



# Regional Judicial and Legal Services Commission

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## Judicial Discipline Regulations

*Approved by the Regional Judicial and Legal Services Commission to  
take effect from May 3, 2021.*



# Regional Judicial and Legal Services Commission

## JUDICIAL DISCIPLINE REGULATIONS

This Judicial Discipline Regulations document was developed and instituted further to Article V.3(2) and V.14 of the ***Agreement Establishing the Caribbean Court of Justice***, which provide respectively;

*"The Commission shall, in accordance with the Regulations, exercise disciplinary control over Judges of the Court, other than the President..."*

*"Subject to this Article, the Commission shall have power to regulate its own procedure."*

## RJLSC Policy Cover Page

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| <b>Policy Name</b>                              | RJLSC Judicial Disciplinary Regulations  |
| <b>Description / Preamble</b>                   | These Regulations must be disseminated to every Judge appointed to the Caribbean Court of Justice and to every person shortlisted for appointment to the Court.  |
| <b>Type of Policy</b>                           | <i>Guideline</i> <input type="checkbox"/> <i>Procedure</i> <input type="checkbox"/><br><i>New Policy</i> <input checked="" type="checkbox"/> <i>Revision of Existing Policy</i> <input type="checkbox"/>         |
|   |  |
| <b>Developed by</b>                             | Regional Judicial & Legal Services Commission  |
| <b>Responsible / Accountable Body</b>           | Regional Judicial & Legal Services Commission  |
| <b>Approved by/Approval Authority</b>           | Regional Judicial & Legal Services Commission  |
|   |  |
| <b>Approval Date</b>                            | April 30, 2021   |
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| <b>Date of Last Revision</b>                    |  |
| <b>Date of Next Policy Review</b>               | April 2023   |
| <b>Related to (previous policy or decision)</b> | <ul style="list-style-type: none"> <li>• Judicial Code of Conduct</li> <li>• RJLSC's Code of Ethics</li> <li>• Communication Policy</li> <li>• Confidentiality Agreement</li> <li>• Harassment Policy</li> </ul> |

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# REGULATIONS FOR THE JUDGES and PRESIDENT

## DEFINITIONS

In these Regulations, unless the context otherwise permits or requires, the following meanings shall be attributed to the words used:

**Agreement** means the Agreement establishing the Caribbean Court of Justice.

**Commission** means the Regional Judicial and Legal Services Commission established by Article V of the Agreement.

**Complainant** means a person who makes a complaint to the Secretary of the Commission pursuant to these Regulations.

**Complaint** means a complaint detailing an allegation against a Judge of inability to perform the functions of the judicial office whether arising from illness or any other cause, or an allegation of misbehaviour.

**Complaint form** means the Complaint Form contained in the Schedule to these Regulations.

**Contracting Party or Contracting Parties** means Member States of the Caribbean Community and any other Caribbean country which becomes a party to the Agreement.

**Court** means the Caribbean Court of Justice established by Article III of the Agreement.

**Disciplinary charge** means a charge drawn up by the Commission levelled against a Judge for the Judge's inability to perform the functions of the judicial office or for misbehaviour.

**Heads of Government** means the Heads of Government of the Contracting Parties.

**Judge** means a Judge of the Court excluding the President of the Court.

**Judicial Officer** means either a Judge or the President of the Court.

**Lesser Sanctions** means a public or private reprimand of the Judge, or any other appropriate measure the Commission may impose in those circumstances where a complaint has been

substantiated but the nature of the complaint or the conduct complained of is not sufficiently serious to warrant removal proceedings being brought against the Judge.

**Misbehaviour** includes but is not limited to contraventions of the Code of Judicial Conduct.

**President** means the President of the Court.

**Secretary** means the Secretary of the Commission.

**Secretary-General** means the Secretary-General of the Caribbean Community.

**Tribunal** means the Judicial Tribunal established by the Commission pursuant to Article IX of the Agreement to enquire into the matter and tender advice on whether a Judicial Officer should be removed from office for inability to perform their functions or for misbehaviour.

# REGULATIONS

## 1.0 Making a Complaint

1.1 A person may make a complaint against a Judicial Officer where that person presents a credible allegation that:

- (a) a Judicial Officer has shown an inability to perform the functions of the judicial office whether arising from illness or any other cause; or
- (b) a Judicial Officer has been guilty of misbehaviour.

1.2 A person shall make a complaint within six months of the events giving rise to the complaint referred to in Regulation 1.1; provided that the Commission may grant an extension of time to file a complaint in exceptional cases where the interests of justice so require.

1.3 A person shall make a complaint against a Judicial Officer by completing the complaint form and delivering it to the Secretary.

1.4 Upon receipt of a complaint the Secretary shall:

- (a) ensure that the complaint form has been correctly completed;
- (b) open a file for the complaint received which will contain a copy of the complaint form and any subsequent correspondence or documents related thereto;
- (c) immediately confirm in writing to the Complainant that the complaint has been received;
- (d) forthwith transmit the complaint form to the Commission and the Judicial Officer concerned; and
- (e) invite the Judicial Officer to provide a written response within fourteen (14) days.

1.5 The Commission shall not entertain any complaint which is anonymous and/or where the Complainant provides no, or insufficient contact information.

## **2.0 Assistance to Complainants**

2.1 Reasonable assistance shall be provided to complainants –

- a. with a disability,
- b. whose first language is not English,
- c. who have limited literacy skills; or
- d. who have any other difficulty with communication,

so as to ensure that they are able to complete the complaint form and otherwise participate fully in the complaints process.

## **3.0 Complaints against the President**

3.1 If the Commission has credible evidence that -

- a. the President has shown an inability to perform the functions of the judicial office whether arising from illness or any other cause; or
- b. the President has been guilty of misbehaviour

the Commission shall send that evidence to the Secretary-General.

3.2 Where a complaint is made against the President, the President shall immediately recuse himself/herself from all aspects of the complaints process, and the Commission shall refer the complaint to the Secretary-General for such appropriate action as the Heads of Government may determine.

## **4.0 Initiation of Complaint or Action by the Commission**

4.1 The Commission may of its own motion initiate a complaint against a Judge where it has evidence that:

- (a) a Judge has shown an inability to perform the functions of the judicial office whether arising from illness or any other cause; or
- (b) a Judge may be guilty of misbehaviour.

4.2 Where a complaint is made by the Commission, regulations 1.4(b), 1.4(d), 1.4(e), 5.1 5.2 and 5.3 shall apply.



4.3 If at least three Heads of Government in the case of the President jointly represent to the other Heads of Government, that the question of removing the President from office ought to be investigated, then Regulation 10 of these Rules shall apply.

## **5.0 The Judicial Officer's Right to be Heard**

5.1 The Judicial Officer upon receipt of the complaint form may within four business days of such receipt respond in writing to the complaint.

5.2 The response of the Judicial Officer shall be forwarded to the Secretary who shall immediately transmit the same to the Complainant and the Commission.

5.3 The Judicial Officer may engage an Attorney at Law to respond and to represent him in relation to the complaint.

## **6.0 Summary Dismissal of Complaint by the Commission**

6.1 The Commission shall receive and deal with a complaint even though the subject matter of the complaint constitutes or may constitute a criminal offence and whether or not it has been dealt with or is being dealt with by a court of competent jurisdiction.

6.2 (1) The Commission shall dismiss the complaint without any full investigation in the following circumstances:

- (a) it is, on its face, unmeritorious;
- (b) in substance the complaint concerns a person's dissatisfaction with a judicial decision made by the Judicial Officer concerned;
- (c) the person who is the subject of the complaint is no longer a Judicial Officer;
- (d) the complaint was already addressed by the Commission;
- (e) the complaint is about the private life, personal opinions and/or beliefs of a Judicial Officer and does not amount to inability to perform the functions of the judicial office whether arising from illness or any other cause, or misbehaviour;

- (f) the complaint is about the professional conduct in a non-judicial capacity of a Judicial Officer and does not amount to inability to perform the functions of the judicial office whether arising from illness or any other cause, or misbehaviour; or
  - (g) the Commission otherwise finds that there is no sufficient cause to warrant investigation.
- (2) Where the Commission dismisses the complaint in accordance with regulation 6.2(1), it shall forthwith notify the dismissal in writing to both the Complainant and the Judicial Officer to whom the complaint relates and shall indicate the ground therefor.

## **7.0 Hearing by the Commission**

- 7.1 If the complaint is not dismissed in keeping with Regulation 6.2(1) the Commission shall subject to Regulation 8 proceed to address the complaint. Where, after hearing the Complainant and the Judge complained against together with any other evidence, the Commission finds that the complaint has not been substantiated, it shall dismiss the complaint.
- 7.2 If the Commission finds that the complaint has been substantiated but what has been proved is not sufficiently serious to warrant removal proceedings against the Judge, the Commission may impose a lesser sanction against the Judge against whom the complaint is made.

## **8.0 Preliminary Investigation of Judge**

- 8.1 If, whether before or after the hearing referred to at Regulation 7, the Commission assesses that the complaint appears to be sufficiently serious that, if substantiated, removal from office might be warranted, the Commission shall refrain from issuing a lesser sanction and instead appoint an Examiner to conduct a further investigation of the complaint in order to determine whether the question of the removal of the Judge from office ought to be investigated by a Tribunal.
- 8.2 A person shall be eligible for selection as an Examiner if the person is not the current holder of any permanent judicial office but would (if considered for judicial office) have satisfied the criteria set out in Article IV(10) and (11) of the Agreement.

- 8.3 The Examiner shall be provided with the file.
- 8.4 The Commission shall inform the Judge and the Complainant in writing that an Examiner has been appointed, the name and contact information of the Examiner, and the nature of the investigation to be conducted. The Judge and the Complainant shall be provided with a copy of all documents in the file save where for reasons of confidentiality the Commission deems it not appropriate to disclose the same.
- 8.5 The Examiner shall consider the complaint and may request a statement from the Judge to whom the complaint relates, conduct any such investigations that the Examiner deems appropriate, and gather relevant information and evidence.
- 8.6 The Examiner shall be independent and impartial, and all procedural matters shall be determined by the Examiner in accordance with the rules of natural justice.
- 8.7 The Examiner shall ensure that the preliminary investigation is kept confidential.
- 8.8 The Examiner shall prepare and deliver a written report within 30 days of the Examiner's appointment or no more than 60 days, as the Commission deems appropriate, advising the Commission whether or not there are grounds on which to convene a Tribunal.
- 8.9 Where the Examiner finds that there are no grounds on which a Tribunal should properly be convened, the Examiner shall refer the matter to the Commission for such action as the Commission considers appropriate.
- 8.10 The Examiner shall be provided a travel and subsistence allowance and funds for all reasonable expenses incurred or likely to be incurred in the execution of the Examiner's official duties on behalf of the Commission.

## **9.0 Referral to Tribunal and Suspension of Judge**

- 9.1 Where the Examiner finds that there are grounds on which a Tribunal could properly be convened and the Commission decides that the question of removing the Judge from office ought to be investigated, the Commission shall:
- (a) draw up a formal disciplinary charge and facilitate the service of same on the Judge concerned together with the Report of the Examiner; and

- (b) appoint a Tribunal pursuant to Article IX (6) of the Agreement to enquire into the matter and advise the Commission whether or not the Judge ought to be removed from office.

9.2 After the question of removing the Judge from office has been referred to a Tribunal, the Commission may suspend such Judge from performing the functions of his or her office, and any such suspension may at any time be revoked by the Commission and shall in any case cease to have effect if the Tribunal advises the Commission that the Judge ought not to be removed from office.

## 10.0 Proceedings before the Tribunal

10.1 In accordance with Article IX (6) of the Agreement, the Heads of Government (in the case of a complaint made against the President) or the Commission (in the case of a complaint made against a Judge), shall appoint a Tribunal which shall consist of a Chairperson and not less than two other members, selected by the Heads of Government or the Commission, as the case may be, after such consultations as may be considered expedient, from among persons who hold or have held office as a Judge of a court of unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth, or in a State exercising civil law jurisprudence common to Contracting Parties, or a court having jurisdiction in appeals from any such court.

10.2 The Tribunal shall appoint a Secretary to attend the sittings of the Tribunal to record its proceedings, to keep its papers, to summon and minute the testimony of witnesses, and generally to perform such related matters.

10.3 Each member of the Tribunal appointed shall make and subscribe to an oath or affirmation to discharge confidentially, faithfully, fully, impartially, and efficiently the trust and perform the duties devolving upon him or her as member of the Tribunal. The oath or affirmation may be taken or subscribed before the Commission or the Heads of Government as the case may be.

10.4 The Tribunal shall conduct an inquiry into the matter. It shall specify the subject, nature, and extent of the inquiry, and may direct the following matters:

- (1) whether, and if so where, when, and how a hearing will take place; and

- (2) any other direction which would facilitate the expeditious and fair management and conduct of the matter before it.
- 10.5 The Tribunal shall be independent and impartial, and all procedural matters and questions of evidence shall be determined by it in accordance with the rules of natural justice.
- 10.6 The provisions of any law relating to the holding of commissions of inquiry in the Member State of the Caribbean Community where the inquiry is held shall apply as nearly as may be in relation to the Tribunal or, as the context may require, to the members thereof as they apply in relation to Commissions or Commissioners appointed under that law.
- 10.7 The Judicial Officer whose conduct is the subject of the inquiry shall be entitled to be represented by Legal Counsel and any other person appearing before the Tribunal who wishes to be so represented, may seek the leave of the Tribunal.
- 10.8 In case any member of the Tribunal is or becomes unable or unwilling to act, or dies, the Commission or the Heads of Government as the case may be, may, in accordance with regulation 10.1, appoint and substitute another person to serve in that member's place.
- 10.9 A member of the Tribunal shall not be entitled to any remuneration unless otherwise determined by the Commission or the Heads of Government as the case may be. The Commission or the Heads of Government, as the case may be, may direct what remuneration, if any, shall be paid to the Secretary of the Tribunal and to any other person providing services to the Tribunal.
- 10.10 (1) On conclusion of the inquiry, the Tribunal shall prepare a report (the "Report") summarising its findings and advising whether the Judge or the President, as the case may be, ought to be removed from office.
- (2) The Report shall be forwarded to the Commission within a reasonable time.
- (3) Where the Tribunal advises that the Judge or President, as the case may be, ought not to be removed from office, the removal proceedings shall come to an end, and any suspension imposed in accordance with Regulation 9 shall cease to have effect without prejudice to sub-rule 4.

- (4) Where the Tribunal advises that the Judge or President ought not to be removed, it may recommend that a lesser sanction be imposed, and the Commission or the Heads of Government as the case may be, may impose such lesser sanction as it sees fit.
- (5) Where the Tribunal advises that a Judge ought to be removed from office, the Commission shall remove the Judge by a majority vote of all its members pursuant to Article IV (7) of the Agreement.
- (6) Pursuant to Article IV (6) of the Agreement, where the Tribunal advises that the President ought to be removed from office, the Commission shall so recommend to the Contracting Parties, and the President shall be so removed by a qualified majority vote of three-quarters of the Contracting Parties.
- (7) The Commission shall notify the Complainant and the President or Judge, as the case may be, of the decision by the Commission or the Contracting Parties, as the case may be, to remove the Judge or President.
- (8) The Commission, in its discretion, may make a public statement of the decision on any disciplinary proceedings.

## **11.0 Resignation of Judicial Officer**

11. Where a Judicial Officer who is the subject of a complaint resigns the office of President or Judge as the case may be in accordance with Article IX (9) of the Agreement, proceedings against the Judicial Officer shall be discontinued, and the Complainant shall be accordingly notified.

## **12.0 Confidentiality**

12. The Secretary and the Commission respectively shall ensure that any complaint and related proceedings are kept confidential.

# SCHEDULE



## REGIONAL JUDICIAL AND LEGAL SERVICES COMMISSION

### COMPLAINT FORM

*Use this form to give the Commission enough information to evaluate your complaint. The complaint form must be typed or legibly hand-printed in blue or black ink only and submitted either electronically to the Secretary of the Regional Judicial and Legal Services Commission at [secretary@rjpsc.org](mailto:secretary@rjpsc.org) or delivered by hand or registered post to #134 Henry Street, Port of Spain, Trinidad & Tobago*

#### COMPLAINANT'S PERSONAL INFORMATION

Ms  Mrs  Mr  Other  please specify: .....

Name: .....

Address: .....

Email Address: .....

Phone number(s): .....

#### DETAILS OF COMPLAINT

Name of Judicial Officer: .....

Statement of complaint and, in case of alleged misbehaviour, including, if applicable, reference to the provision(s) of the Judicial Code of Conduct or other official Court policy allegedly violated (Completion of this section is MANDATORY). Please state in the order of time, the specific facts and circumstances you believe amount to inability to perform the functions of the judicial office or judicial misbehaviour. Be brief and to the point, but state all relevant details including names, dates and places:

.....  
.....  
.....  
.....  
.....

#### ADDITIONAL INFORMATION *(to be completed ONLY if the complaint arose out of a case before the CCJ)*

Case citation: .....

If you were represented by an attorney in this matter at the time of the conduct complained of, please identify the Attorney: .....

**DOCUMENTATION**

List the documents or other items (*if any*) that you have attached to help support your claim that the Judicial Officer has displayed an inability to perform the functions of the judicial office or has engaged in misbehaviour:

.....  
.....  
.....

**WITNESSES**

Identify if you can any witnesses to the alleged inability to perform or misbehaviour of the Judicial Officer and if known, their address and phone number:

| Name of Witness | Phone number | Address |
|-----------------|--------------|---------|
|                 |              |         |
|                 |              |         |
|                 |              |         |

**DECLARATION AND SIGNATURE**

In filing this complaint, I accept and understand that the investigation remains confidential and the Judicial Officer who is the subject of my complaint has a right to see my complaint and respond to it. By filing this complaint, I consent to any such disclosure. I further declare that the statements made in my complaint and the documents attached hereto are true and correct to the best of my knowledge.

Signature of Complainant: .....

Date: .....