

**THE PUBLIC SERVICE COMMISSION (SUPPLEMENTARY PROVISIONS)
REGULATIONS 1965 and 1967**

(Legal Notice No. 41 of 1965)
(Published on 3rd September, 1965)

as amended by

**THE PUBLIC SERVICE (GENERAL QUALIFICATIONS)
REGULATIONS, 1967**

(Statutory Instrument No. 21 of 1967)

(Published 31st March, 1967)

and

**THE CONSTITUTIONAL AMENDMENT (ADAPTATION OF
EXISTING LAWS (NO. 12) ORDER 1967**

(Statutory Instrument No. 53 of 1967)

(Published on 29th September, 1967)

Reprinted by direction of the Attorney-General in terms of section 3 of the Amendments Incorporation Law, 1961.

Date of Reprint: 20th October, 1967.

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PART I
PRELIMINARY

Citation

1. These regulations may be cited as the Public Service Commission (Supplementary Provisions) Regulations, 1965, and 1967.¹

Interpretation and Application

2. (1) In these regulations, unless the context otherwise requires —

“Chairman” means the Chairman of the Commission and includes a person acting as Chairman under section 110(10) of the Constitution and another member performing the functions of the Chairman under section 110(9) thereof;

“Commission” means the Public Service Commission;

“contract” means a written contract of a fixed maximum duration;

“General Orders” means the General Orders of the Government as in force from time to time;

“member” means a member of the Commission and includes the Chairman and any person acting as a member of the Commission under section 110(10) of the Constitution;

“responsible officer” in relation to any public officer, means, subject to the provisions of paragraph (3), and except as provided in the First Schedule, the Permanent Secretary of the Ministry in or under the control of which he is serving or if the Permanent Secretary to the President has, in terms of paragraph (2), appointed some other person as responsible officer for any class of public officer to which that public officer belongs, such other person;

“Secretary” means the Secretary to the Commission.

“service” means the public service.”.

(2) The Permanent Secretary to the President may, by direction in writing, appoint the holder of any public office to be the responsible officer for any class of public officer specified in the direction.

(3) Notwithstanding that in terms of this regulation some other person is the responsible officer, the Permanent Secretary to the President may at any time exercise the functions of a responsible officer in any matter falling under these regulations, and if he does so he and not the other person shall be regarded for the purposes of that matter as the responsible officer.

(4) Except as provided in regulation 58 nothing in these regulations shall apply to the appointment, disciplinary control or removal from office of any public officer by any person or body, other than the Commission, acting under lawful authority.

3.³

4.³

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8.³

- 9.¹
- 10.¹
- 11.¹
- 12.¹
- 13.¹

Privilege from Disclosure in Legal Proceedings.

14. Any report, statement or other communication or record of any meeting, enquiry or proceeding which the Commission may make in the exercise of its functions or any member may make in performance of his duties shall be privileged in that its production may not be compelled in any legal proceedings if the President² certifies that such a production is not in the public interest.

Protection of Members from Legal Proceedings

15. Every member shall have such and the like protection and privilege in case of any action or suit brought against him for any act done or omitted to be done in the execution of his duties as is by law given to the acts done or words spoken by a Judge of the High Court in the exercise of his judicial office.

Consultations with Public Officers²

16. The Commission may require any public officer to attend and give evidence before it concerning any matter which it is required to consider in exercise of its functions and may require the production of any official document relating to any such matter:

Provided that no secret official document shall be so produced without the prior consent of the President¹.

Documents to be Made Available

17. Any public officer who submits any matter for the consideration of the Commission shall, subject to the proviso in regulation 16, ensure that all relevant documents and papers are made available to the Commission.

18.¹

Improper Influence

19. Any person who otherwise than in the course of his duty directly or indirectly by himself or by any other person in any manner whatsoever influences or attempts to influence any decision of the Commission or of the Chairman or of any member shall be guilty of an offence and liable on conviction to a fine not exceeding one hundred rupees or to imprisonment not exceeding six months or to both such fine and imprisonment:

Provided that nothing in this regulation shall prohibit any person who may properly do so from giving a certificate or testimonial to any applicant or candidate for any office or from supplying any information or assistance at the request of the Commission.

Penalty for Supplying False Information to Commission

20. Any person who in connection with any application by any person for employment or promotion in the service or with any matter upon which it is the duty of the Commission to advise wilfully gives to the Commission or any member thereof any information which he knows to be false or does not believe to be true, or which he knows to be misleading

(1) repealed by S.I. 53 of 1967

(2) amended by S.I. 53 of 1967

by reason of the omission of any material particular, shall be guilty of an offence and liable on conviction to a fine not exceeding two hundred rand or to imprisonment not exceeding one year or to both such fine and imprisonment.

Unauthorised Disclosure or Use of Information

21. (1) No member or other person shall publish or disclose to any person, otherwise than in the exercise of his official functions¹ or with the written permission of the President² the contents of any document, communication or information whatsoever which has come to his notice in the course of his duties in respect of any matter referred to the Commission. Any person who knowingly acts in contravention of this regulation shall be guilty of an offence and liable on conviction to a fine not exceeding two hundred rand or to imprisonment not exceeding one year or to both such fine and imprisonment.

(2) If any person having possession of any information which to his knowledge has been published or disclosed in contravention of the provisions of paragraph (1) publishes or communicates to any other person, otherwise than for the purpose of any prosecution under these regulations, any such information he shall be guilty of an offence and liable on conviction to a fine not exceeding two hundred rand or to imprisonment not exceeding one year or to both such fine and imprisonment.

Commission's Annual Report

22. The Commission shall annually submit a report to the President² in respect of the discharge of all its functions during the previous year and the President shall lay every such report before the National Assembly³.

23¹.

PART III

APPOINTMENTS, PROMOTIONS AND TRANSFERS

PRINCIPLES AND PROCEDURE

A. PRINCIPLES

24.^{2,3}

25.^{3,4}

26.^{2,4}

27.^{2,3}

B. PROCEDURE

Maintenance of an Annual Confidential Report System

28. In order to enable the Commission to discharge its duties under the Constitution it shall maintain a system of annual confidential reports on officers and responsible officers shall comply with any directions that the Commission may give in this regard.¹

Reporting of Vacant Public Offices: Procedure Relating to Appointments Thereto

29. As soon as a responsible officer knows or has reason to believe that a vacant office exists or is likely to exist in his department he shall, subject to the provisions of regulation 31, report the fact to the Secretary in such form as the Commission may determine.¹

30.¹

Acting Appointments

31. As soon as a responsible officer knows that the holder of an office in his department which attracts acting allowance or has specific statutory functions is or will become unable to perform the functions of that office for some temporary period, and the responsible officer is of the opinion that the office should be filled in an acting capacity, he shall report the fact to the Secretary in such form as the Commission may determine.²

32.¹

33.¹

PART IV

CONFIRMATION AND TERMINATION OF APPOINTMENT

Probationary Appointments

34. (1) Where a public officer holds a probationary appointment, the responsible officer shall, three months before the expiration of the period of that probationary appointment consider —

- (a) whether that officer should on that expiration be confirmed in a pensionable office;
- (b) that for a further period of probationary service is necessary to determine whether that officer should be so confirmed; or
- (c) whether that officer should not remain in the service.

(2) In the consideration of the matters referred to in subregulation (1), the responsible officer is of the opinion that a public officer in a probationary appointment should be confirmed in a pensionable office, and if the officer has passed such examinations as may be required as a condition for confirmation in his appointment, the responsible officer shall, three months before the expiration of the period of probationary appointment, shall forward to the Commission his recommendation that the officer should be so confirmed.³

(3) If, after consideration of the matters referred to in subregulation (1), the responsible officer is of the opinion that the work or conduct of a public officer in a probationary appointment have been of a standard to justify confirmation in a pensionable office, but the officer has not completed the examinations required for his confirmation, the responsible officer, not later than three months before the expiration of the officer's probationary appointment shall forward a full report to the Commission together with his recommendation and as to the period of further probationary service which the officer should be allowed in order that the officer may pass the required examinations.³

(4) After consideration of the matters referred to in subregulation (1) the responsible officer is of the opinion that the work or conduct of a public officer in a probationary appointment has not been in all respects satisfactory, he shall recommend either —

- (a) an extension of that officer's probationary service to show whether he can overcome specific defects; or
- (b) that his probationary appointment should be terminated;

and before so doing shall inform the officer of his intention and at the same time inform him that he is entitled to make representations, within a period to be fixed by the responsible officer, on the recommendation proposed. On the expiration of the period, the responsible officer shall forward to the Secretary a report on the officer, together with a copy of the letter to the officer and of the latter's representations, if any, with a recommendation whether the period of probationary service should be extended or that the officer should not remain in the service¹.

(5) Where an officer holds a probationary appointment and the responsible officer at any time during the period of that probationary appointment is of the opinion that the appointment should be terminated forthwith the procedure in sub-regulation (4) (following the alternative in paragraph (b) thereof) shall be followed.

Termination of Contract Appointments

35. (1) If a responsible officer considers that the contract of a public officer serving on contract terms should be terminated¹ before the normal expiration of the contract in terms of any provision in the contract for such purpose, but on grounds which do not fall to be dealt with under the provisions of Part V, the responsible officer shall inform the officer in writing that he proposes to recommend the termination of his contract in terms of such provision, giving the reasons therefor, and invite his representations in the matter in writing. The responsible officer may then recommend to the Commission the termination of the officer's contract in accordance with the terms of his contract, with a copy of any representations the officer has made.

(2) If, on consideration of a recommendation made by a responsible officer under paragraph (1), the Commission is of the opinion that the facts alleged are such as to warrant the institution of proceedings under Part V, the Commission may direct the responsible officer to take action accordingly, and the responsible officer shall give effect to such directions.²

Termination of Temporary Engagements

36. (1) For so long as any public office is held on temporary engagement, the responsible officer shall, before the expiration of a period of six months from the commencement of such engagement and of every subsequent period of six months thereafter, report the office to the Commission in terms of regulation 29¹, as if a vacancy would exist in such office at the expiration of such period.

(2) If a responsible officer considers that a public officer serving on temporary engagement should be dismissed otherwise than at the time of any report to the Commission under the preceding provision of this regulation, and on grounds which do not fall to be dealt with under Part V, he shall forward a recommendation to such effect to the Commission giving his reasons¹:

Provided that if it thinks fit the Commission may before taking further action in the matter¹ require the responsible officer to follow the procedure prescribed in regulation 35.

Abolition of One of a Number of Offices²

37. Where an office which is one of a number of such offices, is to be or has been abolished but one or more of such offices are to remain, the responsible officer shall recommend to the Commission with his reasons as to which of the officers holding such offices shall have his appointment terminated and the Commission shall determine which it shall be.¹

(1) amended by S.I. 53 of 1967

(2) inserted by S.I. 53 of 1967

(3) headnote substituted S.I. 53 of 1967

¹Retirement of Officer at Normal Retiring Age

38. Not later than 6 months before a public officer who holds a pensionable office attains the age referred to in section 9(a) of the Pensions (Consolidation) Law, 1965 (No. 17 of 1965), the responsible officer shall report the fact to the Commission and if he considers that the officer should not be required to retire from the public service on attaining that age give reasons in writing in support thereof.

²Retirement at or After Prescribed Age

38A. If a responsible officer is of the opinion that a public officer in his department who holds a pensionable office should be called upon to retire from the public service on the grounds that he has attained the age referred to in section 9(b) of the Pensions (Consolidation) Law, 1965 (No. 17 of 1965), he shall —

- (a) inform the officer that he intends to recommend that he be compulsorily retired from the public service;
- (b) ask the officer concerned whether he wishes to make, within a period of time appointed by the responsible officer, any representations why he should not be so retired; and
- (c) after the expiration of such period, forward his recommendation to the Secretary together with a copy of any representations made by the officer concerned and his comments thereon.

²Compulsory Retirement on Medical Grounds

38B. If a responsible officer has reason to believe that a public officer in his department is incapable by reason of any infirmity of mind or body likely to be permanent of discharging the duties of his office he shall report the matter to the Commission and inform the officer in writing that he has done so. The Commission may call upon the officer in question to submit to examination by a medical officer or officers nominated by it for the purpose of ascertaining the officer's condition.

²Compulsory Retirement on Marriage

38C. If a female officer who holds a pensionable office marries, the responsible officer shall report the fact to the Commission and if he considers that the officer should not be required to retire from the Public Service by reason of such marriage give reasons in writing in support thereof.

¹Compulsory Retirement in Other Circumstances

39. (1) If the Permanent Secretary to the President considers that a public officer who holds a pensionable office should be required to retire from the service —

- (a) for the purpose of facilitating improvement in the organisation of the department to which he belongs, by which greater efficiency or economy be effected; or
- (b) on the grounds that, having regard to the conditions of the public service, the usefulness of the officer thereto and all the other circumstances of the case, termination of the officer's service is desirable in the public interest;

he shall —

- (i) obtain from the responsible officers of every Ministry or department in which the officer has served reports as to his work and conduct;
- (ii) allow the officer an opportunity of considering such reports and of showing cause why he should not be retired from the public service.

(2) If the Permanent Secretary to the President, after considering the officer's statement and having regard to all the circumstances of the case, is of the opinion that the officer should be retired from the public service on the said grounds, he shall forward to the Secretary the reports obtained in pursuance of paragraph (1) of paragraph (1) and the statement of the officer, together with his own recommendation.

(3) If, upon consideration of the report made by the Permanent Secretary to the President under paragraph (2), the Commission is of the opinion that the facts alleged are such as to warrant the institution of proceedings under Part V, the Commission may direct the responsible officer to take action accordingly, and the responsible officer shall give effect to such directions.

PART V

DISCIPLINARY CONTROL AND PROCEEDINGS

A. GENERAL

Disciplinary Control to be Prompt

40. All acts of misconduct by officers shall be dealt with under these regulations as soon as possible.

Criminal Proceedings

41. When a preliminary investigation or a disciplinary inquiry discloses that an offence against any law may have been committed by an officer, the responsible officer, unless action by the Police has been or is about to be taken, shall consult the Attorney-General as to whether a prosecution is to be instituted.

42¹.

43¹.

44¹.

Salary of Interdicted Officer²

45. (1) If, any officer has in terms of General Orders been interdicted³ from exercising the powers and functions of his office, the Commission shall determine³ what portion (not being less than one-half) of the emoluments of such office he should be allowed to receive during interdiction.

(2) If at the conclusion of any disciplinary proceedings in contemplation of which any officer has been so interdicted such officer is awarded any punishment other than dismissal, the Commission shall determine³ what proportion (if any) of the emoluments withheld from him as a result of the interdiction shall be refunded.

B. DISCIPLINARY PROCEEDINGS

Procedure: Departmental Preliminary Investigation

46. When a responsible officer is advised or becomes aware of allegations of misconduct against an officer in his department he shall if necessary cause a departmental preliminary investigation to be made to establish the facts of the matter and to enable him to decide whether he should prefer a charge of misconduct against that officer.

Charges

47. (1) If the responsible officer considers that there is a *prima facie* case of misconduct against the officer which it does not properly fall to him to deal with under any

(1) repealed by S.I. 53 of 1967

(2) headnote substituted by S.I. 53 of 1967

(3) amended by S.I. 53 of 1967

powers conferred upon him by lawful authority¹ against an officer he shall prepare such charge setting out the misconduct alleged.

(2) The forms set out in the Fourth Schedule or forms conforming thereto as nearly as may be may be used in cases to which they are applicable; and in other cases forms to the like effect or conforming thereto as nearly as may be may be used, the statement of offence and the particulars of offence being varied according to the circumstances of each case.

(3) The responsible officer shall transmit the charge to the officer, and call upon him to state in writing within a reasonable specified time any grounds upon which he wishes to exculpate himself.

Reporting of Case to the Commission

48. If the officer does not furnish such a statement within the time specified, or if he fails to exculpate himself to the satisfaction of the responsible officer, the latter shall report the matter to the Secretary. The report shall contain a copy (a) of any record made of the departmental preliminary investigation (b) a copy of the charges preferred against the officer (c) a copy of any written statement he has made in reply and (d) the responsible officer's view as to the seriousness of the misconduct which the officer is alleged to have committed.

Inquiry

49. (1) If the Commission on considering the responsible officer's report decides that an inquiry should be conducted by a committee of officers it may, subject to the concurrence of the Permanent Secretary to the President, appoint one or more officers as a committee to conduct the enquiry. Every such committee shall for the purposes of that enquiry have the same powers as are conferred upon the Commission by regulations 16 and 17¹.

²(2) If during the course of the enquiry grounds for the framing of additional charges are disclosed, the committee shall so inform the responsible officer who shall follow the same procedure as was adopted in framing the original charges.

Documentary Evidence

50. An officer in respect of whom an inquiry is to be held under regulation 49¹ shall be entitled to receive a copy of any documentary evidence which will be relied on for the purpose of the inquiry or be allowed access to it.

Witnesses

51. If witnesses are examined by¹ the committee the officer shall be given an opportunity of being present throughout and of putting questions to the witnesses on his own behalf.

Representation of Government and Officer

52. The committee may permit the Government or the officer to be represented by an officer or in exceptional cases by a legal practitioner admitted to practice in Botswana and may at any time withdraw such permission:

Provided that where the ¹ committee permits the Government to be represented they shall not refuse the officer leave to be similarly represented.

Report by Committee

53. A Committee of officers appointed by the Commission under regulation 49 shall, having enquired into the matter, make a report to the Commission². If the Commission is

(1) amended by S.I. 53 of 1967

(2) inserted by S.I. 53 of 1967

of the opinion that the report should be amplified in any respect or that further enquiry is desirable, it may refer any matter back to the committee for amplification or further enquiry and report.

54.¹

55.¹

56.¹

Disciplinary Matters Not Otherwise Provided for

57. (1) Any case of indiscipline not covered by these regulations shall be reported to the Secretary and the Commission may issue directions as to how the case shall be dealt with, and the case shall be dealt with accordingly.

(2) In any case which comes to the attention of the Commission, the Commission if it is of the opinion that disciplinary proceedings should be instituted against an officer may, notwithstanding the provisions of these regulations, direct his responsible officer to initiate such proceedings and the responsible officer shall give effect to such direction.²

Punishments

58. (1) The following are the punishments which, subject to the provisions of any contract under which the officer may be serving, may be imposed on an officer by the Commission or by any person or persons duly authorised to act under section 111(3) of the Constitution in exercise of the power of disciplinary control over that officer referred to in section 111(1) of the Constitution ²

- (a) dismissal;
- (b) reduction in rank;
- (c) reduction in salary;
- (d) stoppage of increment;
- (e) withholding of increment;
- (f) reprimand

(2) Notwithstanding the provisions of paragraph (1) but subject to the provisions of any contract under which the officer may be serving, where, on completion of proceedings instituted for the dismissal of a public officer², the Commission is of the opinion that the officer does not deserve to be dismissed but —

- (a) in the case of an officer serving on probation, contract or temporary engagement, that the proceedings disclose grounds for terminating his appointment, as a lesser punishment than dismissal; or
- (b) in the case of an officer serving in a pensionable office that, subject to the provisions of any law for the time being in force, the proceedings disclose grounds for requiring him to retire in the public interest;

the Commission may act accordingly.²

C. INCREMENTS

Stoppage, Withholding and Restoration of increment

59. (1) Every officer shall, unless the award of his annual increment of salary has been previously stopped or withheld in accordance with this regulation or is subject to the crossing of an efficiency bar, receive such increment on his normal incremental date.

(1) repealed by S.I. 53 of 1967

(2) amended by S.I. 53 of 1967

(2) If a responsible officer is of the opinion that an officer should not receive a normal increment of salary when it is due for a reason other than one justifying disciplinary proceedings he shall so inform the officer and make a report to the Secretary and the Commission shall determine whether or not such increment shall be stopped or withheld. The Commission may also determine that any increment which has been stopped in terms of regulation 58 or this regulation shall be later granted or that any increment which has been withheld shall be later returned.¹

(3) When an increment of an officer has been stopped and later granted, the date on which it is granted shall become the future incremental date of the officer, and he shall not be eligible to draw a further increment until a full year has elapsed since that date.

(4) When an increment of an officer is withheld and later restored, he will retain his normal incremental date for the award of further increments.

²(5) In this regulation, "normal incremental date" in relation to any officer means his normal incremental date as determined in accordance with General Orders or any contract under which he may be serving.

PART VI

SUPPLEMENTARY

Extension of Period of Contract

60. Where a public officer is serving on contract terms of service, his office shall be regarded for the purposes of these regulations as one falling vacant at the conclusion of the period of his engagement, notwithstanding that he is prepared to undertake a further period of service in that office. If the responsible officer considers that such officer should be engaged for a further period of service, the responsible officer shall make an appropriate recommendation on P.S.C. Form 1 in reporting the vacancy to the Commission in terms of regulation 29.

61.³

Conversion of Temporary or Contract Terms to Pensionable Terms

62. The Commission shall determine whether permanent and pensionable terms of service in a public office shall be awarded to any officer eligible for such terms who is already serving in that office under contract or upon temporary engagement.

63.³

64.³

65.³

(1) amended by S.I. 53 of 1967

(2) inserted by S.I. 53 of 1967

(3) repealed by S.I. 53 of 1967

(4) substituted by S.I. 53 of 1967

'FIRST SCHEDULE

(regulation 2(1))

RESPONSIBLE OFFICERS – SPECIAL CASES

1

2

In respect of any public officer holding an office — The responsible officer shall be —

- | | |
|--|---------------------------------------|
| (a) mentioned in the Administration of Justice head of the estimates not being an officer to which section 105 of the Constitution applies | Registrar of the High Court |
| (b) on the staff of the National Assembly | Clerk the National Assembly |
| (c) on the staff of the Public Service Commission | Secretary, Public Service Commission |
| (d) on the staff of the Attorney-General | Attorney-General |
| (e) on the staff of the Director of Audit | Director of Audit |
| (f) in the Botswana Police or on the staff of any officer of the Botswana Police | Commissioner of Police |
| (g) in the Botswana Prison Service or on the staff of the Director of Prisons | Director of Prisons |
| (h) on the staff of the Establishment Secretary | Establishment Secretary |
| (i) referred to in the second column of this Schedule or to which section 114 of the Constitution applies | Permanent Secretary to the President. |

²SECOND SCHEDULE

³THIRD SCHEDULE

FOURTH SCHEDULE

(regulation 47)

PART A

FORM OF CHARGE

To:
(name and designation)

You are hereby charged in terms of regulation 47(1) of the Public Service Commission (Supplementary Provisions) Regulations 1965 and 1967¹ with the misconduct set forth in the Schedule, and called upon in terms of regulation 47(3) of the above Regulations to state in writing on or before any grounds on which you wish to exculpate yourself.

SCHEDULE

(To contain the charges)

PART B

SPECIMEN CHARGES

Debt.

That you have incurred debts amounting on the.....19..... to the sum of..... or more, while drawing a salary of..... a year, and that your indebtedness, which you are unable to meet, is such as to render the proper discharge of your duties as a (state position of officer, as police officer, resident magistrate, or as may be) impossible in the eyes of the public.

Drunkenness.

1. That you have frequently during..... been under the influence of liquor while on duty, and have come into contact with members of the public in a condition which has exposed the service of the Government to contempt.

The following are particulars —

(1) On the day of at..... o'clock at....., etc.

(2) On the day of at..... o'clock at....., etc.

(3) On the day of at..... o'clock at....., etc.

(4) On the day of at..... o'clock at....., etc.

2. That on the day of you indulged in alcohol to such an extent as to be incapable by noon either of coherent speech or even of standing without assistance. By so doing you incapacitated yourself for an official duty of importance, namely

(1) amended by S.I. 53 of 1967

Insubordination

1. That on the 19..... at in the presence of you committed an act of gross insubordination towards your superior officer, by (calling him a).

2. That on the 19....., you committed an act of gross insubordination by refusing to carry out the instructions of your superior officer, in regard to (and by remarking that you were not under the orders of the said..... though in fact you were under his orders).

3. That you being a (title) on various occasions between.....19....., and 19....., committed acts of insubordinate conduct to your superior officers. Particulars of such insubordination are as follows —

- (a) On the19....., when ordered by to proceed for duty to, you refused to do so.
- (b) On the19....., when ordered by to proceed to check the records of a transaction, you did not so proceed.
- (c) On the 19....., in defiance of the express orders of to the contrary, you
- (d) On the 19....., in contravention of standing orders No. of you failed to wear the uniform issued to you in accordance with your duty.

Leave : Absence Without.

That for a period of commencing on the 19....., at hours, you were absent from duty without leave.

Negligence.

1. That you acted with gross negligence in the performance of your duties as shown in the following instances, namely —

- (1) That, etc.
- (2) That, etc.

2. That you, being a in the service of the Government, on or about the 19....., having received certain books and documents the property of one and in the course of your duties, acted with gross negligence with regard to the safe custody of such books and documents as the result of which (one : describe it) of such books was lost.

Receiving Presents.

That on the 19....., contrary to General Order No. 1105, you received a valuable present namely, of a value of R..... from which was (state facts demonstrating that present was not an ordinary gift from a personal friend)...