

# THE EXECUTIVE AGENCIES ACT

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## The Executive Agencies (General) Regulations, 2010

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In exercise of the powers conferred on the Minister by section 18 of the Executive Agencies Act and of every other power hereunto enabling, the following Regulations are hereby made:-

**Citation.** 1. These Regulations may be cited as the Executive Agencies (General) Regulations, 2010.

### *Preliminary*

**Interpretation.** 2. In these Regulations -  
“financial instructions” means the financial instructions issued to Executive Agencies pursuant to the Financial Administration and Audit Act;

“Public Service Regulation” means the Public Service Regulations, 1961, as amended from time to time.

**Operating principles.** 3. - (1) Each Executive Agency shall operate as a performance based institution in order to ensure the achievement of the objects set out in section 3 of the Act.

(2) For the purposes of paragraph (1), the Agency shall -

(a) operate as efficiently and effectively as possible in fulfilling its mandate under the relevant Act;

(b) adhere to employment practices; and

(c) have regard to the interests of the community which it serves and endeavour to accommodate those interests whenever possible.

(3) For the purposes of paragraph (2), the Chief Executive Officer of each Executive Agency shall formulate and implement a human resource

policy containing provisions which are generally accepted as necessary for the fair and proper treatment of employees in all aspects of their employment, including provisions for -

- (a) good and safe working conditions;
- (b) an equal employment programme;
- (c) the impartial selection of suitably qualified persons for appointment; and
- (d) opportunities for the enhancement of the abilities of individual employees.

*Framework document and Performance Agreement*

**Review and updating of Framework Document.**

4. The Chief Executive Officer of each Executive Agency shall take such steps as are necessary to ensure that -

- (a) the Framework Document of the Agency contains all the provisions set out in the Schedule to the Act and is reviewed every three years and updated as necessary; and
- (b) the Framework Document and the Performance Agreement contain provisions requiring the Chief Executive Officer to comply with the financial instructions.

*Corporate Plan*

**Corporate Plan.**

5. - (1) Each Chief executive Officer shall -

- (a) prepare a proposed corporate plan for the Agency to cover a minimum period of three years of operation; and
- (b) submit a copy of the proposed plan to the responsible Minister, responsible permanent secretary and the Financial Secretary on or before January 15<sup>th</sup> of each year or as specified by the Financial Secretary.

(2) The proposed corporate plan shall be in a form approved by the

Financial Secretary, and shall include -

- (a) the Agency's strategic objectives and performance targets together with its broad plans for achieving them;
- (b) the Agency's plans for marketing, operational and information technology and financial and human resources;
- (c) the Agency's main undertakings;
- (d) the information to be provided by the Agency to the Financial Secretary and the responsible Minister during the three year period;
- (e) a business plan containing such information as the Financial Secretary or the responsible Minister requires;
- (f) the key performance indicators of the Agency as determined in accordance with regulation 6;
- (g) such other matters as may be agreed on by the Financial Secretary, the responsible permanent secretary and the responsible Minister from time to time.

(3) The responsible Permanent Secretary shall within fourteen days of receiving the proposed corporate plan submit it with any modifications proposed by the responsible Permanent Secretary to the responsible Minister with a recommendation in writing from the responsible Permanent Secretary for its approval.

(4) The corporate plan may be modified at any time by the Agency with the approval of the responsible permanent secretary and the responsible Minister.

(5) Every Executive Agency shall act only in accordance with its corporate plan unless it has obtained the written approval of the responsible Minister and the responsible permanent secretary to do otherwise.

**Procedure for setting key performance indicators.**

6. The procedure for setting key performance indicators shall require that such indicators -
- (a) are set by the Chief Executive Officer in consultation with the responsible permanent secretary;
  - (b) are related to the core business of the Agency;
  - (c) are clearly linked to the Agency's goals and objectives;
  - (d) provide for transparency and are measurable and credible;
  - (e) are certified by the responsible permanent secretary as being meaningful and relevant to the monitoring of the Agency's performance; and
  - (f) are approved by the responsible Minister.

**Code of Conduct.**

7. - (1) Each Executive Agency shall formulate a Code of Conduct for the information and guidance of members of staff of the Agency.

(2) Without prejudice to the generality of paragraph (1), the Code of Conduct shall contain provisions which, with such modifications as may be necessary, are comparable to the provisions with such modifications as may be necessary, of the Public Service Regulations that are set out in the Schedule to these Regulations.

**Schedule.**

(3) The Code of Conduct shall be published in a Human Resource Manual and the Chief Executive Officer shall take such steps as are necessary to ensure that all members of staff have access to the Manual.

(4) The Code of Conduct shall -

- (a) include provisions relating to -
  - (i) requirements for confidentiality;
  - (ii) the involvement of employees in political activity;
  - (iii) recruitment and appointment of staff;

- (iv) separation;
- (v) conflict of interest;
- (vi) standards of behaviour at the workplace;
- (vii) disciplinary matters;
- (viii) grievance procedures;

(b) require the Chief Executive Officer to establish a Human Resource Executive Committee to manage the human resource functions that are delegated to the Agency pursuant to the Public Service Regulations.

(5) In the exercise of its functions under paragraph (4) (b), the Human Resource Executive Committee shall act in accordance with guidelines established by the Office of the Services Commissions.

**Leave entitlement.**

8. - (1) Subject to paragraphs (2) and (3), each member of staff of an Executive Agency shall be entitled to a minimum of fourteen days vacation leave, ten days sick leave and five days casual leave in each year.

(2) The Chief Executive Officer of an Executive Agency may, if the circumstances so warrant, having regard to the nature of its operations, grant additional leave to members of staff as a performance incentive, so, however, that any such leave shall be in accordance with policy guidelines issued by the Government.

(3) Provisions relating to leave entitlement shall be set out in the Human Resource Manual or the Code of Conduct, as the case may require, of each Executive Agency.

**Linking of service.**

9. - (1) Subject to the provision of this regulation, a person employed in an Executive Agency may be transferred to a post in another Executive Agency and upon such transfer, any leave entitlement earned by and any pension benefits accruing to, the person in relation to the former employment shall

continue to apply while the person remains employed to an Executive Agency.

(2) For the purposes of paragraph (1), a person shall be deemed to be on secondment to the new Executive Agency during the period of six months following the date on which the person commenced duties in that Agency.

(3) The person transferred may at his option exercisable within three months of the date of the transfer -

- (a) be paid for any leave earned in the former employment; or
- (b) be paid in respect of a portion of such leave and be credited with the remaining portion.

(4) The Executive Agency to which a person is transferred shall, in accordance with the relevant provisions of the Executive Agencies (Pension Scheme) 2002, pay pensions contributions in relation to the person so transferred and such contributions shall be based on the person's total years of service in Executive Agencies.

(5) A person who resigns from a post in an Executive Agency and is thereafter employed by another Executive Agency, shall be entitled, on retirement from the Agency in which he is last employed, to a pension in respect of his total years of pensionable service in Executive Agencies.

(6) For the purposes of paragraph (5), the Executive Agency in which the person is employed subsequent to resignation from another Agency shall pay pensions contributions based on the persons total years of pensionable service in Executive Agencies.

#### *Advisory Boards*

**Appointment  
of members of  
Advisory  
Board.**

10. - (1) Each Advisory Board shall consist of not less than five nor more than seven members as the responsible Minister may appoint on the recommendation of the Chief Executive Officer, being persons who are qualified as having had experience or shown capacity in matters relating to law

and finance, or such other matters as the Chief Executive Officer considers appropriate for appointment under this paragraph.

(2) A person shall not be qualified for appointment as a member of the Advisory Board if that person is the responsible permanent secretary or –

- (a) is a member of the Senate or House of Representatives;
- (b) has been convicted of an offence involving fraud, dishonesty or moral turpitude.

(3) The Minister may appoint any person to act temporarily in place of any member of the Board if that member is absent or unable to act.

(4) The Minister shall appoint one of the members of the Advisory Board to be the chairman thereof.

(5) In the case of the chairman's absence or inability to act at any meeting, the members of the Board present at such meeting shall elect one of their numbers to act as chairman at that meeting.

(6) The appointment of every member of the Board shall be evidenced by an instrument in writing which shall state the period not exceeding three years as the Minister may specify and each member shall be eligible for reappointment.

(7) The chairman may at any time resign his office by instrument in writing addressed to the Minister and such resignation shall take effect as from the date of receipt of the instrument by the Minister.

(8) A member other than the chairman may at any time resign his office by instrument in writing addressed to the chairman who shall forthwith cause it to be forwarded to the Minister and that member shall cease to hold office as from the date of receipt of the instrument by the Minister.

(9) The Minister may terminate the appointment of any member who -

- (a) becomes of unsound mind or becomes permanently unable to perform

his functions by reason of ill health;

- (b) becomes bankrupt or compounds with or suspends payment to, his creditors;
- (c) is convicted and sentenced to a term of imprisonment or to death;
- (d) becomes disqualified for appointment by virtue of paragraph (2);
- (e) fails to carry out any of the functions conferred or imposed on him under the Act or these Regulations.

(10) The names of all members of the Advisory Board as first constituted and every change in the membership shall be published in the *Gazette*.

(11) The Board shall meet at such times as may be necessary or expedient for the transaction of business and such meetings shall be held at such places and times and on such days as the Board shall determine.

(12) The chairman may at any time call a special meeting of the Board and shall call a special meeting to be held within seven days of a written request for that purpose addressed to him by any two members of the Board.

(13) The chairman or in the chairman's absence or inability to act, the person appointed under paragraph (5) shall preside at the meetings of the Board and when so presiding the chairman or that person shall have an original and a casting vote in any case in which the voting is equal.

(14) The quorum of the Board shall be three or such higher number as the Board shall determine.

### *Strategic Review*

**Strategic review.**

11. - (1) A strategic review of the operations of each Executive Agency shall be carried out every five years.

(2) The strategic review shall be conducted by such person or persons as are appointed by the responsible Minister on such terms and conditions as are



specified in the instrument of appointment.

(3) The purpose of the strategic review shall be to provide -

- (a) an evaluation of the Agency's performance against key performance indicators; and
- (b) an assessment of the efficacy of the service delivery of the Agency.

(4) The findings of the strategic review shall be used to update the Framework Document and other relevant documents in the Scheme of Management.

(5) The expenses of the strategic review shall be paid out of the funds of the Agency.

### *General*

**Signing of Framework Document and Performance Agreement.**

12. - (1) The Framework Document of each Executive Agency shall be signed by the responsible Minister, the responsible permanent secretary, the Cabinet Secretary, Financial Secretary and the Chief Executive Officer.

(2) Each Performance Agreement shall be signed by the responsible Minister, the responsible permanent secretary and the Chief Executive Officer.

**Performance evaluation.**

13. - (1) The performance evaluation of each Chief Executive Officer shall be conducted by the responsible permanent secretary in consultation with the Chief Executive Officer.

(2) The responsible permanent secretary shall submit the performance evaluation to the responsible Minister and the Chief Personnel Officer.

**Quarterly Reports.**

14. - (1) The Chief Executive Officer shall submit to the responsible Minister through the responsible permanent secretary, quarterly reports on the activities of the Executive Agency during the preceding quarter.

(2) The responsible permanent secretary shall assess the report and shall forward his comments on the Agency's performance with the report to the responsible Minister and the Cabinet Secretary.

**Annual  
Reports.**

15. - (1) The Chief Executive Officer shall submit to the responsible Minister through the responsible permanent secretary, the annual report required by section 15(3) of the Act in relation to the activities and performance of the Executive Agency during the preceding financial year.

(2) The annual report shall include -

- (a) a statement concerning the accounting policies applied in the accounts of the Executive Agency;
- (b) a statement concerning the Agency's actual performance against its key performance indicators; and
- (c) financial statements containing such information as the Financial Secretary requires.

(3) The responsible permanent secretary shall, within one month after the receipt of the report, submit to the responsible Minister and the Cabinet Secretary, an assessment of the performance of the Executive Agency.

SCHEDULE

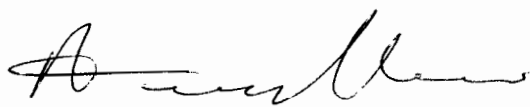
(Regulation 8)

Provisions of the Public Service Regulations to be included with necessary modifications in Codes of Conduct and Human Resource Manuals of Executive Agencies.

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- Regulation 11 - Failure to comply with request of Commission.
- Regulation 13 - Penalty for giving false information.
- Regulation 15 - Supervision of training
- Regulation 16 - Advertisement of vacancies.
- Regulation 17 - Principles of selection for promotion
- Regulation 18 - Principles of selection for acting appointments
- Regulation 19 - Procedure for appointments
- Regulation 20 - Selection Boards
- Regulation 28 - Functions respecting discipline
- Regulation 32 - Interdiction
- Regulation 35 - Officer convicted of a criminal charge
- Regulation 36 - Non-payment of emoluments on conviction of a criminal charge.
- Regulation 38 - Suspension, deferral and withholding of increments
- Regulation 43 - Proceedings for dismissal.

Dated this <sup>2<sup>nd</sup></sup><sub>n</sub> day of *July*, 2010.



Minister of Finance and the Public Service