

Public Administration-Norms of Service

Decree No. 30/2001

Section 1-General

Article 1-Definitions

Article 2- Objective

The present diploma serves to establish the legal norms governing the functioning of the public administration.

Article 3-Scope

- 1) The present decree is applicable to organs and institutions of public administration which, in the undertaking of their particular function come into contact with the general public and private companies.
- 2) For the benefit of this legislation organs or institutions of public administration are those which carry out the administrative functions of the state such as:-
 - a) Central and local organs of the machine of state and any subordinate or dependant institutions
 - b) Public institutes, scientific and technological institutes and also autonomous institutes under the umbrella of state organisations.
 - c) Organs and institutes of local administration.

Section 2-Principles of Performance of Public Administration

Article 4-Principle of legality

- 1) In the carrying out of their functions the organs of public administration obey the principles of administrative legality
- 2) Obedience to the principles of public administration necessarily implies the conformity of the administrative action with the law.
- 3) The powers of the organs of public administration may not be used for the prosecution of ends which differ from those outlined in the law.
- 4) The administrative acts practiced in order to conform with this law are valid, though the results reached must not be reached in any other way.
- 5) Violations have the right to be compensated according to the general terms of the civil responsibility of the state.
- 6) The state, by necessity is able at the point of decision taking, to sacrifice a law or protected interest should the end be to prevent damage or violation of a higher law or interest.

Article 5-Principle of the prosecution of public interest and the protection of the rights and interests of the citizen.

The organs of public administration, observing the principles of good faith prosecute the public interest without prejudicing the rights and interests of individuals as protected by the law.

Article 6-Principle of justice and impartiality

- 1) In the exercise of its functions and in all dealings with persons either singular or collective, the public administration must act in a just and impartial manner.
- 2) Impartiality implies that office bearers and members of the public administration organisations must abstain from the practice of, or from participating in the practice of acts or administrative contracts, namely from taking decisions which affect their personal interests, or those of their spouse, parent or any other entity with which they may have a conflict of interest in terms of the law.

Article 7-Principle of Transparency

- 1) The principle of transparency implies the publication of administrative activity.
- 2) The administrative acts of the organs and institutions of public administration, namely the regulations, norms, and procedural rules must be published so that persons either singular or collective may know beforehand the legal requirements that they must fulfil in order to achieve their aims and exercise their rights.
- 3) Organs of public administration are subject to periodic inspections and audits by competent bodies.

Article 8-Principle of collaboration by administration with private individuals.

- 1) In the carrying out of their functions the organs and institutions will collaborate with individuals in the following:-
 - a) Provision of information, either in oral or written form, as well as any clarification requested by the individual.

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- b) Assist and stimulate the initiatives of the individual, receive their information and consider their suggestions.
- 2) The public administration is responsible for information supplied to individuals in writing, even that which is not obligatory.

Article 9- Principle of participation by individuals

The organs and institutions of public administration will promote the participation of persons both singular and collective, who have as their objective the defence of their interests, in the taking of decisions which will affect them.

Article 10- Principle of Decision

- 1) The organs of public administration must make decisions on all questions with which they are presented by individuals.
- 2) If a question is raised to a body not competent to reply to it, the body will publish a dispatch sending the item to the competent body, with the knowledge of the interested party.
- 3) If the organ is not competent to deal with the question for reasons of hierarchy, the correspondence must be officially sent to the competent body and the interested party must be informed.

Article 11-Principle of Haste in the administrative procedure

The administrative procedure must be carried out with haste and in such a way that it assures economy and efficiency of decisions.

Article 12-Principle of basis of administrative acts

The public administration must have a basis (foundation) for its administrative acts, which therefore implies the non-concession of a request, or the alteration or suspension of other previous administrative acts.

Article 13-Principle of Responsibility

The public administration is answerable for the conduct of its agents and the agents of its organs and institutions which result in damage to third parties, which is the same as the civil responsibility of the state, without prejudice to the right to reply, as laid out in the civil code.

Article 14-Principle of Equality and Proportionality

- 1) In all dealings with individuals the organs of public administration are to govern themselves by the principles of equality of citizens as laid out in the law of proportionality.
- 2) It is forbidden for the organs and institutions of public administration to favour, prejudice, deprive of any right or exclude from any legal obligation any citizen for motives of colour, race, sex, ethnic origin, place of birth, marital status of parents, economic situation, social position, political affiliation or religion.
- 3) Proportionality implies that within the most suitable measures available for the prosecution of a legal end the agents of public administration are to adopt those which result in the least serious consequences for the legal situation of the individual.

Section 3-Guarantees of Individuals and of the Public Administration

Article 15-Guarantees of individuals

The guaranteed rights of all persons singular or collective are as follows:-

- a) Application/request
- b) Complaint
- c) Recourse to higher authority
- d) Guardianship recourse
- e) Recourse to revision
- f) Contentious recourse.

Article 16-Guarantees of Public Administration

The guarantees of public administration are designated as:-

- a) The privilege of previous execution of definitive or executed acts.
- b) The obligation of the public functionary to immediately present to their superior any work in their charge in the case where:- they no longer work in a related job, are transferred, are on long term leave or lose their liberty.
- c) The right of reply in cases where compensation is to be given to third parties as a result of damages caused by the acts of public administration functionaries in the course of their work.
- d) The power of forced execution of final and definitive acts.

Section 4 Guarantees of Impartiality

Article 17- Impediments

It is forbidden for an agent of the public administration to take part in an administrative process, act or contract in public or private interest in which the public administration is involved in the following cases:-

- a) When he has a vested interest either personally or as a representative or manager of business for another person.
- b) When he personally or as a representative or manager of business for another person has a vested interest through his spouse, parent, or relative in the direct line or related to the second degree in the collateral line, or through any person with whom he lives in community of property.
- c) When either he or any of those mentioned in section b) has a capital interest in a company involved in the act or contract.
- d) When he is to intervene in the process as a mandated representative or has something to do with the situation in question.
- e) When legal action is proposed by the interested party or his spouse against the public representative or his spouse or parent or relative in direct line.
- f) When the response to a particular decision in the process has been offered by any of the people referred to in section b) or by their intervention in the process.

Article 18-Declaration of Conflict of Interest

- 1) The conflict of interest must be reported immediately by the agent with the conflict to his superior, on pain of serious disciplinary procedure in cases where this is not carried out.
- 2) The conflict of interest can also be raised by any interested party up until the point where a decision is made or an act becomes final. This must be done in an application detailing the facts which constitute the case.
- 3) It is within the competence of the agent of public administration to declare any conflict of interest which he knows about or hears about to his superior within eight days. In the case of conflict of interest of the president of a collegiate organisation the decision on the conflict will be taken by the rest of the college without the participation of the president.

Article 19-Effects of Declaration of Conflict of Interest

- 1) Without negating the necessity of taking special measures in urgent cases, the agent of the public administration must suspend his treatment of a process as soon as he makes the declaration mentioned in No1 of the previous article, or hears of a declaration such as that mentioned in No2 of the previous article. This suspension must remain in effect until a decision is taken over the conflict of interest, except in the case of a written order to the contrary by a superior or a deliberation reaching a decision to the contrary by a collegiate organisation.
- 2) If the situation is declared to be a conflict of interest then the agent dealing with the process must be replaced immediately. In the case of collegiate organisations if there is no designated substitute then the organisation must continue without the presence of the member with the conflict of interest.

Article 20-Excuse or Suspicion

- 1) The agent of public administration must request dispensation from dealing with a process, act or contract when circumstances occur which could lead to suspicion regarding his conduct, such as:-
 - a) When as himself or as a business representative of another, a parent in the direct line or relative until the 2nd degree of the collateral line of himself or of his spouse has an interest in the matter.
 - b) When he or his spouse or any relative in the direct line or until the 2nd degree of the collateral line is a creditor or debtor of any person singular or collective who has a direct interest in the procedure, act or contract.
 - c) When he or his spouse or any relative in the direct line has received a gift before or after the initiation of the process, from any person singular or collective who has a direct interest in the procedure, act or contract.
 - d) If there has been any enmity or serious intimidation between himself and his spouse and any person directly interested in the process.
- 2) Based on any part of No.1, until a final decision is made, and interested party may, in writing, express their suspicion of the agent involved.

- 3) A request to be released from the process, or a complaint must detail the precise facts of the case.
- 4) The agent involved has the right to be heard in the event of such allegations being made.
- 5) A decision must be taken over the request to be released, or the letter of complaint within 10 days, by the entities referred to in Article 18 No.3

Section 5- Competency and Delegation

Article 21-Competency

- 1) The organs of public administration have the power and authority to practice the administrative acts outlined in their statutes and regulations.
- 2) The agents of public administration have the power to exercise activities in accordance with their qualifications and career levels, and especially to carry out the functions and attributes of the organisation for which they work, which includes following the instructions and orders of their superiors, and exercising powers conferred on them by delegation.

Article 22-Delegation of Competency

- 1) The organs and agents of the public administration can, in order to deal with specific material, within the limits of the law, delegate some powers to other organs or agents of inferior level in order for them to carry out certain administrative acts related to the same material.
- 2) The act of delegation must outline which powers are delegated and also clearly specify which of those powers can be sub-delegated.
- 3) The person or body delegated or sub-delegated to must mention in what quality they have been delegated to when using their delegated powers.

Article 23-Publication of the act of delegation or of sub-delegation

The act of delegation or sub-delegation is subject to publication in the government gazette and to display in areas of public use.

Article 24-Powers of a Delegate

- 1) The organ or agent delegate can issue directives and binding instructions in the same way as if he were the actual holder of the powers which have been delegated.
- 2) The organ or agent delegate has the power to carry out or revoke acts carried out by the delegator which cover the offices and post (delegation) where they work.

Article 25-Substitution or accumulation of functions

The exercise of functions in substitution for another, or the accumulation of functions confers the same powers as those of a delegate on the holder.

Article 26-Extinction of Delegated Powers.

A delegate or sub-delegate may lose their powers if:-

- a) They are revoked by an act of delegation
- b) There is a change of title of the organisation or of the agent concerned
- c) When the intended effects of the delegation are expired.

Section 6-Organisation of Services

(Generalities)

Article 27-Organisation

- 1) Public Services must be conveniently identified with signs indicating the location of their organisations and offices.
- 2) The public must be attended in an organised and identified area.

Article 28-Assiduousness and Punctuality

- 1) In order to record the assiduousness of each worker there will be a system of time sheets at each department and section.
- 2) At the start of the working day the time sheets will be collected and given to a superior.
- 3) Any worker who arrives later than the start of work must go to his superior and justify his lateness. This must be recorded on the time sheet.
- 4) The time missed will be accumulated until it constitutes on day of either justified or unjustified leave, depending on the situation.
- 5) Any worker who signs the time sheet and then leaves will be marked with an unjustified absence.
- 6) Unjustified absences must be confirmed by a superior except in cases where they are marked by a national, provincial or district director, a chief of administration or managers of dependent institutions.
- 7) The use of time sheets may be exchanged for the use of a mechanical or computerised alternative.

Article 29-Dispensation from Time Sheets

- 1) Those who exercise functions such as directors and managers or other positions which by their nature justify it, do not have to sign time sheets.
- 2) The competent managers of each section are to decide who is to sign the time sheets..

(Work Schedule)

Article 30-Working Day

- 1) The weekly number of hours to be worked by those in the services outlined in this document are 40 hours which are Monday to Friday 7.30 to 15.30.
- 2) The working period each day may be interrupted at any time between 12 and 14.00 for a rest duration of not more than 30 minutes, which will still be considered as working time, and must be conducted in such a way as to guarantee continuous provision of service to the public.

Article 31-Special Hours

Whenever the activity involved, because of danger or hardship, warrants it, with the approval of the Minister of State Administration, the number of hours worked during a week may be reduced from those mentioned in Article 30.

Article 32-Weekly Break

- 1) The working week is normally 5 days.
- 2) Workers have the right to one rest day per week which is extended by one free day per week which normally coincides with Saturday and Sunday.
- 3) The days of rest referred to in the previous number may be changed if:-
 - a) The services are closed on other days
 - b) It is necessary to ensure the continuation of services which cannot be interrupted
 - c) Cleaning and other preparatory services which must of necessity be carried out during the absence of other people
 - d) The inspection of activities which do not close on Saturdays and Sundays.
- 4) The adoption of the regime laid out in the previous number is to be determined by the respective manager.

Article 33- Exceptions

- 1) The weekly schedule mentioned in article 30 does not signify a change in the timetables of the following essential services:-
 - a) Libraries and public museums
 - b) Cemeteries
 - c) Teaching establishments
 - d) Hospitals and legal medical establishments
 - e) Markets and other places supplying provisions
 - f) Customs and Immigration services at border posts
 - g) Fire brigade and ambulance services
 - h) Continual work services
 - i) Rubbish collection and treatment services
 - j) Prison and criminal investigation sections, apart from the administrative sections of these.
- 2) Nos 3 and 4 of the previous article are applicable to essential services
- 3) The timetable for those working in essential services must not exceed 40 hours per week and will be fixed by their manager.
- 4) Other services wishing to be considered as essential and governed by the same norms must apply to the Minister for State Administration

Article 34-Shift Work

- 1) Shift work is that which results when it is necessary to ensure the normal and continuous functioning of a service that the day is divided into two equal working periods, the duration of each division of which must not be less than the average working day of each professional group.
- 2) Shift work must follow the following rules:-
 - a) Shifts are rotating allowing each person a regular rotation
 - b) In constantly functioning services no one may work more than six consecutive days.
 - c) The breaks observed in each shift must observe the rule that no one may work more than 5 hours consecutively.
 - d) Breaks for refreshment etc. which are not longer than 30 minutes are considered part of the working period.
 - e) The rest day allocated must coincide with a Sunday at least once every four weeks.

- f) Apart from in exceptional cases agreed between the manager and those concerned, change of shift can only occur following one rest day.
- g) The manager is permitted to establish the start and end of shifts and the respective pay scales.

Article 35-Absence of Schedule

- 1) There is no fixed schedule applicable to those who hold a position higher than or equal to that of national or provincial director and their respective assistants
- 2) The absence of a schedule does not preclude the observance of the general need for assiduousness nor does it dispense with the legal norms for the number of hours to be worked during a week.

Article 36-Adjustment of Schedule

The Provincial Governors, in keeping with the specific conditions in each province, following consultation with the Minister for State Administration may determine for the machine of state within their province adjustments to the schedule laid out in this decree without prejudicing the total number of hours nor the 5 day working week.

(Attending the Public)

Article 37-Reception

- 1) The reception and attendance sections must be open throughout the working day.
- 2) The public must be attended with the diligence, zeal and speed through the prestige of the authority of the state and of public function which is invested in the individual functionary or agent.
- 3) Information must be clear, complete and precise, and observe the legal precepts in such a way as to facilitate a solution to the demands of the member of the public.
- 4) Managers must designate one member of front line staff to make initial contact, this person is to be one who understands the structure of the organisation, and its general scope as well as someone who has a qualification in attending to the public. (Front line service).
- 5) Always as far as conditions permit, access to public areas must be made available for those with physical handicaps.

Article 38-Information

- 1) Information requested in writing must be provided in writing as long as the request contains the full contact details of the person making the request.
- 2) Any information which as a result of its technical complexity requires greater consideration, or which is not answerable for any number of reasons must be submitted to a higher authority.

Article 39-Windows and Boards

In the reception area the following must be displayed:-

- a) Information on the location for the treatment of the various different types of information etc.
- b) A table of costs of services
- c) Telephone numbers of phones specifically for the public.
- d) Templates of types of letter and document which must be submitted.

Article 40-Order of attendance

- 1) When circumstances justify it a system of attendance which operates on order of arrival must be implemented.
- 2) The public must be attended at counters without windows/barriers
- 3) Whenever possible attendance must be personalised which means being conducted in a separate office.

Article 41-Identification of Worker

- 1) Functionaries must, during their time at work have on show a badge.
- 2) The badge must have a government logo, with sector, name, number and photograph of the functionary, this must be easily visible.
- 3) It is in the power of the National Council of Public Function to regulate regarding the characteristics of the badges.

Article 42-Priority of Attendance

- 1) Priority must be given to the old, sick, pregnant women, handicapped people, those with small children and any other specific cases.
- 2) Those with an invitation or summons have right of priority at the respective public service which has called them.

Article 43-Receptionists

Those responsible for attending the public, either in person or by telephone must have specific training in the area of public relations and in the areas of the respective service where they work. They must be equipped to provide the information required or to direct the citizen to the relevant authority.

Article 44-Public Telephone Line

- 1) The Public Administration Service must place at the disposal of the public one or more lines specifically for their use. These will be designated as "Green Lines"
- 2) Green Lines must be installed in such a way that they cannot be used for making internal or external calls and as such are always available for the public.
- 3) The existence of such lines must be made available by every means and it is compulsory that they be published in the telephone directory.

(Suggestions and Complaints)

Article 45-Book of Complaints and Suggestions

- 1) The Public Administration Service is obliged to adopt the system of a book of complaints and suggestions which must be kept in the area where the public are attended and its existence must be made public.
- 2) The book can only be used once the correct procedure has been followed for opening and closing, authorising etc. it.
- 3) When it is opened the book must be clearly labelled with the department where it is going etc.
- 4) Permanent secretaries, provincial directors, district administrators are able to authorise such books or to delegate the authorisation of such books.
- 5) The book must contain three detachable copies of different colours.

Article 46-Treatment

- 1) The complainant must be given a copy of what is written in the book.
- 2) The complaint must be answered within 30 days by the service which has been complained about
- 3) Having read the complaints and suggestions the manager of the respective department must take the necessary measures to rectify and irregularities or to pass on the complaint to a superior authority if he is unable to deal with the complaint himself.

Article 47-Suggestions given at the local level

- 1) A copy of each complaint or suggestion must be passed through the relevant hierarchy to the provincial director in charge of that department with an indication of what measures have been taken or a proposal of what needs to be done.
- 2) The Provincial Director will present to the Permanent Secretary monthly syntheses of the suggestions and complaints received and the measures taken or proposed measures to be taken.
- 3) A copy will also be sent to the district administrator who will send monthly syntheses to the provincial governor in the same way.
- 4) The provincial governor will send three monthly reports to the Minister for State Administration along with a resume of measures taken and proposals etc.

Article 48-Suggestions given at central level

- 1) A copy of each suggestion or complaint presented to the central organs must be passed to the director of that organ for him to deal with it.
- 2) The director will present a synthesis to the permanent secretary fortnightly.
- 3) As well as giving regular information to the minister in charge of that department, the permanent secretary will also send a three monthly resume to the Minister for State Administration.

Article 49-Verbal Complaints

Any citizen who does not know how to, or cannot write in the official language has the right to use the services of a functionary or other person, for free, to formulate their suggestion or complaint.

Article 50-Inspection

The inspection service must, by obligation examine the book of suggestions and complaints and verify any measures taken as a result.

Article 51-Information to the government

The Minister for State Administration will periodically present to the council of ministers information received and dealt with from the complaints book.

Section 7-Formalities and Procedures

(Generalities)

Article 52-Starting a Procedure

- 1) An administrative procedure begins officially with a request formulated in a written document.
- 2) The initial request is formulated in a “Requerimento” (Request or petition) which must contain among other things:-
 - a) The name of the department to which it is directed
 - b) The identity of the petitioner by name, civil status, profession and place of residence
 - c) An outline of the basis for the petition including if possible its foundation in law
 - d) A clear and precise indication of what is being requested
 - e) The signature and date of signature.
- 3) Each “requerimento” must only deal with one request, unless it is dealing with alternative or subsidiary requests.
- 4) The “Requerimento” and all subsequent documentation is to be written in correct, clear, concise and courteous terms and directed to the correct person to deal with such matters according to the law.

Article 53-Verification of Signature

- 1) The signature of the interested party on the documents mentioned above can be verified free of charge at the office where they are to be handed in, subject to presentation of an identity document. The number of this document will then be recorded on the document to be submitted.
- 2) A verified signature is not necessary if the interested party is a functionary of the service where the document is presented.
- 3) The same applies to the interested party who has already lodged a document with a verified signature, related to the same matter with the same office.

Article 54-Subsequent Documentation

Any extra documents relative to the procedure may be submitted by the individual at any time during the process up until the final decision.

Article 55-Submission of Documents

- 1) Documents must be submitted at the relevant office of the correct department of the Administration except in cases as outlined below or any other legal provision made.
- 2) Documents directed to central government may be submitted at the correspondent district or provincial offices
- 3) When documents are to be submitted to an office or representation that does not exist in the area near the residence of the interested party, they can be submitted to the district administration
- 4) Documents submitted in the methods described above must be passed on to the relevant department accompanied by any other relevant material, within 10 days.
- 5) The Public Administration Service will pass on any and all documentation accidentally addressed to them to the correct department or person, notifying the interested parties if necessary.

Article 56-Photocopies

- 1) The verification of photocopies can be done for free at the department where they are to be submitted as long as the original is shown at the same time.
- 2) The functionary who verifies the copy must declare in writing that they have seen the original and place their signature and the date on the document.

Article 57-Receipts

- 1) All documents presented to the Public Administration Service must be given a receipt or a copy of the original must be signed and dated with a declaration of receipt of the original.
- 2) A receipt must be passed for any payment made.
- 3) The service must make it possible for payments to be made directly by the citizen through a bank deposit.

(Procedures and Decisions)

Article 58-Despatches

- 1) The entire process accompanied by all the necessary information must be passed to the person competent to take the decision on the question within 10 days counted from the date of submission, unless other periods are established in law.
- 2) Non-compliance with the time frame given above justifies recourse to the relevant superior.
- 3) The period outlined in No.1 does not include the time required to carry out any necessary external work required for the processing of the matter.
- 4) In the situation anticipated in the previous point, the service must inform the interested party of the delay and of the advancement of the process.
- 5) The process must be completed and a dispatch issued within 15 days counting from the date of its submission to the date of dispatch.

Article 59-Tacit non-concessions

The lack of provision of a dispatch in the time frame mentioned in the previous article constitutes a non-concession of the request.

Article 60-Tacit Concession

Specific legislation establishes cases of tacit concession.

Article 61-Preparation of Dispatch

- 1) Every request submitted for dispatch must be accompanied by written information supplied by the relevant functionary in the service and must contain amongst others the following information:-
 - a) A resume of the material included in the process
 - b) Resume of the applicable laws and precedents as they apply to the situation and to any analogous matters.
 - c) Indication of aspects requiring resolution and a proposed decision.
 - d) Date and signature of the functionary preparing the information.
- 2) Lack of any of the information outlined in No.1 constitutes a lack of information
- 3) When the process is received by the person who is competent to dispatch it and it contains all the necessary information and is complete the person dispatching it may just write "Seen and Agreed With" or simply "Agreed With".
- 4) During the preparation phase interested parties may only be informed of the formalities being followed or required to supply any necessary clarification or extra information.

Article 62-Information, Dispatches and opinions

- 1) Information, dispatches and opinions must as far as possible be registered with the documents which contain material pertaining to them.
- 2) Those which are separate must be numbered and dated and recorded within each service, and must indicate the respective document number, and numbers of copies, annual volume number etc.
- 3) These documents must all be signed and dated by their authors.

Article 63-Communication of Dispatch

- 1) The communication of dispatch must be given in writing to the interested parties.
- 2) The communication of dispatch to individuals may be done as a transcription or extract of the whole
- 3) The communication of information and opinions should only be done if this is expressly mentioned in the dispatch.
- 4) When the communication makes reference to another document it is compulsory to transcribe the relevant section or to annex a photocopy of the relevant document.
- 5) The meeting concerning the process of a particular individual can only take place within the schedule and at the offices of the relevant department should there be any reason not to proceed as with No.1 of this article.

Article 64-Certificates

- 1) The "requerimento" can be answered with certificates passed for the relevant acts if they do not apply to any classified information
- 2) Certificates requested on the following require specific authorisation:-
 - a) Official correspondence
 - b) Information relative to the functioning of the service given by functionaries except where this information is destined for criminal or civil proceedings
 - c) Information given by one employee on another except where the second employee gives permission.
 - d) Any part of an enquiry, disciplinary process or union process.

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- e) Questions related to police investigations
- 3) Independently of the dispatch and the petition, narrative certificates containing the following may be published:-
 - a) Date of submission of petition, "requerimento" complaints or appeals
 - b) The progress of a process.
- 4) Certificates must be given within 10 days if the receipt of the request.

Article 65-Effects of a failure to dispatch

- 1) Should the time limit defined in article 58 expire the interested party has the right to demand a dispatch or notification of non-concession of request within 60 days.
- 2) Should the period defined for the issuing of a certificate it is assumed that the initial request has been rejected.

Article 66- Definitive Acts

- 1) A request decided upon finally may not be resubmitted unless the interested party has a new basis or legal point on which to base the new request.
- 2) The re-submission of an application without any new fact or information will automatically be rejected.

Article 67-Admissibility of Revision of the Process

- 1) A review of the decision taken may be requested within 90 days of the interested party receiving information which constitutes a basis for a review.
- 2) If it is competent to do so the organ which managed the request mentioned in the previous number will verify whether or not the circumstances really are new and whether this constitutes the right to request a review.
- 3) Prior to a decision being taken the process is an object of information for the service and may be submitted to a judicial authority or consultative organisation for further opinion.

Article 68-Legal Impunity

Contentious recourse (legal recourse) may be taken under the terms established in the relevant law.

(Correspondence)

Article 69-Written Communication

- 1) Official communication between departments and between departments and individuals must be official and written.
- 2) The official, ceremonial title must be used in correspondence to all persons who possess such a title.
- 3) A note is the most usual form of written communication
- 4) Communication may also take the form of:-
 - a) Act-an instrument which registers facts or important occurrences for the public administration
 - b) Certificate-an instrument which establishes the agreement or the process
 - c) Circular-official correspondence destined for a number of different destinations
 - d) Decree-an instrument communicating information of general interest to the whole service
 - e) Remittance advice-allows the sending of documents and materials
 - f) Information-Instrument which clarifies and provides the necessary information to allow the emission of a dispatch
 - g) Information/Proposal-That which gives the facts data and basis necessary to emit or refuse a dispatch.
 - h) Memorandum-A simple and informal method of communication which may be used within the ranks of the service.
 - i) Order of Service-Formal instructions for a particular department issued by the head of the department, with the effect of an internal ruling.
 - j) Opinion-act giving a technical opinion on a specific issue
 - k) Report-analytical description of the facts, conclusions and proposals
- 5) The National Council of Public Function will approve all correspondence templates

Article 70-Characterisation

- 1) Letterheads must have the national emblem, the emblem of the relevant department, telephone and fax numbers, postal and email addresses.
- 2) All official correspondence must use the emblem of state.
- 3) On the letterheads referred to the emblem may be one colour or the colours defined by the law.
- 4) In all correspondence the writer must identify himself and in what quality he writes.

- 5) This may be done by a signature or initial but there must also be an indication of name, function, category and level.

Article 71-Elaboration

Correspondence must be presented in the correct form, clear, concise and brief treating only one question and obeying the following requirements:-

- a) Indicating who it is to
- b) Dated and with relevant reference number as in use in that department
- c) Contain the abbreviation or code and order number of the sector which produced it
- d) Be made with sufficient copies to allow for the writer, the archives and the receiver
- e) Indicate any other persons to whom the contents of the correspondence should be made known
- f) Contain, if it is relevant, the number of the process or reference number of the document to which it refers
- g) Contain the initials of the note taker or typist or writer, indicate the number of annexes. When the correspondence is not internal need only be on the copies.
- h) Contain on the last page the signature of the functionary who prepared the document, the stamp or seal of the department as well as the name of the writer or typist, and also the name, category, level etc. The other pages may be numbered and initialed.

Article 72-Exceptions

Exceptions to the above article are those cases expressly outlined by the relevant department which has its own specific method of correspondence. Exceptions also apply to encoded documents

Article 73-Classification

- 1) All correspondence falls, according to its content into normal and classified
- 2) It is further categorised according to treatment into very urgent, urgent and normal
- 3) Correspondence should be classified by the person who signs it.

Article 74- Urgent Correspondence

- 1) Urgency is always most important and should such urgency be necessary it is permitted to use the most effective means of communication such as radio, fax or telephone
- 2) In cases where the communication must be in writing, it must immediately confirmed in writing.

Article 75-Email

- 1) All bodies must make available, wherever possible, an email address for the use of the public and for public and private entities, and make the address widely available, as well as safeguarding the use of the system adequately.
- 2) Correspondence sent in this way has the same value as that sent in other ways and must receive exactly the same treatment
- 3) This principle outlined in the previous point applies to the exchange of information but not to documents which require a notarised signature or authenticated documents.
- 4) The service must create conditions which guarantee the security of information sent and received via email.

Article 76-Registering Correspondence

- 1) All correspondence and documents directed to a department must be registered when received, they are to be recorded in a book along with their order number, date of receipt, reference number, date of document, where from, an outline of the material contained, destination and archive classification.
- 2) Each document must be stamped with date of entry and this stamp should also contain the order number and archive classification along with the initials of the person in charge of registering documents.
- 3) At each office there must be the following books
 - a) Register of Correspondence Received
 - b) Register of Petitions "requerimentos"
 - c) Protocols
 - d) Book of Classified Correspondence
- 4) All books used must be signed and opened and closed in the usual manner.
- 5) The types of book are approved by the Ministry of State Admin. Or the National Commission for the Implementation of the Norms of the Secrets of State.

Article 77-Computerised registration of correspondence

Wherever circumstances permit correspondence may be registered using information technology

Article 78-Postal Correspondence

- 1) All correspondence must be sent registered

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- 2) Correspondence sent to citizens or to private groups must be sent with advice of receipt if its importance warrants this or if there is a date by which it must be submitted, as in the case of notifications.

Article 79-Submission of Correspondence

The submission of correspondence outside the cases mentioned above is to be made to the person for whom it is for and done with either a protocol or a remittance advice which must be initialled and dated by the receiver.

Article 80-Professional Secrecy (Confidentiality)

- 1) It is expected that all functionaries will not divulge in any form facts and information relative to their job or service.
- 2) Correspondence entered into with the public service is solely destined for the information of the functionaries of those offices and for those within the department who have the right to deal with the matters in the correspondence.
- 3) The communication of the contents of correspondence to others and also to other functionaries that has no professional purpose constitutes a breach of confidentiality subject to disciplinary action without prejudicing the civil and criminal rights of those involved.

(Classified Correspondence)

Article 81-Definition

Classified correspondence is that which contains information the revelation of which could damage the security of the state.

Article 82-Classification

Classified correspondence is categorised in the following ways:- state secret, secret, confidential and restricted.

Article 83-Definition of Classifications

- a) State secret-information which if divulged without authorisation would cause serious damage to the state.
- b) Secret- information which if divulged without authorisation would cause damage to the state.
- c) Confidential-information which if revealed would lead to damage of production, goods or services
- d) Restricted-information which if revealed would lead to damages to the normal functioning of the state.

Article 84-Classification of Information

Each institution must have a classifier of information, taking into account the points outlined in the article above.

Article 85-Competency to Classify

- 1) The classification of information is the responsibility of the person who signs it, taking into account the level of the correspondent, in accordance with the levels of classification in place in the institution
- 2) Should an institution receive a document which it feels to be not sufficiently classified it must immediately notify the entity from which the document originated.

Article 86-Registration of Classified Correspondence

- 1) In every section of the service there must be a classified information secretary (SIC)
- 2) The registration, circulation, archiving, reproduction, destruction etc. of classified material is to be done in accordance with the norms established by the National Commission.

Article 87-Urgency

The transmission of correspondence by means of distance communication as referred to in article 74 must be done in code.

Article 88-Classified Mail

- 1) All institutions must send classified information which is destined for inter provincial circulation via the National Commission, in the manner best suited to its security
- 2) The sending of such correspondence overseas must be carried out by an authorised body.

Article 89-Sanctions for Infractions related to the operating of the SIC

- 1) Breaking of the rules established for the SIC is punishable by disciplinary action.
- 2) Any infraction must be communicated to the relevant superiors.

(Archives)

Article 90-Organisation

- 1) Archives are organised at service level in the manner decided by the respective manager using an approved classification guide, in such a manner as to facilitate efficiency, simplicity and rapidity of finding information.

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- 2) The adoption of technological means of archiving may be used in accordance with the existing manual system
- 3) The archive should be divided according to the frequency of consultation of documents, comprising:-
 - a) Current which is to say documents in use or frequently consulted
 - b) Intermediary which is comprised of documents which are rarely used or which are on their way to the temporary warehouse.
- 4) The intermediate archive, with its own rules will be created by the Minister for State Administration and will be governed by the rules laid down by him

Article 91-Processes

- 1) Each process must be archived in chronological order by document pertaining to the same person or the same question.
- 2) Documentation referring to more than one process must be copied and the copies distributed among the other processes so that each one is complete, each copy is to be marked showing clearly how to find the original.

Article 92-Classified Information

- 1) Whenever a document related to a specific process is classified the nature, date, number and provenance of the document must be recorded.
- 2) Whenever the information is no longer classified, the document should be incorporated within the process.

Article 93-Individual Processes

- 1) Individual processes are numbered and placed in files in alphabetical order and should contain all the information on the functionary and his career.
- 2) Without altering the organisation of these processes they must be kept in accordance with decree 15/98.

Article 94-Responsibility and Use of the Archive

- 1) The person responsible for the care, planning ordering and security of the archive is the person specifically appointed to that position.
- 2) The person responsible for the archive may only allow those who have the right to do so by right of position to examine the archives.
- 3) The examination of archived document can only be carried out with a requisition.
- 4) The archive superintendent may on occasion allow other persons to use the archive, but only in special circumstances

Article 95-Intermediary Archive

Ten years from the date of the last document in a process when it may be assumed that the process is complete it should then be moved to the intermediary archive where it is to be filed in accordance with the norms of that place.

Article 96-Historic Archive

- 1) Once an item has been in the intermediary archive for 10 years it is evaluated to determine its destination
- 2) This evaluation is undertaken by a team of qualified people including the director of the national archives and members of the service from which the documents came.
- 3) The criteria for evaluation depend on the type of document and what it contains etc.
- 4) Any documents from prior to the date of independence must be sent to the national historic archive.

Section 8-Dress and Uniform

Article 97-General Principles

- 1) Functionaries of state must be well dressed
- 2) Taking into consideration the requirements of each sector, in consultation with the State Administration of Planning and Finance, each sector will agree on the uniform of its workers.

Article 98-Compulsory Uniforms

- 1) The following workers must wear uniform during working hours:-
 - a) Drivers
 - b) Office Boys
 - c) Warehouse workers
 - d) Messengers
 - e) Guards
 - f) Copy Operators
 - g) Operatives
 - h) Receptionists

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- i) Cleaners
- 2) No one may use their uniform outside working hours except for the journey to and from work.
- 3) Those who wear uniforms must wear the complete uniform and it must be worn in a clean and presentable state.

Article 99-Free Uniforms

- 1) The workers outlined above have the right to free uniform which must be returned complete at the end of a pre-determined life expectancy of the uniform
- 2) Uniform of those covered by No.2 of article 97 may be given free, partially free or paid for completely by the worker.

Article 100.Substitution and Return of Uniforms

- 1) Workers who have the right to free uniforms may be required to return them in whole or in part should circumstances dictate.
- 2) Should the worker no longer be working in that position or have been transferred, sent on leave etc. he must return the uniform.

Article 101-Style

The national council will agree on the type of uniform to be worn in accordance with article 97.

Section 9-Transitional Preparations

Article 102-List of Cases Covered by Tacit Concession

All institutions of state must submit to the relevant organisation, within 70 days of the date of commencement of this law, a list to be published in the government gazette which outlines cases specific to their department which will be covered by tacit concession.

Article 103-Publication of Tacit Concession Cases

Within the period referred to in the previous article the institutions must make public any cases which in law imply tacit concession.