



**Tuvalu**

# **PUBLIC SERVICE COMMISSION RULES**

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Tuvalu

## PUBLIC SERVICE COMMISSION RULES

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Tuvalu

# PUBLIC SERVICE COMMISSION RULES

MADE UNDER SECTION 152 OF THE CONSTITUTION<sup>1</sup>

Commencement [1 October 2001]

## PART I - PRELIMINARY

### 1 Short Title and commencement

These Rules may be cited as the Public Service Commission Rules, and shall come into force on the first day of October 2001.

### 2 Interpretation

In these Rules, unless the context otherwise requires, the terms to which a meaning is ascribed by section 2 of the Public Service Act<sup>2</sup> shall have the same meaning as is therein ascribed to them;

“**appointment**” includes:

- (a) the conferment of an office of emolument in the Public Service, whether or not subject to subsequent confirmation, upon a person in the Public Service;
- (b) the grant of permanent terms of service in a public office to a person recruited and serving on contract or temporary terms of service;
- (c) the engagement in a public office of a person on contract terms of service;
- (d) the appointment of a person to a temporary office in the public service or the appointment of a person temporarily to a permanent office in the Public Service;

- (e) the appointment of an officer to act in any public office other than the office to which the officer is for the time being appointed;
- (f) the promotion of an officer to a public office to which is attached a higher salary or a higher maximum salary;
- (g) the transfer of an officer serving in one public office to another office in the Public Service, but does not include the appointment of a classified worker;
- (h) the appointment of a public officer to an office expressly provided for in the Constitution or any Act.

“**administrative service**” includes the Secretary to Government, the Secretaries, First Secretaries, Diplomatic Representatives and Assistant Secretaries;

“**Cabinet**” means the Cabinet of the Government of Tuvalu;

“**Constitution**” means the Constitution of Tuvalu Act;<sup>3</sup>

“**Minister**” means the Minister responsible for the Public Service;

“**Parliament**” means the Parliament of Tuvalu;

“**promotion**” means the conferment upon a person in the public service of an office to which is attached a higher salary or salary scale than that attached to the office to which he was last substantively appointed;

“**Member**” means a member of the Commission and includes any person temporarily appointed as such under the provisions of the Constitution;

“**transfer**” means the conferment upon a public officer whether permanently or otherwise of some public office other than that to which the officer was last substantively promoted not being promotion: but the posting of an officer between duty posts in the same grade within a Ministry or between Ministries shall not be regarded for this purpose as a transfer:

“**salary**” means basic salary;

“**secretary**” means an officer for the time being holding or acting in a post of Secretary to a Ministry. Where reference is made to a Secretary in these Rules, they include the following officers in relation to the Prime Minister's Office:

Legal - Attorney-General

Audit - Auditor-General

Police and Prisons - Commissioner of Police

General and Foreign Affairs - Secretary to Government;

“**seniority**” means the relative seniority of officers and except as may be otherwise provided by the Commission or in these Rules shall be regarded as being determined as follows:



- (i) as between officers of the same grade —
  - (a) by reference to the date on which they respectively entered that grade;
  - (b) if any officers entered that grade on the same day, by reference to their seniority on the day immediately preceding that day;
  - (c) if any officers who entered the grade on the same day did so by appointment and not by promotion (excluding promotion from a non-permanent to a permanent post) their seniority relative to each other shall be determined by reference to their respective ages;
- (ii) where seniority cannot be determined in accordance with the foregoing it will be decided by the Commission on the advice of the Secretary to Government.

“**Speaker**” means the Speaker of Parliament;

### **3 Interpretation Act**

The Interpretation and General Provisions Act<sup>4</sup> shall apply to the interpretation of these Rules.

### **4 Application**

Unless the context otherwise requires, these Rules shall apply to all public officers.

### **5 Functions of the Commission**

Subject to the provisions of the Constitution and in particular to section 150 (Independence of the Commission), and to any Act of Parliament, the Public Service Commission is responsible for those matters set out in Divisions 2 and 3 of Part VIII (Public Employment) of the Constitution (sections 143 to 153).

### **6 Independence of the Commission**

The independent operation of the Commission is dealt with in section 150 of the Constitution and section 15 (Independence) of Schedule 1 to the Constitution.

### **7 Delegation by the Commission**

The Public Service Commission may, in writing, delegate to any person any of its functions, in accordance with section 153 of the Constitution.

## **8 Knowledge of Rules**

Officers shall acquaint themselves with the relevant provisions of the Constitution relating to the composition, powers and functions of the Commission and to all Rules made thereunder, the Public Service Act and all Rules and General Administrative Orders made thereunder, and any general instructions issued by the Commission. Ignorance of any provision shall not excuse any breach. For this purpose each Secretary or Head of Division shall ensure that copies of all relevant documents are available for perusal by officers.

## **PART II - PROCEEDINGS OF THE COMMISSION**

### **9 Secretary to the Commission**

The Secretary to the Commission shall be the Secretary for Personnel and Training or in whose absence, some other officer authorised by the Secretary to Government.

### **10 Quorum and Voting**

- (1) Three members of the Commission shall constitute a quorum.
- (2) Subject to sub-rule (3), every meeting of the Commission shall be presided over by the Chairman.
- (3) In the absence of the Chairman, an acting Chairman may be elected from those members of the Commission present.
- (4) All matters before a meeting of the commission shall be decided in accordance with the majority of the votes of the total membership of the Commission, and in the event of an equality of votes on a matter the person presiding as Chairman shall exercise a casting, as well as an original vote.

### **11 Minutes**

- (1) It shall be the duty of the Secretary to the Commission to keep minutes of all proceedings of the Commission. The Secretary shall transmit the minutes to the members of the Commission immediately after a meeting. The minutes shall be signed by the Chairman and members of the commission.
- (2) The minutes and related documents shall be confidential, and their circulation shall be restricted to the members of the Commission and such other persons as the Commission may by resolution determine.
- (3) The Commission may at any time authorise the publication of any policy decision relating to recruitment and discipline generally and shall notify all decisions to persons directly affected by them.

- (4) Any member who is present at a meeting when a decision is made shall be entitled to have the record of the meeting reflect that member's dissent from any decision and the reasons for such dissent.

## **12 Offices of the Commission**

In order that the Commission may carry out its duties in an efficient manner and ensure the confidentiality of its proceedings, suitable accommodation shall be made available to the Commission for meetings and, when available, an office placed at the disposal of the Chairman for day to day business.

## **13 Decisions**

- (1) The procedure for arriving at decisions shall be that set out in Rule 10 above, but the Commission may transact any business by the circulation of papers, in which case a decision that receives the approval of a majority of the members signified in writing shall be valid as if made in a meeting of members by majority vote:

Provided that if in any member so requires, a decision on any matter circulated for a written decision shall be deferred to a meeting of members.

- (2) In cases of urgency the Chairman, in consultation with the Secretary to Government, may make a decision on behalf of the Commission subject to confirmation or otherwise at the next full meeting of the Commission.

## **14 Evidence and Documents**

- (1) The Commission may require any public officer to attend and give evidence before it on any matter which it is empowered to consider in the exercise of its functions under these Rules, the Constitution, the Public Service Act or the General Administrative Orders and may call for the production of official documents relating to any such matter:

Provided that where the Prime Minister certifies that any document called for by the Commission should in the interests of the country not be released then the document shall not be so produced.

- (2) Any public officer who submits any matter to the Commission for consideration shall (subject to Sub-Rule (1)) ensure that all relevant documents and papers are made available to the Commission, and the Commission shall satisfy itself that it has relevant information before it when considering the case of any officer.
- (3) The Commission may invite any other person to give evidence before it relating to any matter under consideration.

**15 Failure to Comply with Requirements of the Commission**

Any public officer who without reasonable excuse fails to appear before the Commission when required by the Commission to do so or who fails to comply with any other requirement lawfully and properly made by the Commission shall be guilty of a breach of discipline and the Commission may advise the Secretary to Government that disciplinary proceedings should be instituted against that officer and the Secretary to Government shall act accordingly.

**16 False Information**

Any public officer who in connection with any application by any person for employment or promotion in the Public Service, or in relation to any matter upon which it is the duty of the Commission to make a decision, wilfully gives to the Commission, the Chairman or any member thereof or any person or body of persons required to assist the Commission in the exercise of its functions, any information which that officer knows to be false, whether by inclusion or by omission of any material particular, shall be liable to disciplinary proceedings.

**17 Improper Influence**

- (1) Any officer who seeks either directly or through another person the influence of Members of Parliament or other prominent persons as a means of enhancing that officer's prospects of appointment or promotion is liable to disciplinary proceedings and may be debarred from consideration for the appointment or promotion concerned.
- (2) Any public officer who, otherwise than in the course of duty, directly or indirectly influences or seeks to influence the Commission or any Member thereof, shall be liable to disciplinary proceedings:

Provided that nothing in this Rule shall prohibit any person who may properly give a certificate or testimonial to any applicant or candidate for any public office from giving such a certificate or testimonial or from supplying any information or assistance at the request of the Commission, to any Member thereof.

**18 Unauthorised Disclosure of Information**

- (1) Unless authorised by resolution, neither the Chairman nor any member of the Commission nor any other person shall publish or disclose to any person the contents of any document, communication or information whatsoever which has come to that member's notice in the course of duty.
- (2) Any public officer or any person having possession of any information which to that officer's knowledge has been disclosed in contravention of this Rule

shall report such disclosure to the Commission and shall not act or pass on such information without further instructions from the Commission.

- (3) Any public officer who fails to act in accordance with the provisions of this Rule shall be liable to disciplinary proceedings.

## **19 Communications with the Commission**

All written communications with the Commission shall be addressed to the Secretary to Government and no person shall appear before the Commission unless invited to do so by the Commission save that a Secretary may at any time consult the Commission on any matter relating to that Secretary's Ministry.

## **20 Meetings**

- (1) The Commission shall normally meet in the offices provided under Rule 12 at the Central Government Building, Funafuti but may meet elsewhere or on any other island as occasion demands.
- (2) The Commission shall meet not less than once a month and at such intervals as in the opinion of the Chairman may be required to transact its business.
- (3) Meetings of the Commission shall be convened by the Secretary to Government at the direction of the Chairman. The Secretary shall give notice of every meeting to all Secretaries and such other persons as may have business for the Commission.
- (4) Except in cases of emergency, the agenda and all relevant papers relating to agenda items shall be circulated to Commission members not less than 48 hours before the meeting to which the agenda relates. The agenda shall be prepared by the Secretary to Government, in consultation with the Chairman.

## **21 Privileged Documents**

Any report, statement or other communication or record of any meeting, inquiry or proceedings which the Commission may make in exercise of its functions or any Member may make in performance of that member's duties or in discharge of any duty to the Minister or to any public officer shall be privileged in that its production may not be used in any legal proceedings if the Minister certifies that such production is not in the public interest.

## **PART III- APPOINTMENTS, PROMOTIONS AND TRANSFERS**

### **22 Advertisement of Vacancies**

- (1) Where any vacancy is not to be filled by promotion within the Public Service, such vacancy shall be notified to the public by advertisement through radio broadcasts and/or in the print media. Advertisements should be as brief as possible but should give the name of the Ministry or division concerned, a statement of the qualifications required and the duties to be performed, a salary or salary scale, the address to which applications should be sent and the closing date for applications to be received, which should not be less than 14 days from the date of the first advertisement.
- (2) In the case of a vacancy to be filled by promotion, the Secretary of the Ministry in which a vacancy occurs in an established post shall notify the Commission through the Secretary to Government of the vacancy which exists in such manner as the Commission shall prescribe. If the Commission decides that the post should be advertised, the Commission shall cause such vacancy to be advertised throughout Tuvalu and if considered necessary overseas. The advertisement shall run for a period of not less than 14 days from the date of the first advertisement.
- (3) The advertising of a vacancy shall be without prejudice to the Commission's rights to fill such vacancy by transfer or promotion within the public service or by appointment of a contract officer or to leave such post vacant.

### **23 Principles Governing Appointment**

- (1) In making appointments on first entry into the Public Service, the Commission shall have regard to the need to maintain and develop an efficient service based on the recruitment of applicants adequately qualified for the requirements of the Service; but no appointment shall be made unless the Commission is satisfied that the person appointed has more merit for the post to be filled than any officer who is qualified and available for the post.
- (2) When considering the claim of any officer in the public service for promotion, merit and ability shall be taken into account as well as seniority, experience and formal qualifications. The officer's record of service as set out in his record sheet and confidential reports shall be carefully considered.
- (3) Appointments shall be made irrespective of the applicant's sex, race, place of origin, political opinions and religious beliefs except in cases where it is clearly relevant for example heavy manual labouring.
- (4) Previous criminal convictions will not of themselves debar an applicant for public office but will be given such weight as the Commission thinks fit, but no person who has served a prison sentence following a criminal conviction

may be considered for appointment to the public service. The Commission shall decide such cases individually based on their merits.

- (5) In making any recommendation for appointment or promotion the Commission shall have due regard to any Government policy decision relating to the recruitment of personnel to the public service as may be conveyed to it by the Secretary to Government.
- (6) No officer shall be appointed to any permanent post who does not possess the minimum qualifications and/or relevant experience for the post as laid down from time to time in the General Administrative Orders. And no officer will be promoted to any post or advanced above a promotion bar established by General Administrative Orders.
- (7) Where on the recommendation of the Commission any public or divisional examination is held in order to establish an order of merit between a number of candidates applying for a post, the result of such competition shall be given full weight when making any appointment but the Commission shall have regard to any other considerations set out in this Rule before making its decision.

## **24 Annual Appraisal Report**

In order that it may discharge its duties with regard to the promotion of officers the Commission shall have access to the annual appraisal reports of all officers under consideration for promotion and the Commission shall be consulted on the manner of the preparation and submission of such reports.

## **25 Procedure for Appointments, Promotions and Transfers**

The appointment, promotion and transfer of public officers shall be made by the Commission (except where this power has been delegated) and the following procedure shall be applied:<sup>5</sup>

- (1) as soon as it is known that a vacancy will occur in any office the Secretary, or Head of Division where there is no Secretary, shall forward to the Secretary to Government the appropriate staff vacancy form which shall include a recommendation as to how the office should be filled. If the recommendation is for recruitment from outside the public service, the supervising officer shall forward a draft advertisement with the staff vacancy form;
- (2) upon receipt of the staff vacancy form and recommendation the Secretary to Government shall verify that there is no establishment or financial objection to the filling of that office and that the terms of the draft advertisement are correct, shall forward the staff vacancy to the Commission with all recommendations;
- (3) if the Commission decides that the vacancy cannot be filled by an existing member of the public service it will cause the vacancy to be advertised

locally. The Secretary to Government shall arrange publicity of the advertisement and shall submit the processed applications to the Commission with all recommendations;

- (4) the Commission shall decide whether a Selection Panel shall be constituted to interview candidates, what the composition of any such panel shall be, (noting that it is not advisable for members of the Commission to sit on Selection Panels), and the form in which the report of the Panel shall be submitted to the Commission. The Commission may, if it sees fit, summon any of the candidates for interview. When the Commission is interviewing candidates it may be assisted by a Secretary, Head of Division or technical officer as adviser;
- (5) any application made in respect of a vacancy locally advertised by a person who is not a Tuvaluan will be regarded as that made by a person overseas. When a vacancy is likely to involve the recruitment of an overseas officer, the Secretary of the Ministry concerned will report to the Commission on the availability of locally qualified officers and on the arrangements for training local candidates to fill such vacancy.

## **26 Overseas Recruitment**

If as a result of local advertisement, or if in the opinion of the Commission there is unlikely to be any candidate of Tuvaluan status suitable for appointment, the Commission shall inform the Secretary to Government who shall initiate overseas recruitment through suitable and appropriate overseas agencies and Governments. Upon receiving overseas applications, the Secretary to Government shall, after consulting the Secretary of the Ministry concerned, recommend the appointment to the Commission. The Commission shall make the appointment after taking into account application from persons of non-Tuvaluan status in reply to any local advertisement.

## **27 Provisions for Transfer**

- (1) Transfers shall be dealt with under the procedure for promotion when an increase in emoluments or a change of status is involved and under the procedure for appointment when there is no immediate increase in emoluments.
- (2) Transfers shall be made by the Secretary to Government on the advice of the Secretary to the relevant Ministry.
- (3) The Secretary to Government shall advise the Commission of the decision to transfer a public officer.



**28 Procedure in Case of Urgency**

The Commission may refuse to consider any appointment to a post unless it is satisfied that the post has been advertised for sufficient time (not less than 14 days) for all suitable applicants to apply but where any delay is likely to cause serious inconvenience the Secretary to Government shall report the matter to the Commission and may as a matter of urgency advise an acting or temporary appointment without regard to the procedure laid down in Rules 22 and 25, and shall provide details of all action taken to the Commission at its next meeting.

**29 Temporary Appointments**

- (1) The Commission hereby delegates its power to make temporary appointments to the Secretaries of Ministries, who shall exercise this power after having consulted the Secretary to Government.
- (2) The Secretary to Government is authorised to make temporary appointments for an initial period of three months and a further extension of three months, while Secretaries are authorised to make temporary appointments for an initial period of two months, and a further extension of two months.
- (3) Temporary appointments shall normally be for a period not exceeding 6 months, and shall not be extended or renewed, without the prior approval of the Commission.
- (4) The Commission shall confirm all temporary appointments.

**30 Letters of Appointment**

- (1) An officer appointed to any of the following posts in the public service shall receive a letter of appointment from the Secretary to Government setting out the terms of his appointment —
  - (a) Permanent appointments
  - (b) Contract appointments
  - (c) Acting appointments
  - (d) Promotions
  - (e) Transfers
  - (f) Probation

All such appointments shall be notified in the Official Gazette.

- (2) An officer appointed on a temporary basis to the Public Service shall receive a letter from the Secretary to the relevant Ministry setting out the terms of that appointment. Such appointment will terminate automatically in accordance with any provision in such letter or, if no provision is made, on notice from the Secretary to Government.

- (3) In cases of all appointments other than temporary appointments, officers must notify their acceptance, in writing, of the terms and conditions stated therein and must also produce a certificate of medical fitness.

### **31 Procedure for the Exercise of Delegated Powers**

Subject to any general or special directions from the Commission, officers to whom power has been delegated to make appointments to any temporary or contract post shall as far as possible follow the principles set out in the preceding Rules of this Part.

### **32 Period of Probation on First Appointment**

Except as otherwise provided in this Part, an officer on first appointment to the Public Service shall be required to serve on probation for a period of two years:

Provided always that the Commission, on the recommendation of the Secretary to Government, may at any time in writing, confirm or terminate the appointment to the Public Service of any probationer, or otherwise vary or reduce the period of probation an officer is required to serve.

### **33 Waiver of Probation Period**

Where an officer is promoted before completing the full period of probation in the lower office, the unserved period of probation shall be deemed to be waived and the officer's appointment to the service shall be deemed to be confirmed.

### **34 Appraisal reports on officer on probation**

- (1) The Secretary or Head of Division shall submit to the Secretary to Government confidential reports on an officer on probation as follows:
- (a) a first report twelve months before the period of probation expires; and
  - (b) a second report two months before the period of probation expires.
- (2) In the second report the Secretary or Head of Division and the Secretary to Government shall make a firm recommendation:
- (a) that the officer be confirmed in the appointment;
  - (b) that the period of probation be extended; or
  - (c) that the appointment of the officer be terminated.

### **35 Representations of Officers**

Before any recommendation is made to the Commission for the extension of the period of probation of an officer or for the termination of the officer's appointment,

the Secretary to Government shall inform the officer of this recommendation and of the specific reasons thereof. The Secretary to Government shall invite the officer to submit, within 14 days of the date of receipt of such notice, any representations he may wish to make.

### **36 Commission to Confirm or Terminate Appointments**

- (1) If, after consideration of the second report of the Secretary or Head of Division and the Secretary to Government, the Commission is satisfied that the service of an officer on probation has been satisfactory and that the officer has passed such service examinations as may be necessary, the Commission shall confirm the officer's appointment.
- (2) If the Commission is satisfied that the service of an officer on probation has not been satisfactory, the Commission may extend the period of probation for a period not exceeding six months, or terminate the probationary appointment.
- (3) If an officer's period of probation is extended in accordance with sub-rule (2) the Secretary or Head of Division and the Secretary to Government shall submit a final report one month before the extended period of probation expires. The report shall make a firm recommendation that the officer's appointment be confirmed or, subject to Rule 34, that the appointment be terminated.
- (4) No probationary appointment shall be considered confirmed unless the confirmation is made in writing by the Commission.

## **PART IV - TERMINATION OF APPOINTMENTS AND RETIREMENTS**

### **37 Termination of Permanent Officers**

The appointment of permanent officers may be terminated for the following reasons:

- (i) on dismissal or removal in consequence of disciplinary proceedings;
- (ii) on compulsory retirement;
- (iii) for medical reasons;
- (iv) on the abolition of an office;
- (v) absconding from duty;
- (vi) in the public interest.

### **38 Termination of Non-permanent Officers**

- (1) The appointment of non-permanent officers including classified workers, contract officers and probationary officers may be terminated upon such notice as may be specified in the contract or letter of appointment or, if such notice is not specified, such period shall be deemed to be incorporated as is specified in the Employment Act<sup>6</sup> (Section 63 General termination of contract).
- (2) The termination of the appointment of non-permanent officers, other than dismissal or removal in consequence of disciplinary proceedings, may be recommended on the following grounds:
  - (i) on expiry of an appointment for a specified period;
  - (ii) where the office itself is of a temporary nature and is no longer necessary;
  - (iii) on the termination of appointment in the case of an officer on probation;
  - (iv) that the officer is not capable of performing the duties of office;
  - (v) that there are no funds with which to pay the officer;
  - (vi) that the post is required for a permanent officer;
  - (vii) that under Rule 36 the officer has not been confirmed as a permanent officer;
  - (viii) that the officer has failed to pass the heads of examination required to permit confirmation in the post;
  - (ix) for medical reasons.
- (3) If a Secretary is of the opinion that the appointment of a non-permanent officer should be terminated, the Secretary shall set out the reasons in writing and require the officer to show cause in writing why that officer's service should not be terminated. If no reply is received within two weeks of the receipt thereof, or if the Secretary considers that no adequate cause has been shown, the Secretary shall forward a report, including necessary recommendations, to the Secretary to Government, who shall forward the report and recommendations together with any further recommendations to the Commission, which shall decide whether such course should be taken.

### **39 Resignations**

Where officers, other than officers holding office established under the Constitution, tender their resignation, the Secretary to whom responsibility for that office has been assigned shall, after consultation with the Secretary to Government, notify the Commission of the resignation of the officer.

**40 Retirement on Grounds of Age**

- (1) Except where statutory provisions otherwise provide, an officer must retire on reaching 55 years of age. No officer may continue in the public service after reaching that age except on re-appointment on contract terms.
- (2) Notwithstanding (1) above an officer may apply to retire at any time after attaining the age of 45 years.
- (3) When the Commission is informed or is of the opinion that an officer should be retired from the Public Service on the grounds that the officer has attained the age at which that officer can, under the provision of any law or Rules for the time being in force lawfully be required to retire from the public service, the officer shall be:
  - (a) served notice of the intended compulsory retirement, which is to be effective from a date not earlier than three months from the date on which notice is served;
  - (b) asked to submit, within one month of notice being served, any representations as to why the compulsory retirement should not proceed.
- (4) In the event of the officer making representations the Commission shall, within two months of the notice being served, consider whether to confirm or vary the decision compulsorily to retire the officer.
- (5) Nothing in this Rule shall prevent an officer, whose compulsory retirement is under consideration, from retiring voluntarily if the officer is not the subject of disciplinary action or under threat of such action.

**41 Termination of Appointment on Abolition of Office**

- (1) Where a post, being one of a number of such posts is abolished, but one or more such posts remain, the Secretary to the Ministry concerned shall recommend to the Secretary to Government which of the substantive holders of such posts shall have their appointments terminated. The Secretary to Government shall forward such recommendation to the Commission together with any further comments and recommendations.
- (2) The Commission shall first ascertain whether the persons to be made redundant can be transferred and usefully employed in any other division of the public service, and if any person found to be redundant cannot be usefully employed in any other division of the public service, the Commission may terminate that officer's employment.
- (3) Retirement for the purpose of facilitating improvement of the Organisation of any Ministry to which an office belongs should not be recommended as a means of dispensing with the services of an officer or group of officers whose individual efficiency is below standard. In such cases a Secretary should recommend retirement in the public interest.

**42 Retirement in the Public Interest**

- (1) Where a Secretary considers that an officer should be retired in the public interest the Secretary shall first inform that officer in writing of the grounds on which it is proposed to recommend the retirement and shall give the officer a reasonable period of time in which to make representations. If no representations are received, the Secretary, if it is still considered that the officer should be retired, shall submit the case, including the officer's representations, if any, to the Secretary to Government. The Secretary to Government will refer the documents so received to the Commission together with any further comments and recommendations and the Commission shall decide whether or not the officer should be retired.
- (2) If the Commission decides that the officer should be retired from the public service, the Commission shall further decide, after taking into account the advice of the Secretary to Government, whether the officer should be granted any gratuity to which the officer is eligible, a reduced gratuity, or no gratuity, as the case may be.
- (3) Retirement in the public interest should only be recommended where an officer has long service prior to a drop in individual efficiency, or following the commission of an act of misconduct sufficient to warrant his removal from the public service but not such as to justify proceedings for dismissal.

**43 Retirement on Medical Grounds**

- (1) When it appears to the Commission that an officer is incapable by reason of any infirmity of body or mind of discharging in a proper manner the functions of office, the Secretary may call upon the officer to submit himself to examination by a medical board appointed by the Secretary for Health, Sports and Human Resources Development. The Board shall provide a conclusive and definite opinion as to whether or not such officer is incapable as aforesaid, and shall inform the Secretary to Government of such action.
- (2) The report embodying the finding of the medical board shall be made known to the Commission without delay through the Secretary to Government. The content of the report shall not be made known to any other officer, person or body other than the officer concerned, except with the permission of the Commission.
- (3) Unless the Commission considers it necessary to institute or cause to be instituted any further enquiry into any matter bearing on an officer's incapacity it shall forthwith request the Secretary to Government to advise the officer of its intention to terminate the officer's appointment on medical grounds. In such circumstances the officer will be informed of any terminal benefits other than benefits covered by the Tuvalu Provident Fund Act<sup>7</sup>, to which that officer may be entitled. The officer shall have the right to appeal upon the matter, in such reasonable time as may be specified, through the Secretary of that officer's Ministry and the Secretary shall forward any

representations to the Secretary to Government for consideration by the Commission. After taking into account any representations received from the officer the Commission shall decide on the matter.

## PART V - DISCIPLINE

### 44 Disciplinary Offences

An officer commits a disciplinary offence or misconduct for the purposes of disciplinary proceedings who:

- (a) by any wilful act or omission fails to comply with the requirements of the Public Service Act, these Rules, any General Administrative Order or any other official instruction given under the authority of the Commission or of the Secretary or Head of the Division in which the officer is employed;
- (b) in the course of duty disobeys, disregards, or makes wilful default in carrying out any lawful order or instructions given by any person having authority to give the order or instruction;
- (c) by word or conduct displays insubordination;
- (d) is negligent, careless, indolent, inefficient, or incompetent in the discharge of that officer's duties;
- (e) behaves in a manner calculated to cause unreasonable distress to other employees or to affect adversely the performance of their duties;
- (f) uses intoxicating liquor or drugs to excess or in such manner as to affect adversely the performance of the officer's duties;
- (g) improperly uses or removes property or stores for the time being in that officer's official custody or under that officer's control, or fails to take reasonable care of any such property or stores;
- (h) without the consent in writing of the Secretary to Government makes public or communicates to the press or radio, or any other person, or makes private copies of, documents of which the officer may have become possessed either in the course of duty or in any official capacity;
- (i) otherwise than in the proper discharge of duties directly or indirectly discloses or for private purposes uses any information acquired by the officer either in the course of duty or in any official capacity;
- (j) is absent from office or from official duties during hours of duty without leave or a valid excuse or is habitually irregular in the time of arrival or departure from the officer's place of employment;

- (k) leaves Tuvalu without the consent in writing of the Secretary to Government, or the Secretary of the Ministry where the officer is employed;
- (l) having made or subscribed to an oath, affirmation or declaration does or says anything in violation of that oath, affirmation or declaration;
- (m) uses, without the consent given personally of the Secretary or Head of Division, any property or facilities provided for the purposes of the Public Service for some purpose not connected with official duties;
- (n) engages in any gainful occupation outside the Public Service or accepts or continues to hold an office in any local authority without the consent in writing of the Commission;
- (o) is convicted of any criminal charge;
- (p) seeks the influence or interest of any person in order to obtain promotion, transfer or other advantage;
- (q) except with the approval of the Commission, demands, asks or receives any fee, reward, gratuity, remuneration, gift, present, or benefit of any kind whatsoever other than an official salary and allowances, for services performed or to be performed while in the Public Service, either in or out of office hours;
- (r) publicly comments adversely upon the administration of any Ministry or Division of the Government;
- (s) takes active part in political affairs otherwise than in accordance with the provisions of these Rules and the General Administrative Orders;
- (t) is guilty of any improper conduct in any official capacity, or of any other improper conduct which is likely to affect adversely the performance of the officer's duties or is likely to bring the Public Service into disrepute or be prejudicial to the conduct of the Public Service;
- (u) fails to obtain the advice of a government legal officer with respect to any legal matter which may affect the government and/or the administration of the public service

#### **45 Officer Liable to Disciplinary Proceedings**

An officer who is alleged to have committed a disciplinary offence is liable to disciplinary proceedings in accordance with the procedure prescribed in these Rules.

#### **46 Procedure**

- (1) All acts of misconduct by public officers shall be dealt with under this Part as soon as possible after the time of their occurrence.



- (2) Any case not covered by this Part shall be reported to the Secretary to Government who will advise the Commission and the Commission shall direct as to how the case should be dealt with.

#### **47 Criminal Prosecution**

Where after a preliminary enquiry into the misconduct of an officer a Secretary has reason to believe that a criminal offence has been committed the Secretary shall immediately inform the police. On completion of their enquiries, if the police, after consultation with the Attorney General where appropriate, decide not to prosecute, the Secretary shall consider whether disciplinary action should be taken. Charges may be formulated against the officer, if necessary in consultation with the Attorney General, and shall be forwarded by the Secretary to Government for consideration by the Commission.

#### **48 Conclusion of Criminal Proceedings**

If criminal proceedings are instituted against an officer, no disciplinary punishment shall be imposed upon the officer on any grounds connected with the criminal charge until the conclusion of the criminal proceedings and judgment in any appeal has been given.

#### **49 Disciplinary Action after Acquittal on Criminal Charge**

An officer acquitted of a criminal charge shall not be punished on any such charge, but nothing in this Rule shall prevent the officers being punished on any other charges arising out of the officers conduct unless such charges raise substantially the same issues as those on which the officer appeared before a Court.

#### **50 Punishments**

The following are the disciplinary punishments for misconduct which may be ordered as a result of proceedings under these Rules:

- (1) Dismissal
- (2) Reduction in rank
- (3) Deferment of Increments
- (4) Withholding of Increments
- (5) Reprimand
- (6) Forfeiture of emoluments held during period of suspension
- (7) Withholding of the whole or part of a gratuity if payable:

Provided that nothing in this paragraph shall limit any power under these Rules to terminate the appointment of a public officer or any power conferred in these Rules to require an officer to retire from the public service in the public interest.

### **51 Details of Evidence to be Provided**

A public officer in respect of whom a disciplinary inquiry is to be held shall be entitled to receive a free copy of any documentary evidence relied upon for the purpose of the inquiry, or to be allowed access to such documents. The officer may also be given a copy of the evidence (including documents tendered in evidence) after the inquiry is closed:

Provided that no copies of office orders, minutes, reports or recorded reasons for decision shall be issued to the officer.

### **52 The Administrative Service**

With regard to disciplinary control of the Administrative Service the Secretary to Government shall be deemed to be responsible for disciplinary control and no other officer shall exercise any function relating to the disciplinary control of such officers, unless such power has been delegated by the Secretary to Government or the Commission.

### **53 Delegation of Powers in Relation to Discipline**

- (1) Subject to the provisions of paragraph (2) below, Secretaries may exercise the following powers:
  - (a) disciplinary powers, not including dismissal or retirement in the interests of the service, in respect of officers below level 9, may grant deferment or withholding of increments below level 9;
  - (b) defer or withhold increments in respect of officers below level 9;
  - (c) issue written warnings and reprimands; and
  - (d) cause the removal of a temporary officer from any office save where the officer has been convicted on substantially the same facts, of a criminal offence.

A copy of all such decisions shall be forwarded to the Commission.

- (2) Any officer affected or aggrieved by a decision of any Secretary under paragraph (1) above may appeal in writing to the Commission through the Secretary to Government within 30 days of being advised of such decision. The Commission shall thereupon invite the comments of the Secretary to Government and Secretary concerned, and may invite the aggrieved officer to appear before it, before it decides to confirm or amend the decision made under paragraph (1) above.

- (3) The Commission reserves the right to exercise all or any of the powers hereby delegated and to give directions to any Secretary as to the exercise of such powers.
- (4) Public officers on salaries above level 9 may be delegated the power to hold disciplinary inquiries and investigations in accordance with the provisions of Rules 53 to 57:

Provided that such power shall not imply any power to reach any final decision or award punishment. Final decisions and the imposition of punishments must be made by a Secretary except where it is to be made by an authority superior to a Secretary.

#### **54 Formal Warnings**

When an officer has committed an act of minor misconduct or has been inefficient, a Secretary may instead of any other disciplinary proceedings issue the officer with a formal warning. Formal warnings must be issued in writing and must advise the officer of the consequences of:

- (i) in the case of misconduct, any repetition of the offence; and
- (ii) in the case of inefficiency, a failure to improve.

A copy of such warning shall be placed in the officer's confidential file.

#### **55 Suspension**

- (1) Where the Commission considers, in the interests of the public service, that an officer should cease forthwith to exercise the powers and functions of office, it may suspend the officer from the exercise of those powers and functions if disciplinary proceedings for dismissal are being taken or are about to be taken, or if criminal proceedings are to be instituted.
- (2) Where in the opinion of a Secretary the interests of the public service require that a junior public officer for whom that Secretary is responsible should be suspended, and the Secretary is also of the opinion that forty-eight hours or more is likely to elapse before the Commission can meet and act under the provisions of paragraph (1), the Secretary may order such junior officer to cease to exercise any powers and functions as a public officer. The power to give such an order shall not be exercised in respect of an officer above level 10.
- (3) On giving such an order the Secretary shall forthwith report the action taken to the Secretary to Government who shall transmit all information to the Commission. If the Commission considers that the officer should be suspended from the exercise of any powers and functions it shall inform the officer of the suspension and the suspension shall date from the time of the order given under the provisions of this Rule. If the Commission decides not

to exercise such power it shall inform the officer giving the order and the officer to whom the order is addressed that the suspension is cancelled.

- (4) Any officer who is suspended shall, subject to the provisions of paragraphs (3) above, and (5) below receive such emoluments being not less than 50% nor more than 75% of the officer's salary as the Commission may decide.
- (5) The officer shall be informed of the suspension and the officer's level of emoluments during suspension. The officer shall be informed of the right to make representations to the Commission through the Secretary of the officer's Ministry on the suspension or level of emoluments. The Commission may vary or confirm its decision in the light of such representations.
- (6) Where the accusation of misconduct is the subject of criminal proceedings, no further disciplinary action shall be taken against the officer until the conclusion of those proceedings. If the officer is suspended, the Attorney General and Commissioner of Police shall be made aware of the suspension so that criminal proceedings can be expedited.
- (7) Where any disciplinary proceedings initiated under paragraph (1) does not result in the dismissal of the officer or the imposition of any punishment, the whole or any emoluments withheld shall be restored to the officer when the final decision is made. However, where any punishment not amounting to dismissal is imposed there shall be restored to the officer such proportion, if any, of any emoluments withheld as in the opinion of the Commission is justified in the circumstances of the case.

## **56 Suspended Officers Not to Leave Tuvalu**

- (1) An officer who is under suspension shall not leave Tuvalu without the permission of the Secretary of that officer's Ministry.
- (2) It shall be the duty of an officer under suspension to leave with the Secretary an address within or outside Tuvalu where the officer may be contacted at any time.

## **57 Disciplinary Proceedings Against Permanent Officers**

- (1) Where a Secretary considers it necessary to take disciplinary action against a public officer on the grounds of misconduct, the Secretary shall conduct such preliminary inquiry as the Secretary considers necessary, to be known as a preliminary inquiry, and shall advise the Secretary to Government of the nature of the proposed inquiry.
- (2) At the conclusion of the preliminary inquiry, the Secretary shall prepare a written report and shall submit it to the Secretary to Government.
- (3) The report shall contain a recommendation from the Secretary concerning the seriousness of the misconduct in question. The report shall state whether the

misconduct is such that if it were proved, it would in the Secretary's opinion justify either dismissal, or some penalty other than dismissal. The report from the Secretary shall also contain a disciplinary charge, if appropriate.

- (4) On receiving the report from the Secretary to the Ministry concerned, the Secretary to Government shall examine and consider all information provided, and shall take either of the following steps:
  - (i) If the Secretary to Government agrees with the conclusions of the Secretary that the facts, if proved would justify the dismissal of the officer, the Secretary to Government shall forward the draft charge received from the Secretary to the Attorney-General for confirmation; or
  - (ii) If the Secretary to Government agrees that the facts, if proved, would justify some penalty other than dismissal, the Secretary to Government shall confirm the charge.
- (5) A statement of the charge will then be forwarded to the officer concerned, together with the particulars of the allegation upon which the charge is based.
- (6) The accused officer shall be called upon to state in writing, within such reasonable time as may be specified, any exculpatory grounds upon which the officer wishes to reply.
- (7) If the officer does not reply to any charge within the period specified or if, in the opinion of the Secretary to Government, the officer fails to explain the conduct in question, the Secretary to Government shall refer the matter to the Commission with appropriate comments and recommendations.
- (8) In the case of misconduct which may result in dismissal, the Commission shall take the following action:
  - (i) The Commission shall appoint a Tribunal to consist of such persons as the Commission shall specify, being not less than three in number.
  - (ii) With respect to the qualifications of members of the Tribunal, one member of the Tribunal shall be a magistrate or a professional officer with legal qualifications or relevant experience. No member of the Tribunal shall be an officer in the Ministry of the accused officer. The other members of the Tribunal shall be persons not below the equivalent rank of the accused officer, or level 8, whichever is the higher.
  - (iii) The Tribunal shall inform the accused officer in sufficient time, of the place and time that the Tribunal will investigate the charge, and will invite the officer and if necessary require the officer to appear before it to present a defence.
  - (iv) If witnesses are examined by the Tribunal, the accused officer shall be given the opportunity of being present and of putting questions on his own behalf to the witnesses. No documentary

- evidence shall be used against the officer unless the officer has previously been supplied with a copy thereof or given access thereto.
- (v) If during the course of the inquiry grounds for the framing of an additional charge against the officer are disclosed, the Tribunal shall inform the Secretary to Government and, if the Secretary to Government thinks fit to recommend proceedings against the officer upon such grounds, the same procedure shall be followed in respect of the additional charge(s) as was adopted in respect of the original charge.
  - (vi) The Tribunal may permit the Secretary to Government or the accused officer to be represented by another public officer, a member of a recognised staff association, a legal practitioner, or another person. If the Tribunal permits one party to be represented it will permit the other party to be represented likewise.
  - (vii) The Tribunal having enquired into the matter shall forward its report to the Commission accompanied by the record of the charges made, the evidence taken and any other proceedings relevant to the inquiry.
  - (viii) The Commission after consideration of the report of the Tribunal may, if it is of the opinion that the report should be amplified in any way, or that further investigation is desirable, refer the matter back to the Tribunal for further investigation and report. The Commission shall decide as to the punishment, if any, which should be inflicted on the accused officer. The decision on such charge preferred against the accused officer shall be communicated to the officer, but not the reasons for the decision.
- (9) In the case of misconduct, which is not serious enough to warrant dismissal, the Commission shall take the following action:
- (i) The Commission shall consider all reports including the grounds, if any, upon which the officer relies, and if it is of the opinion that no further investigation is necessary, it shall decide on the punishment, if any, other than dismissal which should be inflicted on the officer.
  - (ii) If the Commission, on consideration of the report submitted to it by the Secretary to Government is of the opinion that the matter should be further investigated, it shall give direction as to the manner in which the allegations against the officer should be examined.
  - (iii) In any such investigation an officer to whom this Rule applies shall be entitled to know the whole case forming the basis of the investigation shall have an adequate opportunity of making a defence.

- (iv) The result of such investigation shall be communicated to the Commission by the person conducting the investigation and the Commission may, if it considers the results of the inquiry should be amplified in any way or that further investigation is desirable, refer the matter back to the person conducting the investigation for further examination and report or appoint such other person as the case may be.
- (v) The Commission shall, after considering the report, decide as to what punishment, if any, other than dismissal, but including retirement from the service, should be imposed on the officer.
- (vi) The decision on each charge preferred against the officer shall be communicated to the officer (but not the reasons for the decision) by the Secretary to Government.

### **58 Criminal Conviction of a Permanent Officer**

If a permanent public officer is convicted of a criminal offence in any court, the Secretary of that officer's Ministry shall bring the matter together with any recommendation as to punishment, to the attention of the Secretary to Government. A copy of the charge or charges and of the order (and the findings of the court if available) shall be forwarded to the Secretary to Government by the officer's Secretary. The Commission shall consider the judgment (and findings if available) and if it is of the opinion that the officer should be dismissed or subjected to disciplinary action for the offence for which he has been adjudged guilty, the Commission shall decide as to what punishment should be inflicted following the procedures prescribed in Rule 57.

### **59 Non-payment of Salary on Conviction on a Criminal Charge**

When any public officer is convicted by any criminal court of an offence, and is dismissed from the service on account of such conviction, the officer shall, with effect from such conviction, receive such emoluments, if any, as the Commission may decide:

Provided that any emoluments withheld from an officer pursuant to this Rule shall be restored to the officer in any case when such conviction as aforesaid is quashed on appeal.

### **60 Admission of an Offence**

Where the facts giving rise to any disciplinary charge made against an officer under these Rules are admitted by that officer in writing, a record of the case together with the recommendation of the Secretary concerned shall be forwarded to the Commission. The Commission shall, after causing such further enquiry to be made

as appears necessary, decide as to what punishment should be imposed on the officer.

### **61 Proceedings Against an Officer Serving Under Agreement**

Where it is considered necessary to institute disciplinary proceedings for the removal of a public officer serving under agreement, whether after being convicted of criminal offence or otherwise, the proceedings shall be in the form appropriate for a permanent officer of the same salary: save that the provisions of Rule 42 may be applied if deemed more appropriate.

### **62 Proceedings Against a Non-permanent Officer Not Serving Under Agreement in Respect of Whom Disciplinary Control has been Delegated**

- (1) Disciplinary action, including action for dismissal and disciplinary proceedings for removal from the public service in the public interest, against a non-permanent officer not serving under any agreement in respect of whom disciplinary control has been delegated may be taken by the Secretary of that officer's Ministry. The Secretary may cause an investigation to be made in such manner as the Secretary may think fit, provided that the officer shall be entitled to know the whole case forming the basis of the proceedings, and shall have an adequate opportunity throughout of making a defence.
- (2) If a non-permanent public officer not serving under an agreement in respect of whom disciplinary control has been delegated, is convicted of a criminal offence, the Secretary of the Ministry concerned shall consider the order (and the findings if available) of the court on such charge. The Secretary shall decide whether the officer should be dismissed, or subjected to some lesser disciplinary punishment on account of the criminal conviction, without any of the proceedings prescribed in paragraph (1 ) being instituted.

### **63 Absence from Duty Without Leave**

Where any public officer is absent from duty without leave or reasonable cause for a period exceeding seven days, and the officer cannot be found within a period of fourteen days of the commencement of such absence or, if found, no reply to a charge of absence is received from the officer within ten days after the dispatch of the charge:

- (a) in the case of a public officer below level 9, in respect of whom disciplinary control has been delegated, the Secretary may summarily dismiss the officer; and
- (b) in any other case the Secretary shall report the matter to the Secretary to Government who shall refer the matter to the Commission with



appropriate recommendations, and the Commission shall decide on the matter.

#### **64 Withholding of Increments**

- (1) If a Secretary is of the opinion that an annual increment in salary of a public officer holding a post in that Secretary's Ministry should be deferred or withheld on the ground of unsatisfactory service during the previous year, or for failure to pass a prescribed examination:
  - (a) if the officer is one in respect of whom disciplinary control has not been delegated, the Secretary shall forward a report with any necessary recommendations, to the Secretary to Government, who shall forward the same with any further recommendations to the Commission, which shall decide on the matter; or
  - (b) if the officer is one in respect of whom disciplinary control has been delegated, the Secretary shall act as the Secretary thinks proper in the circumstances, but shall inform the Commission of any decision to defer or withhold an increment.

#### **65 Restoration of Increments**

- (1) If a Secretary is of the opinion that an annual increment in salary of a public officer which has been deferred or withheld should be granted:
  - (a) if the officer is one in respect of whom disciplinary control has not been delegated the Secretary shall forward a report with any necessary recommendations to the Secretary to Government, who shall forward the same together with any further recommendations to the Commission, which shall decide on the matter; or
  - (b) if the officer is one in respect of whom disciplinary control has been delegated, the Secretary shall act as the Secretary thinks fit, and shall inform the Commission of any action taken.
- (2) Where the award of any increment has been deferred the increment may be granted as from the increment date, in which case any arrears of salary due may be paid to the officer concerned.
- (3) Where the increment has been withheld for a period of less than one year, the officer concerned shall be entitled to draw the increased salary as from the day following the close of the period for which the increment has been withheld and shall be eligible for a further increment on the next incremental date.
- (4) Where the increment has been withheld for a year the officer concerned shall be eligible for one increment on the next incremental date.

**66 Additional Increments**

Additional increments will only be considered in exceptional circumstances. Where an officer possesses or acquires such special qualifications, or has shown exemplary service over and above the normal duties of office as, in the opinion of the Commission justifies the officer being advanced to a higher incremental point, whether or not the advancement would take such officer beyond an incremental bar, the Commission may advance such officer to such a higher incremental point.

**67 Terminal Benefits on Dismissal**

- (1) The right of an officer who is dismissed for misconduct to the provision of passages and other allowances shall be decided by the Commission, but subject to any statutory provision or contractual obligation relating to such rights.
- (2) Dismissal under this Part may be without notice and without payment of salary in lieu of notice, but all accrued salary shall be paid without deduction unless an officer is under any financial liability to Government under any Financial Instructions, General Administrative Orders or order of any Court.

**68 Commission to be Informed of all Proceedings**

Where under the preceding Rules a Secretary authorises, recommends or initiates proceedings against a public officer, the Secretary to Government shall inform the Commission of the action authorised or the recommendation made and shall ensure that at each stage of the proceedings the Commission is kept informed. Despite any general delegation of powers it shall be open to the Commission if it thinks fit to provide for, or discontinue, disciplinary proceedings against any public officer.

**69 Saving of Contractual Position**

Nothing in these Rules shall restrict the right of Government to terminate an officer's agreement in accordance with the terms thereof.

**70 Appeals**

- (1) A public officer may appeal to the Commission against any decision made with respect to that officer under a power delegated by these Rules. Such appeal shall be made no later than one month (or such longer period as the Commission may in any particular case advise) after a decision is communicated to the officer. The Commission shall decide on any such appeal.

- (2) In deciding on any appeal, the Commission shall invite the officer's Secretary to comment, and may, but shall not be obliged to, invite the officer to appear before it.
- (3) No action shall be taken to implement any decision which is the subject of an appeal to the Commission, except in case of urgency, and after consultation between the Chairperson and the Secretary to Government.
- (4) Where the Commission is satisfied that, having regard to:
  - (a) any new material facts communicated to the Commission within one month after the date on which a decision was communicated to a public officer; and
  - (b) the reasons for the non-disclosure of the said facts in the previous appeal.A further appeal should be allowed, then in such circumstances one further appeal may be made by such officer to the Commission and the Commission shall make a decision thereon.
- (5) An officer shall be informed of the right of appeal in accordance with paragraph (1) at the same time the officer is advised of the disciplinary penalty being imposed under any delegated power.

## **71 Appeals by Police Officers**

The procedure to be followed in relation to any appeal by a police officer below the rank of Inspector under the provision of Section 157(4) of the Constitution from a decision by the Commissioner of Police shall be the same as that prescribed in Rule 70 above in relation to a decision taken in relation to a public officer under a power delegated under these Rules.

## **PART VI- MISCELLANEOUS**

### **72 Protection of Members of Commission**

No matter or thing done, if the matter or thing was done in good faith for the purpose of these Rules shall subject any member, officer or agent of the Commission personally to any action, liability, claim or demand in respect thereof.

### **73 Oath or Affirmation of Office**

The Chairperson and other members of the Commission shall, as soon as possible after appointment, take the oath or make the affirmation set out in the Schedule to these Rules, before the Governor-General.

**74 Transitional**

These Rules shall not affect the validity of anything already done or any inquiry or proceeding commenced by the Public Service Commission and any such inquiry or proceedings, if not concluded at the date of these Rules, may be continued and concluded and shall be deemed for all purposes to have been commenced under the provisions of these Rules.

**SCHEDULE**

**OATH TO BE TAKEN BY THE CHAIRPERSON AND ANY MEMBER OF THE COMMISSION**

*(Rule 73)*

I \_\_\_\_\_ swear that I will not directly or indirectly reveal to any unauthorised person or persons otherwise than in the course of the business of the Commission any information in connection with the business of the Commission which may come to my knowledge in the course of my duties as of the said Commission.

Signed: \_\_\_\_\_

Sworn before me, this \_\_\_\_\_ day of \_\_\_\_\_ 20

**SIGNED:** \_\_\_\_\_

*Governor-General*

**Note:** The words “solemnly affirm” will be substituted for the word “swear” where an affirmation is made.

**ENDNOTES**

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<sup>1</sup> Legal Notice not numbered

<sup>2</sup> Cap. 4.24

<sup>3</sup> Cap. 1.02

<sup>4</sup> Cap. 1.04

<sup>5</sup> Note also the Policy Direction given by Cabinet under section 150 of the Constitution, as LN 10/2000 with effect from 6 April 2000 –

“That senior trained department personnel (in the closed or technical category of the Public Service) who have just had specialized training, must continue to remain in their position in the respective departments for a period of at least 2 years after their specialized training before they can be considered for transfer or appointment to fill up any vacancy in the senior administrative positions in the common cadre category.”

<sup>6</sup> Cap. 40.28

<sup>7</sup> Cap. 32.08