

## **Part VIII. OFFENCES AND PENALTIES**

### ***Offences***

#### ***Section 44 General offences***

A person commits an offence if he contravenes any of sections 6, 18, 19, 32, 33 or 40 or contravenes any public instrument made under this Law or annexed hereto.

#### ***Section 45 Counterfeiting of seals, weights and measures, stamps, etc.***

- 1) A person commits an offence if he-
  - a) counterfeits any seal specified by or under this Law;
  - b) sells or otherwise disposes of, any counterfeit seal;
  - c) possesses any counterfeit seal;
  - d) counterfeits any stamp made under this Law or any Regulation;
  - e) removes any stamp made under this Law or any Regulation, or tampers with any stamp so made;
  - f) removes any stamp made under this Law or any Regulation and affixes the stamp so removed, on, or inserts the same into, any other weight or measure; or
  - g) wilfully increases or diminishes or alters, in any way, any weight or measure, with a view to deceiving any person or knowing or having reasonable cause to believe that any person is likely to be deceived thereby.
- 2) Any person who by unlawful means obtains possession of any seal specified by or under this Law and uses, or causes to be used, any such seal for making any stamp on any weight or measure with a view to representing that the stamp made by such seal is authorised by or under this Law, commits an offence.
- 3) Any person who, being in lawful possession of a seal specified by or under this Law, uses, or causes to be used, such seal without lawful authority for such use, shall be guilty of an offence.
- 4) Any person who sells, offers or exposes for sale or otherwise disposes of any weight or measure which he knows or has reason to believe to bear thereon a counterfeit stamp shall be guilty of an offence.

#### ***Section 46 Offences committed by persons exercising powers under this Law***

Any person exercising powers under this Law or any public instrument made under this Law or annexed hereto, commits an offence if he-

- a) wilfully verifies or stamps any weight or measure in contravention of the provisions of this Law;
- b) wilfully discloses, except, in the performance of his/her duties, to any person any information obtained by him/her with regard to any trade secret or any secret in relation to any manufacturing process of any weight or measure;

- c) knowing that there are no reasonable grounds for so doing, searches any premises, means of conveyance or place or seizes any weight or measure or any movable property; or
- d) causes the doing of any act referred to above.

#### ***Section 47 Sale of rejected weights and measures***

A person commits an offence if he sells, distributes, delivers or offers, or causes to be sold, distributed, delivered or offered, any weight or measure which has been rejected on verification under this Law or any public instrument made under this Law or annexed hereto:

Provided that nothing in this section shall apply to the sale, as scrap, of any rejected weight or measure which has been defaced in the prescribed manner.

#### ***Section 48 Personating any authorised person***

A person commits an offence if he personates in any way any authorised person.

#### ***Section 49 Giving false information***

A person commits an offence if he gives information to any authorised person, which he may require or ask for in the exercise of his/her duties and which such person either knows or has reason to believe to be false.

#### ***Section 50 Giving false information required under this Law***

A person commits an offence if, being required by or under this Law or any public instrument made under this Law or annexed hereto so to do, he submits a return which is false in material particulars.

#### ***Section 51 Manufacture, etc. of false weights or measures***

A person who manufactures, packs, imports, sells, distributes, delivers, offers for sale or uses any false weight or measure commits an offence.

#### ***Section 52 Imputed knowledge in certain cases***

1) If any person -

- a) manufactures, packs, imports, sells, distributes, delivers or offers for sale, or causes to be manufactured, packed, imported, sold, distributed, delivered or offered for sale, any false weight or measure; or

- b) uses, or causes to be used, any false weight or measure in any transaction or for any industrial production,

s/he shall be presumed, until the contrary is proved, to have so acted knowing that the weight or measure was false.



- 2) If any person has in his/her possession, custody or control any false weight or measure in such circumstances as to indicate that such weight or measure is likely to be used in any transaction or for any industrial production, it shall be presumed, until the contrary is proved, that such false weight or measure was possessed, held or controlled by such person with the intention of being used in any transaction or for any industrial production.

### **Section 53    *Liability of employer***

- 1) An employer who knows or has reason to believe that any person employed by him/her has, in the course of such employment, contravened any provision of this Law or any public instrument made under this Law or annexed hereto, shall be deemed to have abetted the contravention of such provision:

Provided that no such abetment shall be deemed to have taken place if such employer has, before the expiry of seven days from the date-

- a) on which he has knowledge of the contravention; or
  - b) has reason to believe that a contravention has taken place, notified any authorised person of the name of the person by whom such contravention was made and the date and other particulars of such contravention.
- 2) Any person who is deemed by virtue of subsection (1) to have abetted the commission of an offence in contravention of this Law or any public instrument made under this Law or annexed hereto shall be liable to the same penalties as if he had contravened the relevant provision.

### **Section 54    *Offences by companies and liability of officers***

- 1) Where an offence under this Law or any public instrument made under this Law or annexed hereto is committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, shall be deemed to have committed the said offence:

Provided that nothing contained in this subsection shall render any person liable to punishment if he proves that the offence was committed without his/her knowledge or that he has exercised all due diligence to prevent the commission of such offence.

- 2) Notwithstanding anything contained in subsection (1), where an offence under this Law or any public instrument made under this Law or annexed hereto has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any Director, Secretary or other officer of such company, he shall also be deemed to be guilty of that offence.
- 3) For the purposes of this section -
  - a) "company" means any body corporate or unincorporated and includes a firm or other association of individuals;

- b) "director", in relation to a firm, includes a partner in the firm.

### ***Penalties and Powers of the Court***

#### ***Section 55 Penalties***

- 1) Subject to the provisions of subsections (2) and (3), a person who commits an offence under this Law or any public instrument made under this Law or annexed hereto, is liable to imprisonment for a term not exceeding twelve months or to a fine not exceeding one thousand pounds or to both such penalties.
- 2) A person who commits an offence under section 54 is liable to imprisonment for a term not exceeding three years or to a fine not exceeding five thousand pounds or to both such penalties.
- 3) A person who commits an offence under section 56 is liable to a fine not exceeding five hundred pounds.

#### ***Section 56 Additional powers of the Court***

Where a person is convicted of an offence under this Law, or any public instrument made under this Law or annexed hereto the Court may in its discretion, in addition to any other penalty, order the seizure of any weight or measure in relation to which the offence has been committed.

## **Part IX. MISCELLANEOUS**

#### ***Section 57 Hierarchical recourse***

- 1) A person aggrieved by a decision, act or omission of any authorised person, made under the provision of this Law, may have recourse to the Minister.
- 2) The recourse shall be made in writing within a period of thirty days from the day of notification of the decision or act of any authorised person or, in case of omission or no such notification, from the date on which the act, decision or omission came to the knowledge of the aggrieved person.
- 3) The Minister shall examine the recourse and, after hearing the interested parties or affording them the opportunity to state their case in writing, as he may deem proper, decide in accordance with paragraph (4).
- 4) The Minister may -
  - a) confirm or annul the challenged decision, act or omission;
  - b) amend the challenged decision, act or omission or issue a new decision, substituting the challenged decision, act or omission;
  - c) send back the case to any authorised person for review in the light of any instructions or comments.



## **Section 58    *Recourse to the Court***

Any person who is not satisfied with a decision of the Minister or, if no recourse to the Minister is made within the period specified in section 63, with a decision, act or omission of any authorised person, may have recourse to the Court.

## **Section 59    *Regulations***

- 1) The Presidential Council may make Regulations to be published in the Gazette for the better carrying out of the provisions of this Law.
- 2) In particular, and without prejudice to the generality of subsection (1), such regulations may provide for all or any of the following matters:
  - a) supplementary, derived, special or other units of weights or measures, standard symbols or definitions;
  - b) multiples and sub-multiples of units of weights and measures and physical constants, ratios or coefficients in relation to such units of weight or measure;
  - c) denominations of decimal multiples and sub-multiples of numerals and the manner in which they shall be written;
  - d) periodical intervals at which the accuracy of the objects or equipment referred to in section 21 shall be kept;
  - e) the manner in which and the conditions under which every federal prototype, referred to in section 20, and any object or equipment, referred to in section 21, shall be kept;
  - f) the places at which, the manner in which and the conditions under which every reference, secondary and working standard shall be kept;
  - g) the place at which, the authority by which, the manner in which and the periodical intervals at which, every reference, secondary and working standard shall be verified and authenticated;
  - h) the custody in which every reference, secondary or working standard shall be kept;
  - i) the physical characteristics, configuration, constructional details, materials, equipment, tolerances, performance, methods or procedures of test, in relation to standard weights or measures;
  - j) the manner of disposal of any commodity which is subject to speedy or natural decay;
  - k) the manner of declaration of the contents of a package;
  - l) the capacity up to which a package shall be filled;
  - m) the reasonable variations in the net content of a commodity in packaged form which may be caused by the method of packing or ordinary exposure;
  - n) the form and the manner in which an application shall be made for the issue of a weight or measure type approval certificate or a certificate of registration of repairers of weights and measures, of public weighbridges and of units of measurement of public weighbridges, as well as the form in which and the conditions subject to which such a certificate may be issued;
  - o) the period within which weights and measures shall be verified;

- p) the form in which a certificate of verification of any weight or measure shall be granted;
  - q) the steps to be taken for verifying any weight or measure which cannot be moved from its location;
  - r) the manner of defacement of rejected weights or measures;
  - s) the form in which appeals may be drawn up and the procedure for the hearing of appeals;
  - t) the manner of payment and collection of the fees or charges which may be levied under this Law;
  - u) the powers and duties of any authorised person, other than those specified in this Law; and
  - v) any other matter which is required to be or may be prescribed by regulations made in accordance with this section.
- 3) The Presidential Council may by Regulations prescribe any fees and charges for -
- a) the examination and issue of a weights and measures type approval certificate;
  - b) the registration of repairers of weights and measures, public weighbridges and units of measurement of public weighbridges;
  - c) the verification of any weight or measure;
  - d) the issue of copies of any certificate or of any document, not being a document of a confidential nature; and
  - e) a hierarchical recourse under section 61.
- 4) In exercising its powers under this section the Presidential Council may -
- a) provide for the transposition and implementation of the provisions of any Regulation, Directive or other relevant act of the European Community which is related to metrology; and
  - b) take into consideration any recommendations or decisions of the International Organisation of Legal Metrology or of the General Conference of weights and Measures.

### ***Section 60 Regulations and Orders set out in the Annexes***

- 1) The Regulations set out in Annexes... shall be deemed to be Regulations made under section 65.
- 2) The Orders set out in Annexes... shall be deemed to be Orders made under sections 39,43,44 and 47.
- 3) The Presidential Council or the Minister, as the case may be, may at any time, amend, repeal or substitute, in whole or in part, the Regulations or Orders set out in the Annexes hereto.

### ***Section 61 Savings***

Any weight or measure verified and stamped by any authority in Cyprus shall be deemed to be a weight or measure verified and stamped under this Law, if the said



verification and stamping are recognised as valid under Article 12 of the Foundation Agreement

***Section 62 Transitional provisions***

- 1) The use of supplementary indications shall be authorised until 31 December 2009.
- 2) Any application, procedure or proceeding submitted or instituted prior to this Law shall be instituted, continued or enforced, as the case may be, pursuant to this Law and any public instrument made under this law or annexed hereto.

## ATTACHMENT 18: FEDERAL LAWS ON INTELLECTUAL PROPERTY

[insert agreed text no later than 25 March 2003. If agreement is not reached by that date, the constituent states shall, *ad interim*, exercise the functions governed by this law, upon entry into force of the Foundation Agreement. A committee established by the Co-Presidents shall present a common draft of this law for approval by the transitional federal Parliament no later than 15 May 2003. The transitional Parliament shall resolve any outstanding issues regarding the law and adopt it no later than 15 June 2003. Should the law not be adopted by the transitional Parliament by the specified date, the Supreme Court shall decide on the unresolved issues giving due regard to the positions of both constituents and promulgate the law within six weeks of that date.

### Law 1: Federal Law on Copyright

### Law 2: Federal Law on the Legal Protection of Topographies of Semiconductor Products

### Law 3: Federal Law on Trade Marks

### Law 4: Federal Law on Patents

### Law 5: Federal Law on the Legal Protection of Designs

### Law 6: Federal Law on the Designation of Origin and Geographical Indications of Agricultural Products and Foodstuffs

### Law 7: Federal Law on the Control of Movement of Goods which Infringe Intellectual Property Rights



## **ATTACHMENT 19: FEDERAL LAWS ON ANTIQUITIES**

[insert agreed text no later than 25 March 2003. If agreement is not reached by that date, the constituent states shall, *ad interim*, exercise the functions governed by this law. A committee established by the Co-Presidents shall present a common draft of this law for approval by the transitional federal Parliament no later than 15 October 2003. The transitional Parliament shall resolve any outstanding issues regarding the law and adopt it no later than 15 November 2003. Should the law not be adopted by the transitional Parliament by the specified date, the Supreme Court shall decide on the unresolved issues giving due regard to the positions of both constituents and promulgate the law within six weeks of that date.]

### **Law 1: Federal Law on Antiquities**

### **Law 2: Federal Law on the Return of Cultural Objects**

### **Law 3: Federal Law on the Extent of Cultural Objects**

## **ATTACHMENT 20: FEDERAL LAWS ON ELECTIONS**

[insert agreed text no later than 25 March 2003. If agreement is not reached by that date, the constituent states shall, *ad interim*, exercise the functions governed by this law. A committee established by the Co-Presidents shall present a common draft of this law for approval by the transitional federal Parliament no later than 1 August 2003. The transitional Parliament shall resolve any outstanding issues regarding the law and adopt it no later than 1 September 2003. Should the law not be adopted by the transitional Parliament by the specified date, the Supreme Court shall decide on the unresolved issues giving due regard to the positions of both constituents and promulgate the law within six weeks of that date.]

### **Law 1: Federal Law on the Members of Parliament (Senate and the Chamber of Deputies) (Transitional Provisions)**

[text shall include provisions on eligibility and incompatibility for members of federal institutions]

### **Law 2: Federal Law on the Members of Parliament (Senate and the Chamber of Deputies)**

[text shall include provisions on eligibility and incompatibility for members of federal institutions]



**ATTACHMENT 21: FEDERAL LAW ON FEDERAL GOVERNMENT**  
**IMMUNITIES AND EXEMPTIONS**

[insert agreed text by no later than 25 March 2003. If agreement is not reached on indispensable provisions of this law by that date, the United Nations Secretary-General shall insert his suggestion for completing such provisions, which shall be put to referenda with the rest of the Foundation Agreement.]

## ATTACHMENT 22: FEDERAL LAWS ON ADMINISTRATION

### Law 1: Federal Law on the Functioning of the Public Service Commission, for the Appointment, Promotion and Retirement of Public Officers, and for Conditions of Service, Disciplinary Proceedings and other Matters relating to the Public Service

[see separate document]

### Law 2: Federal Law on Pensions

[insert agreed text no later than 25 March 2003. If agreement is not reached by that date, the constituent states shall, *ad interim*, exercise the functions governed by this law, upon entry into force of the Foundation Agreement. A committee established by the Co-Presidents shall present a common draft of this law for approval by the transitional federal Parliament no later than 1 August 2003. The transitional Parliament shall resolve any outstanding issues regarding the law and adopt it no later than 1 September 2003. Should the law not be adopted by the transitional Parliament by the specified date, the Supreme Court shall decide on the unresolved issues giving due regard to the positions of both constituents and promulgate the law within six weeks of that date.



Foundation Agreement  
Annex III, Attachment 22, Law 1

**Federal Law on the Functioning of the  
Public Service Commission for the  
Appointment, Promotion and Retirement of  
Public Officers and for Conditions of  
Service, Disciplinary Proceedings and  
other Matters Relating to the Public Service**

The text of this Law is as provisionally agreed (subject to agreement of the political leaders) in the Technical Committee on Laws, save for highlighted parts which represent the suggestions of the United Nations to resolve outstanding issues.

## ***Section 1 Short title***

This Law may be cited as the "Federal Law on Public Service".

## **Part I. PRELIMINARY**

### ***Section 2 Interpretation***

In this Law, unless the context otherwise requires -

"appropriate authority" means

- a) the Presidential Council in respect of the Director of the Presidential Council's Office and of the officers of such Office, but in respect of these officers, usually acting through the Director of the Presidential Council's Office;
- b) the President of either Chamber of the Parliament in respect of the Permanent Secretary of either Chamber of the Parliament and of the officers of either Chamber of the Parliament, normally acting through the Permanent Secretary of either Chamber of the Parliament in respect of these officers;
- c) the President of the Supreme Court of Cyprus in respect of the Chief Registrar and of the Registrars and of the officers of the Supreme Court of Cyprus and of all other courts under its authority, normally acting in respect of them through the Chief Registrar;
- d) the Presidential Council in respect of the Permanent Secretaries of the Departments (Ministries) and the Secretary of the Presidential Council and the officers of its Secretariat, normally acting in respect of them through the Secretary of the Presidential Council;
- e) the Head of an Independent Office or Service in respect of the officers of such Office or Service;
- f) the Minister normally acting through the Permanent Secretary of his/her Department in respect of the officers of his/her Department and of any department under his/her Department.

"Attorney General" means the federal Attorney-General;

"Chairman" means the Chairman of the Public Service Commission;

"Commission" means the Public Service Commission;

"Court" means a court of competent jurisdiction;

"department" means any Division or Service in a Department as may be prescribed;

"Department" means any federal Department provided for by the Constitution of the United Cyprus Republic;



"Gazette" means the federal Official Gazette;

"Head of department" means the holder of the highest office in the hierarchy of the department and in the case of an Independent Office or Service the Head thereof and includes the Director of the Presidential Council's Office, the Permanent Secretary of either Chamber of the Parliament in respect of the officers of either Chamber of the Parliament, the Permanent Secretary of a Department in respect of the officers not under a department of the Department, the Secretary of the Presidential Council in respect of the officers of its Secretariat and the Chief Registrar in respect of the Registrars and all officers of the Supreme Court of Cyprus and of all other Courts under the authority of the Supreme Court of Cyprus;

"law" includes any federal provision of a legislative nature and the federal Budget;

"member state" means any member state of the European Union;

"Minister" means the Head of a Department;

"office" means a public office;

"officer" means a public officer;

"oral examination" means individual or collective oral examination and includes interview;

"Parliament" means the federal Parliament or any Chamber thereof;

"prescribed" means prescribed by a public instrument;

"public instrument" includes Regulations, Orders, Rules and any other instrument made or issued under this Law;

"public office" means an office in the public service;

"public officer" means the holder, whether substantive or temporary or acting, of a public office;

"public service" means any federal service other than the federal judicial service or service in the Joint Investigation Agency or the federal Police or service in the Office of the Attorney-General or Auditor-General or their Deputies or service in any Office in respect of which other provision is made by law or service by persons employed on a casual basis or by persons whose remuneration is calculated on an hourly basis;

"service" means public service.

### ***Section 3    Application of this Law***

Subject to the provisions of this Law, this Law shall apply to all members of the public service except those who do not come within the province of the Commission or for whom other provision is made under any other law in force for the time being.

#### ***Section 4 Composition of public service***

- 1) The composition of the public service shall, where not otherwise specified in the Constitution of the United Cyprus Republic or special majority law, be proportional to the population of the constituent states, though at least one third of the public officers at every level of the administration must hail from each constituent state.
- 2) A public officer may not simultaneously serve as a public officer of a constituent state unless s/he is serving on secondment.

### **Part II. PUBLIC SERVICE COMMISSION**

#### ***Section 5 Public Service Commission***

- 1) There shall be a Public Service Commission consisting of a Chairman and five other members, men and women, appointed by the Presidential Council.
- 2) The members of the Commission shall hail in equal numbers from each constituent state.
- 3) The term of office of the Commission shall be for a period of six years.
- 4) The members of the Commission shall be dismissed only for the same reasons and in the same manner as the Supreme Court Judges can be dismissed.
- 5) Any member of the Commission may at any time resign his/her office by writing under his/her hand addressed to the Presidential Council.
- 6) If during any period any member of the Commission is on leave, or is unable owing to absence from Cyprus or to illness or to any other cause, to perform his/her duties or to discharge his/her functions as a member of the Commission under this Law, the Presidential Council may appoint any person qualified to be a member of the Commission, to be a temporary member for the period during which the member is on leave or is so disabled.
- 7) No person shall be appointed as, or be, a member of the Commission, unless-
  - a) s/he is a citizen of Cyprus, of high moral character and possesses the qualifications for election as a member of Parliament,
  - b) s/he is not or has not been during the twelve months prior to his/her appointment in respect of the Chairman or during the six months prior to his/her appointment in respect of any member –
    - i) a Minister, or a Minister of either constituent state;
    - ii) a member of Parliament or a member of the Legislature of either constituent state;



- iii) a public officer, or a public officer of either constituent state, or an officer serving in the public sector in general of either constituent state;
  - iv) an employee of any local authority or legal person or organisation of common interest established by law for the public interest, and
  - v) a member of a trade union or association or organisation belonging to that trade union.
- c) s/he possesses a university degree or other equivalent qualification and has had at least fifteen years professional experience in the public and/or private sector, out of which at least five years in a senior post .

#### ***Section 6 Functions of the Commission***

Save where other express provision is made in this or any other law with respect to any matter set out in this section and subject to the provisions of this or any other law in force for the time being, it shall be the duty of the Commission to appoint, confirm, emplace on the permanent establishment, promote, transfer, second, retire and exercise disciplinary control over, including dismissal or removal from office of, public officers.

#### ***Section 7 Emoluments***

The emoluments of the Chairman and the member of the Commission shall be specified by law and shall not be adversely amended after their appointment.

#### ***Section 8 Nature of service***

The service of the Chairman and the other members shall be on a full-time basis and subject to the hours of work fixed by the Presidential Council from time to time for public officers.

#### ***Section 9 Private employment***

Except with the consent of the Presidential Council, the Chairman and the other members of the Commission shall not engage in any profession or work or employ themselves in any business nor shall they accept on payment any other employment or engagement outside their duties.

#### ***Section 10 Leave and other benefits***

The Chairman and the other members of the Commission shall be eligible for such vacation and sick leave and other benefits as may be determined from time to time by the Presidential Council.



### ***Section 11 Chairman of the Commission***

- 1) The Chairman shall be the head of the Commission and of its Office, shall convene and preside at the meetings of the Commission and shall sign the minutes and any important correspondence or documents.
- 2) The Chairman shall prepare the agenda of every meeting and cause them to be communicated to every member of the Commission at least twenty-four hours before the meeting. In case of urgency the agenda may be circulated amongst the members immediately before the holding of the meeting.
- 3) The Chairman shall insert in the agenda any subject if so requested by any member of the Commission not later than forty-eight hours before the holding of the meeting if such subject can conveniently be dealt with at such meeting, otherwise the subject shall be included in the agenda of a future meeting at which it may conveniently be dealt with, but in any case not later than fifteen days from the date on which the request is made.
- 4) The Chairman shall insert in the agenda, within one week of the receipt of a request therefore, any subject referred to him by the appropriate authority.
- 5) It shall be the duty of the Chairman to see that every decision of the Commission is duly executed.

### ***Section 12 Proceedings at meetings and minutes***

- 1) If the Chairman is unable to attend and preside at any meeting, the members present shall elect one from amongst themselves to preside at the meeting, being a person hailing from the same constituent state as the Chairman of the Commission.
- 2) Subject to the ensuing provisions of this subsection, any decision of the Commission shall be taken by a majority vote of its members, including one member from each constituent state.
- 3) The Chairman and three other members or, in case of absence of the Chairman, four members, present at any meeting, shall constitute a quorum.
- 4) There shall be kept minutes of the proceedings of every meeting in which there shall be recorded in a summary form what has taken place at the meeting. Any member present at the meeting may require his/her views, which are material to a decision, to be recorded in the minutes.
- 5) Copy of the minutes shall, as expeditiously as possible, and in any event not later than seven days after the meeting, be distributed amongst the members. Any observations on the minutes so distributed shall be submitted to the Chairman in writing within forty-eight hours of their distribution, and determined at the meeting next following and the minutes

shall then be confirmed. If no such observations are made within the aforesaid period the minutes shall be deemed to have been confirmed.

- 6) The minutes when confirmed shall be signed by the Chairman of the meeting and kept in a special book or file of minutes.
- 7) Subject to the provisions of this Law, the Commission may regulate its own procedure.

### ***Section 13 Privilege of minutes, etc.***

The minutes of any meeting or other proceedings of the Commission and any report, statement, communication or other document received by the Commission in the exercise of its functions under this Law shall be privileged and shall not be produced in any legal proceedings unless the Chairman certifies, on the advice of the Attorney-General, that such production is not against the public interest or unless the Court requires them for its own inspection.

### ***Section 14 Vacancy***

- 1) Where the Chairman or any other member of the Commission becomes disqualified from holding office, the Presidential Council shall terminate his/her appointment.
- 2) Where the appointment of the Chairman or other member of the Commission is terminated either in accordance with subsection (1) of this section or in accordance with subsection (4) of section 5 or where the office of the Commission becomes vacant for any reason, the Presidential Council shall proceed within forty-five days to make a new appointment for the unexpired period of the term of office of the Commission of a new member hailing from the same constituent state as the member whose appointment is so terminated.
- 3) The validity of any act or proceedings of the Commission shall not be affected by reason of any vacancy in the number of its members if and so long as the number of members is not less than four.

### ***Section 15 Office of the Commission***

- 1) There shall be an Office of the Commission.
- 2) Upon proposal of the Commission, there shall serve in the Office of the Commission such number of public officers as may be decided by the Presidential Council from time to time, one of whom shall act as Secretary.
- 3) The Secretary shall have charge of the Commission's Office and shall, in accordance with any instructions which may be given to him by the Chairman, attend its meetings and keep the minutes thereof. The Secretary shall convey all the decisions of the Commission to any authority or person concerned, keep the correspondence and records of



the Commission and make them available to any member as may be required by such member for the performance of his/her duties.

#### ***Section 16 Obligation to secrecy***

- 1) The Chairman and every other member of the Commission shall regard and treat any matter raised or discussed at any meeting or other proceeding of the Commission and any information, written or oral, which has come to his/her knowledge in the course of his/her duties as secret and shall not, without the consent of the Commission given in writing by the Chairman, disclose or communicate any such matter or information except for the proper performance of his/her duties.
- 2) The Chairman or any other member of the Commission who acts in contravention of, or fails to comply with, the provisions of subsection (1), shall be guilty of an offence and shall be liable to imprisonment for a term not exceeding two years or to a fine not exceeding five thousand pounds or to both such imprisonment and fine.

#### ***Section 17 Abstention from duties***

On the commencement of the procedure for the dismissal of the Chairman or of any member of the Commission in accordance with subsection (4) of section 5, the Chairman or such member shall abstain from his/her duties until this procedure comes to an end.

#### ***Section 18 Protection of members***

Subject to the provisions of this Law, neither the Chairman nor any other member of the Commission shall be liable for any words spoken or any act done or omitted to be done in the bona fide execution of their duties.

#### ***Section 19 Motion to take action***

- 1) Subject to the provisions of the remaining subsections of this section, the Commission shall not proceed to fill any vacancy in any public office except upon the receipt of a written proposal to that effect from the appropriate authority.
- 2) Subject to the provisions of section 35, the appropriate authority shall submit a proposal for the filling of any vacant office within four months of the date of the establishment of the office or the vacancy of the latest.
- 3) Where the appropriate authority does not comply with the provisions of subsection (2), the Commission shall proceed with the filling of the office without the proposal of the appropriate authority.
- 4) A proposal of the appropriate authority for the filling of an office cannot be withdrawn.



**Section 20 Requirement of public officers to supply information, etc.**

The Commission may require, through the appropriate authority concerned, any public officer to attend and give evidence before it or supply any information or assist the Commission concerning any matter which the Commission is required to consider in the exercise of its functions and may require the production of any official documents relating to any such matter.

**Section 21 Documents to be made available**

Any public officer who submits any matter for the consideration of the Commission shall ensure that all relevant documents and papers are made available to the Commission.

**Section 22 Failure to comply with request of Commission**

Any public officer who during any disciplinary proceedings before the Commission acts in an improper or contemptuous for the Commission manner or without reasonable excuse fails to appear before the Commission when lawfully required to do so, or who fails to comply with any direction lawfully and properly made by the Commission, shall be guilty of a breach of discipline and, notwithstanding the provisions of section 84, the Commission may institute disciplinary proceedings against him and impose any of the punishments provided by Part II of Annex 1 of this Law.

**Section 23 Annual report**

The Chairman of the Commission shall submit, in the first half of each year, a report on the work of the Commission during the preceding year for the information of the Presidential Council.

**Part III. STRUCTURE OF THE PUBLIC SERVICE****Section 24 Permanent and temporary offices**

- 1) An office may be either permanent or temporary.
- 2) A permanent or temporary office is created as such by or under a law specifying its title and the salary or salary scale of the office.

**Section 25 Maximum number of offices**

The maximum number of permanent or temporary offices shall be specified by the law creating them.

### ***Section 26 Pensionable offices***

Permanent offices shall be pensionable.

### ***Section 27 Interchangeable and non -interchangeable offices***

- 1) Offices shall be divided into interchangeable and non- interchangeable.
- 2) Interchangeable offices shall pertain into one of the following categories:
  - a) General Administrative staff;
  - b) General Secretarial Staff;
  - c) General Auxiliary Staff.
- 3) Interchangeable offices referred in subsection (2), the holders of which shall be referred in this Law as "interchangeable staff", shall constitute a separate department with Head of department the Director of Public Administration and Personnel department.
- 4) Any other offices are non-interchangeable.
- 5) The Presidential Council may prescribe any non-interchangeable offices as interchangeable and vice-versa and it may appoint the Head of interchangeable or non-interchangeable offices, in every case.

### ***Section 28 Grades***

Subject to the provisions of section 27, public offices shall be divided into such grades as may be prescribed by law.

## **Part IV. APPOINTMENTS, PROMOTIONS, TRANSFERS, RESIGNATIONS AND RETIREMENTS**

### ***Section 29 Interpretation***

For the purposes of this Law, unless the context otherwise requires –

"appointment" means the conferment of an office upon a person not in the public service or the conferment upon an officer of an office other than that which s/he substantively holds, not being a promotion; the expression "to appoint" shall be construed accordingly;

"promotion" means any change in an officer's substantive status which carries with it an increase in the officer's remuneration or which carries with it the emplacement of the officer in a higher division of the public service, or on a salary scale with a higher maximum, whether the officer's remuneration at the time is increased by such a change or not; the expression "to promote" shall be construed accordingly.



**Section 30 Schemes of Service**

- 1) The general duties and responsibilities of an office and the qualifications required for the holding thereof shall be prescribed in schemes of service made by a decision of the Presidential Council.
- 2) The schemes of service are published in the Gazette.
- 3) A scheme of service may provide as a prerequisite to appointment or promotion the passing by candidates of an examination.

**Section 31 Categories of offices for purposes of appointment or promotion**

- 1) For the purposes of appointment or promotion, offices shall be divided into the following categories:
  - a) First Entry offices to which persons not in the public service or officers may be appointed;
  - b) First Entry and Promotion offices to which persons not in the public service may be appointed and officers may be appointed or promoted;
  - c) Promotion offices to which officers serving in the immediately lower grade or office of the particular division or sub-division of the public service, as the case may be, may be promoted.
- 2) The category of each office shall be fixed in the respective scheme of service.
- 3) For the purposes of this section, "division or sub-division of the public service" means a division or sub-division of the public service composed of two or more grades of the same office, or of different offices of a similar nature to which different salaries or salary scales are attached.

**Section 32 Procedure for filling vacancies in offices**

- 1) A vacancy in a First Entry office or in a First Entry and Promotion office shall be advertised in the Gazette.
- 2) A vacancy in a Promotion office shall be filled, without advertisement, by the promotion of an officer serving in the immediately lower grade or office of the particular division or sub-division of the public service.

In this subsection "division or sub-division of the public service" has the same meaning as in section 31.
- 3) An advertisement of a vacancy in an office shall give full particulars of the relevant scheme of service and shall specify the date by which applications shall be submitted.



### ***Section 33 Methods of filling offices***

- 1) A permanent office may be filled either on a permanent basis or on a temporary basis on secondment or on contract for a limited period or on a month-to-month basis, as the Presidential Council may direct.
- 2) A temporary office may be filled either by the secondment of a permanent officer or by the appointment of a person on contract for a limited period or on a month-to-month basis, as the Presidential Council may direct.

### ***Section 34 Qualifications for appointment***

- 1) No person shall be appointed to the public service unless-
  - a) s/he is a citizen of Cyprus or of any member state or Turkey, provided that this requirement shall not apply to any designated post;
  - b) s/he has attained the age of seventeen years;
  - c) s/he possesses the qualifications laid down in the scheme of service for the particular office to which appointment is proposed to be made;
  - d) s/he has not been convicted of an offence of dishonesty or involving moral turpitude;
  - e) s/he has not been previously dismissed or his/her services terminated from the public service of the federal government or the constituent states for a disciplinary offence;
  - f) s/he is certified by an official medical officer in the service of the constituent states as suitable from the health point of view for the office in question after a medical examination including an X-Ray of the chest:

Provided that any person who is not a citizen of Cyprus or of a member state or Turkey, shall also in order to be able to be appointed in the public service, submit, simultaneously with his/her application for appointment, through the Commission, an application to the Presidential Council. The Presidential Council decides before the reaching of a decision by the Commission as to the most suitable candidate to be appointed, whether the appointment of such person, in case of his/her selection, would serve the public interest and in case s/he is selected, s/he may be appointed-

- i) on contract for a limited period; or
  - ii) on a permanent basis, if that person had rendered satisfactory services on contract for a period of not less than four years.
- 2) For the purposes of paragraph (a) of subsection (1) designated post is a post which is designated by the Presidential Council as being one to which only citizens of Cyprus can be appointed.

### ***Section 35 Establishment of Advisory Boards***

- 1) There may be established the following Advisory Boards for the purpose of advising the Commission in connection with the filling of vacant First Entry

or First Entry and Promotion offices, excluding the filling the vacant offices of the Heads of departments:

a) for the filling of vacancies in a Department, there shall be established a Board consisting of:

- iii) the Permanent Secretary of the Department concerned who shall act as Chairman; and
- iv) four other most senior officers after the Permanent Secretary, provided they serve in Cyprus;

b) for the filling of vacancies in a department under a Department there shall be established a Board consisting of the Head of the department or Service concerned who shall act as Chairman, and four other most senior officers:

Provided that every time the filling refers to vacant offices the holders of which are immediate subordinates of the Head of the department concerned, the Permanent Secretary of the Department concerned shall act as Chairman and its remaining members, of which one shall be the Head of the department concerned, shall be selected by the Permanent Secretary of the Department concerned and shall be approved by the appropriate authority for the specific case:

c) for the filling of vacancies in the Parliament, the Judicial department, in an Independent Office or Service, there shall be established a Board consisting of:

- i) the Head of that Office, who shall act as Chairman; and
- ii) the four other most senior officers after the Head of the Office concerned;

d) for the filling of vacancies for the interchangeable staff there shall be established a board consisting of:

- i) the Director of the Public Administration and Personnel department who shall act as Chairman; and
- ii) by other four officers who shall be selected by the Permanent Secretary of the Department having, for the time being, responsibility in respect of financial matters in consultation with the Head of the department and shall be approved by the member of the Presidential Council having, for the time being, responsibility in respect of financial matters for the particular case:

Provided that, where the vacancy refers to an office immediately below that of the office of the Director is attached, the Permanent Secretary of the Department having, for the time being, responsibility in respect of financial matters shall act as Chairman and the Director of the Public Administration and Personnel department shall participate as one of the other four members.

2) The members of the Advisory Boards shall in all cases be of a higher rank or grade than the vacancy to be filled.



- 3) Where, in the absence of suitable officers or as a result of an obstacle, it is considered proper for officers from another Department, Independent Office or Service, in which the vacant post does not come under, to be selected as members of an Advisory Board, these officers shall be selected in consultation with the appropriate authority in charge of these officers.
- 4) Three of the members of the Advisory Board shall form a quorum.
- 5) Where the Chairman is absent or prevented from attending a meeting, the highest in hierarchy, or if there is none, the most senior member shall act as Chairman.
- 6) No decision of the Advisory Board shall be valid unless taken with three votes, including one person hailing from each constituent state.

### ***Section 36 Procedure for Filling of First Entry Offices***

- 1) Irrespective of the provisions of section 19, within the first six months each year the Commission shall publish in the Gazette on the basis of the particulars given by the appropriate authority, all First Entry Offices which are or are expected to be vacant until the end of the year.
- 2) The publication shall give full particulars of the scheme of service and shall fix the deadline for the submission of applications.
- 3) After the expiration of the deadline for the submission of applications the Secretary of the Commission shall forward as soon as possible to the Chairman of the Advisory Board concerned all applications submitted, the Personal Files and the Files of the Annual Appraisal Reports of the candidates who are public officers and a copy of the publication in the Gazette.
- 4) The Advisory Board shall convene in the next two weeks and shall have the candidates examined in writing or orally or in both, subject to the provisions of the scheme of service concerned:  
  
Provided that the candidates of one office may be submitted to the same written examination together with candidates of other offices.
- 5) The Advisory Board may delegate to a Service or to officers or seek the services of appropriate academic or professional bodies or persons, in the preparation of the papers and the marking thereof in the case of a written examination.
- 6) The Advisory Board, having read to the results of the written and an oral examination of the candidates, whatever has been conducted, the qualifications of the candidates in relation to the duties of the office, the content of the Personal Files and of the Annual Appraisal Reports of the candidates who are public officers, as well as the remaining particulars of the applications shall make out and forward to the Commission a report giving full reasons for all candidates as well as a preliminary list containing



in alphabetical order the names of the candidates it considers the most suitable, hereinafter referred to as the "preliminary list".

- 7) The number of the candidates who shall be included in the preliminary list shall be four times the number of the published offices as long as there are suitable candidates.
- 8) The Commission after examining the preliminary list on the basis of the particulars referred in subsections (6) and (7), shall make out the list of the most suitable candidates hereinafter referred to as the "final list":

Provided that the Commission giving full reasons for its decision, may include in the final list candidates who are not included in the preliminary list.

- 9) After the preparation of the final list all the published offices or any other offices of the same title, that shall become vacant or be established by the end of the year shall be filled from this list.
- 10) The Commission may, before making the final selection, invite for an interview the candidates who are included in the final list. At the time of the candidates' interview the Commission may be assisted by an official or officials being in a position to give assistance because of his/her or their specialized knowledge.
- 11) The Commission on the final selection and appointment of the candidates duly considers the performance of the candidates in the oral examination and the particulars referring in subsection (6) and selects, taking into account the provision of art. 29(2) of the Constitution.  
Provided that the Commission may select none of the candidates if in its duly reasoned opinion, none of them is suitable for appointment.
- 12) If the selection concerns an office which shall not be vacant on the day the respective decision shall be taken, the decision shall take effect on the day the office shall be vacant, subject to any provision of this Law.
- 13) The procedure for the filling of the offices, in accordance with the provisions of the above mentioned subsections may be continued until 30 June of the following year provided that the offices will continue to be vacant on the day of their filling.
- 14) The general impression of the Advisory Board and of the Commission as regards the candidates' performance during an interview shall always be recorded in their minutes and full reasons given.
- 15) Subject to the provisions of section 34, no person shall be appointed to a First Entry office, unless s/he possesses the qualifications laid down in the scheme of service at the expiration of the time-limit for the submission of the applications and at the time the decision is taken.

### ***Section 37 Procedure for filling of First Entry and Promotion Offices***

- 1) Subject to the provisions of section 19 and without prejudice to the provisions of subsections (11), (12) and (14) of this section, every vacant First Entry and Promotion office shall be published in the Gazette.
- 2) The publication shall give full particulars of the scheme of service and shall specify the time-limit for the submission of applications.
- 3) After the expiration of the said time-limit the Secretary of the Commission shall forward as soon as possible to the Chairman of the Advisory Board concerned all applications submitted, the Personal Files and the Files of the Annual Appraisal Reports of the candidates who are public officers and a copy of the notice published in the Gazette.
- 4) The Advisory Board shall convene in two weeks and shall see that the candidates are submitted to a written or oral examination or to both, subject to the provisions of the scheme of service:  
  
Provided that the candidates of one office may be submitted to the same written examination together with candidates of other offices.
- 5) The Advisory Board may assign to a service or to officers or seek the services of appropriate academic or professional bodies or persons, in the preparation of the examination papers and the marking of the papers of a written examination.
- 6) Then the Advisory Board, having regard to the results of the written and or oral examination of the candidates, whatever has been conducted, the qualifications of the candidates in relation to the duties of the office, the content of the Personal Files and of the Annual Appraisal Reports of the candidates who are public officers, as well as the remaining particulars of the applications, shall forward to the Commission a report giving full reasons for all candidates and a list containing in alphabetical order the names of the candidates it recommends for selection.
- 7) The number of the candidates who shall be recommended by the Advisory Board shall be four times the number of the published vacant offices, as long as there are suitable candidates.
- 8) The Commission may, before making the final selection, invite for an interview the candidates who have been recommended by the Advisory Board as well as any other candidate, who, in its opinion, should have been included in the list of those recommended by the Advisory Board.
- 9) The Commission, thereafter, having due regard to the report of the Advisory Board, the content of all applications submitted, the content of the Personal Files and of the Annual Appraisal Reports of the candidates who are public officers, the recommendations of the Head of the department concerned and the performance of the candidates during the interview, if any, shall select the most suitable candidate taking into account the provisions of article 29 (2) of the Constitution:



Provided that, where the office to be filled is that of the Head of the department, the recommendations are made by the Permanent Secretary of the Department concerned; and

Provided further that the Commission may select none of the candidates, if, in its opinion, none of them is suitable for appointment or promotion.

- 10) The general impression of the Advisory Board and of the Commission as regards the candidates' performance during an interview shall always be recorded in their minutes and full reasons given.
- 11) A First Entry and Promotion office may be published, subject to the provisions of section 19, at any time within the time period of six months before it becomes vacant, when it is expected to become vacant because of the retirement of its holder.
- 12) A First Entry and Promotion office may be published, subject to the provision of section 19, at any time within the time period of six months before it becomes vacant, when it is expected to become vacant because the procedure for the filling of a higher Promotion office in the same division or subdivision of the public service is in progress.
- 13) Every time an office is published in accordance with subsections (11) or (12) of this section, the office shall be filled in the case of subsection (11) when its holder is on retirement leave and in the case of subsection (12) when it becomes vacant.
- 14) A First Entry and Promotion office may be filled by the Commission without publication when it becomes vacant or it is established at the time period during which the procedure for the filling of another office with the same title is in progress. In such a case the office is considered as having been published on the day at which the other office was published.
- 15) No person shall be appointed or promoted to a First Entry and Promotion office unless –
  - a) s/he possesses the qualifications laid down in the scheme of service for that office at the expiration of the time-limit for the submission of the applications and at the time the decision is taken;
  - b) in the case of a candidate who is a public officer, s/he fulfils the conditions of paragraph (c) of subsection (2) of section 38;
  - c) in the case of a candidate who is not a public officer, s/he fulfils the conditions of section 34.
- 16) In this section the term "division or sub-division of the public service" has the same meaning as in section 31.

### ***Section 38 Procedure for filling of Promotion Offices***

- 1) Subject to the provisions of section 19, a vacant Promotion office shall be filled without publication by the promotion of an officer who serves in the grade or office immediately below the division or sub-division of public service concerned.

- 2) No officer shall be promoted to another office, unless –

- a) a vacancy exists in that office:

Provided that in the case of offices with a combined establishment, promotion from the lower to the higher office or grade of that office may be made irrespectively of whether there is a vacancy in the higher office or grade or not, and in accordance with the manner which shall be prescribed:

Provided further that a Promotion office may be filled before becoming vacant, when its holder is on retirement leave;

- b) s/he possesses the qualifications laid down in the schemes of service for that office, at the time when the proposal for the filling of the office is received and at the time the decision is taken;

- c) s/he has not been punished during the preceding two years for any disciplinary offence of a serious nature.

- 3) The claims of officers to promotion shall be considered on the basis of merit, qualifications and seniority, taking into account the provisions of article 29 (2) of the Constitution.

- 4) In making a promotion, the Commission shall have due regard to the content of the Personal Files and of the Annual Appraisal Reports Files of the candidates, to the reasoned recommendations made in this respect by the Head of the department in which the vacancy exists and the impression made to the Commission by the candidates during the interview, if any:

Provided that, where the office to be filled is that of the Head of the department, the recommendations are made by the Permanent Secretary of the Department concerned.

- 5) For the purposes of this section –

"division or sub-division of the public service" has the same meaning as in section 31;

"offices with a combined establishment" means two or more separate offices or two or more grades of the same office, which have a common establishment.

### ***Section 39 Special provisions for filling of permanent offices***

- 1) Notwithstanding any provision of this law, no vacant permanent office in any Department or Independent Office or Service shall be published, where an officer is serving in this said Department or Independent Office or Service, having been selected in accordance with section 33 either on a month-to-month basis or on secondment in a permanent office under the same title or in a temporary office under the same title, in which case this office is filled by the Commission, in compliance with the relevant procedures for the approval of the filling of the vacant offices, with the



appointment, promotion or secondment, as the case may be, of the officer serving:

Provided that, where the number of the vacant permanent offices is less than the number of the serving officers either on a month-to-month basis or on secondment in a permanent office having the same title or in a temporary office having the same title, these offices are filled by the Commission, by selecting the most suitable amongst the serving officers, in accordance with the above mentioned provisions.

- 2) When a permanent office is established with the abolition or substitution of a temporary office having the same title, the permanent office established in this way shall be filled by the Commission, in accordance with the provisions of subsection (1) for the approval of the filling of vacant offices.

#### ***Section 40 Permanent Appointments and promotions***

- 1) A permanent appointment or promotion shall be effected by a written offer made by the Commission to the person selected for appointment or promotion, as the case may be, and accepted by him in writing.
- 2) The offer shall state the remuneration offered and the other terms and conditions of service attached to the office.
- 3) When the person selected for appointment has signified his/her acceptance of the offer made to him and where the person is not a public officer, the report of the official medical officer who has examined him is satisfactory, the Commission shall inform the person selected in writing that s/he has been appointed and specify the date from which his/her appointment takes effect.
- 4) When the person selected for promotion has signified his/her acceptance of the offer made to him, the Commission shall inform him in writing that s/he has been promoted and shall specify the date from which his/her promotion shall take effect.
- 5) Permanent appointments and promotions shall be published in the Gazette as soon as possible but not later than 45 days from the acceptance of the offer.

#### ***Section 41 Probation***

- 1) A permanent appointment shall be made on probation for a period of two years:  

Provided that the Commission may, in any special case, with the advice of the appropriate authority concerned and in accordance with any general directions given by Presidential Council in this respect, waive, reduce or extend the probationary period.
- 2) The appointment of an officer serving on probation may be terminated at any time during the probationary period, but, before such termination is

made, a notice of intention to terminate shall be given to the officer, setting out the reasons and calling upon him to make any representations s/he may wish to offer against such termination. On receiving and considering any such representations the Commission may either terminate the appointment or extend the probationary period for a period, up to one year, as the Commission may in each case consider appropriate. The provisions of this subsection shall apply to any such extended probationary period:

Provided that the total extended probationary period shall in no case exceed three years.

- 3) Within one month of the expiration of the probationary period the Commission shall decide whether the appointment of an officer serving on probation shall be confirmed, extended or terminated. If such appointment is confirmed or terminated, a notice to this effect shall be published in the Gazette.

#### ***Section 42 Supernumerary appointments and promotions***

- 1) The Commission may, at the request of the appropriate authority, make a supernumerary appointment or promotion in an office of lower status and salary in the same division in one of the following cases:
  - a) Whenever a vacant office in a higher level and salary in the same division, owing to the absence of any candidate possessing the qualifications required, cannot be filled:
  - b) against a vacant promotion office of a higher level and salary in the same division, which exists on the date of the filling of an office of a lower level and salary in the same division.
- 2) Every supernumerary appointment or promotion shall be made on a temporary basis and shall lapse as soon as possible after the vacancy against which it was made is filled:

Provided that if a vacancy occurs in the public office to which the supernumerary appointment was made, the supernumerary appointment may continue until such vacancy is filled.

#### ***Section 43 Appointments on contract***

- 1) Appointments on contract shall be made by formal agreement which shall contain the duration of the contract, the remuneration of the person appointed and the other terms and conditions of the appointment.
- 2) The duration of the contract, the remuneration and the other terms and conditions of the appointment shall be determined by the appropriate authority in consultation with the member of the Presidential Council having, for the time being, responsibility in respect of financial matters.
- 3) Appointments on contract shall be published in the Gazette.



**Section 44 *Month-to-month appointments***

- 1) A month-to-month appointment shall be effected by a written offer made by the Commission to the person selected for appointment and accepted by him in writing.
- 2) The offer shall contain the remuneration and the other terms and conditions of service.
- 3) A month-to-month appointment may be terminated on one month's notice in writing or on payment of one month's pay in lieu of notice.

**Section 45 *Acting appointments***

- 1) When an office is vacant for any reason or its holder is absent on leave, or unable to perform the duties of the office, another person may be appointed to act in that office under such terms as may be prescribed.
- 2) An acting appointment shall be made on the recommendation of the appropriate authority concerned.

**Section 46 *Posting of public officers on appointment***

- 1) The posting on appointment of a person appointed to a non-interchangeable office shall be made by the appropriate authority concerned.
- 2) The posting on appointment of a member of the interchangeable staff shall be made by the Head of department of such staff.
- 3) Save with the prior approval of the Presidential Council, no person shall serve in a division where his/her spouse, child, brother or sister is serving.

**Section 47 *Treatment of handicapped persons***

- 1) Subject to the provisions of any other law, a handicapped person who is a candidate for appointment in an office and possesses all the qualifications required by the scheme of service shall be preferred, as long as the competent for the selection organ is satisfied that –
  - a) s/he possesses the abilities to perform the duties of the office; and
  - b) when compared to the other candidates, s/he is not inferior in merits and qualifications.
- 2) When trying to form a judgment about the handicapped person, the competent authority for the selection organ may request and take into consideration the views of experts.
- 3) For the purpose of this section –

"handicapped person" means a person suffering from partial or total physical inability since birth or as a result of a subsequent incident and

his/her inability is caused by a severe deformation or severe mutilation of the upper or lower limbs or by myopathy, paraplegia, quadriplegia, or by loss of vision in both eyes, or by loss of hearing in both ears or by any other serious cause which results in a substantial reduction of physical ability and enables him/her to exercise only a limited number of professions.

**Section 48    *Reinstatement of officers, whose promotion has been annulled***

- 1) Where the promotion of an officer to an office is annulled by a Supreme Court decision, the Commission may, if during the re-examination it does not repromote him/her in the same office and if the requirements specified by subsection (2) exist, promote him/her or promote him/her in a supernumerary office, whether or not there is a vacant office, to an office to which in every reasonable possibility s/he would have been promoted, had the annulled promotion not taken place.
- 2) The Commission shall exercise the power provided by subsection (1) only when it is convinced that, in view of the merits, qualifications and seniority of the officer and the number of the vacant offices, which have been filled during the time period between its decision and the annulment, the officer's career has actually been affected.
- 3) Notwithstanding any other provision in this law, when an officer is promoted to a supernumerary office in accordance with subsection (1), the officer shall serve in it having all the rights and benefits of the office until an office of the same title shall become vacant, in which case the officer shall be promoted to it.
- 4) When an officer is promoted in accordance with subsections (1) or (3), the promotion shall have effect as from the day, since which, in the Commission's opinion, s/he would have been promoted.

**Section 49    *Abolition of office***

Subject to the provisions of any other law, in case an office is abolished, its holder shall be considered to continue to hold it with all its privileges and benefits until the holder of the office so abolished retires or is appointed or promoted either in an established or in another office.

**Section 50    *Appraisal reports***

- 1) Subject to subsection (2), appraisal reports on all officers shall be prepared and submitted to the Commission annually in the prescribed manner and within the prescribed time:

Provided that until such date is fixed, the appraisal reports shall be submitted not later than the 31<sup>st</sup> day of January in each year.



- 2) Appraisal reports shall be submitted at six monthly intervals to the Commission on every officer serving on probation or in a temporary office during the first two years of service. The final report shall be submitted one month before the expiration of the probationary period and shall contain a definite recommendation whether the officer should be confirmed or whether his/her probationary period should be extended or his/her service terminated.
- 3) The reports shall be prepared, where this is possible, by a three-member appraisal team, including one person hailing from each constituent state, and, on completion, they are notified to the officer concerned.
- 4) No person shall participate in the appraisal team of an officer if s/he is his/her spouse or a relative by blood or marriage up to and including the fourth degree:  
  
Provided that, if as a result of the obstacle of kinship the preparation of a report for an officer will not be possible, the provisions of this subsection shall not be applicable. In such a case a reference to the existence of the kinship shall be made in the report.
- 5) No adverse report shall be prepared for an officer before s/he is given the opportunity of being heard and make his/her representations.
- 6) After every promotion the attorney of every person having lawful interest to challenge the promotion in Court has the right to inspect his/her Annual Appraisal Reports File and those of the person who has or the persons who have been promoted.

#### **Section 51 Seniority of officers**

- 1) Seniority between officers holding the same permanent office or grade of the same office, either permanently or temporarily or either from month-to-month or on contract, be determined by the effective date of appointment, promotion or secondment to the particular office or grade, as the case may be irrespective of the way it is held.
- 2) In the case of simultaneous appointment or promotion or secondment to the particular office or grade of the same office, seniority shall be determined according to the officers' previous seniority.
- 3) Seniority between officers holding different offices with the same salary conditions shall be determined according to the dates of their appointment, promotions or secondments to their present offices, irrespective of the way they are held, or, if these dates are the same, according to their previous seniority.
- 4) Seniority between officers holding offices with different salary conditions shall be determined according to the salary conditions of the respective offices.
- 5) Seniority between officers holding the same office or grade of the same office or different offices with the same salary conditions, the salary and

title of which have been changed as a result of a salary revision or reorganization, shall be determined according to the officers' seniority immediately prior to such revision or reorganisation.

- 6) Seniority of an officer who is re-appointed to the same office or grade of the same office after a break of service shall, subject to the other provisions of this section and or any other law, be determined by the effective date of his/her re-appointment.

- 7) In this section –

"previous seniority" means seniority of the officers concerned in the grade or office held by them immediately before they entered their present grade or office, and if such seniority is the same, previous seniority shall be determined by the same process back to the first appointments of the officers in the public service. In case seniority in the first appointments is the same, then previous seniority shall be determined by the age of the officers;

"salary conditions" in relation to some offices, means the basic salary attached to the offices, or, in the case of salary scales, the highest point on the scales and in the case of salary scales of the same top scale the lowest scale and in the case of combined scales of an office or grade of an office the top of the higher scale of every office or grade and in the case of scales of the same top scale the lowest of the lower scale of every office or grade.

"grade of the same office" means grade of an office which is combined with another grade in the same office and which have a common establishment.

## **Section 52    *Secondment***

- 1) Secondment of an officer shall be decided in any of the following cases –
- a) for the occupation of a vacant office, after selection, in accordance with section 33;
  - b) when a supernumerary promotion of an officer is decided in accordance with section 42;
  - c) when there is a vacant office and at the time of the decision there is or it is expected to be available personnel in similar offices, which fall under the domain of the same or different Department, department, Division or Service;
  - d) when the performance of duties is required for the satisfaction of service needs in a Department, department, Division or Service;
  - e) in special occasions, when the performance of special duties and functions is required in a Department, department, Division or Service.
  - f) Exceptionally, for service in the public service of a constituent state, or an institution of the European Union.
- 2) With the exception of paragraph (a) of subsection (1) the officer who shall be seconded shall continue to hold the office from which s/he was



seconded, yet s/he shall fall under the hierarchical administrative authority of the Head of department to which s/he shall be seconded.

- 3) The time of secondment of an officer in a vacant office in accordance with paragraph (a) of subsection (1) shall be considered as service in this office for the purposes of this Law.
- 4) Secondment is decided by the Commission on the recommendation of the appropriate authority and when it entails the removal of an officer from a Department or Independent Office or Service to another Department or Independent Office or Service, the matter shall be submitted to the Commission by the member of the Presidential Council having, for the time being, responsibility in respect of financial matters with his/her own views as well as with the views of the two appropriate authorities concerned.
- 5) Paragraphs (c) and (d) of subsection (1) shall be applied in cases where the officers who shall be seconded are holding offices which pertain in grades of admission of staff in the public service.
- 6) Secondments in accordance with paragraphs (c) and (d) of subsection (1) shall be for a period up to two years and shall not be renewed. Secondments in accordance with paragraph (e) of subsection (1) shall be for a period up to two years and shall not be renewed without the consent of the officer concerned.
- 7) Secondments shall be published in the Gazette.
- 8) For the purposes of this section –  
"grade of admission of staff" in public service means the lower office in a division or sub-division of the public service and the term "division or sub-division of the public service" has the same meaning as in section 31.

### ***Section 53 Transfer and removal of officers***

- 1) For the purposes of this section –  
"transfer" means the transposition of an officer which entails a change in the place of residence,  
"removal" means the transposition of an officer which does not entail a change in the place of residence.
- 2) Transfers of officers shall be made by the Commission on proposal made by the appropriate authority duly reasoned.
- 3) Removals of officers shall be made by the Head of department concerned with a decision duly reasoned.
- 4) In exceptional cases of urgent nature the appropriate authority may make a temporary transfer for a period not exceeding three months:

Provided that no more than one such transfer can be made for the same officer within the same year.

#### ***Section 54 Training***

Training courses and other facilities may be made available for the purpose of promoting the efficiency of the officers in the performance of their duties and of qualifying them for advancement within the service which the officers may be required to attend and to take exams.

#### ***Section 55 Resignation***

- 1) Subject to the provisions of any other law or of any other provision having legislative effect in force for the time being, no officer may resign his/her appointment without prior permission of the Commission.
- 2) Any officer who resigns his/her appointment without such prior permission shall be deemed to be absent from duty without leave and be liable to disciplinary proceedings.

#### ***Section 56 Retirement***

- 1) Subject to the provisions of subsection (5) and without prejudice to the provisions of any Law, the Commission has the authority to decide the retirement of permanent and pensionable officers from the public service in any of the following cases:
  - a) When the public officer attains the age of compulsory retirement;
  - b) when the retirement is required from an officer who has attained the age of fifty five years;
  - c) when the officer applies for an early retirement;
  - d) in case of health reasons;
  - e) if the public officer has been declared bankrupt in accordance with the provisions of section 71;
  - f) when the officer retires in order to undertake a public office incompatible with that of a public officer, or to be appointed to a corporate body of persons or to an authority of local administration of either constituent state;
  - g) in case of the officer's unjustified official insufficiency or because of his/her unsuitability;
  - h) as a disciplinary punishment, in accordance with the provisions of this Law.
- 2) The Commission shall decide the public officer's retirement after the appropriate authority's proposal which is obligatory for the Commission in cases of paragraphs (a) and (f) of subsection (1).
- 3) In cases of paragraphs (c) and (f) the appropriate authority before submitting its proposal to the Commission shall be assured that –



- a) The officer has no financial obligations towards the Government, or if s/he has s/he shall settle them, and
- b) no disciplinary or criminal case is pending against him/her.
- 4) The decision of an officer's retirement in accordance with paragraphs (b) and (g) of subsection (1) is taken after the officer concerned is given the opportunity of being heard.
- 5) Subject to the provisions of the above subsections the retirement of permanent and pensionable officers from the public service shall be governed by the provisions of the Pensions Legislation for the time being in force or any Law amending or substituted for the same and any Regulations made thereunder.
- 6) Subject to the provisions of subsection 3 of section 44, temporary monthly-paid officers shall retire on attaining the age of sixty years.

#### ***Section 57 Age of public officers***

The age of a public officer shall be proved by such evidence as the Presidential Council shall prescribe.

### **Part V. RIGHTS AND BENEFITS OF OFFICERS**

#### ***Section 58 Emoluments***

The emoluments of an officer include his/her salary and such allowances as may be prescribed.

#### ***Section 59 Retirement benefits***

- 1) The retirement benefits of permanent officers are those prescribed by the relevant pensions legislation and any regulations made thereunder.
- 2) The retirement benefits of a monthly-paid officer who is not in the permanent public service and is not serving on contract shall be prescribed.

#### ***Section 60 Leave***

An officer shall be eligible for such leave as may be prescribed.

#### ***Section 61 Medical treatment***

An officer shall be entitled to such medical treatment as may be prescribed.

## **Section 62 Uniforms**

The holders of certain prescribed public offices, who are entitled to free uniforms, as may be prescribed, shall wear them during the performance of their duties.

## **Part VI. DUTIES, OBLIGATIONS AND RIGHTS OF PUBLIC OFFICERS**

### **Section 63 Fundamental duties of public officers**

1) Every public officer shall –

- a) be loyal and respect the Constitution and the law;
- b) faithfully and unfailingly perform his/her duties and generally use his/her utmost exertions to promote the interests of Cyprus;
- c) always be impartial, impersonal and just in carrying out his/her duties, based only on objective criteria and use every possible effort in promoting an orderly functioning federal government and Public Service;
- d) not undertake either on a personal level or as a member of an organised entity to solve matters and shall not consort in the making of acts if s/he himself or a person with whom s/he has a specific relation or is a relative by marriage or blood until fourth degree has an evident benefit. Colleagues who are relatives by blood or marriage until fourth degree are not allowed to participate in the same meeting of a collective body:

Provided that the exclusion of so many members from a collective decision making body that results in the remaining participants not meeting the quorum is not allowed:

- e) make every possible effort to serve the public in an objective, just, impersonal and impartial manner;
- f) conform to the legislative provisions and to the relevant administrative directives and circulars as regards the public service, as well as to the instructions of his/her hierarchical superiors and concurrently to undertake responsibility in carrying out his/her duties and as to the lawfulness of his/her actions:

Provided that where an order is evidently illegal, the officer should not proceed to execute it and should report immediately to his/her supervisor. If the supervisor insists on the execution of the order, based on the Attorney-General's opinion, the officer is obliged to comply.

- g) not commit any act or omission or conduct himself in a way which may bring the public service in general or his/her office in particular into