

**POLICY OF PERIODICAL REVIEW FOR ENSURING PROBITY & EFFICACY OF  
EMPLOYEES OF ANDREW YULE & COMPANY LIMITED**

**1. PREAMBLE:**

To ensure probity and efficacy amongst the CPSE employees, Department of Public Enterprises (DPE), Govt. of India has issued instructions vide Office Memorandum No. DPE - GM - 01/0001/2015-GM-GM-FTS-4857 dated 14.09.2020 whereby the CPSE have been advised to Implement the guideline of OM NO.25013/03/2019-Estt. A-iv dated 28.08.2020 (specifically Para 6 & 7) issued by Department of Personnel & Training (hereinafter refer to as DoPT) Ministry of Personnel, Public Grievance and Pensions for implementing Rules FR56 (j) and 56 (l) or Rule 48 (1)(b) of CCS (Pension Rules )1972.

In compliance of the above OM dated 14.09.2020 issued by DPE Govt. of India which has taken cognizance of observations of Hon'ble Supreme Court, the Company hereby implements a consolidated policy of periodic review for ensuring probity and efficacy for all employees of the company as applicable. The observations of the Hon'ble Supreme Court in the above-mentioned OM are given in Annexure-A.

**2. TITLE AND APPLICATION:**

- (2.1) These Rules shall be called “**Policy of Periodical Review for ensuring Probity and Efficacy amongst Employees**” of the Company.
- (2.2) These rules shall come into force from the date of approval of Board of Directors and shall be at par with the OM dated 14.09.2020 issued by DPE, Govt. Of India.
- (2.3) These rules will apply to all Executives and Non-Unionized Supervisors below board level as below:
  - (i) Who have entered the service before attaining the age of 35 years, after he has attained 50 years of age, OR
  - (ii) Who have attained 55 years of age.

**3. OBJECTIVES:**

The objective of this Rule shall be to strengthen the administrative machinery by developing responsible and efficient administration at all levels and to achieve efficiency, economy and speed in the disposal of all functions of the Company. It is clarified that premature retirement of Employee(s) under these rules is not a penalty. It is distinct from 'Compulsory Retirement', which is one of prescribed penalties under CDA Rules of the Company.

**4. DEFINITIONS:**

- (4.1) **COMPANY:** Company means Andrew Yule & Co. Ltd. (AYCL) and may be referred as Company or AYCL.
- (4.2) **EMPLOYEE:** The term Employee or Employee(s) shall mean Executives and NUS of the company.
- (4.3) **COMPETENT AUTHORITY:** Competent Authority shall mean Chairman & Managing Director of the Company.

(4.4) **APPROPRIATE/APPOINTING AUTHORITY:** Under this policy shall mean Chairman & Managing Director of the Company.

(4.5) **APPELLATE/REVIEWING AUTHORITY:** Under this policy shall mean Committee of Functional Directors.

**5. PROVISIONS RELATED TO PRE-MATURE RETIREMENT:**

The Appropriate Authority has the absolute right to retire any Employee(s) of the Company, in line with FR 56(j), if it is necessary to do so in public interest.

**5.1** In line with FR 56(j), the Appropriate Authority shall, if it is of the opinion that it is in the public interest so to do, have the absolute right to retire any Employee(s) by giving him notice of not less than three months in writing or three months' pay and allowances in lieu of such notice:

- (i) If he is, in Executive or NuS Grade and had entered the service of the Company before attaining the age of 35 years, after he has attained the age of 50 years;
- (ii) In any other case, after he has attained the age of 55 years.

**6. TIME SCHEDULE TO BE FOLLOWED:**

The time schedule given in the following table, shall be followed for undertaking the exercise of review of performance of Employees:

Sl. No.	Period in which review is to be made	Cases of Employee(s), who will be attaining the age of 50/55 years as per clause mentioned in 5.1 above, in the period indicated below to be reviewed:
1	January to June	July to December of the same year
2	July to December	January to June of the next year

**7. MAINTENANCE OF REGISTER:**

A register of the Employees who are due to attain the age of 50/55 years, has to be maintained. The register should be scrutinized on half yearly basis by HOD of Corporate Personnel & Administration Department and the review be undertaken according to the above schedule so as to ensure timely completion of the review for retention/pre-mature retirement of the Employee(s).

**8.** The Competent Authority may, at any time after an Employee(s) has attained the age of 50 having entered the service before 35 years of age or employee(s) who have attained 55 years as the case may be, retire the employee(s) pre-maturely in public interest. However, non-adherence to the time-lines as indicated in Rule 6 above due to certain administrative exigencies shall not take away the powers of Appropriate Authority to pre-maturely retire employee(s) in line with FR 56(j), Therefore, review of an employee(s) for the purposes of these Rules can be undertaken even after he has attained the age of 50/55 years in cases covered by FR 56 (j).

**9.** There is also no bar on the Company to review any such case again where it was decided earlier to retain the employee(s), but the Appropriate/Appointing Authority is of the opinion that it is expedient to undertake the review again on account of changed circumstances, in public interest. In such cases, the Appropriate Authority is expected to demonstrate visible meticulousness as such employee(s) have been found effective on earlier occasion for retention in service.

**10. COMPOSITION OF REVIEW & REPRESENTATION COMMITTEE:**

In order to undertake the assessment of the Employee(s) under this Policy, review Committee will be constituted.

**10.1 Composition of Review Committee: - the constitution of the Review Committees for assessment of the Probity and efficacy of employee(s) will be as under:**

**Table-1**

<b>Sl. No.</b>	<b>Level/ Grade of Employee(s)</b>	<b>Committee Composition</b>
1.	All Employees from Grade S1 to Grade E4	a. General Manager /Unit Head b. Departmental Head c. Concerned Head of P&A d. Head of Corporate P&A
2.	Executive(s) in Grade E5 to E6	a. General Manager /Unit Head b. Departmental Head c. Concerned Functional Director. d. Head of Corporate P&A
3.	Executive(s) in grade E7 to E8	a. Two Functional Directors b. Head of Corporate P&A

Note: The above Committee will be constituted by Chairman & Managing Director of the Company and he can co-opt any other employee(s) to be part of the above Committee:

**The Chief Vigilance officer (CVO)** in case of executives or his/her representative in case of Non-Executive Supervisor will be associated in case of record reflecting adversely on the integrity of concerned Employee(s).

**10.2. Composition of Representation Committee:**

The composition of Representation Committee for all Employee(s) shall consist of: -

- (i) All Functional Directors (excluding CMD); Senior most Director will be **Chairman of the Committee.**
- (ii) HOD of Corporate P&A Department, **Convener of the Committee.**
- (iii) Unit/ Divisional Head of the concerned employee(s)- **Member.**
- (iv) Any other Officer who may be required to function in the representation Committee as per the advice of the Competent Authority- **Member**

**10.3 Composition of Internal Committee:**

In addition to the above, the Head of the Review Committee may constitute an Internal Committee comprising of such officer(s) as deemed fit to assist the Review Committee. This Committee will ensure that the service record of the Employee(s) being reviewed, along with a summary, bringing out all relevant information, is submitted to the Review Committee at least three months prior to the due date of review.

**11. BROAD CRITERIA TO BE FOLLOWED BY THE REVIEW COMMITTEE:**

The broad criteria to be followed by the Review Committee while making the recommendations are as follows: -

### 11.1 Effectiveness/Integrity:

- (i) The Employee(s) whose integrity is doubtful, shall be retired.
- (ii) The Employee(s) found to be ineffective shall also be retired. The basic consideration in identifying such Employee(s) should be their fitness/competence to continue in the post held. **Employee(s) who have been rated Average or below thrice in their last five years Annual Performance Appraisal.**
- (iii) No Employee(s) should ordinarily be retired on ground of ineffectiveness, if, in any event, he would be retiring on superannuation within a period of one year from the date of consideration of his case. However, in a case where there is a sudden and steep fall in the competence, efficiency or effectiveness of Employee(s), it would be open to review such a case also for premature retirement. The said instruction of not retiring the Employee(s) within one year on the ground of ineffectiveness except in case of sudden and steep fall in his performance is relevant only when he is proposed to be retired on the ground of ineffectiveness, but not on the ground of doubtful integrity.
- (iv) No Employee(s) should ordinarily be retired on ground of ineffectiveness, if, his service during the preceding 5 years or where he has been promoted to a higher post during that 5-year period, his service in the highest post, has been found satisfactory. There is no such stipulation, however, where the Employee(s) is to be retired on grounds of doubtful integrity. In case of those Employee(s) who have been promoted during the last 5 years, the previous entries in the ACRs may be taken into account if he was promoted on the basis of seniority cum fitness, and not on the basis of merit.
- (v) The entire service record of an Employee(s) should be considered at the time of review. The expression 'service record' refers to all relevant records and therefore, the review should not be confined to the consideration of the ACR/APAR dossier. The personal file of the Employee(s) may contain valuable material. Similarly, his work and performance could also be assessed by looking into files dealt with by him or in any papers or reports prepared and submitted by him. It would be useful if the Unit/Division puts together all the data available about the Employee(s) and prepares a comprehensive brief for consideration by the Review Committee. Even uncommunicated remarks in the ACRs/APARs may be taken into consideration.

### 11.2 Fitness:

- (i) If an employee(s) has been continuously on leave, on medical ground for a period of 12 weeks (including Sundays and holidays) or he/she has been on leave for reasons of sickness for a total period of 120 days (including Sundays and holidays) or more, during a continuous period of 6 months or if a person though attending duties but is found to be mentally deranged, his/her Unit/Departmental head may refer him to a Government approved Medical Board with an approval from the Competent authority for his thorough medical check-up and report the following:
  - (a) The disease he/she is suffering from:
  - (b) Whether it is curable or incurable
  - (c) Whether the disease is infectious /contagious

In case of curable disease whether the person is likely to be fit to resume his normal duties within a period of 12 months.

- (ii) If a person is not fit to resume his duties within a period of 12 months, even if he/she suffers from a curable disease and in cases of employee(s) suffering from incurable and infectious/contagious disease or suffering from lunacy or mental derangement and whose services cannot be utilized by the Company or whose attendance is likely to pose health hazard to others as may be certified by the Medical Board, premature retirement will be considered by the competent authority.
- (iii) This premature retirement on medical grounds is independent of and without prejudice to the right of the Company under the terms of Employment to dispense with the service of an employee(s) on three months/ one-month notice inter alia on grounds of medical unfitness in case of an employee(s) who might not have even attained the age of 50 years in line with his/her terms of appointment.
- (iv) Retirement under the scheme would be effected and the employee(s) shall be relieved from the services of the Company within 10 working days of approval of the appropriate authority/Appointing Authority.

**12. APPROVAL OF APPROPRIATE AUTHORITY/APPOINTING AUTHORITY:**

The recommendation of Review Committee will be put up for consideration and approval of Appropriate Authority/Appointing Authority in those cases, where it has been recommended to retire the Employee(s) prematurely. Based on the decision of CMD, the Head of P&A department or any other Executive will be authorized to issue the order of premature retirement on his/her behalf.

**13. BENEFITS ADMISSIBLE:**

- (i) Notice pay in lieu of notice period shall be payable to the employee(s) being retired prematurely under the scheme as per terms of employment. The date of communication informing him/her about premature-retirement should be treated as the date of Notice.
- (ii) The executive/NuS who has been considered for premature retirement on medical grounds will be entitled to receive one-time financial assistance equivalent to the balance domiciliary amount for the last three years lying in his/her account **under Company's Domiciliary Medical Benefit scheme** on the date of his/her exit from the service.

**or**

01 (one) month's salary (Basic & DA or as per domiciliary Medical Benefit Scheme in vogue at the time of consideration) for each year of remaining period of service or part thereof (proportionately) whichever is higher.

**14. GENERAL CONDITIONS:**

- (i) No show-cause notice need to be issued to employee(s) covered under this Rule, before order of premature retirement is issued to him/her under the aforesaid provisions.
- (ii) In the event of refusal by the employee(s) to accept the order of Premature retirement, the same will be sent by Registered/Speed Post/ Courier at the last known address available in his or her personal file/other official records. This would be deemed as serving of the order to the employee(s).

- (iii) An employee(s) who has retired under this Policy shall not be eligible for re-employment/re-engagement in the company.
- (iv) All outstanding loans/dues, recoveries (if any) etc. due from the employee(s) who retire under this Policy on account of performance/doubtful integrity will be fully adjusted against his/her terminal dues.
- (v) The following categories of employee(s) will not be covered under this scheme:
  - (a) Employee(s) under suspension.
  - (b) Employee(s) in respect of whom Disciplinary action has been initiated by issue of charge sheet till the proceedings are closed.
  - (c) Employee(s) in respect of whom prosecution for a criminal charge in a matter related to the Company, is pending or sanction for prosecution has been issued or a decision has been taken to accord a sanction for prosecution.
  - (d) Employee(s) against whom an inquiry/investigation on allegation of corruption/ bribery or misconduct is in progress either by CBI or any other external agency.

**15. REPRESENTATION AGAINST PREMATURE RETIREMENT:**

- (a) After issue of the order of premature retirement, the concerned Employee(s) may put up representation for order otherwise, within three weeks from the date of service of such order and the matter may be placed before Representation Committee along with fresh input, if any.
- (b) The examination of the representation should be completed by the Representation Committee within two weeks from the date of receipt of representation.
- (c) The Appellate/Reviewing Authority should decide and based on the decision of COFD the Head of P&A department or any other executive authorized will pass the final order on its behalf within two weeks from the date of receipt of the recommendations of Representation Committee.

**Important judgements of Supreme Court:**

1. In the judgement in the case of *UOI & Col. J.N.Sinha* [1571 SCR (1)791], the Hon'ble Supreme Court had not only upheld the validity of FR 56(j), but also held that no show-cause notice needs to be issued to any Government servant before a Notice of retirement is issued to him under the aforesaid provisions. The Apex Court held that –

*"Now coming to the express words of Fundamental Rule 56(j), it says that the appropriate authority has the absolute right to retire a government servant if it is of the opinion that it is in the public interest to do so. The right conferred on the appropriate authority is an absolute one. That power can be exercised subject to the conditions mentioned in the rule.' one of which is that the concerned authority must be of the opinion that it is in public interest to do so. If that authority bona fide forms that opinion, the correctness of that opinion cannot be challenged before courts. It is open to an aggrieved party to contend that the requisite opinion has not been formed or the decision is based on collateral grounds or that it is an arbitrary decision".*

2. In the case of *State of Gujarat vs Umedbhai M. Patel*, 2001 (3) SCC 314, Hon'ble Court held that –

"The law relating to compulsory retirement has now crystalized into definite principles, which could be broadly summarized thus:

- (i) Whenever the services of a public servant are no longer useful to the general administration, the officer can be compulsorily retired for the sake of public interest.
- (ii) Ordinarily, the order of compulsory retirement is not to be treated as a punishment coming under Article 311 of the Constitution.
- (iii) For better administration, it is necessary to chop off dead wood, but the order of compulsory retirement can be passed after having due regard to the entire service record of the officer.
- (iv) Any adverse entries made in the confidential record shall be taken note of and be given due weightage in passing such order.
- (v) Even un-communicated entries in the confidential record can also be taken into consideration.
- (vi) The order of compulsory retirement shall not be passed as a short cut to avoid Departmental enquiry when such course is more desirable.
- (vii) If the officer was given a promotion despite adverse entries the confidential record, that is a fact in favour of the officer.
- (viii) Compulsory retirement shall not be imposed as a punitive measure."

3. **The observations of the Supreme Court with regard to Integrity and conduct unbecoming of a Government servant:**

- (i) As far as integrity is concerned, the following observations of the Hon'ble Supreme Court in the case of *S Ramchandra Raju vs State of Orissa* {(1994) 3 SCC 424}, while upholding compulsory retirement in the case, may be kept in view:

"The officer would live by reputation built around him. In an appropriate case, there may not be sufficient evidence to take punitive disciplinary action of removal from service. But his conduct and reputation is such that his continuance in service would be a menace to public service and injurious to public interest. The entire service

record or character rolls or confidential reports maintained would furnish the backdrop material for consideration by the Government or the Review Committee or the appropriate authority. On consideration of the totality of the facts and circumstances alone; the Government should form the opinion that the Government officer needs to be compulsorily retired from service. Therefore, the entire record more particularly, the latest, would form the foundation for the opinion and furnish the base to exercise the power under the relevant rule to compulsorily retire a Government officer."

- (ii) While considering the aspect of integrity of an employee(s), all material on record, including the actions or decisions taken by the employee(s) which do not appear to be above board, complaints received against him, or suspicious property transactions, for which there may not be sufficient evidence to initiate departmental proceedings, may also be taken into account. The judgement of the Apex Court in the case of *K. Kandaswamy vs Union of India & Anr*, 1996 AIR 277, 1995 SCC (6) 162 is relevant here. In this case, the apex court upheld the decision of the Government and held that-

"The rights - constitutional or statutory - carry with them corollary duty to maintain efficiency, integrity and dedication to public service. Unfortunately, the latter is being overlooked and neglected and the former unduly gets emphasized. The appropriate authority or the authority would, therefore, need to consider the totality of the facts and circumstances appropriate in each case and would form the opinion whether compulsory retirement of a Government employee(s) would be in the public interest. The opinion must be based on the material/ on record; otherwise it would amount to arbitrary or colourable exercise of power."

- (iii) Similarly, reports of conduct unbecoming of a Government servant may also form basis for compulsory retirement. As per the judgement of the Hon'ble Supreme Court in *State of U.P. and Others vs Vijay Kumar Jain*, Appeal (civil) 2083 of 2002:

"If conduct of a government employee(s) becomes unbecoming to the public interest or obstructs the efficiency in public services, the government has an absolute right to compulsorily retire such an employee(s) in public interest".

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