

GOVERNMENT OF TUVALU

PUBLIC SERVICE COMMISSION RULES

2016

FOREWORD

The Public Service Commission Rules are made by the Government of Tuvalu Cabinet under powers conferred upon it by Section 152 of the Constitution.

The Public Service Commission Rules prescribe the rules and procedures with respect to the appointments, promotions, termination of appointments and discipline of public officers in the Public Service of Tuvalu. One of the main objectives of the Public Service Commission Rules is to ensure a transparent, fair and equitable system of personnel administration, by eliminating any perceived nepotism, bias and or favoritism, to ensure the efficient delivery of public services to the citizens of Tuvalu.

The Public Service Commission Rules 2016 are available to all public service officers through the Government Intranet site, it is the responsibility of all officers to familiarize themselves with these Rules as part of their employment as Civil Servants.

Cabinet

1 July 2016

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In exercise of the powers conferred upon it by Sections 150 and 152 of the Constitution, the Cabinet has endorsed the following Rules for the Public Service Commission:

PART I - PRELIMINARY

1. Short Title and commencement

These Rules may be cited as the Public Service Commission Rules 2016, and shall come into force on the first day of July 2016.

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 shall have the same meaning as is therein ascribed to them.

Acting appointment:	Performing the functions of an office while the substantive holder thereof is absent from duty.
Administrative Service:	Includes the Secretary to Government, the Secretaries, First Secretaries, Diplomatic Representatives and Assistant Secretaries.
Appointment	<p>a) conferment of an office of emolument in the Public Service, whether or not subject to subsequent confirmation, upon a person in the Public Service</p> <p>(b) grant of permanent terms of service in a public office to a person recruited and serving on contract or temporary terms of service;</p> <p>(c) engagement in a public office of a person on contract terms of service</p> <p>(d) 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</p> <p>(f) appointment of a public officer to an office expressly provided for in the Constitution or any Act.</p>
Cabinet:	Cabinet of the Government of Tuvalu
Constitution:	Constitution of Tuvalu Act 2008
Member:	A member of the Commission and includes any person temporarily appointed as such under the provisions of the Constitution
Minister:	Minister responsible for the Public Service

Parliament:	Parliament of Tuvalu
Promotion:	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
Salary:	Basic salary
Secretary:	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: Legal - Attorney-General Audi - Auditor-General Police and Prisons - Commissioner of Police General and Foreign Affairs - Secretary to Government
Secretary to the Commission:	The secretary of the Ministry responsible for Human Resource matters.
Seniority:	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: <ul style="list-style-type: none"> 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. d. 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:	Speaker of Parliament
Transfer:	The posting of an officer between duty posts in the same grade within a Ministry or between Ministries.

3. *Interpretation Act*

The Interpretation and General Provisions Act 1988 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 2008 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 11 - MEETINGS OF THE COMMISSION

9. *Quorum and Voting*

(1) Subject to sub-rule (5), 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.

- (5) A member of the Commission shall disclose any interest in an agenda item and shall not take part in the meeting of the duration of the item (except with the approval of the Commission). The remaining members present shall constitute a quorum.

10. 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 within two days 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.

11. Offices of the Commission

In order that the Commission may carry out its functions in an efficient and responsible manner and ensure the confidentiality of its proceedings, suitable accommodation shall be made available to the Commission for meetings and other matters concerning the public service.

12. Decisions

- (1) The procedure for arriving at decisions shall be that set out in Rule 9 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,

13. 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.
- (4) Any public officer who without reasonable excuse fails to comply with a lawful written direction from the Commission shall be liable to be disciplined for a breach of conduct under Part V of these Rules.

14. *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.

15. *Meetings*

- (1) The Commission shall normally meet in the offices provided under Rule 11 at the Commission's office, 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 the Commission 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 the Commission, in consultation with the Chairman.

16. *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

17. *Advertisement of Vacancies*

(1) All vacancies including reclassification of posts shall be notified to the public by advertisement through radio broadcasts for no less than 14 days. Advertisements should include a summary of the vacant post, outlining the name of the Ministry or division concerned, a statement of the responsibilities, duties to be performed, mandatory qualifications required and 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.

18. *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, ability, performance experience and formal qualifications will all be taken into account. 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.

(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 in the Job Description for the post. 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.

19. *Annual Appraisal Report*

In order that it may discharge its duties with regard to the promotion of officers the Commission shall upon request 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.

20. *Procedure for Appointments and Promotions*

The appointment and promotion of public officers shall be made by the Commission (except where this power has been delegated) and the following procedure shall be applied:

- (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 post should be filled. If the recommendation is for recruitment from outside the public service, the supervising officer shall forward an advertisement and job description with the Form P1 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 advertisement and job description are correct, shall forward the staff vacancy to the Commission.
- (3) If as a result of local advertisement, or if in the opinion of the Commission there is unlikely to be any Tuvaluan citizen suitable for appointment, the Commission shall inform the Secretary to Government to take into account application from non-Tuvaluan citizens. The Secretary to Government may initiate local and overseas recruitment through suitable and appropriate overseas agencies and governments. Upon receiving applications, the Secretary to Government shall, after consulting the Secretary of the Ministry concerned, recommend the appointment to the Commission.
- (4) The procedure for appointing Selection Panels to interview candidates for any post is described in the General Administrative Orders clause 3.1.10. The composition of a

selection panel will comprise of a Ministry representative, technical expert and an independent member, and wherever possible there must be a gender balance.

The selection panel, must follow the 'recruitment and selection panel guidelines' Schedule 2 of the General Administrative Orders (GAOs) to determine the applicants suitability for the post and establish an order of merit between applicants. The outcome shall be forwarded to the Commission in the prescribed selection panel report.

21. Provisions for Transfer

(1) Transfers shall be made by the Secretary to Government on the advice of the Secretary to the relevant Ministry.

(2) The Secretary to Government shall advise the Commission at the monthly meetings of the decision to transfer a public officer.

22. 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) Secretaries are authorised to make temporary appointments for an initial period of three months and a further extension of three months, only with the approval of the Secretary to Government.
- (3) Temporary appointments shall normally be for a period not exceeding 6 months, however maybe extended up to 12 months maximum with approval of the Secretary to Government.
- (4) The recruitment procedure for temporary appointments shall follow the procedure in rule 17 (1), with the approval of the appointment by Secretary to Government, upon recommendation from the respective Secretary.

23. Letters of Appointment

- (1) An officer appointed to any of the following posts in the public service shall be notified of the appointment from the Secretary to Government setting out the terms of the appointment:
 - a) Permanent appointments
 - b) Contract appointments
 - c) Acting appointments
 - d) Promotions
 - e) Transfers
 - f) Probation
- (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 acting and 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.

24. 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 acting, temporary or contract post shall as far as possible follow the principles set out in the preceding Rules of this Part.

25. Period of Probation on Appointment

Except as otherwise provided in this Part, an officer on appointment to the Public Service shall be required to serve on probation for a period of six months. No further probation period will be applied for promotion and or transfers to other posts.

Provided always that the Commission, on the recommendation of the Secretary of the Commission may at any time in writing, confirm or terminate the appointment to the Public Service of any probationer.

26. Appraisal reports on officer on probation

- (1) The Secretary or Head of Division shall submit to the Secretary to Government a confidential report on an officer on probation as follows, a:
 - a) report three months before the period of probation expires
 - b) final report at least two weeks prior to the end of the six month probation period.
- (2) In the report the Secretary or Head of Division and the Secretary to Government shall make a firm recommendation that the:
 - a) officer be confirmed in the appointment
 - b) appointment of the officer be terminated.

(3) Confirmation of appointment must be made no later than the day of the end of the probation period; otherwise the appointment will automatically be confirmed after the six month probation period. The officer will be a permanent officer six months following the first appointment date and will be eligible to receive an annual increment based on satisfactory performance one year from the first appointment date.

27. Commission to Confirm or Terminate Appointments

- 1) If the Commission is satisfied that the service of an officer on probation has not been satisfactory, the Commission will terminate the probationary appointment.

- 2) No probationary appointment shall be considered confirmed unless the confirmation is made in writing by the Commission; or unless the six month probation period has lapsed due to the delay by the Ministry and or Commission in processing the letter of appointment.

PART IV - TERMINATION OF APPOINTMENTS AND RETIREMENTS

28. *Termination of Permanent Officers*

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

- a) in consequence of disciplinary proceedings
- b) on compulsory retirement
- c) for medical reasons
- d) on the abolition of an office
- e) when absent from duty without leave
- f) in the public interest.

29. *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 Labour Laws.
- (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:
 - a) on expiry of an appointment
 - b) where the office itself is no longer necessary
 - c) where the officer is not capable of performing the duties of office
 - d) where there are no funds with which to pay the officer
 - e) where the post is required for a permanent officer
 - f) that the officer has failed to pass the heads of examination required to permit confirmation in the post
 - g) 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.

30. 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 the Commission, notify the Commission of the resignation of the officer.

31. 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) The Secretary to the Commission shall notify an officer of the date of compulsory retirement at least three months before the date of compulsory retirement.
- (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.

32. 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 the Commission 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.

33. Retirement in the Public Interest

- 1) Retirement in the public interest may be made because an officer's individual efficiency is below standard or to facilitate the operational efficiency of the Public Service where the Secretary considers that would operate more efficiently without the public officer.
- 2) If a Secretary considers that an officer should be retired in the public interest after following the formal public service underperformance process, the Secretary shall inform that officer in writing that it is proposed to recommend the officer's retirement and shall give the officer 14 days in which to make representations.
- 3) After the 14 day period, the Secretary shall submit the case, including the officer's representations, if any, to the Secretary to the Commission. The Secretary to the Commission 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.
- 4) If the Commission decides that the officer should be retired from the public service in the public interest, the public officer shall be paid the equivalent of three (3) month's salary upon notice of termination.

34. *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) 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

35. *Delegation of Powers in relation to discipline*

Pursuant to section 153 of the Constitution, the Commission delegates the disciplinary control of the Public Service and no other officer shall exercise any function relation to the disciplinary control of such officers, unless such power has been delegated by the Secretary to Government of the Commission.

36. *Disciplinary measures*

The Secretary to Government may impose any of the following disciplinary measures on an officer who is found to have breached any of the Rules of Conduct in Chapter 5 of the General Administrative Orders:

- a) Termination of employment
- b) Demotion
- c) Removal of increments
- d) Suspend an officer's eligibility to be considered for increment
- e) Authorise the deduction of a monetary sum from an officer's salary not exceeding an amount equal to one week of a public officer's salary
- f) Suspension without pay for a period not exceeding 30 days
- g) A reprimand.

37. *Suspension prior to determination of disciplinary measures*

(1) Prior to the imposition of disciplinary measures, the Secretary to Government may suspend an officer from duties if the Secretary to Government believes on reasonable grounds that:

- a) the officer has, or may have breached the Rules of Conduct set out in Chapter 5 of the GAOs
- b) the employee's suspension is in the public interest or in the interests of the public service.

(2) The suspension be by with or without remuneration as the Secretary to Government may determine.

(3) If the suspension is to be without remuneration, the period without remuneration is to be:

- a) not more than 30 days
- b) if exceptional circumstances apply – a longer period.

(4) The Secretary to Government must review the suspension at reasonable intervals.

(5) The Secretary to Government must immediately end the suspension if the Secretary to Government no longer believes on reasonable grounds:

- a) that the Public Service employee has or may have breached the Rules of Conduct
- b) that the employee's suspension is in the public or public service interest.

(6) The Secretary to Government must immediately end the suspension if a sanction has been imposed on the public officer for the relevant breach of the Rules of Conduct GAO Chapter 5.

(7) In exercising powers under this rule, the Secretary to Government must have due regard to procedural fairness unless the Secretary to Government is satisfied on reasonable grounds that, in the particular circumstances, it would not be appropriate.

38. *Disciplinary Proceedings Against Permanent Officers*

- 1) Where the Secretary to Government considers it necessary to take disciplinary action against a public officer for a breach of the rules of conduct, the Secretary to Government shall require the Secretary Human Resource Management or any other secretary to prepare a written report and submit it to the Secretary to Government.
- 2) On receiving the report the Secretary to Government shall examine and consider all information provided to ascertain whether the information in the report could reasonable support a claim of a breach of any of the Rules of Conduct by a public officer.
- 3) If the Secretary to Government is satisfied that the information provides reasonable grounds to support a complaint for a breach of the rules of conduct, the Secretary for Government shall instruct a copy of the report to be provided to the public officer in question and shall call upon the public officer to state in writing, within such reasonable time as may be specified, any response which the officer wishes to provide.
- 4) If the officer does not provide a response within the period specified or if in the opinion of the Secretary to Government, the officer fails to adequately explain the conduct in question, the Secretary to Government may find the officer in breach of the Rules of Conduct and may impose such sanctions identified in Rule 36.
- 5) An officer shall be informed of the right of appeal to the Commission in accordance with Rule cc at the same time as the officer is advised of the sanction being imposed by the Secretary to Government.

39. *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 any breach of the rules of conduct, 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 Secretary to Government 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/she has been adjudged guilty, the Secretary to Government shall decide as to what penalty should be inflicted following the procedures prescribed in Rule 38.

40. *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, the Secretary shall report the matter to the Secretary to Government who may summarily dismiss the officer

41. *Commission to be Informed of all disciplinary Measures*

Where under the preceding Rules, the Secretary to Government imposes any sanctions against a public officer, the Secretary to Government shall inform the Commission of the sanctions authorised.

42. *Saving of Contractual Position*

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

43. *Appeals*

- 1) A public officer may appeal to the Commission against any decision made by the Secretary to Government under these Rules. Such appeal shall be made no later than 30 days from the date of the decision is communicated to the officer or delivered to the officer's ordinary place of residence in Tuvalu.
- 2) When the Commission received notice of an appeal, the Commission shall hold a hearing within 30 days. The Commission may invite the Secretary to Government the officer's Secretary and any other person to appear at the appeal. The Commission shall require the officer (and or representative, if any) to appear at the commencement and conclusion of the hearing.
- 3) The Commission shall decide on any such appeal in accordance with Rule 9, but shall not give reasons for its decision. The Commission shall notify the officer of its decision as soon as practicable.
- 4) Subject to Rule 39, 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.

44. *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 45 above, with necessary modifications.

PART VI- MISCELLANEOUS

45. *Protection of Members of Commission*

Nothing 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.

46. *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.

47. 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 (PSC Rule 46)

I, Chairperson Name: Signed:

Commissioner Name: Signed:

Commissioner Name: Signed:

Commissioner Name: Signed:

Sworn before me, this day of 2016

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, and be fair, transparent and unbiased towards any decisions made in the course of my duties as of the said Commission.

Governor- General Name: Signed:

Note: The words ‘solemnly affirm’ will be substituted for the word ‘swear’ where an affirmation is made