

Prime Minister

agree to
Lady Youngs
proposals for a
tensure as to Civil Service
Order in Council

Yes
No



PRIME MINISTER

J. & P. Baker ?

REVISION OF THE CIVIL SERVICE ORDER IN COUNCIL, 1978; THE DIPLOMATIC SERVICE ORDER, 1964; AND THE CIVIL SERVICE COMMISSION GENERAL REGULATIONS, 1978

As part of the Government's programme of manpower reductions the Civil Service Commission will on 1 January 1983 cease to have any formal responsibility for recruitment to the junior grades - broadly speaking all grades below the Executive Officer level. This makes it necessary to revise the Civil Service Order in Council, 1978, the Diplomatic Service Order, 1964 (which provides the main basis of Ministerial powers over the Diplomatic Service) and the General Regulations governing recruitment, which are made by the Civil Service Commissioners with the approval of yourself as the Minister for the Civil Service and of the Foreign and Commonwealth Secretary.

This minute seeks your agreement in principle (and that of the Foreign and Commonwealth Secretary) to the basis on which it is proposed to draft the revised Orders and Regulations.

The Civil Service Commissioners have taken the opportunity to consider whether any changes are desirable beyond those required to give effect to the new recruitment arrangements. The attached paper sets out the issues considered and two important conclusions emerge. The first is that the principle of selection on merit on the basis of fair and open competition, which has always governed the Commission's activities, should be maintained for their own future work and also applied to the large area of recruitment for which departments will in future be responsible. The second is that there should be no change in the provisions of Article 1(2) of the Civil Service Order in Council. Apart from listing certain categories of appointments (eg of political advisers) which are rightly excluded from the Commissioners' area of responsibility, this article specifically requires the Commissioners' agreement before departments can make short term appointments without a certificate of qualification ie without open competition.

Sir Robert Armstrong endorses the Commissioners' conclusions on both these main points. In my own view, the first is fundamental and the second is a sensible compromise. The existing provisions make it possible for a particular appointment to be made without advertisement or open competition if the circumstances justify it: but it is prudent to require departments to satisfy the Commissioners that such exceptional action is justified.

If you agree broadly with what is proposed the Commissioners will consult the Treasury Solicitor on points of detail in order to establish the precise form of the amendments that will be required, and will keep in close touch with the Foreign and Commonwealth Office.

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advantage?

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When that has been done, I will seek your approval of the revised draft of the Civil Service Order in Council, and of the General Regulations (for which the Foreign and Commonwealth Secretary's approval will also be needed).

I am sending a copy of this minute to the Foreign and Commonwealth Secretary.

Janet Young

BARONESS YOUNG
19 July 1982



REVISION OF THE CIVIL SERVICE ORDER IN COUNCIL, 1978; THE
DIPLOMATIC SERVICE ORDER, 1964: AND THE CIVIL SERVICE COMMISSION
GENERAL REGULATIONS, 1978

BACKGROUND

1. From 1 January 1983, the Civil Service Commission will cease to have any formal responsibility for recruitment to junior grades - broadly speaking all grades below Executive Officer level - in what is at present the delegated recruitment area of the Home Civil and Diplomatic Services. Recruitment to those grades will then be the responsibility of recruiting departments, acting in accordance with guidance laid down by the Management & Personnel Office - not the Civil Service Commission. It will therefore be necessary to amend the Civil Service Order in Council, 1978 (Appendix A), the Diplomatic Service Order 1964 (Appendix B) - which provides the main basis of ministerial powers over the Diplomatic Service-and the General Regulations governing recruitment (Appendix C) which are made by the Commissioners with the approval of the Minister for the Civil Service and the Foreign Secretary.
2. The opportunity has been taken to consider whether any changes are desirable beyond those needed to give effect to the new recruitment arrangements. This paper sets out the main issues considered and the amendments proposed.

ISSUES

3. Fair and open competition. The principle of selection on merit on the basis of fair and open competition (which is set out in General Regulation 4 at Appendix C) has always governed the Commission's activities. The Commissioners believe that this principle should be maintained for their own future work, and should continue to be applied to the large area of recruitment which will in future be the responsibility of departments.



4. Exceptions provided for in the Civil Service Order in Council, 1978. Article 1(2) of the Order in Council provides for certain exceptions to the requirement that the Commissioners approve the qualifications of all persons proposed for appointment to the Home Civil or Diplomatic Services. The exceptions are:

- a. appointments made directly by the Crown;
- b. appointments specifically excluded by statute (eg block transfers by Act of Parliament);
- c. part-time appointments under 18 hours per week;
- d. appointments which terminate at the end of a current administration or sooner (eg special advisers);
- e. casual appointments of up to 12 months;
- f. appointments not exceeding 5 years in duration to which the Commissioners are satisfied that it is desirable to appoint someone without the issue of a certificate of qualification.

5. Appointments in categories a to e are specific exclusions from the requirements of the Order in Council, ie the Commissioners have no responsibilities in relation to them. It is considered that those appointments should continue to be excluded from the Commissioners' responsibilities. No change is proposed.

6. The exception at 4f is different: although the Commissioners are not required to approve the qualifications of, or to certificate, people who are appointed under it, their prior approval for such appointments must be obtained. The Commissioners have considered whether or not it is appropriate for them to retain their powers to control short-term appointments or whether departments should be free to recruit without open competition when they see fit. However, the Commissioners recognise that the present arrangements provide a safeguard against patronage while the escape clause enables special action to be taken and an appointment made without competition when the Commissioners are satisfied that the circumstances justify it. They conclude that the present arrangements should continue and recommend that no change is made.



7. Exceptions Provided for in the General Regulations. The General Regulations provide a discretionary power to enable the Commissioners to issue a certificate of qualification, in respect of a permanent appointment, without open competition. (This corresponds to the one provided for in the Civil Service Order in Council, mentioned in paragraph 4 above and discussed in paragraph 6, which relates to short-term appointments.) The discretionary power is in Regulation 11a at Annex C, and can be used only when the Commissioners are satisfied that it is appropriate to do so in the case of a particular individual. This power is used rarely (and cases are reported in the Commissioners' Annual Reports) but it is useful, and sensible, in exceptional cases. The Commissioners recommend that these arrangements should continue.

8. The General Regulations allow for a range of other discretionary powers and exceptions: for example, there is a power to permit the appointment on a trial basis of someone whose health does not meet the standard for established appointment but who may be able to satisfy the health requirement at a later stage. No change in these discretionary powers is proposed.

9. Control of departmental recruitment. The Management & Personnel Office will in future issue to departments the necessary guidance and instructions about recruitment. Amendments to the Civil Service Order in Council will therefore need to achieve two broad objectives:

a. to make it clear that the Commissioners will have responsibility in future for recruitment to only part (ie the certificated part) of the Home Civil Service and of the Diplomatic Service; to define that area; and to ensure that the Commissioners continue to have, in respect of that area, the powers which they have at present with regard to the Home Civil Service (and Diplomatic Service) generally;

b. to provide any necessary powers to enable the Minister for the Civil Service (and the Foreign & Commonwealth Secretary) to issue guidance and instructions about recruitment to the non-certificated part of the Civil Service (and of the Diplomatic Service).



10. Once ministers' views are known the Treasury Solicitor's advice will be needed on how best to draft the Order(s) to replace the existing Orders so as to achieve these objectives.

11. Nationality Rules. The nationality rules for the Home Civil and Diplomatic Services which form part of the General Regulations will need to be amended in the light of the British Nationality Act, 1981. The Lord Privy Seal has consulted her colleagues and the revised rules are being finalised. The new rules will need to be incorporated in the General Regulations and in the guidance and instructions to departments about non-certificated recruitment.

CONCLUSIONS

12. i. The principle of selection on merit on the basis of fair and open competition should continue to govern appointments to the Home Civil and Diplomatic Services, whether recruitment is the responsibility of the Civil Service Commissioners or departments (paragraph 3);
- ii. no change should be made to the existing exceptions (for which the Civil Service Order in Council provides) from the requirement that the Commissioners have to approve the qualifications of people appointed to the Home Civil Service or Diplomatic Service (paragraphs 4-6);
- iii. no change should be made to the Commissioners' discretionary powers provided under the General Regulations (paragraphs 7 & 8);
- iv. the Civil Service Order in Council 1978 and the Diplomatic Service Order 1964, should be amended to enable (a) the Civil Service Commissioners to continue to discharge, in respect of the certificated area of the Home Civil and Diplomatic Services the powers which they have at present with regard to those 2 Services generally; and (b) the Minister for the Civil Service and the Foreign and Commonwealth Secretary to control recruitment to the non-certificated parts of the Home Civil and Diplomatic Services (paragraphs 9 and 10);



v. the new nationality rules for the Home Civil and Diplomatic Services should be incorporated in the Civil Service Commissioners' revised General Regulations and in the guidance and instructions for departmental recruitment (paragraph 11).

Civil Service Commission

2 July 1982