



BERMUDA

PUBLIC SERVICE (DELEGATION OF POWERS) REGULATIONS 2001

BR 82 / 2001

TABLE OF CONTENTS

1	Citation and commencement
2	Definitions
3	Delegation of powers
4	Delegated powers to be exercised in accordance with Public Service Commission Regulations
4A	Head of the Public Service may delegate functions to Deputy Head of the Public Service
5	Reference to Commission
6	Appeals
7	Revocation of BR No. 34/1979
8	Transitional provision
	SCHEDULE

The Governor, in exercise of the powers conferred upon him by section 83(1) of the Constitution and acting in accordance with the recommendation of the Public Service Commission, makes the following Regulations:

Citation and commencement

1 These Regulations may be cited as the Public Service (Delegation of Powers) Regulations 2001 and come into operation on 21st November, 2001.

Definitions

2 In these Regulations—

“Chief Employee and Organizational Development Officer” means the most senior officer in the Department of Employee and Organizational Development;

PUBLIC SERVICE (DELEGATION OF POWERS) REGULATIONS 2001

“Chief Officer” means the Chief Employee and Organizational Development Officer;

“the Code” means the Conditions of Employment and Code of Conduct made by the Governor;

“the Commission” means the Public Service Commission for Bermuda established under section 81 of the Constitution;

“Department” means a department of the Government and includes any other organ or branch of the Government;

“Director”*[Deleted by BR 85 / 2021 reg. 5]*

“disciplinary offence” means misconduct or gross misconduct by a public officer as set out in the Code;

“disciplinary penalty” means a penalty for a disciplinary offence and “misconduct penalty” and “gross misconduct penalty” have the meanings assigned to those expressions in the Code;

“established office” means an office determined by the Governor acting on the advice of the Cabinet to be permanent;

“Head of Department” means the Permanent Secretary or other officer who manages and supervises a Department;

“Head of the Public Service” means the officer who has overall responsibility for the public service;

“non-established office” means an office that is not an established office;

“office” means a public office within the meaning given to that expression by section 102 of the Constitution;

“officer” means the holder of an office.

[Regulation 2 amended by BR 87 / 2007 reg. 2 effective 28 September 2007; Regulation 2 definition "Director" deleted, definitions "Head of Department" and "Head of the Civil Service" amended by BR 85 / 2021 reg. 5 effective 7 June 2021; Regulation 2 definitions "Chief Employee and Organizational Development Officer, and "Chief Officer" inserted by BR 85 / 2021 reg. 5 effective 7 June 2021]

Delegation of powers

3 The powers vested in the Governor by section 82 of the Constitution in relation to the offices specified in Column 1 of the Schedule are delegated to the public officer specified in Column 2 of the Schedule to the extent set out in Column 3 of the Schedule and subject to the conditions set out in Column 4 of the Schedule.

Delegated powers to be exercised in accordance with Public Service Commission Regulations

4 The public officer to whom powers are delegated under these Regulations shall, in exercising those powers, act in accordance with the Public Service Commission

PUBLIC SERVICE (DELEGATION OF POWERS) REGULATIONS 2001

Regulations 2001 as if references in those Regulations to the Commission were references to the public officer.

Head of the Public Service may delegate functions to Deputy Head of the Public Service

4A The Head of the Public Service may delegate to the Deputy Head of the Public Service any of his functions under these Regulations.

[Regulation 4A inserted by BR 55 / 2011 reg. 2 effective 7 October 2011; Regulation 4A amended by BR 153 / 2018 reg. 7 effective 24 December 2018; Regulation 4A amended by BR 85 / 2021 reg. 5 effective 7 June 2021]

Reference to Commission

5 Where any power is by these Regulations delegated to any persons acting jointly, if those persons fail to agree on the exercise of the power the matter shall be referred to the Commission and the Commission shall exercise the power.

Appeals

6 The holder of an established office who is aggrieved by any disciplinary penalty imposed by a person to whom disciplinary powers are delegated by these Regulations may appeal in accordance with the Public Service Commission Regulations 2001:

Provided that where provision is made for an appeal in any statutory instrument specified in Column 4 of the Schedule relating to the exercise of disciplinary control that provision shall apply.

Revocation of BR No. 34/1979

7 The Public Service (Delegation of Powers) Regulations 1979 are revoked.

Transitional provision

8 Notwithstanding Regulation 7, any matter which is being dealt with under the regulations revoked by that regulation (“the revoked regulations”) on the day these Regulations come into force shall be continued under the revoked regulations as if these Regulations had not been made.

PUBLIC SERVICE (DELEGATION OF POWERS) REGULATIONS 2001

SCHEDULE

(Reg. 3)

Column 1 Public Officers	Column 2 Public Officer to whom Powers are delegated	Column 3 Extent of Delegation	Column 4 Conditions of Delegation
1. The office of Police Officer of the rank of Sergeant or below, and the office of member of the Reserve Police of the rank of Assistant Commandant or below	Commissioner of Police	All the powers of the Governor	That the provisions of the Police (Conduct) Orders 2016 shall apply to the exercise of disciplinary control in the case of police officers.
2. The office of Police Officer of the rank of Inspector or Chief Inspector	Commissioner of Police	The power to exercise disciplinary control not involving removal from office or reduction in rank	That the provisions of the Police (Conduct) Orders 2016 shall apply to the exercise of disciplinary control.
3. The office of Prison Officer of the rank of Divisional Officer and below	Commissioner of Prisons	All the powers of the Governor	That the provisions of the Prison Officers (Discipline Etc.) Rules 1981 shall apply to the exercise of such powers.
4. [Revoked by BR 85 / 2021 reg. 5]	Director of Department of Tourism	All the powers of the Governor	
4A. [revoked]			
5. The office of deputy principal, teacher and teacher in a post of special responsibility	Head of Department	All the powers of the Governor	

PUBLIC SERVICE (DELEGATION OF POWERS) REGULATIONS 2001

6. The office of Fire Officer of the rank of Lieutenant and below	Chief Fire Officer	All the powers of the Governor	That the provisions of regulations or orders made under section 17 or 18 of the Bermuda Fire and Rescue Service Act 1982 shall apply to the exercise of such powers.
7. For posts in the Office of the Auditor-General below Assistant Auditor	Auditor-General	All the powers of the Governor	
7A. For posts in the Office of the Information Commissioner below Deputy Information Commissioner	Information Commissioner	All the powers of the Governor	
7B. For posts in the Office of the Privacy Commissioner below Deputy Privacy Commissioner	Privacy Commissioner	All the powers of the Governor	
7C. For posts in the Parliamentary Registry Office below Assistant Parliamentary Registrar	Parliamentary Registrar	The power to appoint or exercise disciplinary control including removal from office	

PUBLIC SERVICE (DELEGATION OF POWERS) REGULATIONS 2001

8. Any office.	Head of the Public Service.	Power to make acting appointments.	That: (a) the power be exercised only if the post is vacant, or if there is a legal requirement to have a post-holder available to perform the duties and responsibilities of the substantive holder while the substantive holder is on leave or is absent for any other reason; and (b) the appointment shall not be for a period in excess of 6 months from the date when the appointment takes effect without the approval of the Commission.
8A. Any office.	Head of Department and the Chief Officer (or officer designated by the Chief Officer) acting jointly.	Power to make deputizing appointments.	That the appointment shall not be for a period in excess of 6 months from the date when the appointment takes effect without the approval of the Commission.
8B. Any office.	Head of Department and the Chief Officer (or officer designated by the Chief Officer) acting jointly.	Power to make temporary relief appointments.	

PUBLIC SERVICE (DELEGATION OF POWERS) REGULATIONS 2001

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| 9. Any office, other than those specified in paragraphs 1, 2, 3, 5, 6, 7, 12 and 13 | Head of the Public Service (gross misconduct) or Head of Department (misconduct) | All the powers of the Governor in relation to disciplinary control including power to award a misconduct or gross misconduct penalty |
| 10. Any office, other than those specified in paragraphs 1, 2, 3, 5, 6, 7, 12 and 13 | Head of the Public Service | Power to post or transfer officers of the same grade range and within the same class of employment with the public service and to make disciplinary transfers and to defer, stop or suspend annual increments |
| 11. Any office the grade of which ends either at PS28 or at any lower step on the salary scale | Head of Department | All the powers of the Governor other than in relation to the exercise of disciplinary control and the power to make appointments on transfer. The delegation does not apply to the appointment of any trainee or non-Bermudian. |

PUBLIC SERVICE (DELEGATION OF POWERS) REGULATIONS 2001

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| 12. Any non-established office, including industrial or temporary employees | Head of the Public Service (gross misconduct) or Head of Department (misconduct) | All the powers of the Governor in relation to disciplinary control including power to award a misconduct or gross misconduct penalty |
| 13. The office of any public officer employed to serve outside Bermuda as an officer in a consular or representative Office of the Government of Bermuda | Secretary to the Cabinet | All the powers of the Governor |
| 14. Any Cabinet Office intern where the grade of the office ends either at PS 25 or at any lower step on the salary scale | Secretary to the Cabinet | Power to make appointments |

[Schedule amended by BR 50/2003 effective 29 August 2003; Item 6 amended by 2007:23 s.16 effective 2 July 2007; Items 8, 9, 10 and 12 amended by BR 87/2007 reg. 2 effective 28 September 2007; Schedule amended by BR 36/2010 reg. 2 effective 28 May 2010; amended by BR 46 / 2011 reg. 2 effective 2 September 2011; amended by BR 27 / 2012 para. 2 effective 18 April 2012; amended by BR 64 / 2013 reg. 2 effective 20 July 2013; paragraph 4A revoked by 2016 : 28 s. 30 effective 1 October 2016; paragraphs 1 and 2 amended by 2016 : 44 s. 7 effective 2 December 2016; amended by BR 2 / 2018 reg. 2 effective 13 January 2018; Schedule amended by BR 85 / 2021 reg. 5 effective 7 June 2021; Schedule amended by BR 6 / 2024 reg. 2 effective 31 January 2024]

Made this 21st day of November, 2001

Governor

PUBLIC SERVICE (DELEGATION OF POWERS) REGULATIONS 2001

[Amended by:

BR 50/2003

2007 : 23

BR 87/2007

BR 36/2010

BR 46 / 2011

BR 55 / 2011

BR 27 / 2012

BR 64 / 2013

2016 : 28

2016 : 44

BR 2 / 2018

BR 153 / 2018

BR 85 / 2021

BR 6 / 2024]