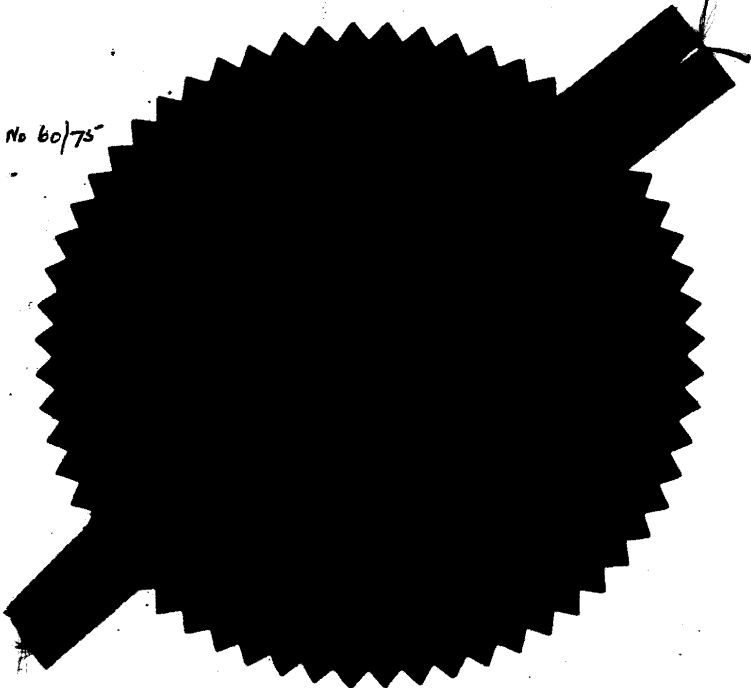


2002 No 60/75



GUYANA

ACT No. 1 OF 1975

TEACHING SERVICE COMMISSION ACT 1975.

I assent.

A. Chung
A. CHUNG,
President.

7 February, 1975.

ARRANGEMENT OF SECTIONS

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FIRST SCHEDULE

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THIRD SCHEDULE

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

A.D. 1975. Enacted by the Parliament of Guyana:—

Short title
and
commence-
ment.

1. This Act may be cited as the Teaching Service Commission Act 1975 and shall come into operation on such day as the President may appoint by order.

PART I

Preliminary

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

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

"Commission" means the Teaching Service Commission established by section 3;

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

"government school" means —

- (a) a school established under section 31 of the Education Act;
- (b) a school deemed to be a government school under the said section 31; and
- (c) the schools known as Queen's College, the Bishops' High School and the Berbice High School, respectively;
- (d) any other school or other place of education established and maintained wholly out of monies provided by Parliament as may be specified as being included in the expression for the purposes of this Act by the Minister by order;

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

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

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

PART II

ESTABLISHMENT OF THE TEACHING SERVICE COMMISSION

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

^{Estab-}
^{lishment}
^{of the}
^{Teaching}
^{Service}
^{Commission.}

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

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

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

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

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

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

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

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

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

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

A.D. 1975]

TEACHING SERVICE COMMISSION

[No. 1

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

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

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

Oath of office to be subscribed by members of the Commission. First Schedule.

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

Vacation of office of appointed member of the Commission

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

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

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

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

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

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

Second
Schedule.

oath shall in the case of the Secretary of the Commission be taken and subscribed before the Chairman of the Commission and in the case of the other members of the staff before the Secretary.

Meetings
and pro-
cedure
of the
Commission.

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

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

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

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

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

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

PART III

POWERS OF THE COMMISSION

Commission
not to be
subject to
control or
direction.

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

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

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

(2) Before the Commission or any person exercising powers under this section by delegation under section 10 appoints as a teacher any person who holds or is acting in any

office power to which is vested under the Constitution in a Service Commission established by the Constitution, the Commission or the person exercising powers by delegation shall consult with the Service Commission in which that power is vested.

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

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

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

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

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

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

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

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

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

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

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

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

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

- (a) with the concurrence of the governing body, appoint as a teacher to fill the vacancy an applicant whose name appears thereon; or
- (b) request the governing body to review the list for reasons stated in writing to the governing body by the Commission and, after consultation with the governing body, accept a revised list submitted by the governing body and with the concurrence of the governing body appoint as a teacher to fill the vacancy an applicant whose name appears on the revised list.

(3) Where the Commission and the governing body have failed to reach agreement on the list compiled by the governing body the Commission may, after consultation with the governing body, appoint an applicant to fill the vacancy.

Transfer
of
teachers
in aided
schools.

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

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

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

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

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

PART IV

MISCELLANEOUS

15. Every member of the Commission and every person or authority to whom the Commission has delegated any of its powers under this Act shall have such and the like protection and privileges in case of any action or suit brought against such member, person or authority for any act done or omitted to be done in the exercise of the powers as are by law conferred upon any Judge of the Supreme Court of Judicature acting in the execution of his office.

Protection of members of the Commission.

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

Remuneration of members of the Commission.

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

Publication and disclosure of information to unauthorised persons prohibited.

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

Offence to influence or attempt to influence the Commission.

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

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

Offence to give false information to the Commission.

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

Evidence of reports and statements of the Commission.

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

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

Fiat of the Director of Public Prosecutions

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

Regulations.

22. Subject to this Act, but without prejudice to any power to make rules conferred by this Act, the Commission with the consent of the Minister may make regulations to give

effect to the provisions of this Act, and in particular, regulations may be made relating to the organisation of the work of the Commission.

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

Constitution Amendment of Law, Third Schedule.

Section 4 FIRST SCHEDULE

OATH OF OFFICE

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

Signature.....

Sworn before me this day of , 19

..... President

Section 6(2) SECOND SCHEDULE

OATH OF OFFICE

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

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

Signature.....

Sworn before me this day of , 19

..... Chairman or the Secretary to the Teaching Service Commission.

THIRD SCHEDULE**LAWS****AMENDMENT**

- Education Act
(Cap. 39:01)** Insert the following definition immediately after the definition of the expression "authorised person" —
- “the Commission” means the Teaching Service Commission established by the Teaching Service Commission Act 1975;’.
- Section 6** Substitute the word “Commission” for the words “Chief Education Officer” in subsections (1) and (3).
- Section 7**
- (a) Substitute the word “Commission” for the words “Chief Education Officer” where they appear on the second occasion;
 - (b) insert the words “acting on the advice of the Commission” after the words “Chief Education Officer” where they appear on the third occasion.
- Section 8** Substitute the word “Commission” for the words “Education Committee”.
- Section 49**
- (a) In subsection (1), substitute the word “Commission” for the words “Chief Education Officer”;
 - (b) substitute the words “the Commission” for the word “he” in subsection (1);
 - (c) in subsections (2), (3) and (4), substitute the word “Commission” for the words “Chief Education Officer”.
- Section 50** Substitute the words “The Commission, with the approval of the Minister,” for the words “The Minister”.
- Section 52** Substitute the word “Commission” for the word “Committee”.
- Section 53**
- (a) Delete the proviso to subsection (1) and substitute a full stop for the colon after the figure “7”;
 - (b) substitute the following subsection for subsection (2) —
- “(2) When under section 6 the Commission transmits a statement specifying the acts constituting a charge to a magistrate, the Commission may direct that the teacher be interdicted from duty pending the decision on the charge and effect shall be given to any such direction by the governing body.”.

A.D. 1975]

TEACHING SERVICE COMMISSION

[No. 1

LAWS

AMENDMENT

Section 54

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

**The Education
Code
Regulations**

Regulation 6

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

"(1) Every governing body shall nominate one or more persons to be manager or managers of each of its schools and, subject to the provisions of the Teaching Service Commission Act 1975, may delegate to such manager or managers any of its powers in regard to such school:

Provided that the governing body shall inform the Chief Education Officer in writing of the powers so delegated.";

- (b) insert the words "the Commission and" immediately after the word "with" in paragraph (3).

Regulation 37

- (a) In paragraph (1), substitute the word "Commission" for the words "Chief Education Officer";
- (b) In paragraph (3), substitute the word "Commission" for the words "Chief Education Officer".

Regulation 39

- (a) Delete the word "payment,";
- (b) Substitute the words "with the Commission acting in pursuance of the Teaching Service Commission Act 1975" for all the words following after the word "rest".

Regulation 40

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

"(1) The terms of appointment of a teacher shall be embodied in a letter of appointment from the Commission but, in the case of the appointment of a teacher on transfer not involving promotion from one aided school to another aided school under the control and management of the same governing body, the letter of appointment shall be issued by the governing body.";

- (b) insert the words "or to effect a transfer from one aided school to another such school" immediately after the word "employment" in paragraph (2) (a).

LAWS

AMENDMENT

Regulation 41

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

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

- (c) Substitute the following paragraph for paragraph (2) —

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

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

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

Regulation 43

Substitute the following regulation for regulation 43 —

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

Regulation 45

Delete.

Regulation 46

Substitute the word “Commission” for the words “Chief Education Officer”.

A.D. 1975]

TEACHING SERVICE COMMISSION

[No. 1

LAWS

AMENDMENT

Regulation 47

- (a) Substitute the word "Commission" for the words "governing body of the school in which the teacher is employed" in paragraph (1);
- (b) Substitute the words "Part III" for the words "section 48" in paragraph (2);
- (c) delete paragraphs (3), (4) and (5);
- (d) renumber paragraphs (6) and (7) as paragraphs (3) and (4), respectively;
- (e) substitute the word "Commission" for the words "Chief Education Officer" where it appears for the second time in the renumbered paragraph (3), and in the proviso to the renumbered paragraph (4).

Regulation 52 (2)

Substitute the words "the Commission" for the word "he".

**Teachers' Pensions Act
(Chapter 39:05)**

Section 2

Insert the following definition immediately after the definition of the expression "certificated teacher" —

"the Commission" means the Teaching Service Commission established by the Teaching Service Commission Act 1975;".

Section 6

Substitute the word "Commission" for the word "President".

Section 7 (3)

Substitute the word "Commission" for the words "Chief Education Officer".

Section 30

Substitute the word "Commission" for the word "President".

Section 35

Substitute the word "Commission" ^{for the word "President"} in paragraphs (b) and (c) of the proviso to section 4 of the Act (as repealed and re-enacted by section 35). 82

Passed by the National Assembly on the 29th January, 1975.

F. A. Narain

F. A. Narain,

Clerk of the National Assembly.

(Bill No. 43/1974)