**DISCIPLINARY RULES OF THE CSO**

 **DISCIPLINARY PROCEDURE**

**OBLIGATION OF AN EMPLOYEE WOULD INCLUDE**

1. Safeguard the property and interest of the CSO at all times.
2. Discharge his duties efficiently, diligently, honestly with fidelity and prudence.
3. Maintain and improve the standards of performance required of him.
4. Accept and carry out all lawful orders and instructions given to him by his superior officers.
5. Conduct him in such a manner as not to bring the CSO into financial loss in the course of his work or as not bring the CSO into disrepute in his relations with one another and with general public
6. Give his undivided allegiance to the CSO at all times and at all occasions when the CSO has a claim on his services.
7. Familiarize himself with and observe provisions of all policy and procedure Manuals including Disciplinary Rules and any other rules and regulations issued from time to time by the CSO.
8. Be courteous towards the public and readily assist all persons visiting the CSO and be polite in his acts and transactions and official correspondence.
9. Avoid divulging official information of a confidential nature and of any other form that could cause embarrassment to the CSO.
10. Not to utilize CSO labor on private jobs of any kind or put any CSO property for his personal use.
11. As soon as a charge is preferred against him/her in a court of law in respect of a criminal offence report the same to the head of his/her division or section.
12. If an employee is convicted in a Court of Law for a Criminal Offence, he shall report the findings of guilt or conviction immediately to his head of division or section.
13. Any other obligations that arises out of his employment relationship with the CSO.

 **SOME ACTS OF GRAVE MISCONDUCT (SCHEDULE “A”)**

1. **Discreditable Conduct**
2. Acting in a manner prejudicial to discipline
3. Wilfully or negligently making a false complaint against an employee.
4. Wilfully or knowingly suppressing any evidence or giving false evidence at an inquiry.
5. Indulging in incivility or abusive conduct while on duty or/ and within CSO’s premises.
6. Assaulting any employee of the CSO
7. Acting in a manner calculating to bring the CSO in to disrepute
8. Sabotage or being party to any act of sabotage resulting in loss of production and/ or loss, damage or destruction of CSO properties
9. Attempt at sabotage or being a party to attempt at sabotage
10. Any act of violence or altercation in CSO premises
11. **Insubordinate Conduct**
12. Acting or behaving in an insubordinate or disrespectful manner towards a superior officer or disobeying any lawful order given by such superior officer
13. Using obscene or insulting language on any superior officer
14. **Fraud , Forgery, Theft or Alteration of Documents**
15. Stealing or misappropriating any money, documents or property of the CSO
16. Making or signing of any false statement or false entry in any official document of the CSO
17. Internationally destroying or mutilating any official document of the CSO without due authority.
18. Wrongfully altering, erasing or otherwise tampering with any entry or making any unauthorized entry in any official document of the CSO
19. Submitting a document in connection with his employment in the CSO, which to his knowledge contains any matter that is false, forged, altered or otherwise tampered with.
20. **Corrupt Practice**
21. Refusing failing to render a true, proper and prompt account and return of monies or property received by an employee in his official capacity.
22. Directly or indirectly, soliciting or accepting any gratification as an inducement or reward for performing, abstaining from performing any official act or expediting, hindering or preventing the performance of any official at by an employee or favoring, hindering or delaying any person in the transaction of any business with the CSO.
23. Using improperly his position as an employees of the CSO for his personal advantage.
24. Collecting monies from employees or from member of the public without the authority of the COO or the head of the division.
25. **Damagers or Loss for CSO’s Property**
26. Intentionally or negligently causing damagers or loss to CSO’s property.
27. Failing to report any loss or damage to CSO’s property.
28. Failing to safeguard the interests, property and records of the CSO.
29. **Drunkenness and Disorderly Conduct**
30. Consuming liquor within the CSO premises, whilst on duty or otherwise
31. Smelling of liquor or being drunk whilst on duty or disorderly conduct after consumption of liquor.
32. Misconduct as at i and ii above in relation to drug.
33. **Being an Accessory to Breach of Discipline**
34. Attending, instigating, conniving at or knowingly aiding and abetting the commission of any misconduct among employees.
35. **Unauthorized Use of CSO Vehicles**
36. Reckless or negligent driving of vehicles belonging to the CSO.
37. Using CSO’s vehicles without authority.
38. Failing to avoid an accident involving a CSO’s vehicle.
39. Driving a CSO vehicle while smelling or under the influence of liquor or drug.
40. Deviating a CSO vehicle by the driver from usually accepted route without reasonable cause.
41. Failing to report an accident by a driver of a CSO vehicle within 24 hours of such accident to the Transport Officer of the company.

**9. Other**

1. Criminal trespass within CSO premises.
2. Being a member of an unlawful association or group which has as its intent or objective the overthrow of the establish Government of Sri Lanka or the duty constituted Board of the CSO.
3. Persistent unauthorized absent from duty and lateness in attending work
4. Sleeping while on duty.
5. Failure to observe safety precaution and willful tempering with safety devices.
6. Unauthorized divulgence of information obtained in the course of employment to outside parties to the document of the CSO.
7. Carrying unauthorized trade or business within the CSO premises including lending money and interest.
8. Exhibiting or circulating unauthorized literature, leaflets, hand bills or posters within the CSO premises.
9. Molesting of a female employee and any attempt to outage her modesty.
10. Rash and negligent operation of CSO’s machinery, equipment and vehicles and failure to take reasonable care to avoid damagers and accidents.
11. Any other act or omission, which in the opinion of the Board of Directors will be regarded as a grave misconduct.

**SOME ACTS OF MINOR MISCONDUCT (SCHEDULE “B”)**

1. **Neglect of Duty.**
2. Neglecting or failing to perform any functions, efficiently and with diligence and fidelity.
3. Contravening any rule, regulation, circular, memo or administration direction issued from time to time by the management.
4. Leaving his place of work for a considerable period of time without permission from a superior officer.
5. Neglecting or failing to make a report on a matter on which it is his duty to report.
6. Being habitually late in his attendance
7. Unpunctuality
8. Absence without leave or overstaying leave
9. Failure to wear uniforms
10. Carrying unauthorized goods/ persons in CSO’s vehicles
11. **Malingering**
12. Delaying by an employee to return to duty or feigning or exaggerating any illness or injury in order to evade duty or to prolong the due disposal of his work
13. Idling while on duty
14. Sleeping while on duty
15. **Gambling**
16. Gambling or paying any games for stakes within the CSO premises with a view to pecuniary or material gain.
17. Gambling or paying any games for stakes with a view to pecuniary or material gain outside the CSO premises while on duty.
18. **Improper Correspondence with the Management**
19. Failing to forward correspondence with the management through the head of his division or sectional/unit as case may be where an employee desires to correspond with the management.
20. Forwarding or communicating in any form the contents or even a copy or an advanced copy of a letter addressed to management regarding his conditions of service or his employment or his personal welfare in the CSO to any person outside the CSO other than to the Trade Union of which the employee is a member.
21. **Unauthorized Display of Posters**
22. Distributing or exhibiting or causing to be distributed or exhibited or fixing or causing to be a affixed to any building, premises or other immovable or movable property used or owned by the CSO, any handbill. Pamphlet or poster, whether or not relating to the CSO, its employees or conditions of service in the CSO, without obtaining the previous approval of the management
23. **Other**
24. Any other act or omission which in the opinion of the Board of the CSO may be regarded as an act of minor misconduct.
25. An act of minor misconduct (as shown above) may be considered as a grave misconduct depending on its repetition or the resulting adverse consequences.

 **DISCIPLINARY ACTION AGAINST PROBATIONERS, TEMPORARY, CONTRACT AND CASUAL EMPLOYEES**

* In respect of employee of the above categories the disciplinary procedure outlined in these rules will be followed only in respect of a specific act of misconduct.
* Where such an employee would have been interdicted if he was a permanent employee, then he would not be interdicted but his services would be terminated. If he presents himself at a subsequent inquiry that may be held against him for such misconduct, he may be reinstated depending on the outcome of the inquiry.
* An appeal will be entertained by the appellate authority only in respect of a disciplinary order made on the above procedure. Therefore an appeal that is made as where his services have been terminated on such grounds as poor work and conduct during the period of probation or due to retrenchment in the case of temporary, contact and casual employees will not be entertained.

**TERMINATION ON VACATION OF POST**

* An employee who keeps away from work without notice will be treated as having vacated his post. That fact will be conveyed to the employee concerned by the CEO/ED (or authorized officer, say HR Manager) by registered post or by personal delivery.
* Generally such a vacation of post order may be issued if an employee continues to absent himself without any intimation or approval beyond two working days. He shall be deemed to have been vacated his post with effect from the first day of his continued absence.
* if an employee who has been treated as having vacated his post tenders an appeal within one month of the notice of vacation of post to the CED/ED (or authorized officer, say HR Manager) may order his reinstatement, where necessary.

**TERMINATION OF SERVICE FOR GENERAL**

 **INEFFICIENCY**

* Where disciplinary authority is of opinion that service of an employee should be terminated for general inefficiency on account of his poor work, attendance and conduct over a period of time which cannot appropriately be dealt with by specific charges, he will obtain reports on the employees work, attendance and conduct from the head of division or sections in which he has previously served.
* The employee will then be informed in writing of the grounds on which it is proposed to terminate his service and ordered to show cause as to why his service should not be terminated or he be otherwise dealt with for general efficiency.
* After considering the employee’s reply disciplinary authority shall decide to terminate the service of employee, otherwise punish him or to allow further period not exceeding six months during which he would be expected to better progress in his work, attendance and conduct.
* if at the expiration of that period of time, it is found that his work and/or attendance and/or conduct still unsatisfactory, the disciplinary authority may then make an order to terminate service of the employee for general inefficiency or impose other appropriate punishment as he deems fit.
* Where action is taken to terminate the services of an employee or to impose other punishment for general inefficiency, it shall not be necessary to hold an inquiry, preliminary or formal.

**DISCIPLINARY ORDERS IN SPECIAL**

**CIRCUMSTANCES**

* An employee is not permitted to leave the island when disciplinary proceedings are contemplated or in progress against him.
* If an employee tenders his resignation when disciplinary proceedings are contemplated or are in progress, he will be informed that if he resigns at the stage he will be deemed to have been dismissed from the service of the CSO. If in spite of such warning he persists in resigning, then the disciplinary order that will be made against him would be that he has been deemed to have so dismissed.
* If an employee reaches the age of retirement while disciplinary proceedings are contemplated or are in progress against him, his retirement will be made subject to such disciplinary action. A disciplinary order that would be made subsequently would be in the nature of a cut in the due payments or in the gratuity, where necessary.
* If an employee dies while disciplinary action is in progress no further disciplinary proceedings could be taken. He would be deemed to have been acquitted of the charge against him on the principle that every person is presumed to be innocent until the charges against him have been proved.

**CRIMINAL OFFENCE AND BRIBERY**

* If in the course of a preliminary investigation or formal inquiry criminal offence, the matter will be reported to the disciplinary authority who will in return refer it to the police, without delay.
* Having reported the matter thus, the CSO will pursue its own course of disciplinary action. If the accused employee has been taken in to police custody or remanded then disciplinary action can be pursued on his release, where necessary.
* In this process where documents are relevant, the originals of such documents will have to be sent to the police, while retaining duly certified copies for the purpose of disciplinary action in the CSO against the employee.
* Disciplinary action in the CSO may be pursued independently while court proceedings are pending or are in progress. The fact that then an employee has been acquitted in a court of law is no reason to waive off disciplinary action on the same charges against him in the CSO, if necessary.
* On the completion of such disciplinary action in the CSO, the disciplinary authority need not await the order of the court, to make a disciplinary order.
* Where an employee has been remanded he should be interdicted. On his release from remand the disciplinary authority may continue him on interdiction, depending on the nature of the offence.

**FINDINGS MADE BY A COURT OR OTHER STATUTORY AUTHORITY**

* If a CSO employee is convicted of a criminal offence by a court of Law, he must bring that fact to the notice of the CSO.
* Where an employee has been so convicted and he has appealed against such order, a disciplinary order by the CSO may be made only after the order of such appellate authority. If the employee is already interdicted the order of interdiction will continue to operate.
* Following on a court conviction of a criminal offence, a disciplinary order may be imposed directly, in the discretion of disciplinary authority, without resorting to the normal disciplinary procedure.
* The fact that an employee has been discharged or acquitted in a court of Law in respect of a criminal offence would not be an impediment to proceed against him in the CSO under the disciplinary rules of the CSO. Such an inquiry may be held only where the misconduct on the part of the accused employee that is in question has been committed during official time, within official premises or by virtue of his official position in the CSO.
* An employee who has been punished under these rules for any offence may not claim remission of such punishment on the grounds that he has subsequently been acquitted or discharge by a court of Law in respect of that same offence, or that the order of a court has been set aside in appeal.

**FORMS OF DISCIPLINARY ACTIONS THROUGH A**

**FORMAL PROCESS - KEY STEPS OF DOMESTIC**

**INQUIRY PROCEDURE**

**FORMS OF DISCIPLINARY ACTIONS**

* The form of disciplinary action will vary with the nature of the lapse or misconduct in question.
* Where there has been a grave act of misconduct the disciplinary action consists of five steps;
1. Preliminary investigation
2. Charge Sheet
3. Explanation letter
4. Formal inquiry
5. Disciplinary order
* Where necessary an order of interdiction would also be made. This procedure is in respect of charge under Schedule ‘A’
* In respect of minor misconduct the procedure consists of only four steps,
1. Preliminary investigation
2. Charge Sheet
3. Explanation letter
4. Disciplinary order
* This procedure is in respect of charges under Schedule ‘B’ though no formal inquiry would be held here, such an inquiry may be held on an application by the accused employee and decided at the discretion of the Disciplinary Authority.
* Where there has been only a very minor lapse the action taken against the employee is summary in procedure and takes only two steps;
1. Calling for explanation in writing
2. Disciplinary order

**PRELIMINARY INVESTIGATION**

* When disciplinary action is contemplated against an employee, the first step is the holding of a preliminary investigation.
* Normally a preliminary investigation is ordered by the CEO/ED. In urgent circumstances the HR Manager could order such an investigation. But the CEO/ED must then be kept informed of such action.
* A preliminary investigation is only a fact-finding process and does not constitute a formal inquiry.
* Such an investigation is held by obtaining statement from persons who could give evidence as to the matter under investigation. In obtaining such statement initially the place, date and time of recording such statements are noted down. Such statements should be recorded in language that person is conversant with and in direct speech.
* The duty of preliminary investigating officer is not merely to record what is being stated to him by a witness, but also to question him on matters needing clarification in the light of the statement made to him and to record his replies too accordingly
* In obtaining information in this manner the suspect also should be afforded an opportunity of making a statement on his behalf, preferably at the end of the preliminary investigation.
* The success of a preliminary investigation depends very much on holding it expeditiously. Any avoidable delay will make it difficult to obtain the correct evidence. The preliminary investigation should be conducted and concluded expeditiously as far as practicable.
* Any material including documents which are relevant for the process of holding a preliminary investigation should be impounded by the investigating officer.
* Where such documents need to be produces in a Court of Law, certified copies should be made use of for the investigation, while releasing the originals
* In order to ensure confidentiality and secrecy of the preliminary investigation statements can be recorded without prior notice to any person either by going up to him or her or summoning such person to the place of investigation.
* In the event of any information pertaining to the incident under investigation that would implicate any person including the complainant is revealed in the course of the preliminary investigations, such information should be complied separately and included in the report.
* Where it is considered necessary, even two or more officers may proceed to collect such evidence at the same time. That evidence then will be collected separately and included in one report.
* It must be noted that there are differences between a preliminary investigation and a formal inquiry. For instance, at a formal inquiry the accused employee and the witnesses are informed of the inquiry in advance. But such prior notice is not given at a preliminary investigation. Further, at a formal inquiry the accused employee is entitled to be present at the inquiry right through its course. But at a preliminary investigation he has no such right. No representative is also permitted to appear on behalf of an employee at the preliminary investigation.
* However, if the preliminary investigation is in respect of a shortage in cash or stores in the custody of an employee, he has a right to be present at such investigation. Further, in such an event he will be required to confirm that such verification was carried out in his presence and he should certify or acknowledge as to the correctness or otherwise of the accounting statement drawn up to then.
* If the suspect employee is not available or if he keeps away will fully from such investigation, then the verification should be carried out by a Board of Verification appointed by the CEO/ED for the purpose.
* At the time there may be situation where the disciplinary authority himself may have observed the misconduct of the suspect employee. The question may then arise as to whether a preliminary investigation would still be necessary, since the disciplinary authority himself has witnessed the misconduct. However a preliminary investigation will still be necessary. Otherwise difficulties will arise when a charge sheet is to be framed and also at the stage of leading evidence for the prosecution at the stage of the formal inquiry
* One such instance would be where the internal audit had proceeded to hold an audit investigation. The same procedure will apply in respect of statement dispensed with. The statement collected at such an investigation may be made use for framing of chargers, without a further preliminary investigation.
* Generally a question of seniority does not arise as between the Investigating officer holding the preliminary investigation and the suspect employee.
* Even where a suspect admits directly the lapse or the misconduct in question on his part a preliminary investigation will still be necessary, for the reason that no disciplinary order could be made at the conclusion of a preliminary investigation itself. Such an order can be made only at least after the framing of charges and the calling for the explanation of the suspect employee. And if a charge sheet is to be framed all the evidence necessary should have been collected at the preliminary investigation.
* An employee cannot refuse to make a statement when requested to do so at a preliminary investigation. Where an employee refuses to make such a statement it will amount to insubordination, for which also he can be dealt with disciplinarily.
* It has to be remembered that the statement recorded at a preliminary investigation are often subject to serve cross examination at the stage of the formal inquiry. Therefore such statement at a preliminary investigation must be recorded with the utmost care and as conveying the exact evidence of the employee.
* With this end in view, the employee concerned must be required to make an attestation at the end of his or her statement, preferably in his own handwriting, to the effect that, that statement was read over by him and that he had made it voluntarily. He should attest his signature to it thereafter.
* At the end of the preliminary investigation the investigation officer should prepare a report on the basis of the evidence recorded by him and indicate therein whether there appears to be a prima facie case against the suspect employee or not.
* If a statement of an employee has been recorded at a preliminary investigation under an inducement, threat or promise, it shall be the responsibility of the employee concerned to bring that fact to the notice of the management within a period of 48 hours.
* If a preliminary investigation discloses criminal offence against an employee further disciplinary action will be pursued in terms of Disciplinary Rules

**INTERDICTION AND COMPULSARY LEAVE**

* + - Where it is considered undesirable that an employee should continue to exercise the duties and functions of his office or post he may forthwith be interdicted by the CEO/ED of the CSO. An employee could also be interdicted or sent on compulsory leave
		- At the conclusion of preliminary investigation disclosing chargers serious enough to warrant his eventual dismissal from CSO if those chargers are proved; or
		- At the conclusion of an investigation made by the Police disclosing serious charges under criminal offence.
		- An employee convicted of a criminal offence will be deemed to be interdicted as from the date of such conviction notwithstanding the fact that an appeal to a higher court may be pending and will remain under interdiction until a decision is made by the disciplinary authority.
		- An employee who is remanded by a Court will be deemed to be under interdiction from the date of the remand order. He will not be paid any emoluments during such period of interdiction. However the disciplinary authority has the discretion to pay his emoluments once he resumes duties. This discretion will be exercised on a case by case basis.
		- If an employee cannot appropriately be interdicted in terms of these rules, but if it’s in the interest of the investigation or inquiry that he should not exercise the duties or functions of his post, he should be transferred or he should be placed on compulsory leave.
		- The head of the HR division should furnish to the CEO/ED a quarterly report of employees under interdiction and a brief statement of the position in regard to each of them. The CEO/ED may investigate cases which appear to be unduly delayed and may take such steps as are deemed fit in each case.
		- As the reinstatement of an interdicted employee who is not found guilty after an inquiry would result in the payment of all back wages to him with consequent loss to the CSO the disciplinary authority should personally satisfy himself before ordering the interdiction of an employee.
		- An order of an interdiction would generally be made if the offence complained of had been committed during official time, within official premises or by virtue of the official position of the employee

**EMOLUMENTS WHILE UNDER INTERDICTION**

* Any employee who is interdicted consequent to conviction in a court for a criminal offence will not be paid any emoluments during the period of interdiction.
* An employee who is interdicted consequent to his being remanded by a court on a criminal charge will not be paid any emoluments during the period of interdiction.
* An employee who is interdicted on account of misappropriation, fraud, forgery and negligence resulting in an appreciable loss to the CSO or on account of involvement in bribery or any other means of illegal gain to him will not be paid any emoluments during the period of interdiction. In such cases the order of denial of total emoluments shall be made by the CEO/ED in respect of the all grades below the rank or CEO/ED and by the Board of Directors in respect of CEO/ED.
* If disciplinary proceeding against an employee on charges are not completed within a period of 6 months, the disciplinary authority who made the order denying the total emoluments may authorize payment of a portion not exceeding one half of the employees monthly emoluments commencing from a date which is not retrospective, provided the delay in the disciplinary proceedings is not attributable to the accused employee.
* In the case of those under interdiction who do not fall within the foregoing provision, the employee shall be paid as from the date of interdiction one half of the emoluments to which he is normally entitled. The CEO/ED, in consideration of any special circumstances of an individual case, may order the payment of a greater proportion than one half of the emoluments but not exceeding three forth of the emoluments of the employee concerned.
* If an employee under interdiction fails to reply to the charges framed against him within the time allowed or if he fails to attend an inquiry on the date fixed, or impedes the progress of the inquiry without reasonable cause the disciplinary authority who ordered the interdiction shall stop payment of any portion of the emoluments allowed to him until he corrects himself.
* If the disciplinary proceedings against an interdicted employee result in dismissal he shall not be paid any emoluments as from the date letter of dismissal. If the disciplinary proceedings result in a punishment less than dismissal, the payment of emolument withheld or of a portion thereof will be decided by the disciplinary authority ordering the punishment and this will form part of the disciplinary order.
* If the proceedings result in the exoneration of the accused employee from the charges brought against him, he will be paid all the emolument withheld, on his resuming duties after reinstatement.
* The same procedure as above will be followed in respect of an acquittal in Court, where no disciplinary proceedings are contemplated in the CSO against the employee concerned.
* The foregoing provisions relating to payment of a portion of the emoluments whilst under interdiction will not apply to temporary or casual employees as they will not normally be interdicted pending disciplinary proceedings, but instead their services will be terminated pending inquiry.
* The emoluments of an employee means ( for the purpose of these provisions) the salary of his substantive post together with any allowances normally payable, exclusive of any allowances in the nature of duty allowance or any special allowance which is payable whilst in the discharge of his normal official duties.
* Where an employee has been sent on compulsory leave, the leave availed of will first be set off against the leave normally available to him and any excess leave will be treated as special leave under full pay.

 **CHARGE SHEET**

* If at the conclusion of a preliminary investigation, it’s considered necessary to pursue further disciplinary action against the suspect employee, and then a charge sheet would be issued against him by the disciplinary authority.
* A charge sheet is issued to comply with a principle of Natural Justice, namely to conform to the requirement that no person should be punished without having heard him in his defence.
* A charge sheet should be issued where the offences are of a major nature, as well as of a minor nature. Major offences are shown under Schedule ‘A’ and minor offences under Schedule ‘B’. However they are not exhaustive as far as types of misconduct are concerned.
* Where there has been only a minor lapse, the employee concerned may be dealt without the issue of a formal charge sheet. However in such an event his explanation should be called in writing before making a decision on the matter.
* In the issue of a charge sheet it need not take on a legalistic form as in a Court of Law. The disciplinary authority may frame it in a manner as considered necessary. See Appendix I
* Through such a charge sheet need not be in any definite form every charge sheet should contain some specific matters.
1. The schedule under which the charge are being issued
2. The relevant provision in the disciplinary rules requiring the issue of a charge sheet.
3. The rule or provision in the disciplinary rules that has been violated
4. The charges should be indicated in definite terms; that would mean that a charge should indicate the place, date and time at which the misconduct or lapse occurred. Where this information cannot be provided with such details the charge would indicate “on or about” such date, time or place.
5. The adverse consequence that flow from the charges.
6. A list of witnesses and documents that will be produced at the inquiry in order to establish the charge/s
7. In the case of documentary evidence, the accused employee will be informed that he either by himself or with any representative of his could examine these documents by prior arrangement under the supervision of a responsible officer or he may be provided with photo-copies of these documents ( on payment of a fee for photocopying), if necessary
8. A period of two weeks’ time is provided to reply to the charge sheet. He will be informed that if no such explanations are received within the given time without a reasonable excuse, further disciplinary action will be preceded with on the basis that he had no valid explanations to offer.
9. Finally the employee will be requested to acknowledge receipt of this charge sheet.
* In most charge sheets an additional charges is often included to the effect that by the accused employee’s conduct as in one or more of the preceding charges, he has brought the institution into disrepute. Generally even such a charge should be supported by evidence.
* The statements recorded at the preliminary investigation may be listed in the charge sheet under documents. This is done at the discretion of the disciplinary authority.
* Only the disciplinary authority can amend charges after the issue of the charge sheet. But the inquiry officer on an application by the prosecuting officer may allow the addition of any documents or witnesses to the list in the charge sheet. Such instances however must be limited to two in both events.

 **EXPLANATIONS TO THE CHARGE SHEET**

* Generally two weeks’ time is allowed to reply to the charges. This period of time can be extended at the request of the accuses employee based on reasonable grounds
* Where an accused employee delays inordinately or where he does not furnish a reply at all, the subsequent disciplinary action depends upon the schedule under which the charge sheet has been issued. If the charge sheet has been issued under schedule “B” a disciplinary order can be imposed on the basis that he has no explanation to offer.
* where the charge sheet has been issued under schedule “A” and where the employee does not furnish a reply, he cannot be punished directly as under schedule “B”, for the reason that for an offence under schedule “A”, a punishment could be imposed only after a formal inquiry
* In a situation where the accused employee directly pleads guilty to the charges, the subsequent disciplinary action will again depend on the schedule under which he has been charged. If the schedule “B” then a minor disciplinary order can be made on his plea of guilt.
* Where the charges are under schedule “A”, it must be ascertained as to whether his plea of guilt had been made conditionally or unconditionally. If a plea of guilt has been made unconditionally both in reply to the charge sheet and at the commencement of the formal inquiry, the proceedings can be concluded without the recording of further evidence on that basis.
* If the plea of guilt has been made conditionally under schedule “A” the matter has to proceed to a full formal inquiry. This is to find out whether the facts urged in his defence are true, in which event they would serve as migratory circumstances in deciding on a punishment.
* In furnishing a reply to the charge sheet under schedule “A”, an accused employee would be entitled to plead not guilty to the charges in short and to request that he has been given an opportunity of a formal inquiry, at which he will bring up all evidence in his defence.
* Through the employee is entitled to plead “not guilty” to the charges in short, it would be to his advantage to give a full explanation where the charges are under schedule “B”. This is for the reason that a punishment can be imposed directly without an inquiry, in consideration of only the explanation to the charges under schedule “B”.
* Where a disciplinary authority is not satisfied with the explanation to the charges that have been sent, that fact must be intimated to the accused employee before the commencement of a formal inquiry, where necessary.

**DEFENCE REPRESENTATIVE**

* An accused employee shall be entitled to be represented at a formal inquiry by a defence representative who shall be nominated in writing by the accused employee and approved by the disciplinary authority and who shall be -

(a) Another employee of the CSO who does not exercise direct supervisory control over the employee; or

(b) An employee of an any other corporates not doing similar business; or

(c) An employee of the CSO who is an official of a Trade Union of which the employee is a member; or

(d) An official from any registered Trade Union who does not hold any position of the CSO.

* A member of a legal profession shall not be permitted to represent any employee. However if a member of legal profession is appointed to prosecute, the accused officer too, may be allowed to represent by a member of legal profession approved by the disciplinary authority.
* The appointment of a defence representative made as aforesaid shall be binding on the employee until the same is revoked in writing and notice thereof is given to the CSO or until the defence representative dies or otherwise becomes incapable of acting in such capacity. All acts of commission or omission on the part of the defence representative shall for all purposes be deemed to be acts of commission or omission on the part the accused employee himself and they shall also for all purposes be deemed to be fully effectual as if such acts have been done or committed by the accused employee himself.
* A defence representative is allowed only for the purpose of bring up facts in the defence of the accused employee at the inquiry. Therefore it should be noted that, that opportunity should not be made use of subject to the CSO or its management to undue criticism.
* The defence representative of an accused employee shall not communicate with the management of the CSO on behalf of the accused employee.

**PROSECUTING OFFICER**

* The CEO/ED of the CSO will appoint a person to lead evidence for the prosecution at an inquiry. He is then referred to as the prosecuting officer.
* It will be the responsibility of the prosecuting officer to make all necessary arrangements for the holding of the inquiry.
* It will be the responsibility of the prosecuting officer to lead evidence at the inquiry in such manner as to establish the charges preferred against the accused employee by the disciplinary authority.

**APPONMENT OF AN INQUIRY OFFICER**

* On consideration of the reply to a charge sheet, the disciplinary authority will proceed to appoint an Inquiry officer, where necessary.
* Before receiving such an appointment the officer concerned should satisfied certain requirements. One such requirement is that he should not be a person who had been associated with the inquiry matter at the stage of the preliminary investigation. In other words, the appointee should not be a person biased in any way in the matter under inquiry. This is in recognition of a principle of Natural Justice.
* It is a requirement that the officer appointed as an inquiry officer should be a person who holds or had held a post senior to that of the accused employee.
* Such an inquiry officers may be appointed from within the CSO or from a registered panel of inquiry officers by the CSO or the sister company.
* The Inquiry officer should guide himself by the Disciplinary Rules of the CSO in the conduct of the inquiry.
* It will be the responsibility of the inquiry officer to conduct the inquiry impartially, fairly and expeditiously and forward his report to the disciplinary authority without delay.

**HOLDING OF A FORMAL INQUIRY**

* At the commencement of a formal inquiry the inquiry officer’s attention should be drawn to the matter of the representative at the inquiry. The officer appearing on behalf of the prosecution is termed the prosecuting officer and the officer representing the accused employee is referred to as the defending officer. These representatives should have received the prior approval of the disciplinary authority for functioning as such.
* The duty of the prosecuting officer is to lead evidence for the prosecution. For this purpose he should obtain the preliminary investigation file and study the contents therein, bearing in mind that the charges have been based on the evidence collected at the preliminary investigation.
* When a defending officer appears at an inquiry on behalf of the accused employee it is only the defending officer who can make representation at the inquiry on behalf of the defence. But where the accused employee so desires he can dispense with a defending officer and arrange to conduct the defence himself.
* Before the commencement of the recording of evidence it is best that the inquiry officer address both parties, detailing in brief the procedures that would be followed at the inquiry and seeking their corporation to conclude the inquiry without delay.
* Generally evidence is recorded in the form of typewritten statement or computer printout. Four copies of proceedings will be prepared, with the inquiry officer retaining the original and a copy, and releasing a copy to either party. The inquiry officer will forward the originals with his report to the disciplinary authority at the end of the inquiry. The other copy retained by the inquiry officer will be useful as his working copy.
* No observers are allowed to be present at a formal inquiry. However, such a person may be allowed to remain during the course of the inquiry, with the approval of the inquiry officer as an understudy.
* A witness need not be requested to give evidence under oath at an inquiry. For this reason the witness it required to certify at the end of his evidence, in his own hand writing preferably, that the evidence as read by him is true and that it has been made without his being subject to any pressure or influence. Where the evidence has been recorded in a language that is not known to the witness then the certificate should be that, that evidence was read over to him and explained before he placed his signature to it as a true statement.
* Once the above preliminaries have been looked into at the inquiry, the inquiry officer would read out to the accused employee the chargers as appearing in the charge sheet and ask him whether he pleads guilty to the charges or not. If the accused employee pleads not guilty that fact is noted in the record and the prosecuting officer will be directed thereafter to present the case for the prosecution. (Where the accused employee pleads guilty to charges, action will be pursed)
* Next commence the leading of evidence. In this exercise there are some particular matters that should be noted.
* The procedure to be followed after the completion of the recording of evidence.
1. After all the evidence has been recorded the accused employee is permitted to make a statement, if he so desires. In such an event that statement is not subject to cross examination. For that reason the evidentiary value in such a statement is very much reduced.
2. A period of two weeks’ time is allowed of the rendering of written submission of both parties to the inquiry officer.
3. The inquiry officer will proceed to question from both parties as to whether they are satisfied with the manner in which the inquiry has been held by him, and record their replies.
4. No indication should be given to either party by the inquiry officer as to what his finding are likely to be. He should remember that the authority who would make an ultimate decision as to the guilt or otherwise of the accused employee is not the inquiry officer but the disciplinary Authority.
5. Finally, the inquiry officer should submit to the disciplinary authority a report indicating what his findings are in respect of each charge while also forwarding the marked documents and the submission of both parties.
6. In his report the evidence led at the inquiry should be analyzed under each charge indicating reasons and arguments that led to his findings. Such findings would be as to whether ,
7. A charge has been proved
8. Disproved or
9. Not proved
10. The standard or proof expected at domestic inquiry will be on a “balance of probability” as against a standard of “beyond reasonable doubt” that would be expected on a criminal charge in court Law.
11. Any special migratory circumstances observed in the course of the inquiry should also be include in the report.
12. He may also comment as to any administrative lapses observed by him and suggest remedial measures. It would also be desirable to comment as to whether the inquiry officer had observed any other employee responsible for the misconduct levelled against the accused employee in the charge sheet.
13. It must be borne in the mind by the inquiry officer that he should base his findings on the charges solely on the evidence led before him at the inquiry and the submission made to him in writing by both parties at the end of the inquiry. Inferences may however, be drawn where they obviously arise from the facts of the case.

**ORDER OF DISCIPLINARY AUTHORITY**

* After the inquiry the inquiry officer should indicate in his report in respect of each charge as to what his findings are.
* The findings of an inquiry officer would be as to whether a charge is proved, disproved or not proved.
* When the disciplinary authority receives the report of the inquiry officer, the former should himself analyses and study the contents of the report. Thereafter the disciplinary authority can either agree or disagree with any decision or finding of the inquiry officer in respect of any charge or charges and accept or reject or revise any or all of the findings of the inquiry officer. Where he disagree clear reasons for such disagreement must be noted down in the relevant file.
* If the disciplinary authority requires further clarification on any point, he may refer the matter back to the inquiry officer for report or for further inquiry as necessary. If circumstances justify it, the disciplinary authority may also quash any inquiry proceedings and order a fresh inquiry, indicating in the relevant file the reason for such action.
* Where the charges have been framed under schedule “B” the disciplinary order will be in the nature of a minor punishment. Under Schedule “A”, a major punishment may be imposed.
* The disciplinary authority in making a disciplinary order will state specifically in respect of each charge whether he finds the employee guilty or not guilty.
* If punishment less than dismissal is imposed on an employee under interdiction, the disciplinary order will include an order as to whether the whole or a specific proportion of the emoluments withheld from him should be paid to him or not on reinstatement. In deciding on such an order, consideration would be given to the length of the period of interdiction and to the extent to which it may or may not be directly attributable to the accused employee.
* When the disciplinary order is one of dismissal that must be conveyed to him immediately. He will not receive any salary or emoluments thereafter.
* If the accused employee is acquitted of all the charges, he should be immediately reinstated if interdicted and paid back the salary withheld during interdiction.
* Where an employee has been interdicted while criminal proceedings in a court were pending, on his acquittal in court he should be paid back all the salary withheld from him, if no disciplinary action is contemplated against him in the CSO.
* A disciplinary order is said to take effect from the day it has been communicated to the accused employee. Where such communication has been made the disciplinary authority himself cannot vary or modify that order later, except to correct an error on the face of that order.
* Once a disciplinary authority has ordered a disciplinary inquiry against an employee he must keep that matter under constant review and see that it is completed expeditiously, with due advice to the inquiry officer or prosecuting officer, where necessary.

**PUNISHMENTS**

* Punishments are divided into minor and major punishments. Minor punishments are appropriate for offence of the type similar to those in Schedule ‘B’ , Major punishments are appropriate for offences of the type similar to those in Schedule ‘B’
* Minor punishment including the following.

 Reprimand, server reprimand or censure (a ‘warning’ is not a punishment) suspension or stoppage of increment for a period not exceeding one year. A fine not exceeding one week’s pay.

* A major punishment will include the following.

 Dismissal, termination of service, (after disciplinary inquiry) retirement for general inefficiency, retirement for inefficiency as a merciful alternative to dismissal, reduction in seniority (by a specific number of places in the grade to which the employee belongs), reduction in rank, reduction of salary or deferment of increment, deferment of promotions for a specified period and any other form of punishment more serve that the minor punishment more severe

 The punishment under summary disciplinary procedure as should not be more serve than a day’s pay fine.

* An order of retirement as a merciful alternative to dismissal could be made only by the appellate authority, in consideration of an appeal.
* A surcharge may also be imposed on an accused employee as part of a disciplinary order for a loss caused to the CSO by him.
* Where such a surcharge has been ordered in addition to an order of a dismissal of the employee the disciplinary authority should cause legal proceedings to be initiated with a view to the recovery of the surcharge, where necessary.

**APPEALS**

* An employee aggrieved by a disciplinary order made by the Disciplinary Authority will be permitted to make an appeal to the appellate authority.
* Once the disciplinary order has been made, it cannot be revised or change by the disciplinary authority except to correct errors that appear on the face of the record. Such variation would be a prerogative of the appellate authority.
* An appeal will be entertained only from the aggrieved employee. An appeal sent on his behalf by any other person will not be acknowledged or entertained.
* An appeal should be made within one month of the date of the disciplinary order complained of.
* Only one appeal will generally be entertained. If a second appeal is to be considered by the appellate authority that would be only in respect of matters not disclosed in the first appeal and where reasons have been given for such non-disclosure of these facts earlier.
* An employee who is still in employment, in making an appeal should do so through proper channels. An employee who has been sent out of service will make an appeal direct to appellate authority
* In reporting on an appeal reference should be made to each of the averments in the appeal.
* In consideration of an appeal, the appellate authority will make an appropriate order. In doing so the appellate authority could also change or revise the order of the disciplinary authority. Where considered necessary the inquiry held may be quashed and a fresh inquiry ordered by the appellate authority. In such an event the reasons for that decision must be placed on record.
* In the consideration of an appeal, if it appears to the appellate authority that it is not only the accused employee who is answerable to the matters in issue, but also some other employee/ employees. Then disciplinary action may be ordered against the others involved.

**COST OF PROCEEDINGS**

* All expenses incurred by an employee defending himself in an investigation, inquiry or appeal under these rules shall be borne by the employee himself. Such expenses shall include, inter alia, the expenses incurred by the employee in;
	1. Securing the services of a defence representative and
	2. Procuring the attendance of witness and/or the production of documents on his behalf
* Provided that if the defence representative of the witness aforementioned is an employee of the CSO, the employer shall not be liable to pay for the time expended by him in attending the investigation, inquiry or appeal. The employee shall also not be entitled to any payment for the time expended by him in attending the investigation, inquiry or appeal.

**MODEL CHARGE SHEET UNDER SCHEDULE “A”**

Mr.…..…….,

1. You are hereby required to show cause under Schedule ‘A’ of the disciplinary rules of the CSO as to why you should not be dismissed or otherwise dealt with on account of the act of misconduct alleged to have been committed by you ( as shown below) while you were serving as …………………… in…………………..

Charges:

2. The following witnesses will give evidence at the inquiry in support of these charges:

 i.

 ii.

1. Evidence from the following documents will be led at the inquiry for the prosecution;

 i.

 ii.

1. If you wish to examine the above documents you may do so by prior appointment with the HR Manager.
2. If you desire to examine these documents along with a representative of yours, you should indicate the name, address of such person and also the post he holds or has held and obtain my approval for such purpose.
3. Your explanation should reach me within two weeks of the date of this charge sheet. If no explanation is received by that time, further disciplinary action will be perused on the basis that you have no explanation to offer.
4. Please acknowledge receipt of this letter.

………………………………….

CEO/ED

Name of the CSO……

**DISCIPLINARY AUTHORITY**

**TO DEAL WITH DISCIPLINARY MATTERS**

|  |  |  |  |
| --- | --- | --- | --- |
| **EMPLOYEE** | **DISCIPLINARY AUTHORITY** | **TYPE OF PUNISHMENT** | **APPELLATE AUTHORUTY** |
| CEO/ED | Board of Directors | Warning, Severe warning, Reprimand, Server Reprimand, Fine, Suspension, Stoppage or deferment of increment, Reduction in salary or grade, Compulsory retirement, Discontinuance, Dismissal. | Board of Directors |
| Head of Division - HODs | Board Committee | Compulsory retirement, Discontinuance, Dismissal. | Board of Directors |
| CEO/ED | Suspension, Stoppage or deferment of increment, Reduction in salary or grade, Warning, Severe warning, Reprimand, Server Reprimand, Fine | Board Committee |
| Other Employees coming under Executive Grade  | CEO/ED | Suspension, Stoppage or deferment of increment, Reduction in salary or grade, Compulsory retirement, Discontinuance, Dismissal. | Board Committee  |
| HR Manager (\*) | Warning, Severe warning, Reprimand, Server Reprimand, Fine, | ED/CEO |
| All Other Employees  | CEO/ED | Suspension, Compulsory retirement, Discontinuance, Dismissal. | Board Committee |
| HR Manager (\*) | Warning, Severe warning, Reprimand, Server Reprimand, Fine Stoppage or deferment of increment, Reduction in salary or grade,  | CEO/ED |

(\*) CEO/ED may delegate disciplinary authority to the HR Manager to deal with disciplinary matters under his delegated authority.

**FORM OF REPORT ON APPEALS TO THE APPELATE AUTHORITY TO BE SENT ALONG WITH ALL CONNECTED FILES AND DOCUMENTS DULY INDEXED**

1. Name of appellant employee:…………………………….
2. Designation : …………………………….
3. Division/ Section : …………………………….
4. Date of birth : …………………………….
5. Date of first appointment :……………………………..
6. Posts held : …………………………….
7. Period of interdiction, if any : …………………………….
8. Previous record of service : …………………………….
9. Charges: Findings of Inquiry Officer

(a) ……………. :……………………………

(b) ……………. :……………………………

(c)…………….. :…………………………….

(d)…………….. :……………………………

1. Disciplinary order : ………………………………
2. Summary of grounds of appeal: …………………………….
3. Comments on each of the averments made in appeal: ………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………

………………………….

 **HR Manager**

 Date: ……………………..