

12/16/1936

(12)

Comb  
Kuppman  
3/11/39

Public Service  
(Incl.)  
Services

NOTED  
B-75

Pros. Serial Nos. 215785

**Subject.**

Draft regulations to be made by the Governor - General in his discretion regarding matters on which the Federal Public Service Commission may not be consulted.

**Previous References.**

Pages 3-16

**Later References.**

- F. 154/36-S
- F. 288/223.
- F. 35/38-S.
- F. 8/45/45-S.
- F. 8/35/47-S
- F. 11/12/47-S.
- F. 8/221/49-S

Received in Records Room  
Nov 19 1936

all

Section.

File No.  
F. 76/36-S.  
Serial No.

Heading.

## NOTES.

Prop.

19 . Nos.

PT.  
NCH.

Subject.

Draft Regulations to be made by the Governor General in his discretion regarding matters on which the Federal Public Service Commission may not be ~~xxxxxxxxxx~~ consulted.

Notes and Orders.

PUBLIC SERVICE

File No. 76/36-B.  
Date 10<sup>th</sup> April  
~~6~~ MAY 1936  
Serial no. ....  
Diary No. 893-A/S.

(2)  
D. O. No. F.322/II/35-Ests.

Home Department.

5/14/36

My dear Reynell,

I forward for the consideration of the Public Service Commission a draft of regulations to be made by the Governor General in his discretion under sub-section(3) of section 266 of the Government of India Act, 1935, regarding matters on which the Federal Public Service Commission need not be consulted. I am to request that the Home Department may be favoured by May 15, 1936, if possible, with the views of the Commission on the suitability of the draft regulations.

Yours sincerely,

*W. S. S. /*

11, Esqr., I. E. S.,  
Secretary, Public Service  
Commission.

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File No.  
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The following regulations are made by the Governor General in his discretion in exercise of the powers conferred on him by sub-section (3) of section 266 of the Government of India Act, 1935.

1. These regulations may be called the Federal Public Service Commission (Consultation) Regulations.

2. It shall not be necessary to consult the Commission in regard to

(a) matters relating to methods of recruitment, or

(b) the principles to be followed in making appointments

to the services and posts specified in the schedule to these regulations or to any post to which the Governor General is empowered to make the appointment in his discretion.

3. It shall not be necessary to consult the Commission in regard to the selection for appointment

(a) to a Central Service, Class I, of any officer of His Majesty's Forces or any officer who is already a member of an All-India Service, a Central Service, Class I, a Railway Service, Class I, a Provincial Service, Class I, or a Service under the Crown Department corresponding to a Central Service, Class I;

(b) to a Central Service, Class II, of any officer by transfer from another Central Service, Class II, or a Provincial Service, or by promotion from a subordinate Service; or by transfer or promotion from corresponding Services under the Crown Department;

(c) otherwise than in accordance with one of the methods mentioned in (a) or (b) above, to the services or posts specified in the schedule.

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4. Notwithstanding anything contained in Rule 3 it shall not be necessary to consult the Commission in the following cases :-

- (a) in regard to the selection for appointment to any post where the selection is made in England by or through the High Commissioner for India; or
- (b) in regard to the selection for appointment to any temporary post which is not likely to last for more than three years, provided that if the appointment is extended beyond that period, the Commission shall be consulted in regard to the continuance in it of the officer holding it.

5. It shall not be necessary to consult the Commission before an order is passed in any disciplinary case other than

- (a) an original or appellate order by the Governor General imposing any penalty mentioned in Rule 49 of the Civil Services (Classification Control and Appeal) Rules other than an order of censure or suspension, or
- (b) an order by the Governor General, made in response to any petition or memorial, which overrules the order of a subordinate authority.



Schedule.

Central Services, Class I

HOME DEPARTMENT

- Director of Public Information.
- Deputy Director of Public Information.
- Government Examiner of Questioned Documents, Government of India.
- Assistant Government Examiner of Questioned Documents, Government of India.

FINANCE DEPARTMENT-

(Master Security Printing, India and Ex-officio Controller of Stamps.

[Finance Department's reply not yet received. These entries may require alterations on receipt of their views.]

- Deputy Master, Security Printing, India.
- Deputy Controller of Stamps.
- Deputy Mint Master,
- Mint Master, Bombay.
- Mint Master, Calcutta.
- Chief Assayer, Mint, Bombay.
- Two General Managers, Northern India Salt Revenue.)

External Affairs Department.

BALUCHISTAN

Superintendent., Central Jail, Mach.

DEPARTMENT OF INDUSTRIES AND LABOUR -

CIVIL AVIATION DIRECTORATE.

- Director of Civil Aviation in India.
- Deputy Director of Civil Aviation in India.
- Aircraft Inspector.
- Chief Inspector of Aircraft.
- Chief Aerodrome Officer.
- Technical Officer (Temporary)

INDIAN SCHOOL OF MINES.

- Principal and Professors.

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Indian Posts and Telegraphs Department.

- Assistant Deputy Directors General, Posts and Telegraphs, and Personal Assistant to the Director General, in the case of appointments to tenure posts.

Department of Education, Health and Lands.

- Director, and Professors of the All-India Institute of Hygiene and Public Health, Calcutta.

The Medical Research Department.

Superintendent, Mathematical Instruments Office, Survey of India. } Director, Botanical Survey of India.

Miscellaneous

- Agent of the Government of India in Ceylon.  
Agent of the Government of India in Malaya.  
Agent General for India in the Union of South Africa.  
Secretary to the Agent General for India in the Union of South Africa.

Legislative Department.

- Secretary.  
Joint Secretary and Draftsman.  
Deputy Secretary.  
Advocate General.  
Solicitor to the Government of India.  
Second Solicitor to the Government of India.  
Assistant Solicitor to the Government of India.

Imperial Council of Agricultural Research Department.

- Vice Chairman.

Andaman & Nicobar Islands Administration.

- Divisional Officer, Public Works Department.

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(7)

Commerce Department. Nautical Adviser to the Government of India.

Chief Surveyor with the Government of India.

Members of the Indian Tariff Board.

Deputy High Commissioner for India, London.

Indian Trade Commissioners (except when it is proposed to appoint a non-official).

Deputy Indian Trade Commissioner, London.

Secretary, Public Department, Office of the High Commissioner for India, London.

Central Services, Class II.

Deputy Superintendent of Lighthouses, Bombay.

Superintendent and Assistant, Superintendent of Launches, Calcutta.

Assistant to the Agent of the Government of India in Ceylon.

Assistant Secretary to the Agent General for India in the Union of South Africa.

Assistant Director and Assistant Professors, All-India Institute of Hygiene and Public Health, Calcutta.

Two Assistant Superintendents, Mathematical Instrument Office, Survey of India.

Two Managers, and Three Assistant Managers, Photo-Litho Office, Survey of India, Calcutta.

Assistant Manager, Photo-Zinco Office, Survey of India, Dehra Dun.

Head Engraver and Assistant Head Engraver, Engraving Office, Survey of India, and two First Division Draftsmen, No.1, Drawing Office, Survey of India, Calcutta.

Lecturers, Instructors and Demonstrators, Indian School of Mines, Dhanbad.

Overseers in the Government of India Press<sup>es</sup> (including the Forms Press, Aligarh)

Imperial Secretariat Reporters; Service.

Head of the Printing Branch, Legislative Department.

Librarian, Legislative Department.

Assistant, Solicitor's Branch, Legislative Department.

E. F. S. done on

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Translator, Legislative Department.  
Confidential Assistant in the Office of the Director, Intelligence Bureau.

Coorg\*

Assistant Commissioner and District Magistrate, Coorg.

Subordinate Judge.

Munsif, Virajpet.

District Munsif, Mercara. Superintendent of Police.

Deputy Director of Land Records and Agriculture.

Andaman and Nicobar Islands. Administration

Assistant Commissioner, Nicobars, and Lady Assistant Surgeon,

Subordinate Services.

All subordinate services, except first appointments, to posts in the Ministerial Establishments of the Government of India Secretariat, and Attached Offices, other than posts in those establishments in respect of which the Government of India by special order have directed or may direct that appointments may be made without reference to the Commission.

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G.O. No. 10.  
P.  
Page 8

2

D.O. from Mr. Sloan, No.F.322/11/35 Ests.(H.D.)  
dated 1/4/36.

\* \* \* \*

Forwards draft regulations under sub-section (3) of section 266 of the Government of India Act, 1935.

These are the regulations which are to limit the extent of the Commission's operations. They appear to me to meet the situation satisfactorily, subject to the following remarks:-

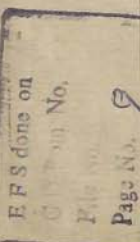
(a) Regulation 2 seems to assume that if the Commission is not to advise on the merits of particular candidates there is no advice which it can usefully give in connection with recruitment. It may save trouble.

(b) Regulation 2(b) seems to leave the Commission with the duties of advising on the principles to be followed in making promotions and transfers and on the suitability of candidates, though they need not be consulted on the principles to be followed in making appointments.

(c) Regulation 5(a) seems to presuppose the continued existence of the Classification, Control & Appeal Rules, which I gather is now a matter of doubt. But as a matter of drafting it will probably be sufficient if they are still in existence at the time of the making of these regulations.

(d) Regulation 5(b) seems to mean that the Commission need not be consulted on a petition or memorial if the Governor General agrees with the subordinate authority (apparently he is to make up his mind before consulting the Commission). But he is not at present bound to consult at all. The whole of Regulation 5, in fact, seems to breathe a different spirit from that of section 266 (3)(c) of the Act, which is very comprehensive. Presumably "case" has a more limited meaning than "matter", but a good deal might depend on interpretation.

(e) As to the Schedule, the removal of the Class I





posts from the Commission's purview is new, though many of them were practically removed by No.7 of the Functions Rules, which is reproduced in a modified form in Regulation 3. This might have been thought sufficient, perhaps, but the new specific removals are probably the outcome of the opinions expressed by Departments in connection with the drafting of recruitment rules. For the rest the Schedule seems to be generally in accordance with the opinions expressed by the Commission in the list slipped "M" below, though the Class II list seems short. Here again the recruitment rules file may have had an influence.

(f) Again with regard to the Schedule, I am nervous about the expression "special order" in the last line but one. In the Fundamental and other rules this expression is usually employed to mean an order relating to a particular case, as against a "general" order, which applies to everyone. The reference is probably to the ministerial posts "excluded from the ordinary cadre", but the draft would, I think, leave it open to a Minister to admit a particular individual to a particular post in the ordinary cadre without reference to the Commission, and otherwise than by competitive examination.

2. Section 266 (3) <sup>(b)</sup> of the Act is rather vague as to the way in which the Commission is to be consulted on the suitability of candidates. The Functions Rules, though not perfect, are fairly precise on this point. The new law would be literally satisfied if Government were to do its own advertising, make a preliminary selection and send a few selected applications along to the Commission for opinion. This is not the subject of the present reference, however; I merely mention it as a point which I have noticed.

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 Page No. 10

*Chairman*

22/4/36

for 3 years or more are to be so referred. I would like to see this continued. If an officer has been in an appointment for 3 years and it is proposed to extend him, it is next to impossible for the Commission to turn him out even if they don't approve of him. Presentation to the Commission of any fait accompli and pretending that it is consultation is a formality, that is open to objection and should be dispensed with.

op 4 ante

As to 5(a), I think it inevitable that the Classification, Control and Appeal Rules, which are made under section 96B(2), will lapse with the Government of India Act. It would be better, therefore, to specify the penalties. After "suspension" at the end of 5(a), I would add "as a preliminary to inquiry". Suspension, with reduced pay, when awarded as a substantive penalty should be referred to the Commission.

In regard to 5(b), I agree with Secretary. The draft seems to be at variance with the liberal spirit of section 266(3)(c). The draft should, in fact, be turned round so as to provide that when the Governor-General does not propose to grant any prayer addressed to him in a petition or memorial, he should be required to consult the Commission. This, I think, is very desirable in the interests of the Services. The need of consultation in a case when a prayer is granted disappears.

I share the suspicion expressed by Secretary in para 1(f) of his note in regard to the expression "special order". I would amend the last line but one so as to read "or may, with the concurrence of the Public Service Commission, direct etc."

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I have discussed with Secretary Mr. Sloan's letter and enclosures and also Secretary's own note thereon. Generally speaking, I agree with the proposed regulations and the schedule, subject to my remarks below. In these I shall try to avoid points of substance already dealt with by Mr. Reynell.

I am prepared to accept 2(a) and (b) in their entirety. If the Governor-General in his discretion is going to appoint, let him be left to do everything else as well. Even then the regulation says it shall "not be necessary" to consult the Commission. It will, presumably, still be permissible to do so.

I am opposed to the inclusion of the words "a Provincial Service, Class I" and "a Provincial Service, Class II" in 3(a) and 3(b) respectively. I cannot doubt that in the new dispensation of things there will be one standard of the Federal Government and another standard of the Provinces, while the standard of one Province will differ from that of another. In all cases of selection from a Provincial Service, Class I, or Class II, the Commission should be consulted.

In connection with 3(a) and 3(b), I should be glad to know the precise meaning of the expression "the Crown Department".

I do not like the proposal in 4(b) to omit consultation on appointments which may last as long as three years. Rule 5 of our existing "Executive Convention" (see end of reprint of our Functions Rules) lays down that in a case of doubt a reference should be made to the Commission, "since otherwise there is a risk that difficulties may arise if the appointment later is made permanent". Under rule 3, appointments

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2. I should be glad if Members would deal with this as soon as possible as our views should reach the Home Department by 15th May. When all have seen, we had better meet and decide which of the points that may be raised we are to press on the consideration of the Home Department.

D. Petrie,

29. 4. '36.

Dr. Hyder.

Read. I am in agreement with the views of Chairman

J. A. G.

April 30, 1936

So am I  
M 30/4/36

R. Thomson

seen  
The chairman & Secretary have put in all the comments that are necessary & I agree with them

J. A. G.

30.4.36

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CONFIDENTIAL.

No. 76/36-S.

Simla,

6th May, 1936.

My dear Thorne,

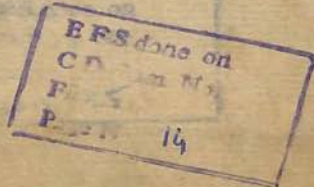
Will you kindly refer to Sloan's D.O. letter No. F.322/II/35-Ests., dated the 1st April, 1936, enclosing a draft of Regulations to be made regarding matters on which the Federal Public Service Commission need not be consulted. I have placed this draft before the Commission and am desired to offer the following comments:-

(i) Regulation 2(b) may perhaps be expanded so as to make it clear that the exclusion relates not only to the principles to be followed in making appointments, but also to the principles to be followed in making promotions and transfers and to the suitability of candidates.

(ii) The Commission are opposed to the inclusion of the words "a Provincial Service, Class I" and "a Provincial Service" in Regulations 3(a) and 3(b) respectively. There is little doubt that under the new dispensation the Federal Government and the Provinces will have different standards and the standard of one Province will differ from that of another. It is desirable that the Commission should be consulted, so that some kind of uniform standard may be maintained.

(iii) I am writing under the presumption that the "Crown Department" is a department which will take over the work at present done by the Foreign and Political Department.

(iv) With regard to Regulation 4(b), the Commission would



15  
44

prefer to retain the arrangement embodied in the "Executive Convention" attached to the Commission's Functions Rules. It is exceedingly difficult for the Commission to refuse concurrence to the proposed further employment of an Officer who has been serving for three years, and is considered by his Department to be suitable. In such a case consultation becomes a mere formality which were better dispensed with. The existing rule gives the Commission an opportunity of expressing an opinion at an earlier stage.

(v) With regard to Regulation 5(a) the Commission presume that the Civil Services (Classification, Control and Appeal) Rules lapse when the New Government of India Act takes effect. They think, therefore, that in this Regulation the penalties should be specified. They also think that the words "as a preliminary to enquiry" should be added after "suspension". They think that they should be consulted before suspension is imposed as a penalty.

(vi) With regard to Regulation 5(b) the Commission observe that it would make it unnecessary for the Governor General (an expression which, in most cases, would mean the Minister in charge of the particular Department of the Government of India) to consult the Commission in a case in which he agreed with the subordinate authority. Section 266(3)(c) of the Government of India Act, 1935, is very comprehensive and the Commission think that it would be more in accord with the spirit of that sub-section to provide that the Governor General should consult the Commission when he does not propose to grant any prayer addressed to him in

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a petition or memorial.

(vii) With regard to the last paragraph in the Schedule, the Commission think that the expression "by special order" is liable to misconstruction. In the Fundamental and similar Rules this expression is commonly used to mean an order affecting a particular individual, and the paragraph in question might be construed to mean that the Minister in charge of any Department of the Government of India could direct that a particular individual might be appointed to any particular post in the Ministerial Service without consulting the Commission. The Commission, therefore, suggest that for the words after "Government of India" in the 4th line there should be substituted the words "have directed or may, with the concurrence of the Public Service Commission, direct that appointments may be made without reference to the Commission".

Yours sincerely,

Secretary,  
Public Service Commission.

J.A. Thorne, Esq., C.I.E., I.C.S.,  
Additional Joint Secretary,  
Home Department,  
Gorton Castle.

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CD Rom No.  
File N  
Page N. 16

x 7.76/362

in looking through this file  
 relating to the regulations to be  
 made by the G.P.: his discretion under  
 Sect 266(3) of the G.P. Act  
 I can find no reference to the Defence  
 Department nor any proposal relating to  
 our Junctions - regard to recruiting civilian  
 personnel for that department under  
 Sect 241 (1) of the Act.

x 7.239/365

The matter was referred to  
 the file regarding the R.I.A.S.C. clerks.  
 I think we should take the matter  
 up & find out how we stand -  
 Please circulate & if possible take  
 to norms.

EP

21.12.36.

See in 28/x11

Circulated  
 Dr. Hydor  
 Mr. Constantine M., 22/12/36  
 Dr. Hydor  
 Mr. Dawson

d. u. G.  
Dec 21, 1936

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Discussed. It was decided  
to raise the question with the DD  
but to point out that if we are  
to be saddled with recruitment for  
all army clerks we will not be  
able to cope with the task as  
organised at present.

ED  
22.12.36

See I think Chairman is to write W.D.  
by 22/11

Chairman.

DDo dictated - these notes  
might go in to the main file.

ED  
22.12.36

See

by 22/11

file  
23/12



18/12  
22/12

19

Metcalfe House,  
Delhi,  
22nd Decr., 1936.

My dear Tottenham,

Will you kindly refer to the last paragraph of the Commission's letter No.F.239/36-E, dated the 21st December, 1936, referring to the question of the Public Service Commission's obligations under section 241(1) of the new Government of India Act? Since this was written I have looked up the file sent us by the Home Department regarding the exemptions which the Governor General proposes to make in his discretion under section 266(3) of the Government of India Act. In the Schedules attached to those draft regulations there is no reference whatever to the Defence Department or posts coming under them. It is, I think, desirable that if it has not been looked into already, the question of the Commission's obligations under section 241(1) in respect of what may be called civilian personnel for the Defence Department should be examined. I should like to express the hope that there is no intention of saddling the Commission with recruitment of all army clerks. If there is any such intention, the Commission's staff as at present organised would not be able to cope with the task.

Yours sincerely,  
E .Gordon.

G.R.F. Tottenham, Esq.,  
C.S.I.; C.I.E., I.C.S.,  
Defence Dept., New Delhi.

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C.D. Rom No.  
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19/pt  
Please see Notes on pp. 17-18/ante. A copy of the Notes has been taken for the Exam. Br. File 7. 239/36-E and a copy of Chairman's D.O. letter to Mr. Tottenham has been added to these Notes. This file may be returned to the Service Branch.

AS.  
28/11/36. JCC  
28/12/36.

Sr. Br.

Perhaps no further action is necessary in the Services Branch. The file may be <sup>kept in</sup> recorded.

129  
Expense.

4/1/37.

113  
4/1

129/27

Please see the notes above. These papers may be recorded.

129

5/2/37.

113  
5/2

129  
5/4/37

Record Expense

allowed to count toward civil  
pension all war service rendered

after attaining the minimum age of

appointment