

THE CONSTITUTION OF  
THE STATE OF SARAWAK

**THE PUBLIC SERVICE COMMISSION RULES, 1996**  
(Swk. L.N. 14/96)

(Made under Article 37(3))

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THE CONSTITUTION OF THE STATE OF SARAWAK

**THE PUBLIC SERVICE COMMISSION RULES, 1996**  
**(Swk. L.N. 14/96)**

(Made under Article 37(3))

In exercise of the powers conferred by Article 37(3) of the Constitution of the State of Sarawak, the Public Service Commission, with the consent of the Yang di-Pertua Negeri, has made the following Rules:

*G.N.S. 163/63.*

PART I

PRELIMINARY

**Citation, commencement and application**

**1.—(1)** These Rules may be cited as the **Public Service Commission Rules, 1996**, and shall be deemed to have come into force on the 1st day of January, 1996.

(2) Subject to paragraph (3), these Rules shall apply to all posts and holders of posts in the public service of the State.

(3) These Rules shall not apply to—

(a) the holder of any office specified in Article 44(2)(a) of the Constitution;

(b) unless the Majlis Mesyuarat Kerajaan Negeri otherwise directs, a member of any commission, council, board, panel, body, committee or other similar body (whether incorporated or not) established by or under any law;

(c) political secretaries;

(d) the holder of the post of State Secretary, State Attorney-General, State Financial Secretary or Deputy State Secretary; and

(e) any person whose remuneration is calculated on a daily rate.

(4) These Rules shall be read in conjunction with the State Public Service General Orders, 1996 [*Swk. L.N. 1/96*].

## **Interpretation**

2.—(1) In these Rules—

“acting appointment” means the temporary appointment of an officer to a post of a higher grade than his substantive grade within the same scheme of service whether with a view to promotion or otherwise;

“advocate” means any person whose name is on the Roll of Advocates kept under section 7 of the Advocates Ordinance [*Cap. 110. (1958 Ed.)*] and who holds a valid certificate to practise issued pursuant to section 9 thereof;

“appointment” means the conferment of a post in the public service and includes—

(a) the appointment to a post in the public service of a person not in the public service;

(b) the appointment of a person on contract or the temporary appointment of a person to a permanent post in the public service;

(c) the appointment to a post in the public service of a person on contract terms for a further period of service on the conclusion of his previous period of appointment on contract terms in the same or another post;

(d) the appointment to a post in the public service of an officer from the general public service of the Federation or the

public service of any State in the Federation other than the State of Sarawak; or

(e) an acting appointment;

“Chairman” means the Chairman of the Commission;

“Commission” means the Public Service Commission of the State of Sarawak constituted under Article 35 of the Constitution;

“Constitution” means the Constitution of the State of Sarawak;

“convicted” or “conviction” includes a finding of guilt or an order or judgment making a finding of guilt in respect of a criminal offence by any court of competent jurisdiction in Malaysia or outside Malaysia, or by a competent body conferred with the power to conduct summary investigation under any written law, or any order or judgment of such court declaring the person charged or accused has committed a criminal offence and further, it includes a case where a criminal charge has been proved against a person but the Court does not record a conviction under section 173A of the Criminal Procedure Code [*Act 593*];

“criminal offence” or “criminal proceedings” means penal offence or proceedings where an officer is charged with an offence in respect of which a person may be subject to penal punishment of fine, imprisonment, death or whipping, if found guilty, but does not include any offence under the Road Transport Act 1987 [*Act 333*] or any subsidiary legislation made thereunder unless such offence relates to the officer’s handling, driving or control of a vehicle belonging to the Government;

“department” means a department of Government, and includes, where applicable, a Ministry;

“Disciplinary Board” means a Disciplinary Board appointed or constituted by the Commission under Article 36(6) of the Constitution;

“emolument” means all remuneration in money due to an officer, and includes basic salary, fixed rewards, incentive payments and other monthly allowances;

“Head of Department” means an officer who is in charge of a department, and, where applicable, includes the State Secretary, State Attorney-General, State Financial Secretary, a Permanent Secretary, Resident of the Division and any officer designated by the State Secretary on the recommendation of the Commission to be or to act as Head of Department;

“Management and Professional Group” means officers in the public service belonging to Categories I to IV under the New Remuneration System (Sistem Saraan Baru) as contained in Service Circular No. 9/1991 dated 23rd December, 1991;

“member of the Commission” means a member appointed pursuant to Article 36(1) of the Constitution, and includes its Chairman and Deputy Chairman;

“misconduct” means such conduct, act or omission which contravenes the code of conduct as may be prescribed for public officers in Chapter IV of the General Orders and by any circular issued by the State Secretary and any breach, infringement or disobedience of any of the provisions of the General Orders;

“non-pensionable officer” means a public officer who has not been conferred the status of a pensionable officer under the Pensions Act 1980 [*Act 227*];

“non-pensionable terms” means the terms of service of non-pensionable officers;

“official document” means any document or paper prepared by any public officer in the course of his employment or any document or paper which comes into the custody of any public officer in the course of such employment, and includes a public document as defined in section 74 of the Evidence Act 1950 [*Act 56*];

“pensionable officer” means a public officer who has been conferred the status of a pensionable officer under section 7, or who is deemed to be a pensionable officer under section 8, of the Pensions Act 1980;

“pensionable terms” means the terms of service of pensionable officers as prescribed in the Pensions Act 1980 and any regulations made thereunder;

“permanent officer” means a person holding a post in the permanent establishment in the public service, and includes a pensionable officer or an officer who is on probation or an officer who has been confirmed in his appointment on the permanent establishment; and “permanent post” shall be construed accordingly;

“probationary period” means the period during which a person appointed to a permanent post is required to undergo probation for such period as may be stipulated for any particular scheme of service and which period may be extended in accordance with the provisions of General Order 27(4);

“promotion” shall have the same meaning as assigned to that expression in the General Orders;

“public officer” or “officer” means any person holding, permanently or temporarily, any appointment in the public service, and includes any person appointed to perform official duties in the public service;

“public service” means the public service of the State of Sarawak;

“salary” means the rate of pay assigned to an office as set out in the Third Schedule to the General Orders, in accordance with the grades attached to the post in which a public officer is serving as stipulated in the Fourth Schedule to the said General Orders;

“salary movement” means the movement from one salary point to another salary point in the salary scale as set out in the Third Schedule to the General Orders, either in a horizontal, vertical or diagonal manner, or static, based on the annual appraisal report of performance submitted to, and approved by, the Salary Movement Evaluation Panel in accordance with General Order 36 of the General Orders;

“Secretary of the Commission” means the person holding the office of Secretary of the Commission;

“Support Group” means officers in the public service belonging to Categories V to XI under the New Remuneration System (Sistem Saraan Baru) as contained in Service Circular No. 9/1991 dated 23rd December, 1991;

“temporary appointment” means the appointment of a person to a temporary post in the public service or the appointment of a person temporarily to a permanent post in accordance with General Order 31 of the General Orders;

“temporary officer” shall have the same meaning as assigned to that expression in the General Orders;

“the General Orders” means the State Public Service General Orders, 1996 [*Swk. L.N. 1/96*];

“transfer” means the movement of an officer—

(a) from an office in one Division or District to an office of the same department in another Division or District;

(b) from an office in one Ministry to an office in another Ministry;

(c) from an office in one department to an office in another department; or

(d) from an office in a department to an office in a Ministry or vice versa,

without a change of rank or which does not involve promotion, unless otherwise stated in the transfer.

(2) In these Rules, a reference to the Yang di-Pertua Negeri shall be construed as a reference to the Yang di-Pertua Negeri acting in accordance with the advice of the Majlis Mesyuarat Kerajaan Negeri or of a member thereof acting under the general authority of the Majlis.

### **Procedure for obtaining advice of the Commission**

3. Whenever any matter concerning the public service has been referred by the State Secretary to the Commission whether by notice in writing to the Secretary of the Commission or by such other manner as may from time to time be prescribed, the Chairman shall, with a view to advising the Government upon such matter as has been referred to the Commission, cause the matter to be considered by the Commission and shall cause to be forwarded to the State Secretary in writing—

(a) the advice of the Commission or of the Chairman and every member who has considered the matter; or

(b) if the advice is not unanimous, the advice of the Chairman and of every member who has considered the matter: Provided that such advice may take the form of concurring with the advice given by the Chairman or member and of indicating in what respects, if any, it differs therefrom.

### **General authority of the Commission**

4.—(1) Subject to the provisions of the Federal Constitution and of the Constitution, and rule 1(3) hereto, the Commission, for the purpose of performing those functions stipulated in Article 36 of the Constitution, may—

(a) conduct, supervise or arrange such examinations, tests, interviews or inquiries as the Commission deems necessary;

(b) require any public officer to furnish to the Commission any information, data, documents or files which the public officer has in his custody and is relevant for the consideration of any matter before the Commission;

(c) require any public officer to attend and give evidence before the Commission and, for this purpose, the Commission shall have the same power and authority as a Magistrate may possess, in subpoenaing witnesses who may be public officers or otherwise to appear before the Commission for the purposes of giving evidence or production of documents: Provided that this rule shall not be deemed to impose the duty on a public officer to answer any question intending to incriminate him or produce any document classified as “Sulit” or “Rahsia” without the expressed approval of the State Secretary or the Federal Secretary, as the case may be; and

(d) by these Rules or any other rules made under Article 37(3) of the Constitution, impose duties on any public officer or authority of the Government.

(2) Any public officer who submits any matter for the consideration of the Commission shall provide to the Commission, all the necessary documents,

data or information relevant to that matter, to enable the Commission to deal with the matter expeditiously.

- (3) Any public officer who, without reasonable cause, fails—
  - (a) to appear before the Commission when notified to do so; or
  - (b) to comply with any request made by the Commission under the provisions of these Rules; or
  - (c) to carry out any of the duties imposed on him by these Rules or any other rules made under Article 37(3) of the Constitution,

shall be guilty of a breach of discipline, and the Commission may institute disciplinary action against him.

## PART II

### APPOINTMENT AND PROMOTION

#### **Advertisement of vacancies**

5.—(1) All vacant posts in the public service which cannot be filled by any serving officer shall, unless otherwise directed by the Commission, be advertised in at least one newspaper circulating in the State of Sarawak.

(2) Any vacant post which is to be filled by serving officers only shall be advertised by circular letters addressed to all departments or, where appropriate, to the relevant departments only.

(3) The advertisement referred to in paragraphs (1) and (2) shall be issued by the Commission with a copy thereof sent to the State Secretary.

(4) The contents and form of every such advertisement shall be determined by the Commission.

(5) The Head of Department shall, as soon as may be after receipt of the advertisement under paragraph (2), exhibit or cause to be exhibited the advertisement on the notice board of his department or circulate or cause to be circulated the advertisement to his officers.

(6) Where the power of appointment of public officers to any particular post has been delegated by the Commission to the State Secretary or any public officer, the advertisement under paragraphs (1) and (2) shall be issued and its contents and form determined by the State Secretary or the public officer to whom such power has been delegated; but a copy of any such advertisement shall be sent to the Secretary of the Commission.

(7) (a) The Commission shall maintain, for such period as it deems appropriate, records or data of all applicants for posts advertised pursuant to this rule, including those whose applications had been unsuccessful.

(b) Where there is a vacancy in any post in the public service which has been reported to the Commission under rule 6, the Commission may, based upon the records or data maintained under subparagraph (a), and without proceeding to advertise the vacancy pursuant to paragraph (1) or (2), appoint any of the applicants who had been unsuccessful in their previous applications, but whose qualifications and qualities are suited for the vacant posts, to fill the same.

### **Procedure for appointment**

6.—(1) Subject to paragraph (2), the following procedure shall apply in respect of the appointment to all posts in the public service:

(a) the Head of Department shall initiate and take all necessary preparation for filling vacant posts in his department, and in cases where vacancies can be anticipated, such as retirement of officers, action shall be initiated to fill the vacancies six months before they are due to occur;

(b) when vacancies are required to be filled, the Head of Department shall communicate with the State Secretary within two months from the date the vacancies arise by forwarding or submitting—

- (i) a statement on the number of vacancies to be filled;
- (ii) a statement on the number of reserved candidates required;
- (iii) the special qualifications required, if any;
- (iv) the description, list of duties and responsibilities of posts to be filled;
- (v) a draft advertisement of the vacancy;
- (vi) a list of serving officers in his department who may be eligible to fill the vacancies; and
- (vii) such other information as may be required by the Commission;

(c) the report under subparagraphs (a) and (b) shall be forwarded to the State Secretary with a copy thereof to the Permanent Secretary to the Ministry, if any, responsible for the affairs of the department and the State Secretary, if he has no objection to the recommendation made, shall,—

- (i) if the power of appointment to any vacant post has been delegated to him, proceed to advertise the post pursuant to rule 5(6); or
- (ii) in all other cases, forward the report together with his own observations and those of the Permanent Secretary to the

Ministry, if any, and also submit a draft of the advertisement referred to in rule 5(1) and (2) to the Secretary of the Commission, to enable the Commission to take action to fill the vacancy;

(d) (i) the Commission or the State Secretary, as the case may be, shall, in considering applications for appointment, take into account the recommendation made by the Head of Department in which the vacancy exists and, where the applicant is a serving officer at the time of application, the recommendation of the Head of Department of that officer, and matters contained in the annual appraisal report of the applicant's performance;

(ii) neither the Head of Department in which the vacancy exists nor the Commission or the State Secretary shall be precluded from considering claims by and qualifications of any other officers who have not applied for the vacant post, nor from recommending the promotion of any such officer to the vacant post;

(e) when the vacancy is likely to involve the appointment, or the renewal of the contract of service, of a person not domiciled in Sarawak, the State Secretary shall state briefly for the information of the Commission the position regarding the training of candidates who are citizens and are domiciled in Sarawak for such posts;

(f) applications from serving officers shall be made through their respective Heads of Departments who shall forward them together with—

(i) a copy of an up-to-date statement of service;

(ii) a copy of the latest annual appraisal report of performance from the Head of Department concerned; and

(iii) comments of the Head of Department concerned whether he supports the application or not,

to the State Secretary, through the Permanent Secretary to the Ministry, if any, responsible for the affairs of the department, and in cases where the power of appointment has not been delegated to him, the State Secretary shall forward the applications to the Commission together with his own observations and those of the Permanent Secretary to the Ministry, if any.

(2) (a) Nothing in paragraph (1) shall affect the right of the State Secretary to fill any vacant post, including any newly created post, in the public service.

(b) Where the State Secretary decides to fill any vacant post in the public service, he shall notify the Head of Department where the vacancy has occurred or where the vacant post exists, and thereafter, unless the powers of appointment to such post has been delegated to him, he shall notify the Commission accordingly, and the procedures laid down in rule 5 for appointment to fill the vacancy shall be followed.

(3) Where the Commission makes any appointment to fill any vacant post, its decision shall be conveyed by the State Secretary to the successful candidates. In cases of appointment by the State Secretary, he shall convey his decision to the successful candidates.

(4) Every letter of offer of appointment shall be subject to such terms and conditions as may be determined by the State Secretary, and a copy thereof shall be sent to the Secretary of the Commission.

### **Principles and procedures for promotion, acting appointment and covering duties**

7.—(1) The promotion of any officer in the public service shall be based on performance, merit and ability, as well as experience, qualifications, suitability and seniority to be determined as follows—

(a) efficiency and diligence shown in performing his duties;

(b) personal knowledge and skill;

(c) personal qualities including integrity, initiative, innovation, qualifications and experiences and skills relevant to the post to be filled; and

(d) potential, both in terms of human relationship and leadership ability, which would benefit the public service as a whole.

(2) An officer shall only be considered for promotion after having fulfilled the conditions stipulated in his scheme of service.

(3) When submitting any recommendation for promotion to the Commission, the State Secretary shall forward the annual appraisal reports of performance of the officer for the period of three years preceding the date of the submission, and such other information concerning the officer to enable the Commission to determine if that officer satisfies the criteria for promotion referred to in paragraph (1).

(4) (a) The procedure for making an acting appointment and covering duties shall be the same as that prescribed in this rule for making a promotion.

(b) Every recommendation in respect of an acting appointment or covering duties of an officer shall state whether or not the officer recommended is in every way qualified to perform the duties of such office.

## **PART III**

### **TERMINATION OF APPOINTMENT AND PROBATIONARY SERVICE**

#### **Termination of pensionable appointment**

8.—(1) If it appears to a Head of Department that it is desirable that he should make a recommendation to the State Secretary that the services of a pensionable officer should be terminated in the public interest, he shall inform the officer in writing of the reasons for such termination and requiring him, within a period of twenty-one days, to submit in writing any representation he may wish to make.

(2) If the officer makes any written representation but the Head of Department considers that no adequate cause has been shown by the officer concerned why his services should not be terminated or if the officer fails to make any written representation within the period stipulated in paragraph (1), the Head of Department shall report the matter to the State Secretary through the Permanent Secretary to the Ministry, if any, responsible for the affairs of the department, giving his reasons and forwarding any representation, if any, of the officer concerned, why the services of the officer should be terminated in the public interest. The State Secretary, if he agrees with the reasons given by the Head of Department, shall forward the report to the Secretary of the Commission together with his own observations and those of the Permanent Secretary to the Ministry, if any, for decision by the Commission.

(3) Where the Commission agrees, upon consideration of the report and observations referred to in paragraph (2), that the services of the officer should be terminated in the public interest, the Commission shall forthwith notify the State Secretary who shall seek the approval of the Yang di-Pertua Negeri to retire the officer in the public interest pursuant to section 10(5) of the Pensions Act 1980 [*Act 227*].

(4) The termination of service of the officer in the public interest in circumstances enumerated in the proviso to Article 135(2) of the Federal Constitution shall not constitute dismissal and accordingly the provisions of Part IV shall not apply, but such termination shall be dealt with in accordance with the Pensions Act 1980 as regards his entitlement to or payment of pension.

#### **Premature termination of contract of service**

9.—(1) If it appears to a Head of Department that it is desirable that the services of a contract officer should be terminated by notice for whatever reason before the expiry of the term of his contract, he shall report the matter to the State Secretary through the Permanent Secretary to the Ministry, if any, responsible for the affairs of the department.

(2) If, upon receipt of the report, the State Secretary agrees with the Head of Department's recommendation that the contract of the officer should be terminated, he shall forward the report with his own observations and those of the Permanent Secretary to the Ministry, if any, for decision by the Commission.

(3) Where the Commission agrees, upon consideration of the report and the observations referred to in paragraph (2), that the contract of the

officer should be terminated before the expiry of the term of his contract, the Commission shall forthwith notify the State Secretary who shall then issue the notice of termination. A copy of such notice of termination shall be sent to the Commission.

### **Appointment on probation**

**10.—(1)** Where a public officer is appointed on probation, the Head of Department shall, six months before the expiration of the probationary period, consider whether such officer should, on the expiration thereof, be confirmed in his appointment or whether a further period of probationary service is necessary to determine whether the officer's appointment should be confirmed or whether the officer should not remain in the service.

(2) The Head of Department shall, three months before the expiration of the probationary period, make a confidential report to the State Secretary with a copy to the Permanent Secretary to the Ministry, if any, responsible for the affairs of the department, with his recommendation as to whether the appointment should be confirmed or whether a further period of probationary service is necessary to determine whether the officer's appointment should be confirmed or whether the officer should not remain in the service. The State Secretary shall, in cases where the confirmation of appointment is dealt with by the Commission, forward the report to the Secretary of the Commission, not less than one month before the expiration of the probationary period, together with his own observations and those of the Permanent Secretary to the Ministry, if any.

(3) Notwithstanding paragraphs (1) and (2) if, at any time during the probationary period, the Head of Department forms the opinion that an appointment on probation should be terminated or that the period of probation should be extended, the Head of Department shall make a confidential report to the State Secretary, with a copy to the Permanent Secretary to the Ministry, if any, responsible for the affairs of the department and the State Secretary shall, in cases where the confirmation of appointment is dealt with by the Commission, forward the report to the Secretary of the Commission together with his own observations and those of the Permanent Secretary to the Ministry, if any.

(4) The Head of Department shall, before reporting the matter to the State Secretary under paragraph (2) or (3), inform the officer in writing of any adverse comments on his work as soon as possible, so that he should have sufficient time in which to make an effort to correct his shortcomings before his period of probation expires.

(5) Upon receipt of the reports referred to in paragraph (2) or (3), the Commission, or the State Secretary (in cases where the power of confirmation has been delegated to him) may, at its or his discretion, extend the probationary period or require the officer to leave the service at the end of such probationary period.

(6) The probationary period of a public officer may be extended, either with or without penalty, for not more than twelve months on any one occasion:

Provided that the total period of extension of the probationary period shall not exceed an aggregate period of twenty-four months:

And provided further that in computing the probationary period under this rule, the period attributable to any delay in the conduct of any compulsory public service examination in Induction Course which an officer is required to undertake or to undergo for the purpose of confirmation in his appointment under General Order 27 of the State Public Service General Orders, 1996 [*Swk. L.N. 1/96*], shall be excluded.

*[Ins. Swk. L.N. 76/98].*

(7) A public officer whose probationary period has been extended with penalty shall not be allowed any increment in salary before the expiration of the extended period of probation.

(8) The procedures prescribed in paragraphs (1), (2) and (3) shall, with necessary modifications, be followed in relation to promotion for a trial period of a public officer to a higher post than that which he held substantively.

## PART IV

### DISCIPLINE AND DISCIPLINARY PROCEDURE

#### **Acts of misconduct or breach of discipline to be reported**

**11.—(1)** All acts of misconduct or breaches, such as—

(a) a breach of conduct or discipline or of the code of conduct prescribed for public officers in Chapter IV of the General Orders;

(b) a breach or infringement or disobedience of any other provisions of the General Orders;

(c) a breach of any of the provisions of these Rules;

(d) a breach or contravention of any Standing Orders, Government Circulars and Office Instructions issued pursuant to section 4 of the State Public Service (Conditions of Service) Ordinance, 1994 [*Cap. 12*]; and

(e) any misconduct including, but not limited to, the commission, or abetting in the commission, of offences relating to dishonesty, corruption, breach of trust and the taking, possession, sale or trafficking of dangerous drugs, by public officers,

shall be dealt with in accordance with this Part and with Chapter IV of the General Orders.

(2) Any public officer adjudged, through proceedings taken under this Part, to have committed any of the acts of misconduct or breaches stipulated in paragraph (1) shall be liable to be imposed with the penalties stipulated in Part V or he may be required to retire from the public service in the public interest.

(3) During the process of any disciplinary action, a public officer may be suspended from duty or interdicted from the exercise of his public or official duties.

### **Officer not to resign or leave Malaysia**

**12.** A public officer against whom disciplinary action is instituted under these Rules shall not, without the permission of the Commission, resign or leave Malaysia before the disciplinary action is concluded.

### **Disciplinary Committees or Board**

**13.—(1)** The function of disciplinary control of public officers vested in the Commission under Article 36(1) of the Constitution shall, subject to the provisions of this Part, be exercised by the following—

(a) a Departmental Disciplinary Committee comprising:

(i) a Head of Department or a Deputy Head of Department, as chairman; and

(ii) two other officers from the department, each holding a public office of a grade not lower than that of the accused officer, appointed by the chairman;

(b) a Management and Professional Group Disciplinary Committee comprising:

(i) the State Secretary or a Deputy State Secretary, as chairman; and

(ii) two other officers, each holding a public office of a grade not lower than that of the accused officer, appointed by the State Secretary; and

(c) such Disciplinary Board of the Commission as may be established pursuant to rule 14.

(2) A Disciplinary Committee under paragraph (1) shall not have authority to take disciplinary action against any public officer for misconduct or breach which warrants or with a view to the imposition of the penalty of dismissal or reduction in rank.

(3) The Management and Professional Group Disciplinary Committee shall have powers to take disciplinary action for misconduct or breach by public officers belonging to the Management and Professional Group, and the

Departmental Disciplinary Committee shall have powers to take disciplinary action for misconduct or breach by public officers belonging to the Support Group.

(4) A Disciplinary Committee in the performance of any of its functions shall not be deemed to be a judicial or quasi judicial body.

(5) A Disciplinary Committee shall not, in its proceedings or deliberations, be bound by the provisions of the Evidence Act 1950 [*Act 56*] or any law relating to evidence.

(6) The quorum of a Disciplinary Committee meeting shall consist of the chairman and one other member.

### **Disciplinary Board of the Commission**

**14.—**(1) For the purpose of assisting the Commission in exercising disciplinary control over public officers, a Disciplinary Board constituted by the Commission shall hear cases referred to the Commission under rule 22(3) or cases involving dismissal or reduction in rank under rule 35.

(2) A Disciplinary Board of the Commission shall consist of—

(a) a chairman, who shall be a member of the Commission; and

(b) two officers appointed by the Commission, each holding a public office of a grade not lower than that of the accused officer, provided that such officers shall not be serving in the same department as the accused officer.

### **Cases not involving dismissal or reduction in rank**

**15.—**(1) The following acts of misconduct or breach of discipline shall not, unless the Commission otherwise directs, warrant dismissal or reduction in rank:

(a) breach of General Orders 153(3), 154(1), 157, 158, 167, 168, 170, 177, 178 and 179 of the General Orders;

(b) breaches of the code of conduct of officers stipulated in paragraphs (c), (d), (e), (g), (h), (l) and (m) of General Order 153(4);

(c) breach of any of the provisions in Chapters II, III and VI of the General Orders relating to respectively Official Duty Allowances, Leave and Government Quarters and Office Buildings; and

(d) breach or contravention of any Standing Orders, Government Circulars or Office Instructions issued pursuant to section 4 of the State Public Service (Conditions of Service) Ordinance, 1994 [*Cap. 12*].

(2) All other acts of misconduct or breach of the General Orders shall be deemed to be misconduct or breach of discipline which renders a public officer liable to dismissal or reduction in rank.

### **Disciplinary action for management and Professional Group**

16.—(1) Where a Head of Department receives any information or complaint that a public officer in his department, belonging to the Management and Professional Group has committed any act of misconduct or breach of the nature stipulated in rule 15, he shall conduct or cause to be conducted the necessary investigation and report the matter to the State Secretary.

(2) Upon receipt of such report from the Head of Department, the State Secretary shall, if he is satisfied that there is prima facie evidence that the officer has committed any act of misconduct or breach complained of, proceed with disciplinary action against the officer in accordance with the provisions of this Part.

### **Disciplinary action for Support Group**

17. Where a Head of Department receives any information or complaint that a public officer in his department, belonging to the Support Group, has committed any act of misconduct or breach of the nature stipulated in rule 15, he shall conduct or cause to be conducted the necessary investigation and if he is satisfied that there is prima facie evidence that the officer has committed any act of misconduct or breach complained of, he shall proceed with disciplinary action against the officer in accordance with the provisions of this Part.

### **Procedure for disciplinary action by Disciplinary Committees**

18.—(1) Where disciplinary action is to be taken against a public officer under rule 16 or 17, the Head of Department or State Secretary shall notify the Departmental Disciplinary Committee or the Management and Professional Group Disciplinary Committee, as the case may be, and the Disciplinary Committee shall consider the facts and circumstances of the misconduct or breach and cause to be sent to the officer—

(a) the charge or charges of misconduct or breach of discipline alleged to have been committed by him; and

(b) a statement of the facts relied upon to support the charge or charges,

and require the officer to state in writing, within a period of not less than twenty-one days, any grounds upon which he relies to exculpate himself, or if he admits the charge or charges, the circumstances relied upon by him in mitigation of his misconduct or breach.

(2) If, after considering the case made against the accused officer and his written representations thereto, or if he fails to make any written

representation within the period stipulated in paragraph (1), the Departmental Disciplinary Committee or the Management and Professional Group Disciplinary Committee, as the case may be, is of the opinion that—

(a) the accused officer is not guilty of the charge or charges, that Committee shall immediately acquit the officer; or

(b) the accused officer is guilty of the charge or charges, that Committee shall impose upon the accused officer the penalties stipulated in Part V, other than that of dismissal or reduction in rank.

(3) The State Secretary or Head of Department shall give written notification to the accused officer of the findings and the penalty imposed by the Disciplinary Committee.

(4) (a) When disciplinary proceedings are taken by the State Secretary, he shall, upon the completion thereof, submit a report of such proceedings, including the findings of the Management and Professional Group Disciplinary Committee and the penalty imposed, to the Commission.

(b) When disciplinary proceedings are taken by the Head of Department, he shall, upon the completion thereof, submit a report of such proceedings, including the findings of the Departmental Disciplinary Committee and the penalty imposed, to the Commission through the State Secretary.

(c) The report referred to in subparagraphs (a) and (b) shall be sent to the Commission within fourteen days from the date of completion of the disciplinary proceedings.

## **Appeal**

19.—(1) Where an accused officer is dissatisfied with the findings of a Disciplinary Committee constituted under rule 13(1)(a) or (b) or with any penalty imposed upon him, or both such findings and penalty, he shall, within twenty-one days of being notified of such findings or penalty under rule 18(3), appeal to the Commission against the same.

(2) Such appeal shall be instituted by filing a Notice of Appeal in the form prescribed in the Schedule hereto with the Secretary of the Commission.

**Schedule:** □[1;31;26{dh f:\gosch\sagdh\pscrsch1.dh icon  
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(3) Upon receipt of the Notice of Appeal, the Commission shall consider the appeal.

## **Determination of appeal**

20.—(1) Any appeal against the findings of, or the penalty imposed by, a Disciplinary Committee referred to in rule 19, or both such findings and

penalty, shall be determined by the Commission within sixty days from the date of filing of the appeal.

(2) In determining any such appeal, the Commission shall consider the grounds of appeal contained in the Notice of Appeal and the report of the findings of a Disciplinary Committee submitted pursuant to rule 18(4), the penalty imposed by the Disciplinary Committee, and may call upon the accused officer to explain in writing any of the grounds contained in his Notice of Appeal.

### **Decision of the commission**

**21.—**(1) The Commission, upon consideration of the matters set out in rule 20(2), may—

(a) affirm the findings of, or the penalty imposed by, a Disciplinary Committee, or both such findings and penalty;

(b) set aside such findings or penalty or both such findings and penalty;

(c) affirm such findings but substitute the penalty imposed with another penalty (other than dismissal or reduction in rank); or

(d) make such other order as the Commission may deem fit and proper.

(2) All decisions of the Commission in regard to any appeal filed under rule 19 shall be final and shall not be questioned or challenged in any court of law.

### **Grounds for criminal prosecution**

**22.—**(1) Where an investigation or inquiry undertaken by a Head of Department or any person authorized by him discloses that an offence against any written law may have been committed by a public officer, the Head of Department shall immediately report the facts to the police or the relevant investigating body, and to the State Secretary.

(2) (a) If following such investigation or inquiry, and report, the Public Prosecutor or police does not intend to prosecute the officer, the matter shall then be referred to the State Secretary.

(b) Notwithstanding subparagraph (a), if the State Secretary, upon consideration of the matter, deems it necessary nevertheless to proceed with disciplinary action against the officer concerned, he shall report the matter to the Commission.

(3) If the Commission considers that disciplinary action is to be taken, the Commission shall direct the Departmental Disciplinary Committee or the Management and Professional Group Disciplinary Committee to take such

disciplinary action as it is empowered to do under this Part, or the Commission may itself take disciplinary action against the officer concerned.

### **Procedure where criminal proceedings are instituted against a public officer**

**23.**—(1) A public officer shall forthwith inform his Head of Department if any criminal proceedings are instituted against him in any court.

(2) Upon receipt of information from whatever source that criminal proceedings have been instituted in any court against any public officer serving under him regardless whether or not the offence alleged is directly concerned with the functions and duties of his department, the Head of Department may obtain further verification of information concerning the case and if the information received is proven to be correct, the Head of Department shall proceed to interdict the public officer concerned and forward a report on the case to the Commission through the State Secretary within seven days of the officer's interdiction.

(3) Where criminal proceedings against a public officer result in his acquittal, the Head of Department shall immediately forward a report of such fact to the Commission, through the State Secretary, and the officer shall be allowed to resume his duties and to receive the unpaid portion of his emoluments withheld from him whilst under interdiction.

### **No disciplinary action while criminal proceedings pending**

**24.**—(1) Where criminal proceedings have been instituted and are pending against a public officer, disciplinary action shall not be taken against the officer based on the same grounds as the pending criminal charge.

(2) Nothing in paragraph (1) shall be construed so as to prevent disciplinary action from being taken against the officer during the pendency of such criminal proceedings based on any other grounds arising out of his conduct in the performance of his duties.

### **Criminal conviction of public officer**

**25.**—(1) If a public officer is adjudged guilty by any court of a criminal offence and, where an appeal has been lodged, the conviction has not been quashed on appeal, the Head of Department shall report the matter, together with his recommendation as to punishment, if any, to the Commission through the State Secretary.

(2) A copy of the charge or charges, and of the judgment, and of the proceedings of the court, if available, shall be forwarded to the Secretary of the Commission.

### **Disciplinary action after acquittal on criminal charge**

**26.—(1)** A public officer acquitted of a criminal charge in any court shall not be dismissed or otherwise punished on any charge upon which he has been acquitted, but nothing in this paragraph shall prevent his being dismissed or otherwise punished on any other misconduct or breach of discipline which may have been disclosed as a result of the investigation or proceedings relating to the said charge, unless the misconduct or breach of discipline relates substantially to the same matter as that upon which he has been acquitted or it would be unjust or unfair, having regard to all the circumstances of the case, to proceed with disciplinary action against him on such misconduct or breach of discipline.

(2) Where it is proposed to commence disciplinary action pursuant to paragraph (1) against a public officer who has been acquitted upon a criminal charge for other misconduct or breach of discipline, the advice of the State Attorney-General shall be sought and such disciplinary action shall be taken only if he so advises.

### **Officer absenting himself from duty**

**27.—(1)** Where a public officer is absent from duty without leave or reasonable cause for seven working days and cannot be traced, the Head of Department shall send a letter to the officer by prepaid acknowledge receipt (A.R.) registered post to his last known address, directing the officer to report for duty forthwith and to explain in writing the reasons for his absence from duty.

(2) If the officer reports for duty within seven days after the letter is served on him, and the Head of Department is not satisfied with the explanation given by the officer for his absence, the Head of Department shall—

(a) interdict the officer from the exercise of his duties by issuing him a written letter of interdiction; and

(b) report the officer to the State Secretary with a recommendation that the services of the officer be terminated in the public interest or that disciplinary action be instituted against the officer for absence from duty.

(3) If the A.R. registered letter is returned undelivered, the Head of Department shall, after reporting the matter to the State Secretary and the Commission, take steps to publish a notification in the *Gazette* of the fact that the officer is absent from duty without leave and cannot be traced. A copy of the notification shall also be exhibited on the notice board of the department to which the officer belongs at the time of the issue of the notification.

(4) Notwithstanding rule 50(2), if the A.R. registered letter is received by a person other than the officer himself, the letter shall be deemed to be undelivered, and paragraph (3) shall apply.

### **Consequence of absence from duty after notification in the *Gazette***

**28.**—(1) Where the public officer reports for duty within seven days after the date of publication of the notification in the *Gazette*, the Head of Department shall report the matter to the State Secretary.

(2) Upon consideration of the report, the State Secretary may decide—

(a) that it is desirable the services of the officer concerned be terminated in the public interest and shall take such action as may be required under the Pensions Act 1980 for the termination of service of the officer; or

(b) that disciplinary action be instituted against the officer for absence from duty and report the matter to the Commission for such disciplinary action pursuant to rule 33.

(3) Where the public officer fails to report for duty within fourteen days from the date of publication of the notification in the *Gazette*, the officer shall be deemed to have been dismissed from service with effect from the date he was first absent from duty. The Head of Department shall report such dismissal to the Commission through the State Secretary. A notification of the dismissal of the officer shall be published in the *Gazette* by the Secretary of the Commission.

#### **Forfeiture of emoluments for being absent from duty**

**29.**—(1) Where a public officer has been found to have been absent from duty without leave or without reasonable cause, all emoluments for such period he is absent shall be forfeited notwithstanding that the Commission may not have ordered such forfeiture, and if paid, shall be recoverable from the officer by the Government as a civil debt and may be deducted from any gratuity, allowances or other payments which may be due to the officer.

(2) An officer whose emoluments have been forfeited pursuant to paragraph (1) shall be notified in writing regarding the said forfeiture by the Head of Department.

(3) For the purpose of this rule, the forfeiture of emoluments is not a disciplinary punishment within the meaning of rule 39.

#### **Interdiction**

**30.**—(1) A public officer may be interdicted from the exercise of his duties if—

(a) criminal proceedings have been instituted against the public officer; or

(b) disciplinary action with a view to dismissal or reduction in rank has been or is about to be instituted against the public officer; or

(c) his conduct is such as to warrant disciplinary proceedings to be taken against him by the Departmental Disciplinary Committee or the Management and Professional Group Disciplinary Committee although the penalty of dismissal or reduction in rank is not to be imposed upon the public officer.

(2) If a Head of Department or in his absence the most senior officer available considers that the interests of the public service require that a public officer, subject to his control, should cease to exercise the powers and functions of his office, the Head of Department or the most senior officer, as the case may be, shall order that the public officer be interdicted and report the facts to the State Secretary who shall forward the report to the Commission.

(3) (a) The interdiction of any officer shall take effect on such date as may be stipulated by the Head of Department or the State Secretary or on such date as may be directed by the Commission.

(b) All interdictions ordered by the Head of Department or the State Secretary shall be reported to the Commission within seven days of the imposition thereof.

(4) (a) A public officer who has been interdicted shall, unless and until he is suspended or dismissed, be allowed to receive not more than half of the emoluments of his office during the period of interdiction as the Commission deems fit.

(b) The payment of emoluments to the public officer under subparagraph (a) shall cease upon his conviction of a criminal offence regardless of whether he appeals against such conviction or not.

(5) If the criminal proceedings or disciplinary action against a public officer do not result in the conviction or other punishment, as the case may be, of the public officer, or in the event that he successfully appeals to a higher Court against his conviction of the criminal offence preferred against him, he shall be refunded such portion of the emoluments withheld as a result of his interdiction.

### **Suspension from duty**

**31.—**(1) The Commission may suspend a public officer from the exercise of his duties—

(a) where the officer is convicted by any criminal court of any criminal offence and pending action to be taken against him with a view to dismissal from the service; or

(b) where an order of detention or restriction under any written law is made or imposed on the officer.

(2) The date of suspension shall commence from the date of conviction or the effective date of the order of detention or restriction, as the case may be.

(3) The State Secretary or Head of Department may also suspend an officer from duty in circumstances authorized by this Part and shall report such suspension to the Commission.

(4) A public officer who is suspended from the exercise of his duties shall not be allowed—

(a) to receive any unpaid portion of his emoluments withheld from him whilst under interdiction in accordance with rule 30; and

(b) to receive any emoluments from the date of his suspension.

(5) A decision to suspend the officer shall be conveyed to him in writing by the Secretary of the Commission or by the State Secretary or Head of Department, as the case may be.

### **Conditions for dismissal or reduction in rank**

**32.**—(1) Subject to paragraph (2), no public officer shall be dismissed or reduced in rank in any disciplinary action under these Rules, unless he has been informed in writing of the grounds on which it is proposed to take action against him and he has been afforded a reasonable opportunity of being heard.

(2) Paragraph (1) shall not apply to the following matters:

(a) where an officer is dismissed or reduced in rank on the ground of misconduct or breach of discipline in respect of which a criminal charge has been proved against him;

(b) where the Commission is satisfied that for some reasons, to be recorded by it in writing, it is not reasonably practicable to carry out the requirements of this rule;

(c) where the Yang di-Pertua Negeri is satisfied that in the interest of security of the State or any part thereof, it is not expedient to carry out the requirements of this rule;

(d) where there has been made against the officer any order of detention, supervision, restricted residence, banishment or deportation, or where there has been imposed on such officer any form of restriction or supervision by bond or otherwise, under any law relating to the security of the State or any part thereof, prevention of crime, preventive detention, restricted residence, banishment, immigration or the protection of women and girls.

### **Report on misconduct or breach of discipline which warrants dismissal or reduction in rank**

**33.**—(1) Wherever a Head of Department considers it necessary to institute disciplinary action against a public officer for any misconduct or breach of discipline and such misconduct or breach of discipline warrants the

dismissal or reduction in rank of the officer, he shall cause a report containing the facts supporting a charge or charges of the misconduct or of the breach of discipline alleged to have been committed by the officer to be sent to the Commission through the State Secretary in accordance with Chapter IV of the General Orders.

(2) The State Secretary may, if he becomes aware that any misconduct or breach of discipline has been committed by a public officer which warrants his dismissal from the service or the reduction of his rank, report such misconduct or breach of discipline to the Commission for disciplinary action to be taken against the public officer in accordance with these Rules.

(3) The report referred to in paragraphs (1) and (2) shall contain and include all material facts, circumstances, documents and other evidence supporting the allegation of misconduct or breach of discipline made against the public officer (hereinafter referred to as "the accused officer").

(4) On receipt of such report, the Commission shall forthwith make such preliminary investigation into the matter or take such action as may be necessary under these Rules to obtain any further or better particulars or evidence (including documentary evidence) from the State Secretary or the Head of Department of the accused officer.

#### **Procedure for disciplinary action by the Commission**

**34.—**(1) If, after considering the report of the Head of Department under rule 33(1) or the report of the State Secretary under rule 33(2) and having regard to the result of any preliminary investigation under rule 33(4), the Commission is of the opinion that the facts thereby disclosed, if unrebutted, would sufficiently prove that the accused officer is guilty of misconduct or breach of discipline, the Commission shall, after consultation with the State Attorney-General, forward to the accused officer—

(a) the charge or charges of misconduct or breach of discipline alleged to have been committed by him; and

(b) a statement of the facts relied upon in support of the charge or charges,

and call upon him to state in writing, within a period of not less than twenty-one days from the date of receipt of the charge or charges, any grounds upon which he relies to exculpate himself or if he admits the charge or charges, the circumstances relied upon by him in mitigation of his misconduct or breach.

(2) If, after considering the case made against the accused officer and his written representation thereto, or, if he fails to make any written representation within the period stipulated in paragraph (1), the Commission is of the opinion that—

(a) the accused officer is not guilty as charged, he shall be acquitted and the State Secretary and the accused officer shall be notified accordingly;

(b) the accused officer is guilty of the charge or charges preferred against him but the accused officer only merits one or more of the punishments stipulated in rule 39(a) to (f), the Commission shall proceed to impose one or more of such punishments only; but where the gravity of the charge or charges is such as to merit the punishment of dismissal or reduction in rank, the Commission may, subject to rule 35(11), grant the accused officer a hearing before a Disciplinary Board under rule 35(1);

(c) there are grounds for requiring the services of the accused officer to be terminated in the public interest without further proceedings under these Rules, it shall proceed to take action, as prescribed by these Rules, to have the services of the accused officer terminated:

Provided that—

(i) the accused officer shall be given a reasonable opportunity to submit a reply to the grounds upon which his termination is required; and

(ii) the termination of service of the accused officer shall have to be approved by the Yang di-Pertua Negeri in compliance with section 10(5)(d) of the Pensions Act 1980.

(3) The provisions of this rule and of rule 35 shall apply, with the necessary modification, to any disciplinary action instituted by the Commission pursuant to rules 4(3) and 48.

### **Serious misconduct**

**35.**—(1) Where, pursuant to rule 34(2)(b), the Commission is of the view that the accused officer is guilty of misconduct or breach of discipline of a nature which warrants his dismissal or reduction in rank, the Commission may grant the accused officer a hearing before a Disciplinary Board.

(2) The accused officer shall be informed in writing of the date on which the Disciplinary Board shall commence its hearing and the accused officer shall attend the inquiry and shall be permitted—

(a) to cross-examine the witnesses;

(b) to give evidence on his own behalf;

(c) to have such witnesses as he may wish called on his behalf; and

(d) to have access to information contained in any documents at a reasonable time before the documents are tendered in evidence.

(3) The Disciplinary Board may, at its discretion, permit the prosecuting party or the accused officer to be represented by a public officer or an advocate.

(4) The record of the proceedings of the Disciplinary Board shall consist of the information obtained by the Disciplinary Board. The information shall not ordinarily be set out in the form of question and answer but in the form of a narrative and the Disciplinary Board may, at its discretion, record any particular question and answer.

(5) The Disciplinary Board shall proceed with its hearing from day to day and no adjournment shall be given except for reasons to be recorded in writing. Every adjournment, with reasons therefor, shall be reported forthwith to the Commission and the State Secretary. No adjournment shall be given for more than fourteen days except with the permission of the Chairman of the Commission.

(6) The Disciplinary Board may, at its discretion, conduct proceedings under these Rules notwithstanding the absence of one of its members, and the validity of such proceedings shall not be questioned or challenged in any court of law.

(7) If the Disciplinary Board is satisfied that the accused officer under inquiry is hampering or attempting to hamper the progress of the inquiry, it shall administer a warning to the accused officer. If, after such warning, the Disciplinary Board is satisfied that the accused officer is acting in disregard of the warning, it shall make an entry in the record to that effect and shall proceed to complete the inquiry in such manner as it thinks fit.

(8) The Disciplinary Board shall, within fourteen working days of the conclusion of the proceedings, unless the Chairman of the Commission grants an extension of time, submit its report to the Commission.

(9) The Commission may, upon considering the report of the Disciplinary Board, if it is of the opinion—

(a) that the accused officer should be dismissed or reduced in rank, dismiss or reduce the rank of the accused officer from such date as it may think fit; or

(b) that some punishment other than dismissal or reduction in rank should be imposed,—

(i) impose such lesser punishment prescribed in rule 39(a) to (f); or

(ii) recommend that the services of the public officer be terminated in the public interest, either with or without retirement benefits, without further proceedings under this rule and report the decision to the Yang di-Pertua Negeri through the State Secretary.

(10) The Commission may, where it thinks fit, require the Disciplinary Board to reconvene to consider further evidence and to meet for that purpose:

Provided that the accused officer shall be given not less than seven days' notice of such further meeting of the Disciplinary Board.

(11) The Commission may dispense with the granting of a hearing to the accused officer under paragraph (1), if the accused officer, under rule 34(1),—

- (a) admits the charge or charges or any one of the charges; or
- (b) fails to make representation within the prescribed time,

and proceed to determine such matter as the Commission may think fit.

### **Retirement in the public interest**

**36.—**(1) Notwithstanding any other provisions of this Part, if the Commission considers that it is desirable in the public interest that a public officer shall be required to retire from the public service on grounds which cannot be suitably dealt with by specific charges under these Rules, it shall call for a full report from the State Secretary and, at its discretion, from the Head of Department under whom the public officer is serving or had previously served.

(2) The Commission shall give the public officer an opportunity of submitting a reply to the reason or reasons on which his retirement is contemplated. If the Commission is satisfied, upon consideration of the report and of the reply by the public officer and having regard to the conditions of service, the usefulness of the public officer thereto and all the other circumstances of the case, that it is desirable in the public interest to do so, the Commission shall report this fact to the State Secretary to seek the approval of the Yang di-Pertua Negeri to retire the public officer in the public interest and, subject to such approval, the officer's service shall accordingly be terminated on such date as the Commission shall specify.

(3) Where a public officer is retired in the public interest, the question of pension, gratuity or other allowances shall be dealt with under the law for the time being in force relating thereto.

### **State Secretary to be notified of all decisions made by the Commission**

**37.—**(1) The State Secretary shall be notified in writing by the Secretary of the Commission within fourteen days of all decisions made by the Commission under this Part.

(2) The Commission shall, upon request by the State Secretary, furnish to him the grounds of any decisions made by the Commission under this Part.

### **Protection of member of the Commission, etc.**

**38.** No member of the Commission or any member of a Disciplinary Board or Disciplinary Committee or the State Secretary or Head of Department shall incur any personal liability in the execution of any of their duties or functions or when carrying out disciplinary actions as required under this Part.

## PART V PUNISHMENTS

### **Disciplinary punishments**

**39.** The Commission may, if it finds that a public officer is guilty of misconduct or breach of discipline, impose on the public officer any one, or a combination of two or more, of the following punishments as a result of proceedings under these Rules:

- (a) reprimand;
- (b) fine;
- (c) forfeiture of emoluments;
- (d) deferment of salary movement;
- (e) reduction of salary;
- (f) imposition of surcharge or order of restitution;
- (g) reduction in rank;
- (h) dismissal:

Provided that nothing in this rule shall limit the power conferred upon the Yang di-Pertua Negeri by section 10(5) of the Pensions Act 1980 [*Act 227*] to require a public officer to retire from the public service in the public interest.

### **Fine or forfeiture of emoluments**

**40.** For the purpose of these Rules, the punishment of fine or forfeiture of emoluments shall be made in accordance with the following provisions:

(a) any fine imposed on any one occasion shall not exceed an amount equivalent to seven days' basic salary of the officer concerned, and if a public officer is fined on more than one occasion in any calendar month, the aggregate of the fines imposed on him in that month shall not exceed an amount equivalent to forty-five per centum of his monthly emoluments;

(b) punishment of forfeiture of emoluments is not subject to paragraph (a) relating to the maximum amount of fine on any one particular occasion or in any one particular calendar month; where the

offence relates to absence without leave or without reasonable cause, the amount of emoluments to be forfeited for such absence shall, unless otherwise decided by the Commission, be calculated by having regard to the actual period the officer is absent:

Provided that this punishment shall not be imposed on a public officer who is absent without leave or without reasonable cause where such officer has been forfeited of his emoluments in respect of such absence under any provision relating to leave; and

(c) all fines or forfeitures of emoluments shall be deducted from the officer's monthly emoluments and shall be paid into Government revenue.

### **Deferment of salary movement**

41.—(1) The punishment of deferment of salary movement may be imposed by the Commission for a period of—

- (a) three months;
- (b) six months;
- (c) nine months; or
- (d) twelve months,

as the Commission deems fit and proper.

(2) The punishment of deferment of salary movement on a public officer shall be executed on the next anniversary of the salary movement of the officer after the date of imposition of the punishment.

(3) A public officer upon whom the punishment of deferment of salary movement is imposed shall not be entitled to receive any salary increment for and during the period in which the punishment is in force.

(4) The punishment of deferment of salary movement shall have the following consequences:

(a) the date of salary movement of the public officer upon whom the punishment is imposed shall be altered to the nearest date of salary movement after the expiry of the period of punishment; and

(b) the date of salary movement of the public officer shall remain at the date altered under subparagraph (a) until he reaches the maximum of the grade in his salary scale.

### **Reduction of salary**

42.—(1) The Commission may impose a punishment of reduction of salary on a public officer in accordance with the following provisions:

- (a) the salary can only be reduced horizontally in the same level;
- (b) the reduction of salary shall not be more than three salary movements; and
- (c) the duration of the punishment imposed shall not be less than twelve months but shall not be more than thirty-six months on any one occasion.

(2) The date of salary movement of the public officer upon whom the punishment of reduction of salary is imposed shall be altered to the date of the next salary movement after the expiry of the period of punishment.

(3) A public officer upon whom the punishment of reduction of salary is imposed shall not be entitled to receive any salary movement for and during the period in which the punishment is in force.

### **Surcharge**

43. The Commission may impose a surcharge on any officer in accordance with the Financial Procedure Act 1957 [*Act 61*].

### **Reduction in rank**

44. The Commission may impose the punishment of reduction in rank on a public officer in the following manner:

- (a) by reducing the grade of the public officer to a lower grade in the same scheme of service; and
- (b) by determining the salary of the public officer at a salary point in the salary scale of such reduced grade, which is a salary lower than, but nearest to, the last drawn salary of the public officer before the punishment is imposed on him.

### **Particulars of offence and punishments shall be recorded**

45. Every disciplinary action taken against a public officer which results in a punishment being imposed on the officer under these Rules shall be recorded in the officer's Record of Service Book by stating the particulars of the offence committed and the punishment imposed.

## **PART VI**

### **MISCELLANEOUS**

### **Submission of reports to the State Secretary and the Commission**

46. A Head of Department shall forward copies of the reports required to be submitted under rules 23(2), 28, 30 and 33 to the State Secretary through

the Permanent Secretary to the Ministry, if any, responsible for the affairs of the department and the State Secretary shall forward his recommendations and observations together with those of the Permanent Secretary to the Ministry, if any, to the Secretary of the Commission.

### **State Secretary may report to the Commission**

47. Nothing in this Part shall preclude the State Secretary from reporting direct to the Commission any facts which in his opinion renders it necessary to interdict or to suspend any public officer or to institute disciplinary action against any public officer.

### **Prohibition against influence**

48.—(1) No public officer shall, either by himself or through any person interceding on his behalf, influence or attempt to influence the Commission or any member of the Commission in regard to any matter or issue which is referred to or under deliberation by the Commission.

(2) The Commission may take disciplinary action against any public officer who contravenes the provisions of paragraph (1).

### **State Secretary to be notified of disciplinary action by the Commission**

49. Where the Commission institutes disciplinary proceedings against a public officer under rule 4(3) or rule 48(2), the Secretary of the Commission shall forthwith notify the State Secretary in writing of such proceedings and provide him with the details and outcome thereof.

### **Address for service of notice, official document, etc., on public officer**

50.—(1) Every public officer shall furnish to his Head of Department the full address of his residence or any change thereof which shall be his address for the purpose of serving on him any notice or official document required to be served under these Rules or for the purpose of communication with him on any matter in relation to these Rules.

(2) Any notice, official document, or communication left at, or posted by registered post to, the address for service furnished under paragraph (1) shall be deemed to have been duly served upon, or communicated to, such officer.

### **Service of official documents on the Commission**

51. Any official document that is required by these Rules or any Rules of Court to be served on the Commission shall be addressed to the Secretary of the Commission and delivered by hand or sent by post to the office of the Commission.

### **Transitional provision**

**52.** Where, in respect of any matter to which these Rules relate, action in connection with such matter was initiated prior to the commencement of these Rules, such further action as may be appropriate under the provisions of these Rules shall be taken as if the action prior to the commencement of these Rules had been taken under and in accordance with these Rules.

### **Revocation**

**53.** The Public Service Commission Rules, 1964 [*Swk. L.N. 45/64*], are hereby revoked.