

Zimbabwe Gender Commission (Conditions of Service)
Regulations, 2023

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IT is hereby notified that the Minister of Women's Affairs, Community, Small and Medium Enterprise Development after consultation with the Zimbabwe Gender Commission has, in terms

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of section 17 of the Zimbabwe Gender Commission Act [*Chapter 10:31*], made the following regulations:—

PART I
PRELIMINARY

Title

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

Interpretation

2. In these regulations—

“advancement” means progression of a member within the grade or from one grade to another after having satisfied conditions laid down in the relevant advancement procedures;

“appointing authority”, in relation to any appointment to the Zimbabwe Gender Commission, means the Commission or a head of department to whom it has delegated the power of appointment to any specified post;

“Chief Executive Officer” means the person appointed in terms of 10(1) of the Zimbabwe Gender Commission Act [*Chapter 10:31*] to be head of the Commission Secretariat or any person appointed to act on his or her behalf;

“Commission” means the Zimbabwe Gender Commission established in terms of section 245 of the Constitution;

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

“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 Gender Commission for which a head of department has been designated by the Commission;

- “disciplinary authority” means a disciplinary authority referred to in section 45;
- “disciplinary committee” means a disciplinary committee appointed in terms of section 46;
- “grade” means the position or grade which has been allocated to a post;
- “grievance” means any dissatisfaction or feeling of injustice on the part of a member which is connected with the member’s work or the member’s contact with other persons at the workplace;
- “head of department” means such other member as the Commission may designate as a head of department for the purpose of these regulations;
- “head of office” means the person in charge of the office or station or section or institution in which a member is employed, or such other person as may be designated by the Commission to be a head of office for the purpose of these regulations;
- “higher professional qualification” means a qualification which enables a member to be more professionally competent in his or her field of employment;
- “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 established in terms of Health Professions Act [*Chapter 27:19*];
- “medical practitioner” means a person registered as such in terms of the Health Professions Act [*Chapter 27:19*];
- “member” means any person in the employ of the Zimbabwe Gender Commission;
- “middle grade” means a grade designated to be a middle grade by the Commission;
- “misconduct” means any act or omission by a member which constitutes an act of misconduct specified in the Third Schedule;

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“pensionable emoluments” shall have the meaning assigned to that term by the pensions regulations;

“pensions regulations” means any regulations in force governing the terminal benefits of members;

“performance award” means any award of additional remuneration in cash or in kind to a member, including any bonus or increment, made in accordance with the Commission’s determination of the level of performance attained by that member;

“probation” means the period of employment before a member is confirmed in his or her appointment;

“promotion” means appointment to a vacant post to which is attached a great responsibility and higher salary or higher salary scale than that attached to the post to which a member was last substantively appointed, after he or she has undergone competitive selection procedures;

“senior grade” means a grade designated to be a senior grade by the Commission.

PART II

APPOINTMENT, PERFORMANCE APPRAISAL AND CAREER MOBILITY

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

3. (1) In order to promote efficiency and effectiveness in the provision of services to the public, the Commission shall, subject to subsection (2), recruit, advance, promote or grade those members 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 members shall be on the basis of merit.

Entrance examinations

4. (1) The Commission may set Zimbabwe Gender Commission entrance examinations for any administrative, professional, clerical and technical post.

(2) The Commission may set pre-confirmation promotion examinations for any administrative, professional, clerical or technical post or grade:

Provided that success in a pre-confirmation or promotion examination shall not on its own entitle a member to confirmation or promotion, as the case may be.

(3) The Commission may issue notices or circulars governing the content and conduct of entrance examinations.

Appointment

5. (1) Appointment as a member may be on—

- (a) pensionable conditions of service;
- (b) temporary terms to fill a casual vacancy or supernumerary post;
- (c) contract for a specified period of time.

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

(3) Every appointment shall be made by the Commission.

(4) The procedure governing appointments to the Zimbabwe Gender Commission shall be guided by the following principles—

- (a) any vacancy to be filled in and the conditions of service attaching to it shall be advertised for a reasonable period; and
- (b) eligible candidates shall be considered equally on merit by fair competition under procedures which safeguard against individual bias; and

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- (c) the selection criteria and techniques to be applied shall be reliable, valid and relevant to the post concerned.

(5) Before making an offer of appointment the Commission shall complete to its satisfaction all the checks necessary to confirm that the candidate is eligible for appointment.

(6) Every notice or advertisement inviting applications for appointment to a vacancy in the Zimbabwe Gender Commission shall set out as clearly and concisely as possible the job description and job specification applicable to the vacancy.

(7) A candidate shall not be appointed to the Zimbabwe Gender Commission—

- (a) unless he or she has been examined by a medical practitioner and has furnished a medical certificate to the Chief Executive Officer;
- (b) unless he or she has attained the age of 18 years.
- (c) on pensionable conditions of service if he or she is fifty years of age or above:

Provided that any such person may be appointed on contract for a specified period of time.

- (d) unless he or she has completed, in a form provided by the Commission, a declaration prohibiting the unauthorised disclosure of information connected with his or her official duties;
- (e) who—
 - (i) has benefited from a voluntary retirement scheme implemented by the Commission; or
 - (ii) has been dismissed or called upon to resign from the Zimbabwe Gender Commission, within a period of two years preceding the proposed appointment; or
 - (iii) has been convicted of a criminal offence for which he or she has been sentenced to and served a term of imprisonment; or
 - (iv) has resigned from the Zimbabwe Gender Commission for personal reasons within a period

of one year preceding the proposed appointment, unless the Commission expressly approves such appointment in writing.

(8) Upon appointment of a member on pensionable conditions of service or, subject to subsection (9)(b)(i), on contract for a specified period of service, the appointing authority shall issue to the member the appropriate letter of appointment.

(9) Members appointed on—

(a) pensionable conditions of service shall—

- (i) place the whole of their time at the disposal of the Commission; and
- (ii) accept liability to be transferred to any part of the country at any time; and
- (iii) comply with all the conditions applicable to such service, as fixed from time to time by the Commission;

(b) contract for a specified period of time shall—

- (i) not be appointed before the contract relating to them has been signed by them and by the appointing authority;
- (ii) be governed as to their conditions of service entirely by the terms of their contract.

Probationary period

6. (1) A member shall serve a probationary period of up to one year.

(2) The period of probation may be extended only once for a period of six months.

(3) A member who by his or her qualifications, performance and conduct has demonstrated suitability and shown that he or she meets the requisite standard of efficiency, competency and integrity may, at the expiry of the probationary period, be confirmed to his or her position.

(4) Whilst on probation, a person shall be a probationer and may be a member upon confirmation at the expiry of the probationary period.

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(5) The department responsible for personnel issues together with the supervisor of a member on probation shall, immediately before the expiry of a member's probation period, recommend to the Chief Executive Officer that—

- (a) the member concerned be confirmed; or
- (b) the member concerned not be confirmed and have the contract terminated; or
- (c) the member's probationary period be extended by a period not exceeding six months; or
- (d) a recommendation be made to the Commission in terms of section 7(3)(b) or (c).

Performance appraisal

7. (1) The Commission may issue circulars or notices governing the content and conduct of performance appraisals for the purpose of evaluating the performance of members.

(2) In evaluating the performance of members, the Commission shall endeavour to do so in accordance with equitable and realistic standards of performance.

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

- (a) advancement or promotion;
- (b) transfer to a post more in keeping with the competence of the member concerned;
- (c) participation in a skills development course to enhance the efficiency and effectiveness of the member concerned;
- (d) the granting or withholding of any performance award;
- (e) review of performance on a three months basis for under performance;
- (f) retirement in terms of section 17;
- (g) reduction in the member's grade in terms of paragraph 3 of the First Schedule;

- (h) the discharge of a member on probation during the duration of such probation period or before the member's confirmation.

Re-grading

8. (1) A member is re-graded when he or she moves from one category or group of functions within the organisation to the other category or functions upon attaining new qualifications other than the qualifications that he or she possessed upon his or her appointment but does not include promotion of a member.

(2) Upon re-grading the member shall be required to serve a period of not less than one year on trial, after which—

- (a) if the member's performance is appraised to be satisfactory, such member shall, subject to subsection (3), be deemed to have been confirmed in that grade; or
- (b) if the member's performance is not appraised to be satisfactory, the Commission may take such action as it deems necessary.

(3) A member referred to in subsection (2)(a) shall not be confirmed in a grade unless previously confirmed as a member under section 6.

Advancement

9. (1) A member is 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 grade to another.

(2) A member 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.

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Promotion

10. (1) A member is promoted when, having undergone a competitive selection procedure, he or she is appointed to a vacant post to which is attached a greater responsibility and a higher salary or higher salary scale than that attached to the post to which he or she was last substantively appointed.

(2) Selection for promotion shall be undertaken by—

- (a) a committee appointed by the Commission in the case of promotion posts delegated by the Commission; or
- (b) the Commission in other cases;

subject to satisfactory performance appraisal and in accordance with the relevant promotion procedures.

(3) Section 12 shall apply to the promotion of a member referred to in subsection (2)(a).

(4) No member shall be entitled as of right to promotion.

Promotion procedures

11. (1) In this section, “eligible member” means any member—

- (a) who meets the requirements of the post as specified in any notice, circular or advertisement and whose name has been submitted for consideration;
- (b) whom the Commission, in its discretion, regards as eligible for promotion to such vacant post.

(2) A committee appointed by the Commission shall make recommendations to the Commission on promotions to such posts within the organisation.

(3) Whenever a recommendation from a committee is required, the committee shall investigate the suitability of persons it considers eligible for promotion, for which purpose it shall furnish a list of such persons for endorsement by the Commission.

(4) When making a recommendation as to the person to be promoted, the committee shall submit to the Commission—

- (a) minutes of all its meetings and any other relevant documents relating to the recommendation; and
- (b) a summary of its findings; and
- (c) the grounds upon which its recommendation is based.

(5) In determining which member should be promoted, the Commission shall comply with the principles set out in First Schedule.

(6) The Commission may attach such terms and conditions as it thinks fit to the promotion of any member and, without derogation from the generality of the foregoing, may require a member, as a precondition to his or her promotion, to agree to any of the conditions specified in the First Schedule.

Transfer

12. (1) A member may at any time without his or her consent be transferred by the Commission or a delegated authority from the post which he or she occupies to any other post in the Zimbabwe Gender Commission whether the post is inside or outside Zimbabwe:

Provided that—

- (a) the member shall not suffer a reduction in his or her pensionable emoluments without his or her consent;
- (b) a member who has been transferred to or is employed in a post which is of a higher or lower grade than his or her own grade without a change in pensionable emoluments shall be transferred to a post to which his or her pensionable emoluments are appropriate as soon as a vacancy occurs for which he or she is considered suitable;
- (c) a member who has been transferred to or is employed in a post which is of a higher grade than his or her own grade or which is re-graded or converted to a post of a higher grade than his or her own grade shall not, by reason only of such transfer or employment, be entitled to the higher pensionable emoluments applicable to the post.

(2) A member may be transferred either permanently or for a temporary period not exceeding three years.

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(3) Every transfer shall—

- (a) be planned to minimise discomfort on the part of the member concerned and his or her family; and
- (b) be notified timeously to the member concerned, who shall be provided with all necessary information relating to the transfer.

(4) No transfer shall be used as a punitive measure except pursuant to the disciplinary procedures.

(5) Failure of a member to obey a lawful instruction regarding transfer shall be treated as an act of misconduct.

(6) A transferred member shall make an undertaking in writing that he or she shall agree to the conditions of service of the service he or she is transferred and shall not claim for loss of benefits.

(7) A member of the Commission who wishes to join another approved service shall be required to tender his or her resignation and may opt to continue with his or her pension contributions.

Secondment

13. (1) A member may at any time, with his or her consent and at the invitation of the Commission, be seconded by the Commission for a period not exceeding two years to a post in an approved service.

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

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

- (a) resigns there from; or
- (b) is discharged on account of misconduct or on the grounds that he or she 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 he or she resigned or was discharged from the approved

service unless the Commission reinstates that person in the Commission with effect from the day following the said date.

(4) In the event that the Commission approves the extension of a member's secondment, his or her post shall not be filled.

PART II

APPOINTMENT, PERFORMANCE APPRAISAL AND CAREER MOBILITY

Resignation

14. (1) A member appointed on pensionable conditions of service or, unless the contract provides otherwise, under contract, may resign from the Commission upon giving the appropriate notice in writing to the Chief Executive Officer in accordance with this section.

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

- (a) a member serving a probationary period shall be twenty-four hours;
- (b) a confirmed member shall be three calendar months.

(3) The Commission may, during the period of notice, permit a member to withdraw his or her notice of resignation.

(4) During a period of notice given in terms of this section a member shall not be permitted to take any amount of accrued vacation leave or reserved vacation leave standing to the credit of the member in terms of section 37.

(5) A member who leaves 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 to the Commission such sum, not exceeding three months' salary, as the Commission may fix.

(6) If, after the initiation of disciplinary proceedings against a member, the member resigns, such member shall, unless the Commission is satisfied to the contrary, be deemed for the purposes of pension regulations to have been dismissed.

Termination of contract or temporary employment

15. Where a member is appointed under a contract which provides for the termination of the contract before the expiry of the

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period of service stipulated therein, the Commission or appointing authority under the contract shall, if it is of the opinion that the contract should be terminated, inform the member in writing of its decision to terminate the contract in terms of the conditions laid down in the contract.

Pensionable age and retirement

16. (1) Subject to section 17, a member appointed on pensionable terms of service—

- (a) before the 1st May, 1992, shall have a pensionable age of sixty-five years:

Provided that any member appointed before the 1st May, 1992, on terms permitting that member to retire at the age of sixty shall be permitted to retire at that age;

- (b) on or after the 1st May, 1992, shall have a pensionable age of sixty years.

(2) A member's pensionable age shall be recorded on the member's record of employment for pension purposes.

(3) The paymaster shall, on the 1st June each year, provide the Commission with a list of members who will reach the age of 55, 60 or 65 years during the ensuing year.

(4) The Commission may, when it is in the interest of the Commission to do so, permit a member whose pensionable age is 60 to continue to serve beyond the age of 60 for periods not exceeding one year at a time, provided that such member shall retire at the age of 65 years.

Retirement before reaching pensionable age

17. (1) A member may, on giving three months' notice of retirement, be permitted by the Commission to retire before pensionable age at any time after attaining the age of 55.

(2) The Commission may, on giving the equivalent appropriate period of notice prescribed under section 14(2) for the resignation of a member, require a member to retire on or after the date on which such member attains the age of 55:

Provided that a member who having been a member on pensionable conditions of service immediately before the 1st May, 1992, has had continuous service as such member since that date, may not be required in terms of this subsection to retire before attaining the age of 65 years.

(3) The Commission may require a member to retire if, after having undergone a medical examination by a medical board appointed by the Secretary for Health, such member is found permanently unfit to carry out the duties of his or her post.

(4) Subject to these regulations, the Commission may require a confirmed member to retire—

- (a) if he or she becomes inefficient or incapable, for a reason other than mental or physical deficiency or infirmity, of efficiently performing his or her duties.
- (b) if he or she is not suitable for the post he or she occupies or any other post to which he or she could be promoted or transferred without his or her consent; or
- (c) if the member has been employed for continuous period of not less than 12 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 the member's post; or
- (e) owing to the reduction in or adjustment of the organisation of the Commission; or
- (f) if, at the termination of a period of secondment, the member has not been transferred to an approved service or appointed to a post in the Commission.

(5) A member whom it is intended to retire in terms of subsection (2), (3) or (4) shall—

- (a) be given notice of such intention by the Commission; and
- (b) be afforded an opportunity to make representations in writing concerning such intention to the Commission, which shall consider such representations before deciding on whether or not to retire the member.

PART IV

SALARIES, SALARY ADVANCE AND LOANS

Salary

18. (1) The grades, salaries, salary scales, and entry salary steps for all posts and grades in the Commission shall be fixed by the Commission.

(2) The commencing salary of a member shall be determined by one or more of the following factors—

- (a) academic, professional or technical qualifications;
- (b) training and relevant experience;
- (c) the attributes necessary to the efficient and effective execution of tasks attached to the post;
- (d) the grading of the job.

(3) Every member including those on probation shall at the end of each month receive a written statement of salary paid and deductions made there from.

(4) Nothing in these regulations shall be construed as authorising a reduction in the fixed salary scale applicable to any member except where the member has consented to such reduction or where he or she has been found guilty of misconduct and such reduction is made pursuant to the penalty imposed against the member.

Salary advance

19. (1) Salary advance may be granted to cover periods of approved leave or official travel if member is expected to be away from his or her base station.

(2) In exceptional and compelling circumstances, the Commission may authorise an advance of one month's salary calculated on the basis of net basic salary excluding all allowances and such advances shall be deducted from a member's salary.

Loan

20. (1) A member may, after serving for a period of not less than two years from the date of appointment, be considered for the following loans—

- (a) housing;
- (b) motor vehicle;
- (c) training.

(2) The Commission may set up a revolving fund for loans established in terms of subsection (1).

(3) A member may also benefit from the CMED (Private) Limited Transport Purchase Fund.

PART V

ALLOWANCES AND OTHER BENEFITS

Transport

21. (1) The Commission shall determine the appropriate level of members who shall be issued with official vehicles.

(2) All members may be paid a transport allowance at rates determined by the Commission.

Housing

22. All members shall be paid a housing allowance at rates determined by the Commission.

Travel expenses

23. (1) The Commission shall meet travel expenses for the following types of official travel—

- (a) travel on duty;
- (b) travel on transfer in the interest of the Commission.

(2) Travel shall be by the most efficient and economic means and the mode and frequency of travel shall be as determined by the Commission from time to time.

(3) Travel within Zimbabwe may be by Commission vehicles, public transport, transport on hire or the member's own vehicle.

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Official travel

24. (1) Where a member is authorised by the Commission to use his or her own vehicle on official duty, he or she shall claim distance rates approved, from time to time, by the Commission.

(2) Where a member is authorised by the Commission to hire a vehicle or travel by air for the purposes outlined in section 23(1) he or she shall be issued with a requisition for payment only to the operator of the transport service concerned.

(3) The class of travel by air on official assignment shall be as determined by the Commission from time to time.

Transportation of dependants, personal goods or both

25. (1) The Commission shall not be responsible for costs incurred when spouses, children or dependants are travelling with the member on official duty.

(2) A member authorised to use a Commission vehicle for official duty shall not, except with the express permission of the Commission, carry unauthorised passengers, including members of his or her family, and, where such permission is given, the Commission shall not be liable in the case of a road traffic accident leading to the death or injury of any passenger.

Subsistence allowance

26. (1) A subsistence allowance shall cover the cost of meals, accommodation and out of pocket allowance when a member is away from base station.

(2) A member may, on application, be paid a subsistence allowance in advance for a period not exceeding one month or such longer period in advance as the Commission may authorise.

(3) Where a subsistence allowance is paid in advance in terms of subsection (2)—

- (a) it may be for the full amount of the allowance or such lesser amount as the member requires;

- (b) it shall be used for the purpose for which it has been made and be adjusted as soon as possible after the date on which the member returns to home station;
- (c) no new advance shall be made before the existing one is cleared, unless otherwise authorised by the Chief Executive Officer.

Proved and unproved expenses

27. (1) Expenses requiring documentary proof shall be the cost of accommodation where the Commission accommodation is not provided, which proof shall be provided by receipts for accommodation in the hotel or other rented housing in which the member was accommodated.

(2) The amounts reimbursable under subsection (1) shall not exceed the rates prescribed by the Commission.

(3) The cost of breakfast, lunch and dinner when a member is out of station on official duty shall not require submission of documentary proof but be reimbursed on daily rates determined and reviewed by the Commission from time to time.

Transfer expenses

28. (1) The following expenses shall be reimbursed to a member who is required to transfer in the interest of the Commission—

- (a) where accommodation is not provided on transfer and the member, his or her family or both are required to live in a hotel or any rented accommodation temporarily, proved meals and accommodation shall be at the full rate for the first 30 days, at half rate for the next 30 days, and thereafter at the member's expense unless otherwise directed by the Commission;
- (b) where accommodation is not provided on transfer and the member, his or her family or both make private arrangements in this regard, the cost of meals shall be at unproved transfer rates as from time to time determined by the Commission;
- (c) where the member is obliged to move with his or her household effects there shall be paid in accordance with

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such rules governing such movement as are approved by the Commission, and at different rates depending on the marital status of the member—

- (i) the cost of moving such effects; and
- (ii) a disturbance allowance; and
- (iii) the cost of storage of the member's belongings for periods of up to 30 days before and 30 days after the transfer.

(2) The Commission shall pay the expenses of conveying the immediate family and all household goods of a member travelling on transfer.

Acting allowance

29. (1) In this section—

“act” means act for a member in a higher grade or vacant post;

“acting allowance” means the additional remuneration payable to a member appointed to act for another member or in a vacant post.

(2) Notwithstanding anything contained in this section, no member who acts shall be entitled as of right to claim an acting allowance.

(3) Subject to this section, the Commission may grant to any member who acts acting allowance of such amount as the Commission may fix:

Provided that the aggregate of any acting allowance payable in terms of this section and the salary of the member who acts shall not exceed the salary to which such member would be entitled were he or she to be promoted to the post in which he or she acts.

(4) Acting allowance shall be paid to a member on the number of days acted.

(5) A member who acts in a higher post or grade for a continuous period of at least 15 days but less than 30 days may be entitled to time off:

Provided that the taking of such time off shall be agreed upon between the member and the supervisor.

(6) An acting allowance shall be payable with effect from the date on which a member who is appointed to act officially assumes the duties of the post until the day prior to the date on which such member officially ceases to fulfil such duties.

(7) 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 member from duty or in respect of any one vacant post.

Special responsibility allowance

30. (1) Responsibility allowance shall be payable to a member who acts for a continuous period of at least 30 days where a member undertakes some of the duties of a post which is at least two levels higher than his or her present grade.

(2) Responsibility allowance shall be calculated as 70% of the normal acting allowance.

(3) A member who acts in a higher post or grade for a continuous period of 15 days or more but less than 30 days may be entitled to time off:

Provided that the taking of such time off shall be agreed upon between the member and the supervisor.

Provision for performance awards and other allowances

31. The Commission may by notice or circular fix the conditions applicable to the payment of performance awards and such other allowances as the Commission, may fix, and may in like manner modify or withdraw the payment of such performance awards and allowances.

PART VI

INDEMNIFICATION OF DRIVERS

Interpretation in Part VI

32. In this Part:

“authorised passenger” means any person—

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- (a) whom a member in charge of a vehicle is required to carry in or upon such vehicle in the normal course of the member's official duties; or
- (b) whom a member in charge of a vehicle is authorised by the Commission to carry in or upon such vehicle in the course of the member's official duties; or
- (c) involved in an accident or other emergency whom a member in charge of a vehicle may carry in or upon such vehicle for the purpose of obtaining medical or other assistance for such person;

“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 member liable to pay any sum in relation to any of the matters referred to in section 34(1)(a) or (b);

“vehicle” means any vehicle which is propelled by mechanical or electrical power and intended or adapted for use or capable of being used on roads, and—

- (a) includes any vehicle incorporating water-boring machinery or construction machinery such as a tracked tractor, crane, grader, shovel, scraper, pipe layer or similar vehicle;
- (b) does not include a vehicle sold by Commission to a member under an agreement by virtue of which ownership of the vehicle does not pass from the Commission to the member until the total purchase price due under the agreement has been paid.

Indemnification of drivers

33.(1) Subject to this Part, where a member is involved in a traffic accident while driving a vehicle which he or she has been authorised by the Commission, the Commission shall indemnify such member 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 purposes of the Commission in relation to—

- (a) the death of or bodily injury to any person, other than the member himself or herself, including any authorised passenger who was being carried in or upon such vehicle or was entering or getting onto or alighting from such vehicle at the time of the traffic accident; or
- (b) any destruction of or damage to property, excluding property belonging to Commission or to the member.

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

Costs of legal representation

34. (1) Subject to this Part, the Commission shall pay any costs which in its opinion have been reasonably incurred by a member who is indemnified in terms of section 33 in respect of—

- (a) legal representation at an inquest in respect of any death; or
- (b) defending in any court any civil proceedings in respect of any accident;

which is the subject of such indemnity.

(2) The Commission shall not pay any costs in terms of subsection (1) unless the member concerned—

- (a) permits the Commission to have the whole conduct of the case, including the power to settle or compromise any claim or action; and
- (b) allows the Commission to nominate a person to represent him or her:

Provided that if the member concerned refuses the services of a person nominated by the Commission, the Commission shall pay such portion of the costs of legal representation of the member as it may determine.

(3) Where a member institutes proceedings for the recovery of damages caused by or arising out of any occurrence or event

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involving a vehicle used by him or her for the purposes of the Commission, the Commission may pay the whole or any part of the costs incurred by such member in conducting the proceedings.

(4) If a member whose costs the Commission pays in terms of subsection (1) or subsection (2)(b) succeeds in recovering part or all of his or her costs from another party to the proceedings concerned, the member shall reimburse the Commission to the extent of the costs it paid.

Limitations of indemnification

35. (1) The Commission shall not indemnify a member in terms of section 33 or pay any costs in terms of section 34—

- (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 the time of the traffic accident from which the member's liability arises the member did not hold a valid driver's licence for the class of vehicle being driven; or
- (c) if the member knew or had reason to know that the vehicle was not in a roadworthy condition or was overloaded; or
- (d) if the member was not complying with any instruction given to him or her by the Commission concerning the route he or she was to follow; or
- (e) if the member was driving the vehicle while under the influence of intoxicating liquor or drugs.

(2) If a member incurs any liability or costs arising out of the use by him or her of a vehicle for the purposes of the Commission and there is in existence a valid policy of insurance covering the use of that vehicle by the member for purposes of the Commission, the Commission shall not pay any sums to or on behalf of such member 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 member—

- (a) in respect of any fine or other penalty of a criminal nature imposed upon the member by any court;
- (b) if a member fails to give notice to the Commission immediately after—
 - (i) the occurrence of any traffic accident; or
 - (ii) the receipt by him or her of any letter, claim, summons, writ or process relating to any accident; or
 - (iii) he or she receives knowledge of any pending prosecution, inquest or other proceedings arising out of any accident; or
 - (iv) he or she is convicted of any offence mentioned in subparagraph (iii).

(4) If any member, without the written consent of the Commission, makes any admission, offer, promise or payment to any person in respect of any traffic accident in which a third party is involved, the Commission may not make any payment in terms of this Part to or on behalf of such member in respect of such accident.

Right to recover

36. This Part shall not in any way compromise the rights the Commission may have under any other law to recover from any member—

- (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 member 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 member;

when such damages, payments or costs are not legally claimable by Commission from any third party and have been sustained or incurred as a result of the negligence or conduct of the member.

PART VII

LEAVE

Vacation leave

37. (1) A member shall accrue vacation leave at the rate of three days per month or 36 days *per annum* up to a maximum of one 120 days.

(2) A member shall be eligible to take vacation leave after serving for a continuous period of 12 months.

(3) A member leaving the service of the Commission shall be entitled to *cash-in-lieu* of accrued leave up to a maximum of 120 days.

(4) A member who has been given or received notice to terminate employment shall not take vacation leave during the period of such notice unless such vacation leave has been approved by the Chief Executive Officer.

(5) Accrued vacation leave may be commuted for cash at any time provided that an equivalent amount of leave days is taken.

(6) Leave with or without pay may be granted in exceptional circumstances to members who have not accrued leave to their credit.

(7) All Saturdays, Sundays and gazetted public holidays falling within a period of vacation leave shall be counted as part of vacation leave.

(8) Vacation leave shall not be granted to any member for any period which is less than three days in duration.

(9) A member who falls sick during period of vacation leave may cancel his or her vacation leave and apply for sick leave.

(10) A cash equivalent of any vacation leave accrued to a member or reserved vacation leave standing to his or her credit shall be payable to a member or his or her estate in the event of the member's death or retirement, resignation, or discharge from the Zimbabwe Gender Commission.

Annual leave

38.(1) An annual leave may be granted by the Head of Department during the calendar year in which it is accrued up to a maximum of 12 days.

(2) Annual leave may be granted at the discretion of the Commission 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—

- (a) such leave is taken in conjunction with vacation leave; or
- (b) such leave exceeds a period of five working days.

(4) The leave accrual rate of annual leave shall be one day per month and any balance of annual leave not taken at the end of each year shall expire or be forfeited.

Sick leave

39.(1) Sick leave may be granted to a member who is prevented from attending his or her duties because he or she is ill or injured or undergoes medical treatment which was not occasioned by his or her failure to take reasonable precautions.

(2) During any one year period of service a member may be granted a maximum of 90 days 'sick leave on full pay and 90 days' sick leave on half pay.

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

Provided that the member shall notify the head of department or head of office on the first day of illness or at the earliest possible moment.

(4) A head of department may grant sick leave with pay for a continuous period not exceeding 90 days on production of a certificate in the prescribed form signed by a registered medical practitioner:

Provided that if, in the opinion of the head of department, the illness is likely to exceed 90 days, the head of department concerned shall report the matter to the Chief Executive Officer 21 days before

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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 head of department if recommended by a medical board appointed by the Secretary for Health if, in the opinion of the medical board, it is probable that the member concerned will be able to resume duty after such further period of sick leave.

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

(7) If, when a medical board has been convened to examine a member who has been notified accordingly, such member fails without adequate excuse to attend that medical board, the Commission or the delegated authority may proceed to charge the member with misconduct.

(8) The Chief Executive Officer may grant a member who is not eligible for sick leave on full pay or half pay, sick leave without pay for a period not exceeding 45 days.

(9) A head of department may grant an additional period of sick leave to a member to cover the period between the hearing of a medical board which recommends the member's retirement on ill health and the effective date of such retirement.

(10) A member who so wishes may be granted accrued vacation leave or annual leave instead of sick leave on half pay or without pay.

(11) A member who is injured on duty shall not be granted sick leave but may be granted compensatory sick leave in terms of the State Service (Disability Benefits) Act [*Chapter 16:05*].

(12) A member who has been granted sick leave in terms of subsection (1) and who intends to seek medical treatment in or outside the country shall—

- (a) be required to appear before a Medical Board within 14 days immediately before the expiry of 90 days to

determine whether or not the member should be retired on medical grounds; or

- (b) submit within fourteen days, a medical affidavit by a registered medical practitioner detailing the nature and the extent of the illness or injury preventing the member from appearing before a Medical Board or attending to his or her duties.

(13) A Medical Board shall be convened to consider any medical affidavit submitted in terms of subsection 12(b) and make recommendations—

- (a) to the Secretary for Health on whether the member should be dis-charged on medical grounds; or
- (b) in terms of subsections (5) and (9).

Maternity leave

40. (1) Maternity leave shall be granted for a period not exceeding 98 days on full pay to a female member.

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

(3) A member who does not qualify for maternity leave in terms of subsections (1), (2) and (3) may be granted 90 days' vacation leave with pay.

(4) Where a member becomes eligible for paid maternity leave during the period of unpaid leave she may opt to be paid her full salary for the remainder of the leave and this shall count as one of the three permissible periods.

(5) Sick leave shall not be granted during the period of maternity leave.

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

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(7) A member who proceeds on maternity leave shall not lose her eligibility for advancement or promotion.

(8) During the period of maternity leave the maternity leave shall be cancelled in the event of still birth or miscarriage or death within the period of maternity leave and this shall not count as one of the three permissible periods.

Special leave

41. Special leave on full pay not exceeding twelve days in a calendar year may be granted by a head of department to a member—

- (a) to prepare for and sit 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;
- (c) who is subpoenaed to attend any court in Zimbabwe as a witness;
- (d) who is required to attend as a delegate or office bearer at a conference of a recognised association representing members;
- (e) who is detained for questioning by the police;
- (f) on the death of a spouse, parent, child or legal dependant;
- (g) on any justifiable compassionate ground.

PART VIII

TRAINING AND DEVELOPMENT POLICY

Training

42. The Commission may train and develop its members in order to—

- (a) impart knowledge and skills;
- (b) enhance existing skills;
- (c) inculcate appropriate values and attitudes;

- (d) motivate members;
- (e) increase organisation productivity;
- (f) develop the organisation

Conditions governing staff development

43. (1) The heads of departments shall submit their training plans to the Chief Executive Officer who shall produce and submit a composite plan for approval by the Commission taking into account the Commission's needs.

(2) Manpower development leave may be granted to a member to engage in a study or training programme through the medium of any of the following—

- (a) work exchange programmes;
- (b) work attachments;
- (c) any relevant courses;
- (d) professional training;
- (e) training and development seminars, workshops and conferences;

for the purpose of enhancing the efficiency and effectiveness and motivation of such members in order to enhance the productivity of the Commission.

(3) Preference shall be given to training programmes initiated by the Commission.

(4) A head of department shall make recommendations to the Chief Executive Officer on any application for training.

(5) The Chief Executive Officer may approve any application for training including the following—

- (a) courses at doctorate level;
- (b) courses at masters level;
- (c) courses of study or training of more than three months' duration undertaken outside Zimbabwe.

(6) The following factors may be taken into consideration when determining an application for manpower development leave—

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- (a) manpower development leave applications submitted by heads of departments are in line with the Zimbabwe Gender Commission training plan;
- (b) an acceptance letter from the training institution is available;
- (c) there is proof of sponsorship;
- (d) proper completion of ZGCTI forms has been done;
- (e) the course is relevant to the functions of the member and needs of the Commission;
- (f) the course addresses the member's deficiencies as revealed through performance appraisals;
- (g) the rate of pay has been determined depending on course duration;
- (h) the bonding period has been determined;
- (i) a submission is prepared for the Commission's consideration.

(7) The heads of departments shall submit their training plans to the Chief Executive Officer indicating their respective training needs for the following year by not later than October each year.

(8) Subject to subsection (9), a member who goes on manpower development leave shall be paid full salary during the period of study.

(9) A member, who due to circumstances beyond his or her own control, 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.

(10) A member 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.

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

(12) No change of programme or institution shall be made without the approval of the Commission.

(13) A member may, at the discretion of the Commission, apply for and be granted unpaid manpower development leave.

(14) A member who goes on paid manpower development leave, whether continuously or on part-time basis, for a period of three months or less shall not be bonded unless the Commission considers it necessary in the circumstances.

(15) A member who goes on paid manpower development leave on full-time basis for a period exceeding three months shall be bonded for a period that is equivalent to the duration of the course.

(16) A member who goes on manpower development leave on part-time basis shall be bonded for a period which is equal to the cumulative period of block release.

(17) A member on full time manpower development leave may not accrue vacation leave during the period of manpower development leave.

(18) Manpower development leave shall be granted in accordance with the criteria for eligibility as set out in the Second Schedule.

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

(20) The Commission shall recover from a member all amounts or part thereof paid to the member who fails to serve his or her bonding period or part thereof.

PART IX

GRIEVANCE PROCEDURE

Grievance procedure

44. (1) A member who has a grievance in which he or she is directly concerned shall raise it in writing with his or her immediate supervisor, who shall grant the member an interview within three working days:

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Provided that where the grievance involves the member's immediate supervisor the aggrieved member may request that the grievance be referred to the supervisor's superior in terms of subsection (5).

(2) A member attached to a Constitutional Appointee shall direct his or her grievance to the Chief Executive Officer.

(3) During interview, a member shall clearly state the nature of his or her grievance, and the immediate supervisor shall attempt to resolve the issue within three working days.

(4) If the supervisor fails to settle the issue to the satisfaction of the member, the supervisor shall bring the grievance to the attention of the next supervisor within three working days.

(5) Within three working days after the grievance has been brought to his or her attention, the next supervisor shall—

- (a) call a meeting with the immediate supervisor and the member to attempt to resolve the grievance; and
- (b) if the grievance remains unresolved, the next supervisor shall bring it to the attention of the head of department within three working days:

Provided that where the next supervisor is the head of department he or she shall have the discretion to invoke subsection (6) or to proceed first in terms of this subsection.

(6) Within five working days after a grievance has been directed to the head of department, the head of department shall call a meeting with the head of office, the immediate supervisor (if he or she is not the head of office), the member concerned and the representative of Human Resources 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;
- (b) attempt to reach an agreement on what action is to be taken to resolve the grievance;
- (c) record in writing the grievance and the action agreed for the purpose of resolving it or, if not such action is agreed, the reasons for failing to reach such agreement;

and

(d) forward a copy of the record to the Chief Executive Officer.

(7) In the case of disagreement at a meeting called in terms of subsection (6), the Chief Executive Officer shall make a decision on the grievance and communicate his or her decision to all parties concerned within a period of seven days.

(8) A party aggrieved by the decision of the Chief Executive Officer shall appeal to the Commission within fourteen days.

(9) The Commission's decision shall be communicated in writing to the parties concerned within 14 days.

(10) Any party aggrieved by the Commission's decision may apply to the Labour Court for review of the Commission's decision within 21 days of receiving the Commission's decision.

(11) At any interview or meeting held in connection with a grievance to which this procedure applies, the member may be accompanied by a registered legal practitioner of his or her choice.

PART X

DISCIPLINARY PROCEDURE

Disciplinary authorities

45. The disciplinary authority for determining any allegations of misconduct outlined in the Third Schedule shall be—

- (a) in the case of a member in the senior grade, the Commission;
- (b) in the case of a member in the middle grade, the Chief Executive Officer;
- (c) in the case of a member in the junior grade, the head of department:

Provided that the Commission may determine that it shall be the disciplinary authority in any particular case.

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Disciplinary committees

46. (1) A disciplinary authority shall appoint a disciplinary committee to hear allegations of misconduct against a member.

(2) A disciplinary committee appointed by—

(a) the Commission shall consist of—

- (i) a chairperson who shall be of a grade senior to that of the member; and
- (ii) two other senior grade members from within the Zimbabwe Gender Commission.

(b) Chief Executive Officer shall consist of—

- (i) a chairperson who shall be anyone of a grade senior to that of the member;
- (ii) two other members.

(c) the head of department shall consist of—

- (i) a chairperson who shall be a grade senior to the member; and
- (ii) two other members.

(3) The functions of a disciplinary committee shall, among others, be to—

- (a) inform a member of the nature and substance of the allegations of misconduct against him or her before any witnesses are called to give evidence against the member;
- (b) permit a member to outline the grounds upon which he or she denies the allegations of misconduct;
- (c) put questions to any witness or member;
- (d) permit member to cross examine any witness;
- (e) at the conclusion of the case—
 - (i) make the necessary findings based on the adequacy of the evidence presented to determine the guilty or otherwise of the member;
 - (ii) make recommendations to the disciplinary authority.

Procedure before and immediately following allegation of misconduct

47. (1) Where a member is suspected of misconduct, the disciplinary authority shall conduct or cause to be conducted full and proper investigations to determine whether or not there is a basis to prefer misconduct charges against the member.

(2) If, on completion of the investigations referred to in subsection (1), it is found that—

(a) proper and thorough investigations have not been carried out or certain documents have not been availed to the member for his or her perusal, the disciplinary authority shall within seven days direct that—

(i) further investigations as may be necessary be carried out; or

(ii) certain documents be availed to the member for perusal and that the member be allowed to comment on or respond to the new evidence;

(b) an allegation of misconduct be preferred against the member, the disciplinary authority shall, within 14 days after completion of investigations—

(i) inform the member, in writing, of the nature of the allegation against him or her, and call upon him or her to submit a written response to the allegation within 14 days;

(ii) where, necessary, furnish to the member copies of material documentary evidence, if any, relating to the allegation of misconduct, or afford the member an opportunity to peruse any such documentary evidence;

(c) the member has no case to answer, the disciplinary authority shall, within five days of receipt of the investigation report, advise the member in writing, that he or she has been cleared of the suspected misconduct.

(3) The disciplinary authority shall, within seven days of receiving the member's response or, if no such response has been

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received within the period referred to in subsection 2(b)(i), refer the matter to a disciplinary committee for hearing.

(4) Where there is no material dispute of fact and the member concerned so consents in writing, the disciplinary authority may proceed to determine the allegation in terms of section 49 without a hearing:

Provided that such a member shall not be deemed to have waived his or her right to appeal against any determination and, or penalty imposed.

Hearing before a disciplinary committee

48. (1) The disciplinary committee appointed in terms of section 46(1) shall, at least seven days prior to hearing, notify the member in writing—

- (a) of the date, time and venue for the hearing; and
- (b) of his or her right to legal representation and to call witnesses in his or her defence.

(2) No documentary evidence shall be used against a member charged with misconduct unless the member 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 all of the rules of procedure and evidence ordinarily applicable in criminal and civil proceedings:

Provided that—

- (a) any member who has taken part in the investigation of the case or has an interest in the case which may affect his or her partiality shall not be entitled to hear the case;
- (b) the member shall be given the opportunity to outline the grounds upon which he or she denies the allegations of misconduct;
- (c) witnesses give their evidence in the presence of the member;
- (d) the member is given the opportunity to put questions to or cross-examine each witness;

(e) the member is allowed to call witnesses to testify in his or her defence.

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

(5) 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 and where possible, ensures that proceedings of the hearing are mechanically recorded.

(6) Within 14 days of the completion of the hearing, 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 member where it finds the member guilty of misconduct; and

(b) the original record of the evidence led at the hearing:

Provided that where a member is found guilty of misconduct, recommendations regarding penalty shall only be made after obtaining mitigation from the member.

Determination of allegation of misconduct

49. (1) On receiving the documents referred to in section 48 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 member concerned is guilty of misconduct as alleged.

(2) Where the disciplinary authority determines that the member is not guilty of misconduct, the disciplinary authority shall forthwith notify the member.

(3) Where the disciplinary authority determines that the member is guilty of misconduct, it shall impose a penalty and advise the member within seven days in writing.

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(4) It shall be competent for the disciplinary authority to find a member guilty of an act of misconduct other than the act which the member was originally alleged to have committed if the facts disclose such other act of misconduct, provided that, the disciplinary authority shall comply with subsection (3) before imposing penalty.

(5) In the case of a member in the junior grade the disciplinary authority shall within 14 days of imposition of the penalty submit to the Chief Executive Officer the complete record of proceedings.

Member convicted of criminal offence

50.(1) Where a member is convicted of a criminal offence which may constitute an act of misconduct, the disciplinary authority shall endeavour to obtain a copy of the court record relating to the conviction of the member from the registrar or clerk of the court concerned, and sections 47, 48 and 49 shall thereafter apply.

Imposition of suspension order

51. (1) A disciplinary authority may at any time, by written notice, suspend from service a member who is suspected of misconduct or is subject to 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 impair the proper administration or functioning of the Commission or department concerned; or
- (c) occasion prejudice to any moneys or property likely to be handled by the member in the course of his or her work; or
- (d) enable the member 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 a member—

- (a) the order shall specify the reasons for and the period of suspension;
- (b) disciplinary proceedings shall be instituted forthwith in terms of sections 47, 48 and 49.

(3) A member who is under suspension may not leave Zimbabwe without the permission of the disciplinary authority and shall inform the disciplinary authority of any change of address.

Effect and cancellation of suspension order

52. (1) Where a member 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 by the disciplinary authority, in which case he or she shall carry out such duties as directed; or
- (b) be entitled, upon notifying the disciplinary authority, to take up other employment for the duration of his or her suspension from service unless ordered to carry out other duties, and shall furnish such further particulars as may be required from him or her of such employment and the remuneration received by him or her.

(2) Where the nature of the allegation of misconduct does not involve financial prejudice to the Commission, and the member is not directed to carry out other duties, the member under suspension shall, pending the determination of the allegation, be entitled to an allowance equal to half his or her gross salary per month for up to three months.

(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 member is found not guilty of misconduct; or
 - (ii) after three months from the date of its imposition unless it is extended by the disciplinary authority which issued it;

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- (b) shall not terminate disciplinary proceedings instituted against a member by virtue of its cancellation;
- (c) shall cancel any leave granted to a member.

(4) Where a member —

- (a) is found guilty of misconduct, a disciplinary authority may direct the recovery from the member, the whole or any part of an allowance paid to the member in terms of subsection (2); or
- (b) is found not guilty of misconduct, the member shall be entitled to all his or her salary and benefits during the period of suspension less the allowances he or she was paid in terms of subsection (2):

Provided that where such a member was employed during the period of suspension or part thereof, the Commission shall determine the amount of allowance or salary and benefits to be paid to the member.

Imposition of penalty by disciplinary authority

53. (1) Where a disciplinary authority determines that a member is guilty of misconduct the disciplinary authority may impose any one or more of the following penalties—

- (a) discharge the member from the Zimbabwe Gender Commission;
- (b) call upon the member to resign with effect from a specified date, failing which the member 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 member;
- (d) direct that the member not be considered for promotion for a specified period;
- (e) fine the member 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 member;
- (f) direct that the member's performance award be withheld for a specified period;

- (g) direct that the full amount of any remuneration paid to the member 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 member in terms of section 52(2), or such part of that amount as the disciplinary authority may determine, be recovered from him or her;
- (i) transfer the member to another department within the Commission at such grade and on such salary as the disciplinary authority may determine;
- (j) if the member was responsible for any deficiency in or improper payment from or loss or destruction of public property or moneys, raise a surcharge against the member in respect of such deficiency, improper payment, loss or destruction as may be fixed by the disciplinary authority; or
- (k) if the member was responsible for any deficiency in or destruction of or damage to Commission property, make an order against the member 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 member.

Appeals and review to the labour Court

54. (1) A member of the senior or middle grade who is aggrieved by a determination or penalty or both made by the Commission, may, within 21 days from the date the decision of the Commission is served on him or her—

- (a) appeal to the Labour Court; or
- (b) apply for a review in the Labour Court.

(2) A member in the junior grade aggrieved by the determination or penalty or both made by the disciplinary authority may, within 21 days from the date on which he or she is served or informed of the decision—

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- (a) request the Chief Executive Officer in writing to review the determination or penalty or both through his or her disciplinary authority; or
- (b) appeal to the Labour Court.

(3) The disciplinary authority shall forward the request for review and all the relevant papers to the Chief Executive Officer, as the case may be, within 14 days of receiving the request.

(4) Notwithstanding the provisions of subsection (2) the Chief Executive Officer shall upon receipt of the record of proceedings referred to in section 49(5), have power to automatically review any determination or penalty or both made by the disciplinary authority

(5) On reviewing the determination or penalty or both, the Chief Executive Officer may —

- (a) refer the matter back to the disciplinary authority for further hearing and determination of the matter afresh; or
- (b) confirm the determination and or penalty; or
- (c) confirm the determination but vary the penalty as it deems fit; or
- (d) set aside the determination and or penalty.

(6) A request for review made to the Chief Executive Officer, or an appeal or application for review made to the Labour Court in terms of this section shall not have the effect of suspending the determination or penalty or both.

(7) A member who is aggrieved by the decision of the Chief Executive Officer on review in terms of subsections (2) or (4) may apply for review to the Labour Court within 21 days from the date of the decision of the Commission or the Chief Executive Officer is served on him or her.

PART XI

GENERAL

*Discharge of member on the grounds of abscondment,
imprisonment, detention, restriction or deportation*

55. The Commission or the Chief Executive Officer may discharge from the Zimbabwe Gender Commission with effect from the date of abscondment, imprisonment, detention, restriction, deportation, as the case may be, a member who—

- (a) has been absent from duty for a continuous period in excess of 30 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) has been detained for a period of more than three months in terms of any enactment providing for the detention of person in time of emergency or for the preventive detention of persons; or
- (d) has been subject, for a period of three months or more, to an order in terms of any enactment whereby he or she is required to remain within, is prohibited from entering a specified area in Zimbabwe; or
- (e) is deported or extradited from Zimbabwe.

*Suspension of salary of member who is imprisoned, detained,
restricted or deported*

56. (1).A member shall not be entitled to receive any salary in respect of any period during which he or she is—

- (a) absent from duty for a continuous period in excess of 30 days without having been granted leave of absence with effect from the date of abscondment; or
- (b) sentenced to a term of imprisonment without the option of a fine with effect from the date of sentence;

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- (c) 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; or
 - (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 a member referred to in subsection (1) shall be paid such allowance, not exceeding the amount of his or her salary, as the Commission may determine, during the period that the member is not entitled to receive his or her salary in terms of that subsection.

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

- (a) a member 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 Parts IX and X in certain circumstances

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

- (a) depart from or authorise the departure from any provision of Part IX or X; or
- (b) condone any irregularity or departure from any provision of Part IX or X;

where the departure or irregularity has not resulted or will not result in a substantial miscarriage of justice.

FIRST SCHEDULE (*Section 11(5) and (6)*)

PROMOTION: PRINCIPLES AND CONDITIONS

Conditions Attaching to Promotion

1. If, within six months immediately following the promotion of a member, the member concerned gives notice of—

- (a) resignation from the Zimbabwe Gender Commission; or
- (b) retirement from the Zimbabwe Gender Commission in terms of the Pensions and Other Benefits Act [*Chapter 16:01*], or without having been required to retire by the Commission, or in terms of any other conditions of service; his or her salary and allowances shall be reduced, with effect from 30 days before the date on which he or she resigns or retires from the Commission, to the level at which they would have been had he or she not been so promoted.

2. If the promotion is revoked in terms of paragraph 5, the Commission may reduce the member's salary and allowances to the level at which they would have been had he or she not been so promoted.

3. The six months immediately following the promotion of any member to any post or grade shall be probationary, and, subject to this paragraph, the Commission may at any time during that period revoke the promotion of that member if the Commission considers that the member, whether for reasons beyond the member's control or otherwise—

- (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 promotion in terms of paragraph 5, the Commission shall—

- (a) notify the member concerned, in writing, that it is considering the revocation of his or her promotion; and
- (b) invite the member concerned 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. Whenever the Commission revokes the promotion of a member, it shall forthwith notify the member concerned, in writing.

6. A member whose promotion has been revoked in terms of paragraph 5 shall, subject to paragraph 9, be placed in such post or grade as the Commission may determine.

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7. If the Commission has revoked the promotion of any member, the Commission may place the member on such lower step in the appropriate salary scale as it thinks 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 so promoted.

8. Before the expiry of the period of probation referred to in paragraph 3, the Commission may, on written notice to the member concerned, extend the period of probation for a further period not exceeding six months and the member shall be informed of the reasons for such extension.

10. A member on manpower development leave for a period in excess of three months shall not be considered for promotion during the period of such leave.

SECOND SCHEDULE (*Section 43*)

ELIGIBILITY FOR MANPOWER DEVELOPMENT LEAVE

1. Save in exceptional circumstances approved by the Commission, only members who have been employed in the Commission for more than two years are eligible for leave.

2. If the leave is of less than 12 months' duration, a member must have served for not less than one year.

3. If the leave sought exceeds 12 months' duration, members must have served for not less than two years.

4. Save in exceptional circumstances approved by the Commission, a member with an existing bonding commitment may not be granted manpower development leave.

5. A member may not be granted manpower development leave if the member leaves his or her station prior to approval of such leave.

6. A member shall be entitled to make representations to the Chief Executive Officer in case of delay in the approval of manpower development leave.

THIRD SCHEDULE (*Section 45*)

ACTS OF MISCONDUCT

1. Absence from duty without good cause, including any abuse of sick leave.

2. Proceeding on any type of leave without authority.

3. Failure to perform any duties related to one's work or improper or negligent, inefficient or incompetent performance of duties.

4. Failure to obey lawful instructions, including circulars, instructions or standing orders issued by the Commission, the Treasury or the Chief Executive Officer or delegated authority.

5. Improper, threatening, insubordinate or discourteous behaviour, including sexual harassment, during the course of duty towards any member of the Commission or any member of the public.

6. Unbecoming or indecorous behaviour, including the consumption of intoxicating liquor or dangerous or prohibited drugs during the course of duty.

7. Unbecoming or indecorous behaviour at any time or place in any manner or circumstances likely to bring the Commission or any part thereof into disrespect or disrepute.

8. Theft of, or making improper or unauthorised use of, possession or removal of public moneys or the moneys of any statutory body, statutory fund or local authority or the Commission.

9. Failure to account for or take reasonable care of, or adequate steps to ensure that reasonable care is taken of any public moneys or property of any statutory body, statutory fund or local authority or the Commission or failure to report at the earliest opportunity any loss thereof or damage thereto.

10. Failure to repay, within the stipulated period of repayment any moneys advanced by the Commission or by any statutory body, statutory fund or local authority.

11. Wilful damage to any Commission property or the property of any statutory body, statutory fund or local authority.

12. Unauthorised or improper disclosure or use of classified or confidential information.

13. Any act involving corruption or dishonesty, including—

- (a) any contravention of Part IX of the Criminal Law (Codification and Reform) Act [*Chapter 9:23*];
- (b) making a false report, accusation, or statement against any member;
- (c) wilfully giving false or incorrect evidence or information or failing to disclose material evidence or information in relation to any inspection, examination, investigation or inquiry 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 by the Commission,

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or giving false information for the purpose of gaining employment in the Commission.

14. Failure to report improper conduct on the part of any member of the Zimbabwe Gender Commission.

15. Hindering or obstructing any member of the Zimbabwe Gender Commission in the discharge of his or her duty.

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 member's duties.

17. Being a member of the Zimbabwe Gender Commission found ceding the whole or any part of his or her salary, allowances or other remuneration without the written consent of the Commission or the Chief Executive Officer.

18. Practising nepotism or any other form of favouritism in making or recommending any appointment or promotion to any post or office.

19. Being a member who holds office in a political party or addresses any political party, organisation or movement.

20. Any act or omission which is inconsistent with or prejudicial to the discharge of official duties, including the abuse of authority.

21. Except as a member, director or manager of any statutory body (not being a successor company to a statutory body), the control, direction or management, whether directly or indirectly of any business or, other income earning activity including appointment as a company director, without the written consent of the Commission.