

PARLIAMENT OFFICE,
Public Buildings,
Georgetown,
Guyana.
20th December, 1974.

F. A. Narain
lerk of the National Assembly.

The following Bill which will be introduced in the National Assembly
is published for general information.



GUYANA

BILL No. 43 of 1974

TEACHING SERVICE COMMISSION BILL 1974

ARRANGEMENT OF SECTIONS

SECTION

1. Short title and commencement.

PART I

PRELIMINARY

2. Interpretation.

PART II

ESTABLISHMENT OF THE TEACHING SERVICE COMMISSION

3. Establishment of the Teaching Service Commission.
4. Oath of office to be subscribed by members of the Commission.
5. Vacation of office of appointed member of the Commission.

- 6. Secretary and other officers of the Commission and oath of office.
- 7. Meetings and procedure of the Commission.

PART III
POWERS OF THE COMMISSION

- 8. Commission not to be subject to control or direction.
- 9. Appointment of, and exercise of disciplinary powers in relation to, certain teachers.
- 10. Delegation of powers of the Commission.
- 11. Consultation with other persons.
- 12. Extension of the jurisdiction of the Commission
- 13. Procedure for appointment of certain teachers in aided schools.
- 14. Transfer of teachers in aided schools.

PART IV
MISCELLANEOUS

- 15. Protection of members of the Commission.
- 16. Remuneration of members of the Commission.
- 17. Publication and disclosure of information to unauthorised persons prohibited.
- 18. Offence to influence or attempt to influence the Commission.
- 19. Offence to give false information to the Commission.
- 20. Evidence of reports and statements of the Commission.
- 21. Fiat of the Director of Public Prosecutions.
- 22. Regulations.
- 23. Consequential amendment of laws.

FIRST SCHEDULE
SECOND SCHEDULE
THIRD SCHEDULE

A BILL

Intituled

AN ACT to establish the Teaching Service Commission, to prescribe the functions of the Commission and to provide for matters connected therewith.

A.D. 1974. Enacted by the Parliament of Guyana:—

Short title
title
and
commence-
ment

1. This Act may be cited as the Teaching Service Commission Act 1974 and shall come into operation on such day as the President may appoint by order.

PART I

Preliminary

2.(1) In this Act, unless the context otherwise requires — ^{Inter-}
^{pretation.}

Cap. 39:01. “aided school” means an elementary school within the meaning of the Education Act, or an all-age school, the managers of which receive grants-in-aid out of public funds and includes the schools known as the Christ Church Secondary School, the Stewartville Government Secondary School and the David Rose School for Handicapped children;

“Commission” means the Teaching Service Commission established by section 3.

“governing body” has the same meaning assigned to it in section 48 of the Education Act;

“government school” means —

- (a) a school established under section 31 of the Education Act;
- (b) a school deemed to be government school under the said section 31; and
- (c) the schools known as Queen’s College, the Bi hops’ High School and the Berbice High School, respectively;
- (d) any other school established and maintained wholly out of monies provided by Parliament;

“manager” has the meaning assigned to it for the purposes of the Education Act and includes any person who has the management of a school in which are employed teachers whose appointments to the offices held by them are vested in the Commission;

“teacher” means the holder of the office of teacher in a school the power of appointment to which is vested in the Commission by virtue of this Act and includes any person appointed to act in any such office.

(2) For the purposes of this Act, references to the public service in the Constitution shall not be construed as including service as a teacher.

PART II

ESTABLISHMENT OF THE TEACHING SERVICE COMMISSION

3.(1) There is hereby established a body to be known as the Teaching Service Commission which shall consist of seven members as hereinafter provided. ^{Establishment of the Teaching Service Commission.}

(2) Six of the members of the Commission (hereinafter referred to as "appointed members") shall be appointed as follows —

- (a) one person appointed as Chairman of the Commission by the President acting on the recommendation of the Prime Minister after the Prime Minister has consulted with such bodies as appear to him to represent teachers;
- (b) one person appointed by the President on the recommendation of the Prime Minister after that person has been nominated for appointment by the Guyana Teachers' Association;
- (c) one person appointed by the President on the recommendation of the Prime Minister after that person has been nominated for appointment by the body commonly known as the Guyana Council of Churches;
- (d) one person nominated for appointment by the Minister assigned responsibility for local authorities after that Minister has consulted with the body commonly known as the Guyana Association of Local Authorities; and
- (e) two persons appointed by the President on the recommendation of the Prime Minister.

(3) the other member of the Commission shall be the Chief Education Officer.

(4) A Deputy Chairman of the Commission shall be appointed by the President from among the appointed members, acting on the recommendation of the Prime Minister.

(5) A person shall be disqualified for appointment as an appointed member of the Commission if —

- (a) he is a public officer;
- (b) he is a teacher.

(6) A person shall not while he is holding or is acting in the office of a member of the Commission or within three years commencing with the date on which he last held or acted in that office be eligible for appointment as a teacher.

(7) The Chairman, the Deputy Chairman and one other member designated as such in the instrument appointing him shall be full-time members of the Commission.

(8) The President may grant leave of absence to any appointed member of the Commission.

(9) An appointed member of the Commission may at any time, resign his office as such member by writing under his hand addressed to the President.

(10) An appointed member of the Commission shall be eligible for re-appointment.

(11) The names of the members of the Commission as first constituted and every change in the membership thereof shall be notified in the *Gazette*.

Oath of
office to
be sub-
scribed
by members
of the
Commission.
First
Schedule.

4. A member of the Commission shall not enter upon the duties of his office unless he has taken and subscribed before the President the oath in the form set out in **the first schedule**.

Vacation
of office
of
appointed
member of
the
Commission.

5. (1) Subject to the provisions of this section, the office of an appointed member of the Commission shall become vacant —

- (a) at the expiration of the period of his appointment as specified in the instrument by which he is appointed;
- (b) if any circumstances arise that, if he were not a member of the Commission, would cause him to be disqualified for appointment as such under subsection (5) of section 3.

(2) An appointed member of the Commission may be removed from office only for inability to exercise the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour and the procedure prescribed by article 118 of the Constitution (which relates to the removal from office of the holders of certain offices established by the Constitution) shall apply for the purpose, and for the purposes of the application of paragraphs (4) and (6) of that article the prescribed authority shall be the Prime Minister, except that in relation to a member other than the Chairman of the Commission or a member for the time being acting in the office of Chairman, the prescribed authority for the purposes of the said paragraph (6) shall be the Chairman of the Commission.

(3) The provisions of subsection (2) shall be without prejudice to the power of the President, acting on the recommendation of the Prime Minister, to revoke the appointment of a member of the Commission appointed under paragraph (b) or (c) of section 3 (2), on a request being made for such revocation to

the Prime Minister by the body which nominated the member for appointment to membership of the Commission.

6. (1) There shall be a Secretary of the Commission and such number of other officers and employees as may be considered requisite for the purpose of enabling the Commission to perform its functions and their offices shall be public offices.

Secretary and other officers of the Commission and oath of office.

(2) The Secretary and other members of the staff of the Commission shall on their appointment as such, take and subscribe the oath in the form set out in the second schedule; the oath shall in the case of the Secretary of the Commission be taken and subscribed before the Chairman of the Commission and in the case of the other members of the staff before the Secretary.

Second Schedule.

7. (1) The Commission shall meet at such times as may be necessary or expedient for the transaction of business, and such meetings shall be held at such place and times and on such days as the Commission may determine.

Meetings and procedure of the Commission.

(2) The Chairman, or in his absence the Deputy Chairman, shall preside at meetings of the Commission.

(3) In the absence of the Chairman and Deputy Chairman at a meeting of the Commission, the members present thereat shall elect one of their number to act as Chairman at that meeting.

(4) No business shall be transacted at any meeting of the Commission unless there are present at least three members of the Commission.

(5) Minutes in proper form of each meeting of the Commission shall be kept by the Secretary and shall be confirmed by the Chairman, or the Deputy Chairman, or other member elected to preside at the meeting, as the case may be, as soon as practicable thereafter at a subsequent meeting.

(6) Subject to the provisions of this Act, the Commission may regulate its own procedure and, with the consent of the Prime Minister or of the Minister, may make rules for that purpose or for conferring powers or imposing duties on any public officer, manager, teacher or on any other authority for the purpose of the discharge of its functions.

PART III

POWERS OF THE COMMISSION

8. Save as otherwise provided by this Act, in the exercise of its powers under this Act, the Commission shall not be subject to the direction or control of any other person or authority.

Commission not to be subject to control or direction.

9.(1) Subject to this Act, the power to appoint persons as teachers in aided schools, government schools, and in any other school by virtue of an order made under section 12, and to remove and exercise disciplinary control over persons holding or acting in such offices shall vest in the Commission.

Appointment of, and exercise of disciplinary powers in relation to, certain teachers.

(2) Before the Commission or any person exercising powers under this section by delegation under section 10 appoints as a teacher any person who holds or is acting in any office power to which is vested under the Constitution in a Service Commission established by the Constitution, the Commission or the person exercising powers by delegation shall consult with the Service Commission in which that power is vested.

10.(1) The Commission may, by directions in writing and subject to such conditions as it thinks fit, delegate any of its powers under section 9 —

Delegation of powers of the Commission.

- (a) to any one or more members of the Commission; or
- (b) with the consent of the Minister, to a public officer other than the Chief Education Officer;
- (c) with the consent of the Minister, in respect of one or more classes of teachers in a school to a body comprising the following persons, that is to say, the Education Officer of the educational district in which the school is situate and the Manager and Head Teacher of the school.

(2) The power of delegation conferred on the Commission by paragraph (c) of subsection (1) shall be without prejudice to the exercise by the Commission of the powers of delegation conferred by the other provisions of subsection (1).

11.(1) The Commission may require any public officer or teacher or manager to attend and give evidence before it touching any matter which it shall have under consideration and may require the production of any official document relating to any such matter.

Consultation with other persons.

(2) The Commission in considering any matter may, in its discretion, consult with the representative of an association representing teachers or with any other person or authority.

(3) Any person who without reasonable cause or excuse fails to appear before the Commission when required to do so, or to comply with any request made by the Commission or with any requirement of this Act shall be liable on summary conviction to a fine of five hundred dollars.

Extension
of the
juris-
diction
of the
Commission.

12.(1) The Minister if he thinks fit may, by order which shall be subject to negative resolution of the National Assembly, extend the jurisdiction of the Commission to include teachers in schools (other than government schools and aided schools) in respect of which the employers of the teachers receive grants out of monies provided by Parliament:

Provided that no order shall be made under this section unless the Minister has consulted with such bodies as appear to him to represent teachers in schools to which the order will relate and the employers of those teachers.

(2) An order made under this section may include such other provisions as will enable the Commission to undertake and exercise the functions conferred upon it by the order.

Procedure
for appoint-
ment of
certain
teachers
in an aided
school.

13.(1) Where a vacancy exists in the office of teacher of or above the rank of senior assistant teacher in an aided school within the meaning of the Education Act, the Commission shall—

- (a) invite applications from teachers with such qualifications, training and experience as the Ministry shall determine;
- (b) submit a list of applicants and their qualifications and other particulars to the governing body of the aided school;
- (c) request the governing body to select from such list a specified number of applicants eligible in the opinion of the governing body for appointment to the office in order of preference so, however, that the list shall consist of the names of not less than three applicants, if more than three persons have applied for appointment to the vacant office.

(2) In relation to the list compiled by the governing body of the school, the Commission may —

- (a) with the concurrence of the governing body, appoint as a teacher an applicant whose name appears thereon; or
- (b) request the governing body to review the list for reasons stated in writing to the governing body by the Commission and, after consultation with the governing body, accept a revised list submitted by the governing body and with the concurrence of the governing body appoint as a teacher an applicant whose name appears on the revised list; or
- (c) appoint a fit and proper person where the Commission and the governing body have failed to agree on the list compiled by the governing body.

14.(1) Subject to subsection (2), the power to make appointments to the office of teacher in an aided school within the meaning of the Education Act on transfer not involving promotion —

Transfer
of
teachers
in aided
schools.

- (a) from another such office in an aided school (within the meaning of the Education Act) under the control and management of the same governing body shall vest in the governing body:

Provided that the governing body shall inform the Commission of every such appointment;

- (b) from another such office in an aided school not under the control and management of the same governing body shall vest in the Commission acting after consultation with the governing bodies.

(2) Section 13 shall apply for the purpose of the appointment of a teacher to fill a vacancy in the office of teacher of or above the rank of senior assistant in an aided school within the meaning of the Education Act, unless the Commission and the governing body agree that in the circumstances of any particular case subsection (1) of this section shall apply for the purpose.

PART IV

MISCELLANEOUS

15. Every member of the Commission and every person or authority to whom the Commission has delegated any of its powers under this Act shall have such and the like protection

Protection
of members
of the
Commission.

and privileges in case of any action or suit brought against such member, person or authority for any act done or omitted to be done in the exercise of the powers as are by law conferred upon any Judge of the Supreme Court of Judicature acting in the execution of his office.

Remuneration of members of the Commission.

16. There shall be paid to the Chairman and other members of the Commission such remuneration and allowances as may be prescribed by order of the Minister responsible for finance and the remuneration and allowances so payable are hereby charged on the Consolidated Fund.

Publication and disclosure of information to unauthorised persons prohibited.

17.(1) No member of the Commission nor any other person shall, without the permission of the President, publish or disclose to any authorised person or otherwise than in the course of duty the contents or part of the contents of any document, communication or information whatsoever which has come to his knowledge in the course of his duties under this Act in respect of any matters to be or already dealt with by the Commission under this Act or by any person or authority to whom the Commission has delegated its powers under this Act, and any person who knowingly contravenes the provisions of this subsection shall be liable on summary conviction to a fine of five hundred dollars and to imprisonment for one year.

(2) If any person having possession of such information which to his knowledge has been disclosed in contravention of the provisions of this section publishes or communicates it to any other person otherwise than for the purpose of any prosecution under this Act he shall be liable on summary conviction to a fine of five hundred dollars and to imprisonment for one year.

Offence to influence or attempt to influence the Commission.

18. Every person who otherwise than in the course of his duty directly or indirectly by himself or by any other person in any matter whatsoever influences or attempts to influence any decision of the Commission or of any member thereof or of any person or authority to whom the Commission has delegated any of its powers under this Act, shall be liable on summary conviction to a fine of five hundred dollars and to imprisonment for one year:

Provided that nothing in this section shall prohibit any person from giving a certificate or testimonial to any applicant for appointment as a teacher.

19. Any person who, in connection with an application by any person for appointment as a teacher, wilfully gives to the Commission or to any member thereof or to any person or authority to whom the Commission has delegated its powers under this Act any information which he knows to be false or does not believe to be true, or which he knows is false by reason of the falsity or wilful omission of a material particular, shall be liable on summary conviction to a fine of five hundred dollars and to imprisonment for one year.

Offence
to give
false in-
formation
to the Com-
mission.

20. Except with the written permission of the Minister no person shall in any legal proceedings produce, or be permitted to give secondary evidence as to the contents or nature of, any letter, statement, report or other document or any oral information addressed, made or given —

Evidence
of reports
and state-
ments of
the Com-
mission.

- (a) to the Commission or any person or authority to whom the Commission has delegated any of its powers under this Act by or on behalf of the Permanent Secretary of any Ministry or the Head of any Government Department or the manager or teacher of a school for the purpose of enabling the Commission or such person or authority to discharge any functions under this Act; or
- (b) by the Commission or any person or authority to whom the Commission has delegated any of its powers under this Act to the Permanent Secretary of any Ministry or the Head of any Government Department or the manager or teacher of a school in relation to any matter concerning or arising out of the functions of the Commission.

21. A prosecution under this Act shall not be instituted except by or with the consent of the Director of Public Prosecutions.

Act of
the
Director of
Public
Prosecutions

22. Subject to this Act, but without prejudice to any power to make rules conferred by this Act, the Commission with the consent of the Minister may make regulations to give effect to the provisions of this Act, and in particular, regulations may be made relating to the organisation of the work of the Commission.

Regulations.

23. The laws specified in the third schedule are hereby amended in the manner and to the extent specified therein.

Conse-
quential
amendment
of laws.
Third
Schedule.

Section 4 FIRST SCHEDULE
OATH OF OFFICE

I.....having been appointed a member of the Teaching Service Commission, do swear that I will freely and without fear or favour, affection or illwill, give counsel and advice in connection with all such matters as may be referred to the Teaching Service Commission, and that I will not directly or indirectly reveal any such matters to any unauthorised person or otherwise than in the course of duty. So help me God.

Signature.....

worn before me this day of , 19

.....
President

Section 6(2) SECOND SCHEDULE
OATH OF OFFICE

I.....having been appointed
Secretary to the Teaching Service
a member of the staff of

Commission, do swear that I will not directly or indirectly reveal to any unauthorised person or otherwise than in the course of duty any information in connection with the Business of the Commission which may come to my knowledge in the course of my duties as Secretary to the
a member of the staff of
said Commission. So help me God.

Signature.....

worn before me this day of , 19

Chairman or the Secretary to the
Teaching Service Commission.

Section 23

THIRD SCHEDULE

LAWS

AMENDMENT

Education Act (Cap. 39:01)	Insert the following definition immediately after the definition of the expression “authorised person” — ‘ “the Commission” means the Teaching Service Commission established by the Teaching Service Commission Act 1974,’
Section 6	Substitute the word “Commission” for the words “Chief Education Officer” in subsections (1) and (3).
Section 7	(a) Substitute the word “Commission” for the words “Chief Education Officer” where they appear on the second occasion; (b) insert the words “acting on the advice of the Commission” after the words “Chief Education Officer” where they appear on the third occasion.
Section 8	Substitute the word “Commission” for the words “Education Committee”.
Section 49	(a) In subsection (1), substitute the word “Commission” for the words “Chief Education Officer”; (b) substitute the words “the Commission” for the word “he” in subsection (1); (c) in subsections (2), (3) and (4), substitute the word “Commission” for the word “Chief Education Officer”.
Section 50	Substitute the words “The Commission, with the approval of the Minister,” for the word “The Minister”.
Section 52	Substitute the word “Commission” for the word “Committee”.
Section 53	(a) Delete the proviso to subsection (1) and substitute a full stop for the colon after the figure “7”; (b) substitute the following subsection for sub ection (2) — “(2) When under section 6 the Commission transmits a statement specifying the acts constituting a charge to a magistrate, the Commission may direct that the teacher be interdicted from duty pending the decision on the charge and effect shall be given to any such direction by the governing body.”.

LAWS

Section 54

**The Education
Code
Regulations**

Regulation 6

Regulation 37

Regulation 39

Regulation 40

AMENDMENT

Delete the words “and of the teachers thereof” from subsection 2 (c).

- (a) Substitute the following paragraph for paragraph (1)

“(1) Every governing body shall nominate one or more persons to be manager or managers of each of its schools and, subject to the provisions of the Teaching Service Commission Act 1974, may delegate to such manager or managers any of its powers in regard to such school:

Provided that the governing body shall inform the Chief Education Officer in writing of the powers so delegated.”;
- (b) insert the words “the Commission and” immediately after the word “with” in paragraph (3).
- (a) In paragraph (1), substitute the word “Commission” for the words “Chief Education Officer”;
- (b) In paragraph (3), substitute the word “Commission” for the word “Chief Education Officer”.
- (a) Delete the word “payment,”;
- (b) Substitute the words “with the Commission acting in pursuance of the Teaching Service Commission Act 1974” for all the words following after the word “rest”.
- (a) Substitute the following paragraph for paragraph (1) —

“(1) The terms of appointment of a teacher shall be embodied in a letter of appointment from the Commission but, in the case of the appointment of a teacher on transfer not involving promotion from one aided school to another aided school under the control and management of the same governing body, the letter of appointment shall be issued by the governing body.”;
- (b) insert the words “or to effect a transfer from one aided school to another such school” immediately after the word “employment” in paragraph (2) (a).

LAWS

AMENDMENT

Regulation 41

- (a) In paragraph (1) (b), insert the words “, with the approval of the Commission,” immediately after the word “or”;
- (b) substitute the following subparagraph for subparagraph (c) of paragraph (1) —

“(c) a teacher desiring to be employed in a school under the control and management of another governing body shall apply in writing to the Commission and to such governing body, and upon securing an offer of such employment shall give to the governing body having control and management of the school in which he is employed the notice prescribed by regulation 40(2) (a); the governing body may, in special circumstances and with the approval of the Commission, dispense with such notice.”;
- (c) Substitute the following paragraph for paragraph (2) —

“(2) (a) Subject to the Act, a governing body in exercise of its powers of management of schools thereunder may transfer any teacher to the staff of a school under its management:

Provided that in the case of the transfer of a teacher holding a permanent certificate not less than three months’ notice of such transfer shall be given and in the case of the transfer of any other teacher not less than one month’s notice of such transfer shall be given;

(b) a head teacher who has been employed as such in a school or schools during five or more successive years may within one month of receiving notice of transfer appeal to the Commission which may uphold or reject such appeal.”.

Regulation 43

Substitute the following regulation for regulation 43 —

- “Termination of teacher’s employment.
43. When a teacher is dismissed under Part III of the Act, the teacher may obtain from the Commission a full statement of the cause of his dismissal.”.

LAWS

AMENDMENT

Regulation 45	Delete.
Regulation 46	Substitute the word “Commission” for the words “Chief Education Officer”.
Regulation 47	<div><div>(a)</div><div>Substitute the word “Commission” for the words “governing body of the school in which the teacher is employed” in paragraph (1);</div></div> <div><div>(b)</div><div>Substitute the words “Part III” for the word “section 48” in paragraph (2);</div></div> <div><div>(c)</div><div>delete paragraphs (3), (4) and (5);</div></div> <div><div>(d)</div><div>renumber paragraphs (6) and (7) as paragraphs (3) and (4), respectively;</div></div> <div><div>(e)</div><div>substitute the word “Commission” for the words “Chief Education Officer” where it appears for the second time in the renumbered paragraph (3), and in the proviso to the renumbered paragraph (4).</div></div>
Regulation 52 (2)	Substitute the words “the Commission” for the word “he”.
Teachers’ Pensions Act (Chapter 39:05)	
Section 2	<div>Insert the following definition immediately after the definition of the expression “certificated teacher” —</div> <div>“the Commission” means the Teaching Service Commission established by the Teaching Service Commission Act 1974;”.</div>
Section 6	Substitute the word “Commission” for the word “President”.
Section 7 (3)	Substitute the word “Commission” for the words “Chief Education Officer”.
Section 30	Substitute the word “Commission” for the word “President”.
Section 35	Substitute the word “Commission” in paragraphs (b) and (c) of the proviso to section 4 of the Act (a repealed and re-enacted by section 35).

EXPLANATORY MEMORANDUM

This Bill seeks to establish a Teaching Service Commission with responsibility for the appointment of, and exercise of disciplinary powers over, teachers in denominational and government schools (including Queen's College, the Bishops' High School and the Berbice High School). Clause 3 of the Bill makes provision for the composition of the Commission. Membership of the Commission will include the Chief Education Officer, a representative of the Guyana Teachers' Association, and a representative of the Guyana Council of Churches. Members of the Commission will enjoy security of tenure of office in like manner as members of the Service Commissions established by the Constitution. Clause 5(2) of the Bill seeks to make provision for this.

Clause 9 seeks to prescribe the jurisdiction of the Commission. Provision is made in clause 12 for the extension of the jurisdiction of the Commission and clause 10 makes provision for the Commission to delegate its powers.

Clauses 13 and 14 seek to make provision for the adoption of certain procedures in the appointment (including transfers) of teachers in denominational schools.

Clause 15 contains provision providing protection from suit of members of the Commission for acts performed by them in the performance of their functions.

Clauses 17, 18 and 19 contain provisions safeguarding against the publication and disclosure of information to unauthorised persons. It will be a criminal offence for any person to influence or attempt to influence the Commission or any of its members or to give false information to the Commission.

Clause 23 seeks to enable a number of amendments to be made to the Education Act, the Education Code Regulations and the Teachers' Pensions Act consequent on the establishment of the Commission. Some of the powers hitherto exercised by the Chief Education Officer will now be exercised by the Commission, except in those cases where the Commission delegates those functions to some person or authority.

Cecilene L. Baird.
Minister of Education and
Social Development.