

DIPLOMATIC SERVICE ORDER IN COUNCIL 1991

The following is an informal consolidation of the operative parts of the Diplomatic Service Order in Council 1991 and the Diplomatic Service (Amendment) Orders 1994, 1994(No2), 1995 and 2004. It should not be relied upon as an authentic text.

At the Court at Buckingham Palace

THE 5th DAY OF FEBRUARY 1991

PRESENT,

THE QUEEN'S MOST EXCELLENT MAJESTY
IN COUNCIL

WHEREAS by the Diplomatic Service Orders 1964 to 1982 (hereinafter referred to as "the principal Order") provision was made relating to the appointment of persons to situations in Her Majesty's Diplomatic Service and for regulating the conditions of service therein:

AND WHEREAS it is expedient to make further and separate provision for Her Majesty's Diplomatic Service in relation to the matter aforesaid:

NOW, THEREFORE, Her Majesty is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered as follows: —

Definitions

1. In this Order, except where otherwise expressly provided,

“audit” means any review carried out by or on behalf of the Commissioners of the recruitment practices and policies followed by the Service in making an appointment;¹

"The Commissioners" means the persons for the time being appointed by Her Majesty in Council to be Her Majesty's Civil Service Commissioners for the purposes of this Order;

"grade" includes post and special appointment, and "special appointment" means an appointment for which the remuneration or pension arrangements are individually determined;

"the Head of the Service" means the Permanent Under Secretary of State and Head of the Diplomatic Service or such person authorised to act on his behalf for the purposes of this Order;

“the Secretary of State” means Her Majesty's Principal Secretary of State for Foreign and Commonwealth Affairs;

"Scheduled grade" means any grade for the time being listed in Schedule 1 to this Order;

"the Service" means Her Majesty's Diplomatic Service.

¹ Inserted by the Diplomatic Service (Amendment) Order in Council 1995

Selection on Merit

2. (1) Except as otherwise expressly provided by this Order, no person shall be appointed to a situation in the Service unless
 - (a) the selection for appointment is made on merit on the basis of fair and open competition, and
 - (b) the person appointed satisfies such qualifications as may be prescribed pursuant to Article 5(2)(b).
- (2) Article 2(1)(a) shall not apply to appointment to any situation listed in paragraphs 2 and 3 of Schedule 2 to this Order
- (2A) Notwithstanding article 2(1)(a) a person may be appointed where it appears to the Head of the Service that the person satisfies the standard for entry into the grade and has been selected for appointment under a scheme which provides for selection for appointment to be made on merit on the basis of fair and open competition, but includes provision for encouragement and assistance in the process of selection (by way of an interview or otherwise) to be given to any person who is defined as being a disabled person or as having a disability by or under any enactment relating to the employment of disabled persons.
- (3) Notwithstanding article 2(1)(b), a person may be appointed where it appears to the Head of the Service that it is necessary that the appointment be made before appropriate enquiries are completed, and there is no prima facie doubt whether that person satisfies all the prescribed qualifications and is otherwise suitable for appointment.

Appointments to Scheduled Grades

3. (1) No appointment (except to a situation listed in paragraph 2 of Schedule 2) shall be made to any situation in a Scheduled grade without the written approval of the Commissioners, whose decision shall be final.
- (2) Such approval may be conditional upon the person proposed for appointment satisfying such of the prescribed qualifications as the Commissioners may specify.
- (3) The Secretary of State, after consultation with the Commissioners, by direction
 - (a) may change the title of any grade listed in Schedule I, and may remove any grade so listed where the requirement for the performance of the duties of that grade has permanently ceased;
 - (b) shall add to the grades so listed any new grade the duties of which are the same as or are substantially similar to those of one or more of the grades so listed at the date this Order comes into force; and
 - (c) may add any other grade to the grades so listed.

Functions of the Commissioners and the Secretary of State

4. (1) The Commissioners shall maintain the principle of selection on merit on the basis of fair and open competition in relation to selection for appointment.
 - (2) The Commissioners shall prescribe and publish a recruitment code on the interpretation and application of the principle of selection on merit on the basis of fair and open competition, including the circumstances in which exceptions to that principle may be permitted in accordance with paragraphs (2) and (2A) of article 2 of this order.
 - (3) The Commissioners shall audit recruitment policies and practices within the service to establish whether the recruitment code is being observed by the Service.
 - (4) The Commissioners may require the Service to publish such summary information as may be specified relating to recruitment and the use by it of permitted exceptions to the principle of selection on merit on the basis of fair and open competition.
 - (5) [The Commissioners may hear and determine appeals to them by a member of the Service under the Diplomatic Service Code of ethics and for this purpose
 - (a) may regulate their own procedure; and
 - (b) may require the parties to any appeal or to any investigation occasioned by an appeal to provide such information and other assistance as the Commissioners should think necessary or appropriate; and
 - (c) may make recommendations]²
- 4A. (1) The Commissioners shall publish an annual report which shall include:
- (a) summary information as to appointments requiring the Commissioners' approval under Article 3, including the number of persons appointed on the basis of each category of permitted exceptions identified in article 2 (2A) and paragraph 3 of Schedule 2 to the Order, and
 - (b) an account of the audit of recruitment policies and practices.³ And
 - (c) an account of the number of appeals made to them under the Diplomatic Service Code of Ethics together with summary information as to the nature of such appeals²
- (2) The Commissioners may from time to time make such other reports on appeals to them under the Diplomatic Service Code of Ethics as they think fit²
5. (1) The Secretary of State shall from time to time make regulations for the Service.
 - (2) The said regulations may in particular provide for all or any of the following matters:
 - (a) the division of the Service into grades;

² Inserted by the Diplomatic Service (Amendment) Order in Council 2004

³ Inserted by the Diplomatic Service (Amendment) Order in Council 1995

- (b) the qualifications for appointment of new members to situations in the Service;
 - (c) the recruitment of persons to situations in the Service;
 - (d) the conditions of service of members of the Service, including matters relating to conduct and discipline [and the making and amendment of a Diplomatic Service Code of Ethics]²;
 - (e) the salaries for the grades of the Service;
 - (f) the conditions of promotion in the Service;
 - (g) in conformity with any Act or Acts of Parliament which may be applicable, the conditions of retirement and pension of members of the Service.
- (3) The said regulations, in so far as they specify salaries, allowances, travelling allowances, or conditions of retirement and pension, shall not be made without the concurrence of the Treasury.

Mobility requirement for members of the Service

6. (1) Members of the Service may be employed in any appropriate post of the Service in the United Kingdom or overseas as required in the public interest.
- (2) A member of the Service may be seconded for special duties outside that Service or may be transferred to a branch of Her Majesty's Home Civil Service.

Exercise of the Commissioners' powers and duties

7. (1) Any power or duty of the Commissioners under this Order may be exercised by
- (a) the First Civil Service Commissioner or any Commissioner authorised for that purpose by him; or
 - (b) any officer of the Commissioners authorised for that purpose by the Commissioners.
- (2) The Commissioners may from time to time and to such extent as they think fit authorise any person to perform;
- (a) any of their functions relating to the selection and recruitment of persons prior to the exercise by them of their power of approval under articles 3(1); or
 - (b) any of their functions including the power of approval under article 3(1) where the Commissioners have approved the arrangements for selection for particular appointments; or
 - (c) any function under article 4(3)

8. (1) This Order may be cited as the Diplomatic Service Order 1991, and shall come into force on the first day of April 1991.
- (2) The principal Order is hereby revoked.
- (3) Without prejudice to paragraph (4) below, nothing in the said revocation shall affect any instrument or other thing whatsoever made or done or having effect as if made or done under the principal Order, and every such instrument or thing shall continue in force and so far as it could have been made or done under this Order shall have effect as if made or done under this Order. -
- (4) The Interpretation Act 1978(a) shall apply for the interpretation of this Order and of any regulations or orders made under this Order as it applies for the interpretation of an Act of Parliament, and as if for the purposes of section 16(1) of that Act this Order were an Act of Parliament and the principal Order were an Act of Parliament thereby repealed.

SCHEDULE 1

SCHEDULED GRADES

Diplomatic Service Grade 1

Diplomatic Service Grade 2

Diplomatic Service Grade 3

Diplomatic Service Grade 4

Legal Counsellor

Deputy Legal Adviser

Second Legal Adviser

Legal Adviser

SCHEDULE 2

**EXCEPTIONS TO SELECTION ON MERIT ON THE BASIS OF FAIR
AND OPEN COMPETITION**

1. In this Schedule

"appointed on secondment" means a voluntary and temporary transfer from a permanent employer for a fixed period and which does not affect the employment status of the seconded employee;

"public service" means any civil service of the State (other than the Service), and any public authority, or non-governmental body or institution discharging public functions, which the Minister for the Civil Service may from time to time determine to be a public service for the purposes of this Order.

2. The appointments referred to in article 2(2) are appointments to any situation or office

- (a) where the holder is appointed directly by the Crown;
- (b) as High Commissioner where the appointment does not fall under subparagraph (a) above;
- (c) where the holder is appointed by a Minister of the Crown for the purpose only of providing advice to any Minister, and under which the period for which the situation is to be held terminates at the end of an Administration.

3. (1) Subject to paragraph (2) below the Commissioners may except an appointment from the requirements of article 2(1)(a), either individually or by cases of a class or description, where the appointment falls within one or more of the following categories:

- (a) where the total period of service does not exceed five years and the appointment is justified by the needs of the Service;
- (b) where the person is appointed on secondment;
- (c) where immediately before appointment the person is the holder of a situation to which he was appointed on secondment, or under which the period of service (continuous or otherwise) does not exceed five years, and the appointment would be on an exceptional basis;

- (d) where the person has previously held a situation in the Service to which appointment was made on merit on the basis of fair and open competition and is being considered for re-instatement or re-employment;
- (e) where the person holds a situation in a public service;
- (f) where the person is, or has recently been, employed on functions which have been or are being transferred to the Crown;
- (g) where the person has reached an appropriate standard in a fair and open competition for another situation without securing appointment and there is a demonstrable shortage of suitable candidates for the relevant situation.

(2) The Commissioners may except from the requirements of article 2(1)(a) any appointment to a situation for which their approval is required by article 3 where they are satisfied:

- (a) that the person proposed for appointment is of proven distinction; or
- (b) that the person proposed for appointment has been assessed in fair and open competition with all other applicants for the situation, and that he is qualified to discharge all the duties of the situation effectively;

and, in either case, that the appointment is justified for exceptional reasons relating to the needs of the Service.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order revokes and re-enacts with substantial amendments the Diplomatic Service Orders 1964 to 1982.

The principal provisions are: -

- (a) Article 2 provides that, except as otherwise provided in the Order, selection for appointment to the Service will be on merit on the basis of fair and open competition, and the person appointed must satisfy such qualifications as are prescribed. Schedule 2 lists the situations to which there may be appointment otherwise than on merit on the basis of fair and open competition.
- (b) Article 3 provides that no one shall be appointed to a grade listed in Schedule 1 (a "Scheduled grade") without the approval of the Civil Service Commissioners. A grade may be added to or removed from the Schedule, and may have its name changed; new grades the duties of which are substantially similar to those listed when the Order comes into force are to be added to the Schedule.
- (c) Article 4 provides for rules to be made by the Commissioners relating to the selection of persons for appointment to Scheduled grades, the Commissioners have a new duty to advise concerning the rules made by the Secretary of State (under article 5(2)(c)) relating to selection on merit on the basis of fair and open competition, and to monitor the application of such rules.
- (d) Article 5 provides for the Secretary of State to make regulations for the Service, the qualifications for appointment and the conditions of service of persons employed therein, as well as regulations for the selection of persons for appointment to grades other than Scheduled grades.
- (e) Article 6 provides for members of the Service to be employed in any appropriate post in the United Kingdom or overseas as required in the public interest or to be seconded for special duties outside the Service or transferred to another branch of the Civil Service.
- (f) Article 7 empowers a Commissioner acting alone to exercise any power or duty of the Commissioners under the Order, and allows the delegation of any such power or duty to any officer of the Commissioners. The Commissioners may also authorise others to carry out selection and recruitment work prior to the exercise by them of their power of approval under article 3(1).