of a poor standard or fails to meet set time lines;

is untrustworthy or lacks integrity in public transactions;

seeks political favour or lobbies in any way;

practices political and or religious partiality;

engages in private interests at the expense of his or her official duties;

(j) divulges official information to an unauthorized person;

(k) is convicted of a criminal offence by a court of law;

refuses to comply with a posting instruction or order;

(m) allows, abets, or procures malpractices in institutional or public examinations;

(n) vandalises school or other public property;

(o) discriminates learners with special learning needs and physical disabilities;

(p) falsifies records and documents;

(q) encourages homosexuality and lesbianism and any other immoral act or practice or behaviour;

(r) incites with intent to cause disobedience or strike undermining administration;

(s) administers corporal punishment; or

(t) in any way contravenes provisions of these Regulations, Uganda Public Service Standing Orders, the Teachers' Professional Code of Conduct, or any other instrument relating to the discipline and conduct of officers.

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Disciplinary action which the Commission may take.

An officer found guilty of misconduct under these Regulations shall be liable to any of the following disciplinary actions—

dismissal;

retirement in public interest;

reduction in rank and salary;

reduction in salary for a specified period;

stoppage of increment for a specified period;
withholding of increment for a specified period;
deferment of increment;
payment of damages for any loss or damage caused by default or negligence; or
reprimand.

The responsible officer may reprimand an officer under his or her supervision.

Interdiction.

Where the responsible officer considers that due to public interest—

an officer should cease to perform the functions of his or her office;

disciplinary proceedings for an officer's dismissal are being taken or are about to be taken; or

criminal proceedings are about to be instituted against an officer,

the responsible officer may interdict the officer from exercising those powers and performing those functions.

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An officer who is interdicted shall receive not less than half of his or her salary.

Where disciplinary action or criminal proceedings have been instituted against an officer who has been interdicted and the officer is not subsequently dismissed or, convicted as a result of the proceedings, the portion of his or her salary withheld under sub-regulation (2) shall be restored to him or her upon termination of the proceedings and it shall be done retrospectively.

An officer who is under interdiction shall not leave Uganda or have access to his or her office without the permission of the responsible officer.

Where an officer has been convicted of a criminal offence, and is fined, the responsible officer may, if he or she considers the charge serious enough to justify consideration of dismissal, interdict the officer from the performance of his or her functions and direct the withholding of half of his or her emoluments, pending consideration of his or her case under these Regulations.

Where an officer has been interdicted by the responsible officer, the responsible officer shall speed up investigations into the conduct of the interdicted officer, and shall ensure that they are brought to conclusion within a period of—

three months after the date of interdiction for misconduct under the Ministry, department, school or institution or Auditor General; or

six months after the date of interdiction for misconduct requiring or involving the police, court of law or Inspectorate of Government.

Where an officer is interdicted under this regulation, the responsible officer shall immediately submit a detailed report, a copy of

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the letter of interdiction, a statement of allegation and charges and the disciplinary or criminal proceedings which are being taken or about to be taken against the officer to the Commission to note the interdiction.

The Ministry, department, school or institution, Auditor General, Inspectorate of Government, the Inspector General of Police, or responsible officer, shall on conclusion of investigations if it is considered that the officer is innocent, or that the case against him or her is not serious enough to warrant criminal prosecution or dismissal—

make a detailed report on the charges of misconduct the officer is facing, investigations carried out, the subsequent court proceedings and judgment of the case against the officer; and

make appropriate recommendations to the Commission.

Interdiction of the officer shall remain in force until the Commission communicates the lifting of the interdiction.

Where there is failure to conclude investigations within the time stipulated in sub-regulation (6), the officer shall be free to appeal to the Commission to have his or her interdiction lifted.

Suspension on criminal conviction.

Where an officer has been convicted of a criminal offence, the responsible officer shall submit a report of the conviction to the Commission.

The responsible officer may, if he or she considers it to be in the public interest, suspend the officer from exercising his or her functions under his or her office and shall direct that half of the emoluments of that officer should be paid to him or her pending consideration of his or her case under these Regulations.

Where an officer has been suspended by the responsible officer, investigations shall be handled expeditiously and concluded within a period of six months after the date of suspension to have his or her suspension reviewed.

Report on the institution of criminal proceedings.

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Where criminal proceedings of a nature likely to warrant disciplinary proceedings are instituted against an officer in any court, the responsible officer shall immediately report the facts to the Secretary.

Disciplinary proceedings for the dismissal of an officer upon grounds involving a criminal charge shall not be taken until the conclusion of the criminal proceedings and the determination of any appeal arising from the proceedings.

Procedure when criminal offence may have been committed.

Where the responsible officer is convinced that a criminal offence likely to warrant disciplinary proceedings may have been committed by an officer, the responsible officer shall consult the Director of Public Prosecutions as to whether he or she intends to institute criminal proceedings against the officer.

If the Director of Public Prosecutions does not institute criminal proceedings against the officer, the responsible officer shall consult the Attorney General as to whether disciplinary action should be taken under these Regulations.

If the Attorney General advises that disciplinary action should be taken, the responsible officer shall forward to the officer, a statement of the charge against him or her together with a brief statement of allegations on each charge and shall call upon him or her to state in writing, within twenty-one days, any grounds on which he or she relies to exculpate himself or herself.

Effect of acquittal on criminal charges.

An officer acquitted of a criminal charge by a court of law shall not be dismissed or otherwise punished on the charge upon which he or she has been acquitted, but nothing in these Regulations shall prevent his or her being dismissed or otherwise punished on any other charges arising out of his or her conduct in the matter.

Decision on disciplinary proceedings to be communicated to the officer concerned.

Where disciplinary proceedings have been taken against an officer, he or

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she shall be informed—

of the decision on each act of misconduct which has been preferred against him or her; and

of the disciplinary action to be taken against him or her.

Misconduct justifying dismissal.

Where the responsible officer is of the opinion that if disciplinary proceedings are instituted against an officer, the proceedings will result in the dismissal of the officer, the responsible officer shall send to the officer—

a statement of the charge against him or her;

a brief statement of the allegations on which each charge is based; and

require him or her, within twenty-one days from the date of receiving the statement of the charge to show cause in writing, why disciplinary proceedings should not be instituted against him or her.

The responsible officer shall submit copies of the documents in sub-regulation (1) to the Secretary.

Where the officer—

does not comply with the provisions of sub-regulation (1) (c); or

in his or her grounds of defense does not, in the opinion of the responsible officer, exculpate him or her,

the responsible officer shall make and forward to the Secretary, a report, the statement of the charge preferred against the officer, the officer's reply, if any, and a copy of the responsible officer's comments on the matter.

Where, upon consideration of the submission made under subregulation (2) the Commission is satisfied with the evidence before it, the Commission shall determine what disciplinary action, the officer is liable to.

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Where the Commission is of the opinion that the evidence before it is not sufficient, it shall institute a further investigation into the matter in a manner that it deems fit.

The Commission shall inform the accused officer of the specified day, time and place, at which the charges preferred against him or her will be heard and the officer shall be

allowed or if the Commission so determines, shall be required to appear before it to defend himself or herself.

The Commission shall treat the officer in accordance with the rules of natural justice.

Procedure for misconduct not justifying dismissal.

Where the responsible officer is of the opinion that it is necessary to institute disciplinary proceedings against an officer but is of the opinion that the misconduct alleged if proved would not be serious enough to warrant dismissal, he or she shall conduct a preliminary investigation which he or she considers necessary.

The responsible officer shall forward to the officer a statement of the charges against him or her and shall require the officer, within twenty- one days after the date of receiving the statement of the charge to state in writing grounds on which the officer relies to exculpate himself or herself.

Where the officer does not comply with sub-regulation (1), or if his or her grounds of defence do not, in the opinion of the responsible officer, exculpate him or her, the responsible officer shall forward to the Secretary a report on the case, a copy of the charges preferred against the officer, the officer's reply if any, and the responsible officer's recommendations on the matter.

Where, on consideration of the report and the grounds upon which the officer relies to exculpate himself or herself—

the Commission is satisfied with the evidence before it of the officer's guilt, the Commission shall determine a penalty, other than dismissal, that shall apply to the accused officer; or

the Commission is of the opinion that further information is necessary before determination of the case, it shall appoint a

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public officer from a different department from, that which the officer who is being charged belongs, to inquire into the matter and to report the results of the inquiry to the Commission in a manner as it may direct.

The public officer appointed by the Commission to inquire into a matter under sub-regulation (3) shall be appointed with due regard to the status of the officer being investigated.

The accused officer shall be entitled to know the whole case against him or her and shall be given adequate opportunity to present his or her defence.

If, on consideration of the report submitted by the public officer conducting the inquiry, the Commission considers that the results of the inquiry should be circulated or published in

any other way, or that further investigation is desirable, it may refer the matter back to the public officer conducting the inquiry for further inquiry and report.

If on consideration of the report or further report submitted by the officer conducting the inquiry, the Commission is satisfied with the results of the inquiry, it shall determine or advise what punishment, if any, other than dismissal shall be taken against the officer.

Notwithstanding the provisions of this Regulation, if at any stage of the proceedings against an officer it appears to the Commission—

that the offence, if approved, would justify dismissal the procedure prescribed in regulation 28 shall be followed; or

that if the offence is proved, proceedings for the retirement of the officer from the education service on grounds of public interest would be appropriate, it may discontinue the proceedings and the procedure prescribed in regulation 31 shall be followed.

Retirement in public interest.

Where the responsible officer considers that an officer should be retired from the Education Service on the grounds of public interest, the responsible officer may—

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obtain from the responsible officer of every department in which the officer has served, the relevant information related to his or her work and conduct and compile a report of the findings;

inform the officer in writing of the reasons why he or she considers the officer should be retired in public interest; and

allow the officer an opportunity to consider the reasons for his or her retirement and reports related to his or her case, and to show cause why he or she should not be retired.

Where the responsible officer, after considering the officer's statement and having regard to all the circumstances of the case, is of the opinion that the officer should be retired, he or she shall forward to the Secretary the reports and the statement obtained in accordance with subregulation (1) and his or her recommendation.

The Commission may, if satisfied with the evidence before it, direct or advise that the officer should be retired in the public interest.

Where the report made by the responsible officer is considered in accordance with subregulation (2), and the Commission is of the opinion that the facts disclosed warrant the institution of disciplinary proceedings for the officer's dismissal or a lesser disciplinary action should be taken against the officer than dismissal, the Commission may direct the

responsible officer to institute proceedings against the officer under these Regulations as may be appropriate.

Procedure on criminal conviction.

If an officer is convicted of a criminal charge likely to warrant disciplinary proceedings under these Regulations, the responsible officer shall forward a copy of the charge, the proceedings and the judgment of the court, to the Secretary with his or her recommendations.

The Commission shall, give the officer an opportunity to make submissions in writing or to be heard in person.

The Commission shall upon consideration of the officer's submissions determine whether the officer should be dismissed or subjected to disciplinary action, on account of the conviction for the

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offence of which he or she has been convicted.

Action against an officer.

Where the responsible officer is of the opinion that the conduct of an officer who is serving under probationary or permanent and pensionable terms or on contract or agreement terms is unsatisfactory, he or she shall report the matter to the Commission and submit a report of the officer's weakness.

The report shall provide details of efforts made to assist him or her to improve.

The Commission shall on consideration of the report, determine what action should be taken against the officer.

Service of documents.

Where it is necessary to serve a notice, charge or other document upon an officer or to communicate information to an officer, and that officer has absented himself or herself from duty and it is not possible to effect service upon or to communicate information to the officer personally, service of the notice, charge or document by post to their last known address shall be sufficient.

Part V—Miscellaneous.

Application.

These Regulations shall apply to all officers in the Education Service.

Teacher disability assessment reports.

Teacher disability assessment reports shall be accessed from relevant assessment centres in the country.

Revocation and transition.

The Teaching Service Commission Regulations, S.I. No. 172 of 1994 and the Public Service (Teachers) (Education Service Commission) Regulations S.I 290-1 are revoked.

Notwithstanding the revocation under sub-regulation (1), any disciplinary or other proceedings commenced under the revoked regulations

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shall be construed to have been instituted under these Regulations.

hajj badru lubega waggwa,

Chairperson Education Service Commission.

Cross references

The Constitution of Uganda, 1995

The Education Service Act, 2002 (Act No. 6 of 2002)

The Teaching Service Commission Regulations, S.I. No. 172 of 1994

The Public Service (Teachers) (Education Service Commission)

Regulations, S.I 290-1

The Teachers Code of Conduct, 1996

The Uganda Public Service Standing Orders, 2010

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