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ORDER OF BUSINESS AND NOTICES

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QUESTION NO. 1

1. What public, classified or secret Regulations, Orders-in-Council, Cabinet Directives or other documents of any kind whatsoever deal with the matter of personnel security clearance in the Public Service of Canada?

1. Quels règlements, décrets du conseil, directives du cabinet ou autres documents publics, confidentiels ou secrets de toutes sortes traitent de l'autorisation sécuritaire du personnel dans la Fonction publique du Canada?

ANSWER

The following documents deal with the matter of personnel security clearance in the Public Service of Canada:

- (i) Confidential Cabinet Directive #35 "Security in the Public Service of Canada".
- (ii) Subsection seven (7) and eight (8) of section seven (7) of the Financial Administration Act.
- (iii) Regulation 26 of the Public Service Employment Regulations made pursuant to the Public Service Employment Act.
- (iv) Subsection one (1) and two (2) of Section 112 of the Public Service Staff Relations Act.
- (v) Article four (4) of Agreements between The Treasury Board of Canada and the Public Service Alliance of Canada - Clerical and Regulatory Group (all employees).
- (vi) The Prime Minister's Confidential Memorandum for Cabinet Ministers dated 14 May 1971 and entitled "Security Clearance of Persons to be Appointed by Order-in-Council".

QUESTION NO. 2

2. (a) What criteria are applied in determining whether a group, a member of a group or an individual constitutes a security risk (b) are decisions designating as a security risk a group, a member of a group or an individual usually made by individual departmental security officers, usually junior officials, on delegation by the deputy minister?

2. a) Quels critères sont appliqués pour déterminer si un groupe, un membre d'un groupe ou un particulier constitue un risque de sécurité, b) les décisions qualifiant de risque de sécurité un groupe, un membre d'un groupe ou un particulier sont-elles ordinairement prises par des agents ministériels individuels de sécurité qui sont d'habitude des agents subalternes, sur délégation de pouvoirs du sous-ministre?

ANSWER

- (a) Employees in the Public Service of Canada, including members of the Armed Services and the R.C.M.P., who are required to have access to classified information in the performance of their duties, must be persons in whose reliability and loyalty to his country the Government of Canada can repose full confidence. It is therefore an essential of Canadian security policy that persons who may be disloyal to Canada and her system of government or who are unreliable because of defects in their character must not, when known, be permitted to enter the public service, and must not if discovered within the public service be permitted to have access to classified information.

NOTE: See paragraphs one (1) to eight (8), inclusive of CD 35.

- (b) The deputy head of a department or agency is responsible for granting or withholding a security clearance. The final decision as to whether to recommend to the Governor in Council that an employee be dismissed on the grounds of security rests with the Minister responsible.

NOTE: See CD 35 paragraphs 25(4) and paragraph 18.

QUESTION NO. 3

3. (a) What appeal procedure is available to a group, a member of a group or an individual designated a security risk (b) is such group, member of a group or the individual so designated fully informed of the decision that he, she, they or it constitute a security risk (c) is an opportunity afforded to refute any charges, assertions or accusations made against such group, member of a group or individual (d) what variations exist in standards and procedures as between departments and/or agencies of the government?

3. a) A quelle procédure d'appel peut recourir un groupe, un membre d'un groupe ou un particulier désigné risque de sécurité, b) un tel groupe, membre d'un groupe ou particulier ainsi désigné est-il pleinement informé de la décision qui le qualifie de risque de sécurité, c) une occasion est-elle donnée de réfuter toute allégation, assertion ou accusation portée contre un tel groupe, membre d'un groupe ou particulier, d) quelles différences existent dans les normes et procédures appliquées par les différents ministères et organismes de l'État?

ANSWER

3(a), (b) and (c)

Where a doubt has been raised concerning an individual's suitability to have access to classified information the assistance of the employee himself is sought in an attempt to resolve the doubt. A senior officer appointed by the deputy minister or head of agency interviews the individual concerned and informs him, to the fullest extent that is possible, without jeopardizing important and sensitive sources of security information, of the reasons for doubt and gives that person an opportunity to resolve it to the satisfaction of the responsible department or agency.

Should this not resolve the doubt the individual may be transferred to a less sensitive position. If appointment elsewhere is not possible, the employee may be asked to resign and if he refuses, dismissal may be recommended. No action is taken on such recommendation until:

- (i) the deputy minister or head of agency has personally made a complete review of the case and has himself interviewed the employee in question, in a further attempt to resolve any reasonable doubt as to his trustworthiness.

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- (ii) the employee has been advised to the fullest extent possible without jeopardizing important and sensitive sources of security information, why doubt continues to be felt concerning his loyalty or reliability and has been given a further opportunity to submit any information or consideration that he thinks ought to be taken into account on his behalf by the deputy minister or head of agency; and failing a satisfactory resolution,
- (iii) the advice of a board of review has been sought on the basis of all the information available.

In arriving at a final decision as to whether to recommend to the Governor in Council that an employee be dismissed on grounds of security, the Minister responsible takes into account all of the relevant information and advice that has been provided, but is not bound to act on such advice.

|NOTE: See paragraphs 15 to 18 inclusive of CD 35.

3(d) None, as they all fall within the purview of CD 35.

QUESTION NO. 4

4. (a) Are suspected or alleged homosexuality, sexual abnormality or emotional instability considered sufficient grounds to categorize an individual as a security risk (b) is suspected or alleged financial difficulties considered sufficient grounds to categorize an individual as a security risk (c) who makes such decisions in the case of each department and agency of government (d) at or in what forum, if any, are such decisions made (e) on what and whose evidence are such decisions made (f) who or what agency gathers, compiles, investigates, controls and/or releases information that a group, member of a group or an individual is designated a security risk and, in each case, on whose authority (g) does the Police and Security Planning and Analysis Group through its role on the security advisory committee maintain a system or a policy of "blackballing" public servants and, if so, on what grounds (h) does the Police and Security Planning and Analysis Group maintain dossiers or files of information on public servants?

4. a) L'homosexualité, la déviation sexuelle ou l'instabilité émotive soupçonnées ou alléguées sont-elles jugées suffisantes pour classer un particulier comme risque de sécurité, b) les difficultés financières supposées ou prétendues sont-elles jugées suffisantes pour classer un particulier comme risque de sécurité, c) qui rend de telles décisions dans chaque ministère ou organisme du gouvernement, d) à quelle tribune, s'il en est, de telles décisions sont-elles rendues, e) sur quelles preuves et d'après quels témoignages ces décisions sont-elles prises, f) qui ou quel organisme recueille, assemble, analyse, contrôle et fournit les renseignements selon lesquels un groupe, un membre d'un groupe ou un particulier est jugé un risque de sécurité et, dans chaque cas, en vertu de quelle autorité, g) le centre de planification et d'analyse de la police et de la sécurité, grâce à son rôle auprès du comité consultatif de la sécurité, maintient-il un système ou politique de "blackboulage" des fonctionnaires et, dans l'affirmative, pour quelles raisons, h) le centre de planification et d'analyse de la police et de la sécurité constitue-t-il des dossiers ou des fiches de renseignements sur les fonctionnaires?

ANSWER

4(a) and (b)

The government seeks to assure itself about the loyalty and reliability of those of its employees who must have access to classified material and who occupy positions of trust. Suspected or alleged homosexuality, sexual abnormality, emotional instability or suspected or alleged financial difficulties

may lead to indiscretion, dishonesty or vulnerability to blackmail or coercion. The very difficult problems associated with arriving at judgements on such questions are clearly set out in the Report of the Royal Commission on Security and, in particular, paragraphs 96, 98 and 100.

|NOTE: See CD 35 paragrph 6(a).

4(c) See answer to 2(b)

4(d) See answer to 3(a) (b) (c).

4(e) Information about persons who are being considered for access to classified information is obtained from the persons themselves, from referees named by the persons, and from investigations conducted by authorized investigative agencies.

|NOTE: See CD 35 paragraph 10.

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4(f) The Security Service of the R.C.M. Police gathers, compiles, investigates and controls information about groups, members of groups and individuals who pose a threat or potential threat to national security. On the basis of a request for security screening of individuals from government departments and agencies, information is released to these departments and agencies who have the responsibility of determining the security risk involved utilizing the criteria and procedures referred to in the answers to questions two (2) and three (3).

4(g) and (h)

Not applicable to the Security Service of the R.C.M. Police.

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QUESTION NO. 5

5. (a) What is Cabinet Directive 35 and when was it passed and/or authorized and by whom (b) is Cabinet Directive 35 still in force in its original form and, if not, in what manner and to what extent has it been altered, revised or extended?

5. a) Qu'est-ce que la directive 35 du cabinet et quand a-t-elle été adoptée et autorisée et par qui, b) la directive 35 du cabinet est-elle encore en vigueur dans sa teneur initiale et, dans la négative, de quelle façon et dans quelle mesure a-t-elle été modifiée, révisée ou étendue?

ANSWER

5(a) Cabinet Directive 35 is a confidential directive entitled "Security in the Public Service of Canada", approved by the Cabinet on 24 October 1963 and accepted when the estimates of the Department of Justice were passed in the House of Commons on 13 December 1963, without debate as they related to the matters of security.

5(b) Yes.

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