

- (iii) In no circumstances may an officer who is bankrupt or insolvent continue to be employed on duties involving the handling of public money.

REGULATION No. 9

POLITICAL ACTIVITIES

For the purposes of this Regulation political activities fall into two categories, viz., national and local political activities.

2. The extent to which members of the Foreign Service may engage in or be granted permission to engage in activities falling within one or both of the above-mentioned categories is dependent upon their grades and subject to certain conditions.

3. Any member of the Foreign Service desiring to engage in political activities of either category must consult in advance the Head of Personnel Department.

4. A member of the Foreign Service may not engage in political activity of such a kind as to conflict with the interests of the Service or be inconsistent with his position as a member of the Service.

5. Members of the Foreign Service who advise Ministers and carry out Ministers' policies are bound to retain a proper reticence in matters of public and political controversy so that their impartiality is beyond suspicion. It follows that they should not normally take an active part in any matter which is, or could be, one of public and political controversy, whether or not it is one with which they are officially concerned. If for any reason they feel impelled as private citizens to do so in relation to some particular issue, they should first consult their official superiors and should, if necessary, seek an interview with the Permanent Under-Secretary of State.

REGULATION No. 10

OFFICIAL SECRETS AND CUSTODY OF OFFICIAL DOCUMENTS

1. It is the duty of every member of the Foreign Service to acquaint himself with the provisions of the Official Secrets Acts of 1911, 1920 and 1939.

2. Any offence under the Official Secrets Acts committed by a member of the Foreign Service is, unless the member establishes extenuating circumstances, a serious disciplinary offence (see Regulation No. 12), exposing the member to disciplinary penalties, whether or not he is also prosecuted for the criminal offence in the courts.

Comment :

The Official Secrets Acts apply to all confidential documents or information which come into the possession, custody or knowledge of members of the Service. Any improper communication of confidential documents or information is a criminal offence under these Acts, even if the communication is made to another person in Her Majesty's Service. It is also a criminal offence if a member of the Service fails to return official documents if their return is demanded by the Foreign Office (see paragraphs 10 and 11 below and comment thereto as regards members of the Service who have retired and as regards the papers of members of the Service who die). The appendix to this Regulation gives extracts from the Official Secrets Acts containing those portions of them which are likely to be of most importance to members of the Service. Members of the Service, however, are not thereby excused from making themselves acquainted with the provisions of the Acts as a whole. No definition is given in the Acts of "official documents," and there is no rule given in the Acts as to the burden of proof on the question whether a document or information was "entrusted in confidence." So far as the application of the Acts is concerned it is for the courts to determine their effect, and the Secretary of State has no authority to give an official interpretation of them. On the other hand, so far as disciplinary offences are concerned, it is within the power of the Secretary of State to make his own rules as to what shall be deemed to constitute "official documents" and as to what test shall be applied to determine whether information or documents are confidential. Certain rules for this purpose are inserted in paragraphs 6 and 7 below.

3. Negligence by a member of the Service in the custody, disposal or handling of official documents or in communicating confidential information is a disciplinary offence.

4. Any improper communication of confidential official documents or confidential official information, whether orally or in writing, is a disciplinary offence.

5. Any failure by a member of the Service to return official documents to the Foreign Office, if their return is demanded, is a disciplinary offence.

6. All information and documents falling within the classes specified in paragraph 7 of this Regulation shall, for the purposes of these Regulations and of deciding whether a disciplinary offence has been committed, be deemed to be confidential and official, unless the Secretary of State otherwise decides; and the onus of proof to show, in any case, that any information or any document falling within these classes is not confidential or is not official will rest upon the member of the Service concerned.

Comment :

In the case of information or documents not falling within the classes specified in paragraph 7 of this Regulation, the question whether they are official and confidential is left by these Regulations to be decided according to the circumstances of each case, without any rule placing the onus of proof on the officer concerned to show that they should not be held to be official or confidential.

7.—(a) The classes of documents referred to in paragraph 6 above comprise all documents or correspondence (and copies thereof) relating to any matter of official concern to any branch of Her Majesty's Service and emanating from or addressed to—

- (i) any diplomatic mission or consulate of Her Majesty;
- (ii) any Department of any of Her Majesty's Governments in the United Kingdom or the Dominions, or of the Governments of India or of any territory under British administration;
- (iii) any Department of any foreign Government;
- (iv) any foreign diplomatic mission or consulate;
- (v) any person in the service of any of the diplomatic missions, consulates or Government Departments referred to in (i), (ii), (iii) and (iv) above.

(b) The classes of information referred to in paragraph 6 above comprise all information relating to any matter of official concern to any branch of Her Majesty's Service and obtained orally from, or from documents or observation at, any of the sources specified in (i), (ii), (iii), (iv) and (v) of sub-paragraph (a) above.

Comment :

(1) Documents and correspondence may be official and confidential under this paragraph, notwithstanding that they have been addressed or sent in a personal form or marked "personal" or "private." Indeed, the presumption is that they are official and confidential. It is, in fact, a common practice to send most secret information or most confidential instructions in a letter so marked. Similarly, oral information may be official and confidential although it has been given casually and in a non-official manner.

(2) The enumeration in paragraph 7 is not, and is not intended to be, exhaustive. Written or oral communications from non-official persons relating to matters of official concern may often be confidential official information and, if in writing, official documents. As indicated by the comment to paragraph 6, the difference between documents which are covered by the enumeration in paragraph 7 (a) and information covered by the enumeration in paragraph 7 (b), and documents or information not so covered, is that in the former case there is a strong *prima facie* presumption that the document or information is both official and confidential, and in the latter case there is no such presumption.

8. Members of the Foreign Service shall, on the outbreak of war or other emergency, destroy official documents which are in their possession or custody, in accordance with the instructions in force for such eventuality. Except in cases of emergency, they shall not destroy the originals or sole copies of official documents except under authority from the