

PUBLIC SERVICE COMMISSION,

RULES 1985

Arrangement of Rules

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RULES

MADE UNDER

THE CONSTITUTION OF GUYANA

The following Rules have been made under article 226(2) of the Constitution of the Co-operative Republic of Guyana.

Minister

CHAPTER I

PRELIMINARY

Citation.

1. These Rules may be cited as the Public Service Commission Rules.

Interpretation.

2. In these Rules, unless the context otherwise requires —

- (a) "acting appointment" means the temporary appointment of an officer to a higher office whether the office is vacant or not;
- (b) "appointment" means the placing of a person in an office in the public service;
- (c) "the Chairman" means the Chairman of the Commission;
- (d) "the Commission" means the Public Service Commission constituted under article 200 of the Constitution;
- (e) "the Constitution" means the Constitution of the Co-operative Republic of Guyana;
- (f) "Fire Service" means service in the Guyana Fire Service establishment by the Fire Service Act Cap. 22:02 or any Act amending the same;
- (g) "Head of Department" means the officer charged with the administration of a Department which is not integrated with a Ministry and under the control of a Minister;
- (h) "Official Gazette" means the Official Gazette published by order of the Government and includes supplements thereto and any Extraordinary Official Gazette so published;

- (i) "Permanent Secretary" means the administrative head of a Ministry;
- (j) "prescribed form" means the appropriate form as may from time to time be prescribed by the Commission;
- (k) "Prison Service" means service in the Guyana Prison Service established by the Prison Act, Cap. 11:01 or any Act amending the same.
- (l) "promotion" means the appointment of an officer to an office in a grade carrying a higher remuneration whether such office be in the same Ministry or Department or not;
- (m) "public office" subject to the provisions of article 232(5) of the Constitution means a permanent office of emolument in the public service;
- (n) "Public Officer or Officer" means a person who holds or is acting in a public office of the public service and who is subject to the jurisdiction of the Commission;
- (o) "public service" means service of the Government of Guyana in a civil capacity and includes the Guyana Fire Service and the Guyana Prison Service;
- (p) "secondment" means the temporary assignment of an officer in a particular Ministry or Department to serve for a period in an office of another Ministry or Department or in the public service of a scheduled Government as defined in the Pensions Regulations, Chapter 27:02, or in an office under a statutory board;
- (q) "statutory board" includes corporation, tribunal, commission, committee or other similar body approved by the Commission;
- (r) "the Secretary" means the Secretary to the Commission;
- (s) "transfer" means the release of an officer from his position in the public service for service in a similar graded position of the public service or the relinquishment of an officer's position for service on a statutory board.

CHAPTER II

The Public Service Commission

Oath of
Office

3. (1) The Chairman and other members of the Commission shall, as soon as possible after appointment, take the oath or make the affirmation set out in Form I of the First Schedule.

Form I
First
Schedule.

(2) Such oath or affirmation shall be administered by or made before the President.

Form II
First
Schedule

(3) The Secretary and other members of the staff of the Commission shall on their appointment as such, take the oath or make the affirmation set out in Form II and Form III of the First Schedule respectively. Such oath or affirmation shall, in the case of the Secretary, be administered by or made before the Chairman of the Commission, and in the case of the other members of the staff shall be administered by or made before the Secretary.

4. (1) The Commission shall meet as often as may be necessary for the purpose of performing its functions and such meetings shall be held on such days and at such time and place as the Chairman or, if he is not available, the Deputy Chairman, shall determine. If the Chairman and the Deputy Chairman are not available the Commission shall meet on such days and at such time and place as the member, for the time being who is appointed to act in the office of Chairman under article 20(5) of the Constitution, shall determine.

(2) Where a member fails to attend at least four successive meetings without reasonable excuse, the Chairman shall make a report to the President.

Procedure
quorum and
voting.

5. (1) The Chairman, or in his absence the Deputy Chairman or the member, who for the time being is appointed to act in the office of Chairman shall preside at meetings.

(2) At any meeting of the Commission, the Chairman or the Deputy Chairman or the acting Chairman and two members shall constitute a quorum.

(3) All questions for discussion at any meeting shall be decided by a majority of the votes of the members present.

(4) The Chairman, or in his absence the Deputy Chairman or the member for the time being acting in the office of

of Department in accordance with the provisions of rule 88 hereunder which requires notice to be given to such officer and which preserves the right of the officer transferred to make representations to the Commission.

E. Suspension :—

The power to direct a public officer assigned to a Ministry or Department to cease to report for duty in accordance with rule 68 hereunder shall be exercised by the Permanent Secretary or Head of Department and shall report the exercise of this power forthwith to the Commission.

F. Discipline :—

(1) The power to exercise disciplinary control in respect of any alleged act of misconduct or indiscipline as specified in the Public Service Rules to the extent that the Permanent Secretary or Head of Department may charge a public officer with any offence described in the aforesaid Public Service Rules and may impose, in respect of such misconduct or indiscipline the penalty therein specified.

(2) Any fine which the Permanent Secretary or Head of Department may impose under rule F(1) above shall not exceed the maximum permitted by the Public Service Rules.

Publication and disclosure of information to unauthorised person prohibited.

15. (1) Save and except in the course of his duty, no person shall, without the written permission of the Commission, publish or disclose to any person the contents or any part thereof of any document, communication or information whatsoever which has come to his possession or knowledge in the course of his duties as a member of the Commission or a member of the staff of the Commission in respect of any matter to be or already dealt with by the Commission under the Constitution or these Rules.

(2) No public officer, who has knowledge or possession of any information which has been disclosed in contravention of the provisions of this rule, shall publish or communicate to any other person otherwise than for the purpose of any prosecution or proceedings under these Rules.

Offence to give false information to the Commission.

16. (1) Any public officer who, in connection with an application by any person for appointment to a public office, gives to the Commission or to any member thereof or to any person

Chairman shall have an original vote, and in the event of any equality of votes, he shall have as well second or casting vote.

(5) Where the votes are equally divided on the question as to whether a public officer should be removed from office the Chairman, Deputy Chairman or other member who is for the time being acting in the office of Chairman shall not have a casting vote and the power to remove the public officer from office shall not be exercised.

6. (1) Notwithstanding rule 5 but subject to rule 6(2) any question for decision by the Commission may, instead of being decided at a meeting of the Commission; be decided by circulation of the relevant papers to all the members for them to express their views in writing and record their decision, and in such case the decision shall be in accordance with the view expressed by the majority of members. Decisions other than at meetings.

(2) If any member require that a matter or question being dealt with by circulation of the relevant papers shall be reserved for consideration at the next following meeting of the Commission, no decision shall be made on that matter or question except at a meeting of the Commission.

7. The Chairman, at his discretion, may on the application of any member of the Commission, grant to such member leave of absence from the Commission and forthwith notify the President of any leave so granted. Grant of leave of absence to members.

8. There shall be a Secretary to the Commission who shall be a public officer. Secretary to the Commission.

9. It shall be the duty of the Secretary — Duties of Secretary.

- (a) to submit, whether in writing or orally, matters for the decision of the Commission;
- (b) to notify members of the Commission as to the day, time and place of meetings of the Commission;
- (c) to attend meetings of the Commission;
- (d) to ensure that all documents and papers relating to any matter being or to be considered by the Commission are made available to the Commission, and that all the decisions of the Commission are carried out; and

(e) generally, to be responsible for matters relating to the functions of the Commission.

Record of meetings and decisions.

10. (1) The Secretary shall ensure that minutes of all meetings of the Commission and of all decisions arrived at under rule 6, shall be fully recorded and kept and that the minutes shall be presented for confirmation by the Commission as soon as practicable and at a subsequent meeting or by individual members on circulation thereof.

Dissents.

(2) Any member of the Commission who dissents from a decision may require that his dissent and reasons for dissenting be recorded in the minutes.

Evidence given at enquiry.

11. (1) The Commission at its discretion may require any public officer or other person to attend and give evidence before it touching any matter concerning the conduct of a public officer which it has under enquiry and may require that public officer or other persons to produce any official document or other document relating to that matter.

(2) All oral evidence given before the Commission shall be upon oath or affirmation administered by the Secretary in accordance with the form of oath or affirmation prescribed by the provisions of the Evidence Act, Cap. 5:02.

Consultation with other persons.

(3) The Commission in considering any matter or question may in its discretion consult with the executive of an association of public officers or with any person or body of persons as the Commission may consider proper and desirable and may require that person or persons to attend a meeting of the Commission for the purpose of assisting the Commission in its deliberation on such matter or question whether by furnishing written or oral information or otherwise.

Non-compliance.

12. Any public officer who without reasonable excuse fails to appear before the Commission when required to do so, or who fails to comply with any request made by the Commission or with any requirement of these rules shall be guilty of misconduct.

Certificates testimonial and recommendations.

13. (1) Members of the Commission shall not issue any written certificate, testimonial, recommendation or other document supporting the application of any person for appointment to an office in the public service.

(2) Nothing in the preceding rule shall prohibit any person (other than members of the Commission) from giving a certificate, testimonial or recommendation to any applicant or candidate for any public office.

14. Subject to article 201(2) of the Constitution and the Public Service Rules, the Commission with the approval of the Prime Minister may delegate to a Permanent Secretary, Head of Department or the Clerk of the National Assembly any of the powers and functions of the Commission detailed hereunder: ^{Delegation of powers.}

A. Temporary Appointments:—

The power to appoint persons on recruitment from outside the Guyana Public Service in a temporary capacity to an office in a Ministry or Department.

B. Acting Appointments:—

(1) The power to appoint a person to act in a public office in any Ministry or Department whether such acting appointment is in a vacant post or not, providing that the acting appointment is for a period not exceeding four months and where it is made in respect of a vacant post the officer is informed that such acting appointment shall not give him or her any prior claim to eventual permanent appointment thereto.

(2) In the exercise of the power delegated under rule 14.A above the Permanent Secretary or Head of Department shall apply the principles of selection prescribed in rule 29 hereunder;

C. Substantive Appointments:—

The power to appoint persons substantively to a public office in any Ministry or Department.

D. Transfers.

(1) The power to transfer a public officer from an office in a grade in a Ministry or Department to which such an officer is assigned to a similar office in that grade in the same or some other Ministry or Department with no alteration with respect to his or her remuneration;

(2) The power delegated under rule D(1) above shall be exercised by the Permanent Secretary or Head

of Department in accordance with the provisions of rule 55 hereunder which requires notice to be given to such officer and which preserves the right of the officer transferred to make representations to the Commission.

E. Suspension :—

The power to direct a public officer assigned to a Ministry or Department to cease to report for duty in accordance with rule 63 hereunder and the Permanent Secretary or Head of Department shall report the exercise of this power forthwith to the Commission.

F. Discipline :—

(1) The power to exercise disciplinary control in respect of any alleged act of misconduct or indiscipline as specified in the Public Service Rules to the extent that the Permanent Secretary or Head of Department may charge a public officer with an offence described in the aforesaid Public Service Rules and may impose, in respect of such misconduct or indiscipline the penalty therein specified.

(2) Any fine which the Permanent Secretary or Head of Department may impose under rule F(1) above shall not exceed the maximum permitted by the Public Service Rules.

Publication and disclosure of information to unauthorised person prohibited.

15. (1) Save and except in the course of his duty, no person shall, without the written permission of the Commission, publish or disclose to any person the contents or any part thereof of any document, communication or information whatsoever which has come to his possession or knowledge in the course of his duties as a member of the Commission or a member of the staff of the Commission in respect of any matter to be or already dealt with by the Commission under the Constitution or these Rules.

(2) No public officer, who has knowledge or possession of any information which has been disclosed in contravention of the provisions of this rule, shall publish or communicate to any other person otherwise than for the purpose of an prosecution or proceedings under these Rules.

Offence to give false information to the Commission.

16. (1) Any public officer who, in connection with an application by any person for appointment to a public office, gives to the Commission or to any member thereof or to any person

or body of persons appointed to assist the Commission in the exercise of its functions or the discharge of its duties any information which to his knowledge is false in a material particular or by reason of any wilful omission of a material particular, shall be guilty of an offence under these Rules and liable to a maximum fine permitted by the Public Service Rules.

(2) Any public officer 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 the Chairman or any member thereof shall be guilty of an offence under these Rules and liable to the maximum fine permitted by the Public Service Rules.

Offence to influence or attempt to influence the Commission.

17. (1) Whenever the Commission delegates any of its powers to any of its members or to any public officer in accordance with paragraph (2) of article 201 of the Constitution, the Secretary shall cause notice of such delegation to be published in the Official Gazette.

Instrument of Delegation to be published.

(2) A notice published under rule 17(1) shall contain the information specifying:—

- (a) the powers delegated;
- (b) the person or persons to whom such delegation is made;
- (c) the extent of such delegation;
- (d) the terms and conditions of such delegation; and may include:—
- (e) the manner in which matters dealt with under such delegation may reach the Commission;
- (f) the procedure to be followed in dealing with matters under such delegated authority.

(3) Every delegation under this Rule shall be revocable by the Commission at anytime.

18. Where by virtue of the provisions of paragraph (2) of article 201 of the Constitution, the power to remove or to discipline a public officer has been exercised by a person or authority so delegated by the Commission, the public officer in respect of whom the power was so exercised may apply to

Reference of certain cases to Commission.

the Commission to review the decision taken by such person or authority in accordance with the following provision:—

- (a) The public officer shall within a month of receiving the notification of his removal or disciplinary punishment, forward a request through the Permanent Secretary of the Ministry or Head of Department in which he is serving to the person or authority who exercised the power to remove or discipline him to refer the matter to the Commission for review and he shall send forthwith a copy of such request on the Secretary to the Commission.
- (b) Upon receipt of a request under the preceding paragraph, the person or authority who exercised the power to remove or discipline shall forthwith prepare a report of the matter and forward to the Secretary such report, together with all documents, papers and other matters relating thereto and any comments he may wish to make for the consideration of the Commission.

Protection of
Chairman
and Mem-
bers of the
Commission.

19. The Chairman and any member of the Commission shall have such protection and privileges respecting any action or suit brought against him for any act done or omitted to be done in the execution of his duty as are by-law given to any Judge of the Supreme Court of Judicature acting in the execution of his office.

Director of
Public Pro-
secution's
flat.

20. A prosecution under these Rules shall not be instituted except by or with the consent of the Director of Public Prosecutions.

CHAPTER III

Appointment, Promotion and Transfers.

Applicat.on
for appoint-
ment.

21. Every application for a first appointment to the public service shall be addressed to the Secretary on the prescribed form.

Admission to
the public
service.

22. (1) Arrangements may be made by the Commission for the holding of written competitive examinations as may be considered necessary from time to time for admission to, or promotion within the public service.

(2) Any position in the public service which require the applicant to take a written examination and/or interview shall be specified in any notification published in the Official Gazette or the newspapers and on the basis of such examination and/or interview conducted by the Commission, the applicant for appointment shall be selected.

(3) Any applicant who fails the examination or interview for admission to the public service in any year, shall, if he wishes to be considered again for appointment, re-apply and re-submit himself for the examination and/or interview in any following year, notwithstanding that he may have held a temporary appointment in the public service in the meantime.

(4) Any applicant who passes the examination for admission to the public service in any year but fails to obtain an appointment shall, if he wishes to be considered for appointment, re-apply and re-submit himself for an interview in the following year, but the Commission may in such case as it shall think fit, waive the requirements of this rule.

(5) If more than two years elapse between the date when an applicant passes the examination for admission to the public service and the date when he re-applies to be considered for an appointment, then the Commission may, as it thinks fit, require the applicant to re-submit himself for the examination and interview.

(6) All examinations to be held under this rule shall be set and the papers marked by such Examination Board as may be appointed by the Commission for that purpose, and the Secretary shall be responsible for the conduct of the examinations.

(7) An applicant shall not be permanently appointed until he or she has satisfactorily passed a medical examination conducted by a Government Medical Board.

23. (1) As soon as it is known that a vacancy will occur the Permanent Secretary or Head of Department shall communicate this information to the Secretary in writing and shall request that the vacancy be filled and make his recommendations regarding the filling of the vacancy. Filling of vacancies.

(2) Where a vacancy exists for more than three months and no request has been made by the Permanent Secretary or Head of Department to the Secretary to fill the vacant post, the Secretary shall send to the Permanent Secretary or Head of

Department a statement of the existing vacancy requesting early recommendations for filling the vacancy.

(3) If recommendations, or satisfactory explanations for a lack thereof, are not received within a month, the Secretary shall report the fact to the Commission and the Commission shall require the Permanent Secretary or Head of Department to inform it of the reasons for the failure to request and make recommendations for the filling of the vacancy.

(4) The Secretary shall, from time to time by circular memoranda or by publication in the Official Gazette, the newspapers or on the radio give notice of vacancies which exist in the public service including the duties of and qualifications for the vacant posts and invite applications for appointment there-to. Such applications shall be made on the prescribed form and forwarded direct to the Secretary and a copy forwarded at the same time to the Permanent Secretary of the Ministry or the Head of the Department in which the officer is serving but failure of an eligible officer to apply shall not prejudice the consideration of that officer for appointment to the post that is vacant.

Appointment within the particular service.

24. Whenever in the opinion of the Commission it is possible and in the best interests of the particular service within the public service to do so, appointments to vacancies shall be made from within the particular service.

Appointments from within the Public Service.

25. Where in the opinion of the Commission after considering any recommendations of a Permanent Secretary or Head of Department, it is impractical or not in the best interests of the public service to make an appointment from within the particular service, the Commission may, with or without competition, appoint a person from within the public service who is in the opinion of the Commission the most suitable and best qualified.

"Special Cases".

26. The Commission may make an appointment to a public office without competition where —

- (a) an appointment to the public office is urgently required; or
- (b) the availability of suitable candidates who are qualified for the public office is limited; or
- (c) a person having special skill or knowledge is required for the public office; and the Commission

is of the opinion that a competition is not practical or is not in the public interest.

27. Where the Commission considers either that there is no suitable candidate already in the public service available for the filling of any vacancy or that having regard to qualifications, experience and merit, it would be advantageous and in the best interest of the public service that the services of a person not already in that service be secured, the Commission may authorise the advertisement of such vacancy in the Official Gazette or the newspapers.

28.(1) The Commission may from time to time appoint one or more Selection Boards to assist in the selection of candidates for appointment in the public service and the composition of any such Board and the form in which its reports are to be submitted shall be in the discretion of the Commission.

(2) On consideration of any report of a Selection Board, the Commission may, in its discretion, summon for interview any of the candidates recommended by such Board.

29.(1) In considering the eligibility of public officers for promotion, the Commission shall take into account the educational qualifications, merit and ability, together with relative efficiency, and experience of such officers, and should two or more officers, be equally eligible for promotion the Commission shall give consideration to the relative seniority of the officers available for promotion.

(2) The Commission in considering the eligibility of officers under rule 29(1) for promotion shall attach greater weight to

- a) seniority where promotion is to an office in the grade immediately above an office in the recruiting grade; or
- b) merit, ability and efficiency where promotion is to an office that involves work requiring progressively higher responsibility and greater initiative.

(3) In carrying out its functions under the preceding rules 29(1) and (2), the Commission shall take into account as regards an officer's eligibility for Promotion:—

- a) his general physical fitness;
- b) his position on the seniority list;

- (c) his special qualifications;
- (d) any special courses of training that he may have undergone;
- (e) the evaluation of his overall performance reflected in staff appraisal reports;
- (f) any letter of commendation or special reports respect of any special work done by the officer;
- (g) his job knowledge and experience;
- (h) the duties of and qualifications required for appointment to the office for which he is a candidate;
- (i) any specific recommendation of the Permanent Secretary or Head of Department for filling the particular office;
- (j) any previous employment of his in the public service, or otherwise;
- (k) any special reports for which the Commission may call.

and (l) his devotion to duty.

(4) In addition to the requirements prescribed in rules 20(1), (2) and (3), the Commission shall consider any specifications that may be required from time to time for appointment to a particular office or any other matter which in the opinion of the Commission is relevant in assessing the eligibility of a public officer for promotion.

Seniority list to be kept up-to-date.

30. The Secretary shall keep a proper and up-to-date staff list of all officers setting out their respective seniority in the several grades of the public service.

Determination of seniority.

31.(1) The seniority of an officer shall be determined by the date of his appointment to the particular grade in which he is serving. The seniority of officers promoted to the same grade on the same date shall be determined by their seniority in their former grade.

(2) Where officers have entered the public service by competitive examination and are appointed to the same grade with effect from the same date, the relevant seniority of such officers shall be determined according to their performance in such examination.

(3) The seniority of an officer who voluntarily resigns from the public service and is subsequently re-appointed to P shall be reckoned from the date of his re-appointment.

32. The Commission shall determine the seniority of the officer in any case not covered by rules 30 or 31. Commission to determine seniority

33. (1) The Commission shall ensure that as regards an acting appointment which is to be followed by a substantive appointment any recommendation made by Permanent Secretary or Head of Department to the Commission in relation thereto shall be based on the principles set out in rule 29. Principles of selection for acting appointment as prelude to appointment in-...

(2) Where, in the exigencies of the public service, it has not been practicable to apply the principles set out in rule 29, an officer selected for an acting appointment in consequence of a recommendation made by a Permanent Secretary or Head of Department shall not thereby have any special claim to the substantive appointment.

(3) In considering the recommendations made in relation to a substantive appointment, the Commission shall take into account the claims of all eligible officers.

34. (1) Where an acting appointment fails to be made whether as a prelude to a substantive appointment or not, the Permanent Secretary or Head of Department shall notify those officers within the Ministry or Department who in his opinion are eligible for consideration and forward their names to the Commission. Permanent Secretary to notify eligible officers vacancies

(2) The Commission shall, after notification as required by rule 34(1), and before appointing an officer to act, allow a period of seven days to elapse for the purpose of allowing the officers of the Ministry or Department to make representations on the filling of the vacancy.

(3) Where a vacancy occurs in an office and an acting appointment fails to be made for a period not likely to exceed twenty-eight days as a result of sudden illness or other very special circumstances, the Permanent Secretary or Head of Department may with the assent of the Secretary appoint an officer to act for such period and the provisions of rule 33(1), (2) and (3), 34(1) and (2) shall not apply to such acting appointment.

35. (1) Where an acting appointment fails to be made otherwise than as a prelude to a substantive appointment, the officer appointed shall — Principles of selection for acting appointment not as

- (a) as a general rule be the senior officer in the Ministry or Department eligible for such acting appointment.
- (b) assume and discharge the duties and responsibilities of the office to which he is appointed to act.

(2) In submitting any recommendations for an acting appointment, the Commission shall examine whether the exigencies of the particular service would best be served by transferring an officer from another district next in line of seniority to act when there is an officer in the same district who is capable of performing the duties of the higher grade, and in such examination the question of additional Government expenditure for travelling and subsistence allowances and other expenditure shall be borne in mind.

Recommendations for acting appointments to be submitted in advance.

36. The Permanent Secretary or Head of Department shall submit, well in advance, recommendations for acting appointments to permit their consideration by the Commission before the dates on which the acting appointments are intended to become effective, but the Commission may waive the provisions of this rule where the necessity to submit recommendations has been occasioned by sudden illness, or very special circumstances or in any other circumstances which the Commission may consider appropriate.

Reasons for supersession to be stated.

37. In submitting recommendations for acting appointments to the Commission, Permanent Secretaries and Heads of Departments shall state the reasons why officers, if any, are being superseded.

Notice to officer transferred.

38. (1) Where the Commission proposes to transfer an officer, the Commission shall, except where the exigencies of the particular service do not permit, make an order of transfer in writing and shall give not less than one month's notice to an officer who is to be transferred.

Officer to assume duties.

(2) An officer in respect of whom an order has been made under rule 38(1) shall assume his duties on transfer whether or not a review of the order of transfer by the Commission is pending.

Representations by officer.

39. An officer who is aggrieved by an order of promotion, appointment or transfer may make representations to the Commission for a review of the order in accordance with the following provisions of this rule.

(1) Where an officer desires to make representation to the Commission for a review of any such order he shall submit to the Permanent Secretary or Head of Department within seven days of the receipt of notification of the order, his representations in writing;

(2) The Permanent Secretary or Head of Department shall within seven days forward to the Commission any representations in their original form submitted to him in writing together with any comments which he may wish to make thereon.

(3) The Commission shall consider the representations of the officer and the comments, if any, of the Permanent Secretary or Head of the Department and shall communicate its decision in writing to the Permanent Secretary or Head of Department and send a copy to the officer.

40. (1) The date of appointment to an office in a particular Ministry or Department within the public service shall normally be the date on which the officer assumes substantively the duties of the office to which he has been appointed. Date of appointment

(2) The date of appointment on promotion shall be such date as the Commission shall specify.

(3) If an officer is selected for appointment from outside Guyana, the date of appointment shall be the date specified in the letter of appointment.

41. (1) A person selected for appointment in the public service shall undergo a medical examination by a Government Medical Board and shall not be confirmed in his appointment unless and until he has been passed medically fit. Medical examination on appointment.

(2) The Permanent Secretary or Head of Department to which an appointee has been assigned, shall make appropriate arrangements for him to be medically examined as soon as practicable after his assumption of duty.

(3) The Medical Board after examining the new appointee shall submit a medical report on the prescribed form to the Secretary under confidential cover as soon as practicable after the examination.

(4) The Secretary shall notify the appointee whether the medical report is favourable or unfavourable.

(5) All communications relating to the medical report concerning an appointee shall be strictly confidential and any officer

who communicates the details of any such medical report to any other person except for the purpose of, and as provided for in this rule, shall be guilty of improper conduct.

CHAPTER IV

Probationary Appointments

Period of probation or first appointment. 42. Except as otherwise provided in this Chapter, an officer on first appointment to the public service shall be required to serve on probation for a period of not less than one year or such shorter period as may be specified.

Period of Probation on appointment. 43. (1) Where an officer is to be appointed to an office, the duties which he has already satisfactorily performed whether in an acting or temporary capacity or on secondment for periods of equal or longer duration than the period of probation, the officer shall not be required to serve on probation.

(2) Where an officer is appointed on probation to an office in which he has not acted satisfactorily, the Commission shall determine the period of probation to be served.

Waiver of portion of period of probation. 44. Where an officer is promoted before he has completed the full period of probation in the lower office, the unserved portion of that period of probation shall be deemed to be waived and the officer deemed to be confirmed in that appointment.

Confidential reports on officer on probation. 45. (1) A Permanent Secretary or Head of Department shall forward to the Secretary in respect of each officer on probation a staff appraisal report at the end of his probationary period and shall recommend, based on such appraisal report, either that the officer be confirmed in his appointment, or the probationary period be extended or the officer revert to his former office, where applicable, or his service be terminated.

(2) Where the officer's probationary period has been extended, a staff appraisal report, concerning the additional period of probation, shall likewise be forwarded to the Secretary along with the recommendation as at Rule 45(1).

(3) A Permanent Secretary or Head of Department shall ensure that adverse comments are brought to the attention of the officer on probation and that he is given every assistance to correct any shortcomings.

Officer may make representation on recommendation of Permanent Secretary. 46. (1) Before any recommendation is made to the Commission for the extension of the period of probation of an officer or for the

termination of his appointment, the Permanent Secretary or Head of Department shall inform the officer of his recommendation and of the specific reasons therefor and he shall invite the officer to submit any representations he may wish to make.

(2) Notwithstanding the provisions of these rules, the first appointment on probation of an officer may, at any time during the period of probation, be terminated by the Commission as they think fit.

47. (1) The Commission shall consider the appraisal report submitted by the Permanent Secretary or Head of Department with respect to the officer on probation and if satisfied that the service of an officer on probation has been satisfactory, the Commission shall confirm his appointment with effect from the date of his appointment of probation. ^{Commission to confirm appointment.}

(2) If the Commission is not satisfied that the service of an officer on probation has been satisfactory, the Commission may extend the period of probation for a further period.

48. A Permanent Secretary or Head of Department shall keep a proper record of every officer who has been appointed on probation to an office in his Ministry or Department and send copies of the record to the Commission at regular intervals or at the request of the Commission. ^{Permanent Secretary to keep record.}

49. The Commission may with the approval of the Permanent Secretary, Public Service Ministry authorise payment to an officer of a commencing pay higher than the minimum remuneration attaching to the office to which he is promoted, appointed or transferred. ^{Commencing pay.}

CHAPTER V

Staff Appraisal Reports

50. (1) A Permanent Secretary or Head of Department shall forward to the Secretary in each year a staff appraisal report not later than the anniversary of the date of the officer's appointment. ^{Staff Reports.}

(2) A staff appraisal report shall relate to the period of service during the preceding twelve months.

(3) In the preparation of a staff appraisal report, the reporting officers shall be guided by their own deliberate judgement and shall in such report —

- (a) make an unbiased assessment of the officer's performance and conduct over the past twelve months, and

(b) give an indication of the future prospects of the officer.

(4) A staff appraisal report shall be in such form as may from time to time be prescribed and shall be made in respect of every officer whether he holds a permanent appointment, an acting appointment, a temporary appointment or is employed for a specified period and shall be shown to the officer reported on before submission to Commission.

Officer to be informed of adverse report.

(5) When adverse (below average) markings or comments are included in the staff appraisal report the officer shall be informed by the Permanent Secretary or Head of Department in writing thereof before the report is submitted to the Secretary.

Reports to determine eligibility for promotion.

51. (1) In order that an officer may be given every opportunity to correct any shortcomings which he might evince during the course of the twelve months' period of service to be reported on, a Permanent Secretary or Head of Department shall —

(a) as and when such shortcomings are noticed, cause the officer to be informed in writing thereof;

Representations by officer.

(2) A staff appraisal report made in respect of an officer under rule 50 shall be considered by the Commission in determining the eligibility of an officer for promotion.

52. (1) Where written notice of an adverse report is given to an officer as required by rule 50(5), the officer may, not later than seven days of the receipt of such notification make representations in writing through the Permanent Secretary or Head of Department to the Commission.

(2) The Permanent Secretary or Head of Department may within seven days of the receipt of such representations submit his comments thereon before forwarding them to the Commission.

CHAPTER VI

Resignations, Retirement and Termination of Appointments

Resignation.

53. (1) An officer who wishes to resign shall give to the Commission through the Permanent Secretary or Head of Department notice in writing in duplicate of his intention at least one month before the date on which he wishes to relinquish his appointment; but the Commission may waive this requirement of notice in whole or in part if it thinks fit.

(2) Notwithstanding any rule respecting the nonforfeiture of leave, an officer who fails without reasonable cause to comply with rule 53 (1) shall be liable to have all leave, and the benefits and privileges accruing to him in respect of leave forfeited by the Commission.

(3) An officer is not entitled to withdraw his notice of resignation after such resignation becomes effective, but the Commission may accept a withdrawal of the resignation if tendered in writing at any time before the effective date of the resignation.

54. An officer who is absent from duty without leave for any period and without any adequate excuse shall be presumed to have abandoned his office and may be dismissed by the Commission. Abandonment

55. Where applicable, the services of an officer may be terminated for the reasons stated hereafter — Instance for termination of appointment.

- (a) Whether the officer holds a permanent appointment or temporary appointment:
 - (i) on dismissal or removal in consequence of disciplinary proceedings;
 - (ii) on compulsory retirement;
 - (iii) on voluntary retirement;
 - (iv) on retirement or resignation for medical reasons;
 - (v) on being retired or removed in the public interest;
 - (vi) on resignation either with or without benefits payable under any written law providing for the grant of pensions, gratuities or compensations;
 - (vii) on the abolition or expiry of the office;
 - (viii) where the office itself is of a temporary nature and is no longer necessary;
 - (ix) during or on the expiry of a probationary period;
- (b) Where the officer is on contract his services shall be terminated in accordance with the terms of the contract;

56. An officer who is appointed to a permanent pensionable post — Compulsory and voluntary retirement

- (a) shall retire on attaining the age of fifty-five years unless his services are continued at the request of the Government.
- (b) may at any time after he attains the age of fifty years and before attaining the age of fifty-five years apply to the Commission for permission to retire and shall in his application state the grounds on which it is based.

Premature retirement.

57. (1) If it appears to the Commission that pursuant to section 11 of the Pensions Act, Cap. 27:02 an officer who has attained the age of fifty years ought to be called upon to retire from the public service the Commission shall advise the officer accordingly; and

(2) Such officer shall be afforded an opportunity of submitting to the Commission any representations he may wish to make regarding his proposed retirement; and

Retirement in the public interest

(3) If the Commission, after considering the representation, if any, made by the officer, is of the opinion that, having regard to all the circumstances of the case, the officer should be retired in the public interest, the Commission shall require the officer to retire on such date as the Commission shall determine, and the officer shall be retired accordingly.

(4) Such representations shall be dealt with according to the procedure set out in rule 39 (1) (2) and (3).

58. (1) Where it is represented to the Commission or the Commission considers it desirable in the public interest that any officer should be required to retire on grounds which cannot suitably be dealt with under any of these rules, it shall call for a full report on the officer from the Permanent Secretary or Head of Department in which he is serving and shall take into account the officer's previous record during the last preceding ten years.

(2) If, after considering such report and such record and giving the officer an opportunity of submitting a reply to the grounds on which his retirement is contemplated, and having regard to the conditions of the particular service in which the officer is employed, the usefulness of the officer thereto, and all the other circumstances of the case, the Commission is satisfied that it is desirable in the public interest so to do, it shall require the officer to retire on such date as the Commission shall determine, and he shall be retired accordingly.

59. (1) Where an office, being one of a number of like offices, has been abolished but one or more than one such office remains, the Permanent Secretary or Head of Department shall make a report thereon to the Secretary for consideration by the Commission, and shall recommend with his reasons therefor, which officer shall be retired or removed from the public service in consequence of such abolition.

Termination of appointment on abolition of office or for facilitating improvement in the organisation of a Ministry or Department

(2) Where it is necessary to retire or remove an officer from the public service for the purpose of facilitating improvement in the organisation of a Ministry or Department in order to effect greater efficiency or economy, the Permanent Secretary or Head of Department shall make a report thereon to the Secretary for consideration by the Commission, and shall recommend with his reasons therefor, which officer shall be retired or removed from the public service in consequence of such re-organisation.

(3) Where the Permanent Secretary or Head of Department makes any recommendation under rule 60(1) or (2), the Permanent Secretary or Head of Department shall, at the same time, notify the officer concerned in writing of his recommendations, and such officer may, within seven days of the receipt of the notification, make representations thereon.

(4) Such representations shall be dealt with according to the procedure set out in rule 39(1) (2) and (3).

(5) Notwithstanding rule 60(1) or (2), and after consideration of the representations of the officer, the Commission may, instead of retiring or removing the officer from the public service, transfer the officer concerned to another office not lower in status than that which he held.

60. (1) The Commission may terminate the appointment of an officer on grounds of inefficiency.

Termination of appointment on grounds of inefficiency

(2) Where a Permanent Secretary or Head of Department makes a recommendation in writing that the appointment of an officer should be terminated on grounds of inefficiency, the officer shall be informed in writing of such recommendation and such officer may, within seven days of the receipt of the notification, make representations thereon.

(3) Subject to rule 60(4) such representations shall be dealt with according to the procedure set out in rule 39(1) (2) and (3).

(4) The Commission may, upon application of the officer or on its own motion, cause an investigation to be made before making a final decision.

Medical
Boards.

61. (1) A medical board shall be held whenever it is necessary for an officer to be examined with a view to ascertaining whether or not the officer should be retired on grounds of ill-health, or in a case or class of case in which the Commission so directs.

(2) An officer may be required by the Commission to undergo a medical examination at any time.

(3) An officer who is required to undergo a medical examination shall submit himself to be examined by a Medical Board at such time and place as the Commission may direct.

(4) Where an officer, through refusal or neglect to obtain specialist advice or to obtain treatment when so recommended by the Medical Board, falls sick or in consequence is unable to perform his duties, the Commission may direct that the period during which he is unable to perform his duties shall be counted as leave without pay.

(5) Whenever it is considered necessary for an officer to be examined with a view to ascertaining whether or not he should be retired on grounds of ill-health, the Permanent Secretary or Head of Department shall make a recommendation to this effect to the Commission and where there is a medical record of the officer, the record shall be made available to the Medical Board.

(6) Where the reason or one of the reasons for the deterioration in the work of the officer is ill-health, the Commission shall request that the officer undergo a medical examination and the Permanent Secretary or Head of Department, shall submit a detailed report on any change in the quality of the officer's work in order to assist the Medical Board in carrying out the medical examination of the officer concerned.

Unfit
officers.

62.(1) An officer who is medically boarded and found unfit for further service shall unless there is a challenge to the finding of the Medical Board's report, not be allowed to remain on duty after receipt of the Medical Board's report, and shall be granted such annual leave and accumulated annual leave for which he is eligible.

(2) If the officer has no leave to his credit he shall be given one month's notice of termination of his appointment on medical grounds or one month's salary in lieu thereof.

Commission
to determine
date service
terminated.

63. Where the appointment of an officer is terminated by any of the rules under Chapter VI, his service shall terminate on such date as the Commission determines and the question of his pension, gratuity or other allowance shall be dealt with in accordance with the provisions of the Pensions Act, Cap. 27:02.

CHAPTER VII

Discipline

General

64. An officer who is alleged to be guilty of misconduct or discipline by failing to comply with any law, rule, order or directive for the time being in force shall be liable to disciplinary proceedings in accordance with the procedure prescribed in these rules. Officer liable to disciplinary proceedings.

65. (1) Where an officer is alleged to be guilty of misconduct or indiscipline, the Permanent Secretary or Head of Department shall forthwith report the matter to the Secretary for the information of the Commission. Permanent Secretary to report misconduct or indiscipline.

(2) Where a Permanent Secretary or a Head of Department is alleged to be guilty of misconduct or indiscipline, the Minister responsible for the Ministry to which the Permanent Secretary is posted, or the Head of the Presidential Secretariat in the case of a Head of Department, shall forthwith report the matter to the Secretary for the information of the Commission.

(3) Subject to rule 65(4), the Commission, after considering the report made under rule 65(1), may institute disciplinary proceedings against the officer.

(4) Where an offence against any law appears to have been committed, the Commission, before acting under rule 65(3), shall ascertain from the Director of Public Prosecutions whether he contemplates criminal proceedings against the officer concerned; and, if the Director of Public Prosecutions advises that criminal proceedings are contemplated, the Commission shall not institute disciplinary proceedings before the determination of the criminal proceedings.

(5) Where the Commission under article 201(2) of the Constitution has delegated to an officer its powers of exercising disciplinary control in a particular service in the public service, the provisions of rule 65(1) shall not have effect and the reference in rule 65(3) and (4) to the Commission shall be construed as a reference to that officer.

66. Nothing in these rules shall be deemed to restrict a Permanent Secretary or Head of Department from reporting to the Police directly where an offence against any law appears to have been committed by an officer. Permanent Secretary may inform Police of offence.

Commission to issue instructions on how certain cases to be dealt with. 67. The Permanent Secretary or Head of Department shall report any case not covered by these rules to the Secretary and the Commission may issue instructions as to how the case shall be dealt with and the case shall be dealt with accordingly.

Suspension by the Commission. 68. (1) When the Commission is informed of any alleged act of indiscipline or misconduct by an officer the Commission shall, in the public interest or to protect the repute of the public service direct the officer in writing whether to report or cease to report for duty until further notice from the Commission, and an officer so directed shall continue to perform or cease to perform the functions of his office accordingly.

(2) An officer directed to cease to perform the duties of his office in accordance with rule 68(1) shall continue to draw full salary until notice is given to him by the Commission under rule 69.

Interdiction. 69. (1) Where there have been or are about to be instituted against an officer —

- (a) disciplinary proceedings for his dismissal; or
- (b) criminal proceedings,

and where the Commission is of opinion that the public interest requires that officer should forthwith cease to perform the functions of his office, the Commission shall interdict him from such performance.

(2) The effective date of interdiction shall be —

- (a) where an officer has continued to perform the duties of his office, the date of receipt by him of the notification of his interdiction.
- (b) where in accordance with this rule, an officer has ceased to perform his duties, such date as the Commission may direct.

(3) An officer so interdicted shall, subject to the provisions of this rule be permitted to receive such proportion of the emoluments of his office, not being less than one-half, as the Commission shall think fit.

(4) If the proceedings against any such officer do not result in the dismissal or other punishment of the officer, he shall be entitled to the full amount of the emoluments which he would have received if he had not been interdicted, but if the proceedings result in an

Punishment other than dismissal, the officer, may be refunded such proportion of the emoluments withheld as the Commission may in the circumstances determine.

(5) An officer who is under interdiction from duty shall not leave the country without the permission of the Commission; and such officer who leaves the country without such permission shall be liable to summary dismissal.

70. (1) Where a report or allegation of indiscipline or misconduct is received by the Commission from which it appears that an officer may have committed an offence, the Commission shall request, the Minister, the Head of the Presidential Secretariat, the Permanent Secretary or Head of Department to, in addition to the report required by rule 65(1) or (2), warn the officer in writing of the allegation of indiscipline or misconduct and forthwith refer the matter for an investigation by an officer appointed by him. ^{Investigation of charges.}

(2) The investigating officer shall be appointed from the Ministry to which the officer is assigned and shall hold an office in a grade higher than that of the officer against whom the allegation has been made.

(3) The investigating officer shall, within three days of his appointment, give the officer against whom the allegation has been made a written notice requesting an explanation concerning the report or allegation and specifying the time, not exceeding seven days from the date of the receipt of such notice, within which he may, in writing, give such explanation of the investigating officer.

(4) The investigating officer shall with all possible despatch notify in writing those persons who have direct knowledge of the alleged indiscipline or misconduct to make written statements within seven days of the date of such notice for the information of the Commission.

(5) The investigating officer shall with all possible despatch, but not later than twenty-one days from the date of his appointment, forward to the Commission the original statements and all relevant documents, together with his own report on the particular act of alleged indiscipline or misconduct and furnish copies thereof to the Minister, the Head of the Presidential Secretariat, the Permanent Secretary or Head of Department concerned in reporting the indiscipline or misconduct.

(6) The Commission after considering the report of the investigating officer and any explanation given under rule 70(3) shall within seven days or such longer period as the Commission may require seek the advice of the Solicitor General as to the charge or charges, if any, which should be laid against the officer.

(7) If the Commission decides that the officer should be charged the Commission shall, as soon as possible, cause the officer to be informed in writing of the charge or charges together with such particulars as will leave the officer under no misapprehension as to the precise nature of the allegations on which the charge or charges are based.

(8) Where in the explanations given under rule 70(3), the officer makes an admission of guilt, the Commission may determine the penalty to be awarded without further inquiry.

(9) Where the Commission, under article 201(2) of the Constitution, has delegated to an officer its duty of deciding under rule 70(7) whether an officer shall be charged and of charging such officer with an offence, the reference in rule 70(4), (6) and (7) to the Commission shall be construed as a reference to that officer.

(10) Any officer who has direct knowledge of the alleged indiscipline or misconduct committed by another officer and refuse to make a written statement when requested to do so, shall be guilty of improper conduct.

Documents to be supplied to accused.

71. Where an officer is charged with an alleged act of indiscipline or misconduct he shall, within seven days, be given a copy of any written explanation he may have made under rule 70(3).

Officer to admit or deny charge in writing and may include explanation.

72. (1) Where an officer is charged with indiscipline or misconduct the officer shall be requested to state in writing within seven days or such longer period as the Commission may permit whether he admits or denies the charge and shall be allowed to give to the disciplinary tribunal or the Commission any explanation he may wish.

(2) Where an officer admits the charge under rule 72(1) he shall be allowed to include in his explanation any extenuating circumstances in mitigation.

Hearing on failure to admit or deny charge.

73. Where an officer —

(a) fails to give an explanation under rule 70(3), or

(b) fails to admit or deny the charge under rule 72, or

- (c) gives an explanation under rule, 70(3) or under rule 72, that —
- (i) places the facts in dispute, or
 - (ii) does not exculpate him,

the hearing shall proceed as though the officer denies the charge.

(74. (1) The officer shall be allowed to state the name and ^{witnesses.} addresses of any witness to relevant facts whom he may desire to give evidence at the hearing of the case.

(2) Any such witness who is an officer shall be ordered to attend at the hearing of the case and any other witness shall be given due notice that his attendance is desired and of the time and place of the hearing.

75. (1) Where the Commission under rule 70(7) charges an officer ^{Appointment of disciplinary tribunal.} with an alleged act of indiscipline or misconduct and the provisions of rule 73 apply, the Commission may appoint a disciplinary tribunal to hear the evidence and find the facts.

(2) A disciplinary tribunal which the Commission appoints under rule 75(1) may be constituted of —

- (a) one person; or
- (b) an uneven number of persons not being less than three.

(3) Where an officer is selected under rule 72(2) (a) he shall be of a grade not lower than a Senior Personnel Officer or of a grade equivalent in status but in no case he be of a grade lower than the officer charged.

76. (1) It shall be the duty of every person or officer appointed ^{Duty of persons appointed to disciplinary tribunal.} under rule 75 to hear the evidence, find the facts and make a report to the Commission in accordance with rules 78 and 82 within a month such longer period as the Commission may permit, and such officer may not be permitted any leave, other than sick leave or maternity leave, until the report is made to the Commission.

(2) Where an officer is granted sick leave for an indeterminate period, the disciplinary tribunal of which he is a member may notwithstanding rule 75(2) (b) continue to hear the case and make a report in the absence of that officer, but such a tribunal shall not be constituted of less than two members.

Officer on charge not to be permitted leave

77. An officer who is charged with an alleged act of indiscipline or misconduct shall not be permitted to take leave other than sick leave or maternity leave until the determination of the case.

Procedure at hearing

78. (1) The following procedure shall apply to the hearing of a disciplinary tribunal of a charge of alleged misconduct or indiscipline —

- (a) The officer shall be summoned to appear to the hearing and shall be given full opportunity to defend himself.
- (b) The case against the officer may be presented by an officer of the Ministry or Department to which the officer is assigned, but such officer shall be the holder of an office in a grade higher than that of the officer charged.
- (c) Before the case against the officer is presented, the officer may submit that the facts alleged in the charge are not such as to constitute the offence in which he is charged, and the disciplinary tribunal shall make a report of the submission to the Commissioner for its decision.
- (d) At the hearing before a disciplinary tribunal, the officer may conduct his defence either in person or may be represented by an officer of his choice who is a member of the service or by his staff association or if permitted by the disciplinary tribunal in its discretion, by an attorney-at-law, and if the officer is represented by such member, or by his staff association, or by an attorney-at-law, the officer or his representative may cross-examine the witnesses called in support of the charge but where the hearing is before a disciplinary tribunal constituted of one person or officer, the officer charged shall not be represented by an attorney-at-law.
- (e) A true record of the proceedings and evidence at the hearing of the case shall be made and a copy of such record shall be given to the officer if he desires to make application for a review.

(2) Nothing in this rule shall be construed so as to deprive the officer from at any time making a submission that the facts disclosed in the evidence do not support the charge.

79. The hearing may be adjourned from time to time as may appear necessary for due hearing of the charge.

Adjournment of hearing.

80. (1) If the officer charged fails to attend the hearing of the charge, without good reason, the hearing may be proceeded with and concluded in his absence, but if in the opinion of the disciplinary tribunal a good reason is given to the disciplinary tribunal by or on behalf of the officer which excuses his absence at the hearing, the hearing shall be postponed or adjourned as the case may be.

Hearing in absence of accused officer.

(2) Where, owing to the absence of the officer against whom allegations of indiscipline or misconduct are pending, it is impossible to comply with the procedure described in rule 70(3), the provisions of rules 71, 72, 74 and 78(1) shall be dispensed with.

81. (1) The standard of proof in any proceedings under this Chapter shall be that required in a court of law in civil cases.

Standard of proof.

(2) The rules governing the admissibility of evidence in civil cases shall be observed but the rules relating to the proof of documents may be waived except where a particular document is an issue in the proceedings.

(3) No documentary evidence shall be used against the officer unless he has previously been supplied with a copy thereof or given access thereto.

(4) Any explanation given by an officer under rule 70(3) shall not be admissible at any hearing unless the explanation is put in evidence by the officer charged.

82. (1) The disciplinary tribunal shall make a report to the Commission, and the report shall contain its findings of fact and an expression of its opinion as to the meaning and value of the facts found, together with the record of the proceedings required by rule 73(1) (c).

Tribunal to report.

(2) The disciplinary tribunal shall not disclose the contents of the report made under rule 82(1) to the officer charged, or to any officer not authorised to receive such report.

Report Confidential.

(3) The contents of any document or written statement given in evidence before an investigating officer or disciplinary tribunal shall not be published.

(4) An officer who contravenes rule 82(2) or (3) is guilty of improper conduct.

Disciplinary tribunal may adjourn and report to Commission.

83. Where during the course of the hearing of a charge and before the hearing is completed by the disciplinary tribunal, it appears to the disciplinary tribunal that matters disclosed during the hearing may require a report to be made to the Commission, the disciplinary tribunal may adjourn the hearing for a period not exceeding fourteen days and shall forthwith report such matters to the Commission.

Disciplinary tribunal to report where evidence insufficient.

84. (1) Where a disciplinary tribunal, on hearing the evidence, finds that the evidence is insufficient to support the charge or charges, the disciplinary tribunal shall make a report of the proceedings as required by rule 78(1)(e) without calling on the officer to answer the charge or charges.

(2) If on receipt of the report and record of the proceeding under rule 84(1) the Commission is of the opinion that the report should be amplified in any respect or that further inquiry is desirable it may refer the case back to the disciplinary tribunal for further enquiry or report accordingly.

Disciplinary tribunal to report other misconduct or indiscipline disclosed at hearing.

85. Where a disciplinary tribunal, on hearing the evidence, is of the opinion that such evidence discloses other misconduct or indiscipline, the disciplinary tribunal shall report the matter to the Commission and if the Commission thinks fit to proceed against the officer on such misconduct or indiscipline, it shall cause the officer to be informed in writing of any further charges and the procedure prescribed in these rules in respect of the original charge shall apply in respect of such charge.

Commission to consider report of tribunal and inform officer of findings.

86. (1) Where on consideration of the report of the finding of fact by a disciplinary tribunal under rule 82(1), the Commission, if so satisfied, may —

- (a) exonerate the officer;
- (b) dismiss the officer; or
- (c) impose any of the penalties specified in rule 89(1) (b) to (e).

(2) The Commission shall, as soon as possible after the hearing of the charge, inform the officer in writing of its findings and the penalty imposed on him.

Commission may remove officer in public interest.

87. Where on a consideration of the report of the findings of fact of a disciplinary tribunal as defined in rule 75(2), the Commission is of the opinion that the officer does not deserve to be dismissed by reason of the charges alleged but that the proceeding

disclose other grounds for removing him from the public service in the public interest, the Commission may make an order for the removal of such officer without recourse to the procedure prescribed by rule 57.

88. The proceedings before a disciplinary tribunal shall be held in private. **Proceedings in private.**

89. (1) The following are the penalties that may be imposed by the Commission by disciplinary proceedings brought against an officer in respect of misconduct, indiscipline or unsatisfactory service **Penalties.**

- (a) dismissal;
- (b) reduction in rank, which is the removal to another grade with an immediate reduction in salary;
- (c) reduction of remuneration, which is an immediate adjustment of remuneration to a lower point on the scale of remuneration attached to the particular office;
- (d) fine;
- (e) reprimand or warning.

(2) Unless the Commission otherwise directs, penalties for disciplinary offences shall be in accordance with the scale of penalties prescribed by the Public Service Rules.

(3) Where a fine is imposed the amount of such fine shall be deducted from the pay of the officer in such manner as the Commission or the disciplinary tribunal may specify at the time the penalty is imposed.

90. (1) Where criminal proceedings have been instituted in any court against an officer, the Commission shall not institute disciplinary proceedings against the officer upon any grounds arising out of the criminal charge until after the court has determined the matter and the time allowed for an appeal from the decision of the court has expired; but where an officer, on conviction has appealed, the Commission may commence proceedings after the withdrawal or determination of the appeal. **No disciplinary action while criminal proceedings pending.**

(2) Nothing in this rule shall prevent the officer being interdicted from duty pursuant to rule 69 or shall prevent the Commission from taking action pursuant to rule 93.

Disciplinary action after acquittal of criminal charge.

91. An officer acquitted of a criminal charge in any case of which he has been acquitted, but nothing in this rule shall prevent him being dismissed or otherwise punished in respect of any other charge arising out of his conduct in the matter, unless such other charge is substantially the same as that in respect of which he has been acquitted.

Officer convicted of criminal charge.

92. If an officer is convicted in any court of a criminal charge, the Commission may consider the relevant proceedings in such charge and if it is of opinion that the officer ought to be dismissed or subjected to some lesser punishment in respect of the offence of which he has been convicted the Commission may thereupon dismiss or otherwise punish the officer without the institution of any disciplinary proceedings under these rules.

Non-payment of remuneration on conviction of a criminal charge.

93. (1) An officer convicted of a criminal charge and sentenced to imprisonment without the option of a fine or convicted of a criminal charge involving —

- (a) dishonesty,
- (b) fraud, or
- (c) moral turpitude.

shall not receive any pay or allowance after the date of conviction pending consideration of the punishment to be imposed by the Commission.

(2) The Commission may direct that an officer convicted of a charge described in rule 93(1) shall be dismissed or shall cease to perform the duties of his office forthwith, where he has appealed only against the sentence imposed by Court.

(3) Notwithstanding that an officer convicted of a charge described in rule 93(1) has appealed against the conviction, such officer shall not, pending the determination of the appeal, receive any pay or allowance after the date of conviction.

Definition of misconduct or indiscipline.

94. "Misconduct, improper conduct or indiscipline" includes —

- (a) contravention of the General Orders, Departmental Rules, Regulations or Circulars made for and applicable to the Public Service of Guyana, and any amendments thereto;

- (b) contravention of lawful instructions whether given orally or in writing by or on behalf of a Minister, Permanent Secretary or Head of Department; or
- (c) contravention of these rules.

CHAPTER VIII

CONDUCT

95. Members and officers of the Commission shall conduct themselves at all times in such manner, so that the Commission is not brought into disrepute. General conduct.

96. (1) An officer of the Commission shall discharge the usual duties of his office and any other related duties that the Chairman or Deputy Chairman may, at any time, call upon him to discharge. Duties of officer.

(2) In the discharge of his duties, an officer shall be courteous and polite both to members and officers of the Commission and to members of the public.

(3) In all of his official writings an officer shall use courteous terms and be careful to avoid any expression of personal feeling.

97. No member or officer shall be discourteous or impolite to members and officers of the Commission or members of the public. Discourtesy

98. (1) A member of the Commission shall not be absent from a meeting without leave or reasonable excuse. Absence without leave.

(2) A member of the Commission shall not leave the country without giving notice in writing to the Chairman or, in cases of emergency, without giving notice of his leaving to the Secretary who shall forthwith, in writing, inform the Commission.

99. (1) No member or officer of the Commission shall actively participate in the proceedings of any public meeting called for the purpose of discussing or considering any action on the part of the Government or any decision on the part of the Commission. Not to participate in public meetings.

(2) No member or officer of the Commission, whether on duty or on leave, shall allow himself to be interviewed on questions of public policy or on any matter relating to the work of the Commission. Not to allow interviews.

mission unless required to do so by official duties or the permission of the Chairman is first obtained.

Not to publish comments.

(3) No member or officer of the Commission shall broadcast on the radio or television or publish in any other manner whatsoever any statement which can be regarded as being a personal comment on any national, political or administrative matter unless permission of the Chairman is first obtained.

Bankruptcy.

100. Any member of the Commission against whom bankruptcy proceedings have been taken or who becomes insolvent or who has been declared a bankrupt shall within seven days thereof resign from the Commission.

Gifts or rewards.

101. No member or officer of the Commission shall accept any gift or reward from any member of the public for services rendered or to be rendered in the course of his official duties.

Legal proceedings.

102. A member or officer who desires to initiate legal proceedings on his own behalf with respect to any matter arising out of or in the course of his duty shall first obtain the permission of the Chairman.

Breach of rules.

103. Any breach of the rules of this Chapter shall be dealt with by the Commission as an act of misconduct.

Made this 18th day of December, 1985.

H. D. Hoyte,
PRESIDENT

FIRST SCHEDULE

FORM I

Rule 3(1)

Oath Or Affirmation Of Office Of the Chairman

And Members

I, _____ do swear (solemnly declare and affirm) that I will without fear, favour, affection or ill-will, well and truly perform my duties in the office of Chairman/(member) of the Public Service Commission in the exercise of the powers vested in the Public Service Commission under the Constitution, and that I will not directly or indirectly reveal any information to any unauthorised person or persons otherwise than in the course of duty. So help me God.

FORM II

Rule 3(3)

**Oath or Affirmation of the Secretary
To The Commission.**

I, _____ do swear (solemnly declare and affirm) that I will faithfully execute the responsibilities and truly perform the duties of the Office of Secretary to the best of my skill and ability and will not directly or indirectly reveal any information to any unauthorised person or persons otherwise than in the course of my duty. So help me God.

FORM III

Rule 3(3)

Oath Or Affirmation Of Officer Of the Commission

I, _____ do swear (solemnly declare and affirm) that I will faithfully perform my duties to the best of my ability and will not directly or indirectly reveal to any unauthorised person or persons 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. So help me God.