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The Gazette of the Democratic Socialist Republic of Sri Lanka
EXTRAORDINARY

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PART IV(A) : PROVINCIAL COUNCILS

Provincial Councils Notifications

WESTERN PROVINCE PROVINCIAL COUNCIL

Rules made under Section 32 of the Provincial Councils Act, No. 42 of 1987

BY virtue of the powers vested on me as the Governor of Western Province under Section 32 of the Provincial Councils Act, No. 42 of 1987, I do hereby notify the inclusion and publication of the Rules of Disciplinary Procedure of the Public Service of Western Provincial Council in the below schedule, enacted in order to determine the disciplinary procedure of the Public Service of Western Province.,

Further, I do notify that the relevant Rules shall come in to effect from the date 15th December 2020 and these Rules shall be effective without prejudice to the procedures taken under Chapter XLVIII of the Establishment Code for the Public Service of Western Provincial Council as at the effective date of these Rules.

**ROSHAN GOONETILLEKE,
RWP and BAR VSV USP PHD
FIM (Sri Lanka)NDC, PSC
Marshal of the Sri Lanka Air Force
The Governor,
Western Province.**

At the Governor's Office,
Western Provincial Council Office Complex,
Battaramulla
On 20th November 2020,

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RULES

1. **These Rules shall be enacted to keep the general conduct and discipline of all officers and employees appointed under the Western Provincial Public Service in a better manner and to determine Disciplinary Procedure in the Public Service of Western Provincial Council.**
2. **These Rules may be cited as Rules of Disciplinary Procedure (hereinafter referred to as “Rules” at some instances) of the Western Provincial Council Public Service (hereinafter referred to as the “Provincial Council Public Service”).**
3. **Any officer, employee bearing any post of the Western Provincial Public Service shall discharge duties of his post as to safeguard following matters as long as he holds his post.**
 - (1) A Provincial Council Public Officer shall discharge his service with undivided allegiance to the State.
 - (2) An officer is required to discharge with diligence and efficiency any lawful duty in which the State and Western Provincial Public Service may think it desirable to employ him.
 - (3) An officer of the Western Provincial Public Service is required to familiarize himself with and to observe the provisions of the Basic Law, provisions made under sub laws, all Procedural Rules relevant to the Western Provincial Public Service, Financial Rules of the Western Provincial Council, Procurement Rules of the Western Provincial Council, Instructions of all circulars relevant to the Western Provincial Public Service, provisions enacted by the Governor, provisions enacted by the Provincial Public Service Commission, provisions enacted by the Chief Secretary, Secretaries of Provincial Ministries, Heads of Provincial Departments, instructions of Departmental guidelines and manuals.
 - (4) An officer shall at all times act in a manner befitting his public office. He shall not commit any act that would bring the Provincial Council Public Service or the post he holds into disrepute. If an officer commits an act that would bring the Provincial Council Public Service or the post he holds into disrepute, such act shall be reported by his immediate superior or other authority to the Head of the Institution in which the aforesaid officer is serving or to his Disciplinary Authority without delay.
 - (5) An officer shall not do anything which will bring his private interest into conflict with his public duty or which compromises his office. He shall so conduct himself at all times as to avoid giving rise to any appearance of such conflict or of being so compromised. He shall in particular observe carefully the provisions of the Rules of the Disciplinary Procedure of Western Provincial Public Service.
 - (6) Canvassing whether done directly or indirectly, by an officer for an appointment, promotion, transfer or a matter relating to disciplinary affair in the Provincial Public Service will be regarded as an act of misconduct rendering the officer liable to disciplinary action or to take actions as provided for in the Provincial Councils Act No. 42 of 1987.
 - (7) Arranging an interchange of duties or attempting to do so for a pecuniary consideration will render the officer concerned liable to disciplinary action.
 - (8) An officer must be courteous towards the public and readily assist all persons visiting Provincial Public offices on business. An officer shall always be polite in his official acts and correspondence.
 - (9) An officer shall be temperate and restrained in his language when corresponding or writing reports and minutes.
 - (10) An officer shall not directly or indirectly participate in the collection of money for public charities from his subordinates.
 - (11) No officer shall utilize an officer or employee of Provincial Council Public service on private jobs of any kind whether during or outside the official hours of work, or utilize any Provincial Council property in that regard.

4. Following matters shall be relevant for an officer of Provincial Council Public Service regarding use of Liquor and Narcotic Drugs.

- (1) An officer found drunk or smelling of liquor or to have used narcotic drugs whilst on duty or otherwise within the premises of his place of work or the premises of any State or Provincial Council Public Institution would be considered to have committed serious act of misconduct. In such an event, the relevant Head of Institution or the Disciplinary Authority is bound to take disciplinary action against such officer.
- (2) In a disciplinary inquiry into the offence of drunkenness or smelling of liquor, the evidence of a Medical Officer or two officers of Staff Rank in state or provincial council public service will be sufficient to establish an officer's guilt, and if found guilty by such a formal disciplinary inquiry the Disciplinary Authority may dismiss such officer from service or impose on him any other major punishment referred to in these Rules.
- (3) Any officer found guilty of an offence mentioned in the Sub-section (2) above for the second time shall compulsorily be dismissed from the service.
- (4) Any officer suspected of having used narcotic drugs as mentioned in Sub-section (1) above must be confirmed to have committed such offence by a report made by a Medical Officer or a Judicial Medical Officer of State or Provincial Council Public Service. In the event that the officer is found guilty of having committed such offence by a formal disciplinary inquiry, he will compulsorily be dismissed from service.

5. No person shall accept Gifts and Subscriptions relevant to the post while holding posts in the Provincial Council Public Service.

- (1) An officer or a member of his family shall not accept any presents gifts or other benefits other than the ordinary gifts of relatives and personal friends, whether in a direct or indirect form, and whether in the shape of money, goods, free passage, services, unusual discounts on the cost of goods supplied or services rendered, etc.
- (2) The officer will be held responsible for the observance of the rule in the above Sub-section (1) by the members of his family.
- (3) Gifts received by an officer of the Provincial Council Public Service from a Head or a representative of a Foreign State shall be regarded as gifts received by him solely in his capacity as representative of the Provincial Council.
- (4) In the event of having to receive gifts given by persons such as visiting Heads of States, which cannot be refused, that matter shall be reported to the Chief Secretary, and shall act in that regard as prescribed by the Chief Secretary.
- (5) Money which has been subscribed with a view to marking public appreciation of an officer may be used for public purpose in the name of the person who has merited such public esteem.
- (6) The collection of subscriptions from subordinate officials to defray the cost of testimonials and presentations to superior officers is prohibited.
- (7) The rules in this section may be relaxed upon an officer's transfer or his final relinquishment of service but only with the permission of the Head of the Institution.

6. An officer of the Provincial Council Public Service shall be free from Pecuniary Embarrassment.

- (1) Serious pecuniary embarrassment, from whatever cause, is to be regarded as a circumstance which impairs the efficiency of an officer and renders him less valuable and worthy of trust than he would otherwise be.

- (2) Such embarrassment, if occasioned by extravagance, imprudence or other reprehensible cause may be regarded as an offence affecting the repute of the Provincial Public Service and the decree of confidence which may be reposed in the officer.
- (3) When such pecuniary embarrassment of an officer is become known due notice shall be taken thereof and disciplinary action taken against the officer as the circumstances may appear to deserve.
- (4) An officer is prohibited from borrowing money on the security of a salary receipt. If it is established that an officer has borrowed money tendering a 'pay-bearer' salary receipt as security for a loan, such officer may render himself liable to disciplinary action. Ordinarily an officer must draw his salary himself and give his receipt on the general pay abstract.
- (5) In the event of an officer being convicted by a Court of Law for non-settlement of a debt or being adjudicated insolvent, or entering into a composition with his creditors, disciplinary action shall be taken against him under the provisions of these Disciplinary Procedural Rules for bringing the Provincial Council Public Service into disrepute. Where it appears that his offence has been occasioned by unavoidable misfortune, such fact may be given sympathetic consideration when imposing a punishment on him even though he is found guilty of the offence.
- (6) Immediately on being arrested for debt, or on insolvency proceedings being taken against an officer, he must inform the Head of the Institution of such fact. Failure to do so may render the officer concerned liable to disciplinary action for serious misconduct.
- (7) The Court of Law shall report every case in which insolvency proceedings are taken against an officer and every case in which an officer becomes a judgment-debtor, to the Head of the Institution in which the officer is employed and shall take legal actions against him thereafter.
- (8) Heads of Institutions shall deal in that regard in the manner prescribed in the disciplinary procedures for investigation and punishing inefficiency or misconduct on the part of an officer.

7. No Provincial Council Public Employee, Officer shall use Government or Provincial Council Funds for Private Purposes.

- (1) An officer is strictly prohibited from borrowing public or provincial council money from any officer in charge of government or Provincial Council funds.
- (2) Shroffs and Cashiers and any other officer in charge of Provincial Council funds are strictly prohibited from making unauthorized advances and granting loans to any officer.
- (3) The appropriation, for however short a period, of public or Provincial Council funds for private purposes is to be viewed as a very grave offence. The Disciplinary Authority should initiate legal proceedings and also hold a formal disciplinary inquiry against an officer alleged to be guilty of such offence.

8. No Employee or Officer of Provincial Council Public Service shall release Official Information to the Mass Media.

- (1) The Head of the Institution may use his discretion subjected to the approval of the Secretary of the Ministry, in supplying to the Mass Media or the Public, information regarding activities of the Provincial Council coming within his purview, which may be of interest and value to the public.
- (2) Such information should normally be channeled to the Mass Media through the Director of Government Information. However in the event the Head of the Institution deems it is necessary to issue any information directly, subjected to the approval of the Secretary of the Ministry, he may issue such information directly.
- (3) The information issued in terms of Sub-section (1) above shall in all cases be confined to facts, statistics, etc. And on no account shall any expression of opinion be proffered.

- (4) No information even when confirmed to statements of facts should be given where its publication may embarrass the Government or Provincial Council or any Institution or an officer of the Provincial Council. In cases of doubt, the Chief Secretary shall be consulted.
- (5) The Mass Media shall not be used as a medium of criticism of the Government or Provincial Council or an Institution of the Provincial Council or to ventilate departmental grievances.
- (6) Whenever the Head of the Institution gives information to the Mass Media it shall always be given for publicity as emanating officially from him.
- (7) If a Mass Media report alleges that the information has been supplied by an officer or officers in the Provincial Council Public Service, the Head of the Institution shall inquire from the officer or officers concerned whether the information was supplied by them. If the Mass Media report alleges that the information was received from an employee of the Institution and makes no specific reference to any officer or officers of the Institution, the Head of the Institution shall inquire from every staff officer in charge of the relevant Section of that Institution whether the information was supplied by him or not or whether he could fix the responsibility of supplying that information on any officer of his branch. The Head of the Institution shall forward the reply or replies along with a confidential report to the Chief Secretary. The Chief Secretary will take further action if found to be desirable.
- (8) Each Head of the Institution shall ensure that a Mass Media reports not authorized by above Sub-sections (1) and (2) relating to his Institution is brought to his notice, and that action is initiated in terms of these Rules regarding the publication of such report.
- (9) An officer not specially authorized in that behalf, other than those referred to in above Sub-section (2) is forbidden to allow himself to be interviewed on or communicate, either directly or indirectly, any information which he may have gained in the course of his official duties to any person, inclusive of Mass Media reporters who are not officially entitled to receive such information.
- (10) An officer, whether on duty or leave of absence, shall not allow himself to be interviewed on questions of state or Provincial Council policies or on matters affecting the defense and security of Sri Lanka.
- (11) An officer is strictly prohibited from sending or causing to send any official correspondence or a copy thereof to the Mass Media, for whatever purpose, without previous sanctions of the Head of the Institution.
- (12) No officer may hold any office in any Mass Media organization or directly or indirectly take part in the management of it, without the prior permission of the Chief Secretary.

9. No Provincial Council Public Employee, Officer shall function without proper approval on publication of books, articles, broadcast talks, etc.

- (1) An officer shall not contribute articles, creative writings or furnish information anonymously or under a pseudonym to the Mass Media in Sri Lanka, or elsewhere.
- (2) An officer shall not publish any books or articles, or give broadcast talks or express opinions in public on any matter which can properly be called administrative, without the prior approval of the Chief Secretary. Application for such approval shall be accompanied by the script of the proposed article or talk in duplicate.
- (3) An officer may furnish to the Mass Media or to any other publication, signed articles, or give broadcast talks, or other material over his own name on other subjects of general interest, provided however, that it may not embarrass the Government, Provincial Council or an Institution of the Provincial Council or an officer of the Provincial Council Public Service.
- (4) An officer who desires to consult or make use of official records for the purpose of publishing a book or other work must obtain the prior permission of the Head of the Institution responsible for the custody of these records.

- (5) Before an officer publishes any book or other work, the subject matter of which is connected with the official duties of himself or any other officer or the compilation of which has involved reference to official records, he should obtain the written approval of the Chief Secretary.

10. No officer of the Provincial Council Public Service shall put pressure on any other officer infringing his adherence to Procedural Rules relevant for Western Provincial Council Public Service.

- (1) No plea made by any officer who infringes any of the provisions referred to in the Procedural Rules related to Western Provincial Council Public Service and claims that such infringement was occasioned by the pressure put on him by any officer or authority or other party shall be entertained.
- (2) Any officer of Provincial Council Public Service who orders, puts pressure on or directs an officer or employee of Provincial Council Public Service to act in such manner as to infringe the provisions of Procedural Rules related to Western Provincial Council Public Service shall be deemed to be guilty of serious misconduct coming under First Schedule of these Rules and the appropriate Disciplinary Authority shall forthwith take disciplinary actions against him.

11. Involvement in political activities by officers of Western Provincial Council Public Service shall comply with Procedural Rules of the Western Provincial Council Public Service.

- (1) Officers who are privileged to enjoy political rights under Procedural Rules of Western Provincial Council Public Service shall enjoy such rights in accordance with the provisions of that Chapter. Any Provincial Public Employee who acts in excess of such provisions and limits shall be deemed to be guilty of serious misconduct which will be punishable under the First Schedule of these Rules.
- (2) Any Provincial Council Public Officer who is deprived of political rights under Procedural Rules of Western Provincial Council Public Service engaging in political activities shall be deemed to be guilty of misconduct of a serious nature punishable under the First Schedule of these Rules.

12. When exercising Disciplinary Procedure with regard to Western Provincial Council Public Service;

- (1) All acts of misconduct or lapse by officers of Provincial Council Public Service calling for punishment in any form shall be dealt with, under these Rules, as soon as possible, by the Disciplinary Authorities. To enable such action to be taken, reports, information etc., on such acts of misconduct and lapse shall be furnished, without delay, to the relevant Disciplinary Authorities by the officer or officers holding supervisory or administrative authority over the officer concerned in the institution or office where he works. To shirk this responsibility will also be an act of misconduct calling for disciplinary action.
- (2) No proceeding or order made under these Rules shall be invalid by reason only of any informality, or the non-observance of any rule or provision which has not resulted in a failure of justice.
- (3) When at any stage proceedings are laid before the Provincial Public Service Commission or the Governor, they shall be accompanied by a concise and self-contained report, summarizing the salient points of the case. Where reference is made to documents in that report, it shall be neatly labeled or flagged for easy reference. The original of a document produced in prosecution or a certified copy as well as documents produced in defence together with the Personal File, History Sheet and any relevant documents of the officer concerned shall accompany the report.

13. The power of dismissal and disciplinary control of the officers of the Provincial Council Public Service vested in the Governor shall be exercised by the Governor himself or by the Western Provincial Public Service Commission complying to the proportion of power delegated by the governor or the officers of the Provincial Council Public Service assigned by the Western Provincial Public Service Commission subjected to any condition prescribed by the Governor.

14. Procedure to be followed for disciplinary actions by the disciplinary authorities holding power delegated by the Provincial Public Service Commission with regard to officers of the Provincial Council Public Service, shall be as follows.

- (1) A preliminary investigation against an officer of the Provincial Council Public Service may be conducted on a proper order made by such officer's Disciplinary Authority, or without such order, by a Head of the Department or the Head of the Institution relevant to the officer in question or by an officer specifically authorized in that regard.
- (2) If the preliminary investigation reveals sufficient reasons *prima-facie* to prefer charges against the officer, the officer who conducted the preliminary investigation shall draft a charge sheet consisting of charges according to the format in the manner referred to in the First Appendix under these Procedural Rules and shall, without delay, forward it along with the relevant preliminary investigation report and other documents to the relevant Disciplinary Authority.
- (3) After perusal of relevant draft charge sheet and other documents, if the Disciplinary Authority decides it is suitable to issue the charge sheet against the officer, he shall, under his signature, duly issue the charge sheet, with appropriate amendments wherever necessary, against the officer through the relevant Head of the Institution.
- (4) The Disciplinary Authority shall call for the explanations of the accused officer to the charges within the period stipulated by the relevant charge sheet.
- (5) The Disciplinary Authority shall keep in his own custody all the documents which may be concerned as required to be investigated by the accused officer in order to submit his explanations, and shall function to allow relevant documents for investigation or to provide copies on a request made by the accused officer.
- (6) If the accused officer has submitted his explanations within the stipulated period, the relevant Head of the Institution shall forward, without delay, his observations on the explanations submitted thus along with recommendations relating to the disciplinary procedure, to the Disciplinary Authority.
- (7) If the accused officer has failed to submit his explanations within the stipulated period, the relevant Head of the Institution shall report, without delay, to the Disciplinary Authority his observations and recommendations on the future course of action together with a certificate that the charge sheet was duly handed over to the accused officer.
- (8) In the case of an accused officer who fails or willfully neglects to submit his explanations within the stipulated period, the Disciplinary Authority may make an appropriate disciplinary order or take some other course of action as it deems fit presuming that the officer has pleaded guilty to all the charges.
- (9) If after perusal of the explanations of the accused officer and the observations and recommendations of the relevant Head of the Institution and other officers, the Disciplinary Authority is of opinion that the accused officer has exculpated himself from the charges it may clear the accused officer of all the charges and acquit him, or if the Disciplinary Authority is of opinion that the accused officer is guilty of an offence falling under the Second Schedule of these Rules, order an appropriate minor punishment as it deems fit, or if the Disciplinary Authority is of opinion that a *prima-facie* case has been disclosed against the officer for an offence falling under the First Schedule of these Rules, hold a formal disciplinary inquiry against the officer.
- (10) Where the accused officer has in his explanations pleaded guilty to only one or some of the charges in the charge sheet or where it appears from his explanations that he is guilty of only one or some of the charges, the Disciplinary Authority shall hold a formal disciplinary inquiry into the entire charge sheet.
- (11) If the accused officer has expressly pleaded guilty to all the charges in the charge sheet, the relevant Head of the Institution shall forward to the Disciplinary Authority the relevant answers and documents together with his recommendations and observations on the punishment that may be imposed taking into consideration each charge in the charge sheet.

- (12) The Disciplinary Authority may, either taking into or not taking into consideration all observations and recommendations submitted to him in terms of above Sub-section, impose a punishment on the accused officer as he deems fit or decide that a disciplinary inquiry should be held notwithstanding the confession made by the officer, hold a formal disciplinary inquiry as he deems fit.
- (13) Where the Disciplinary Authority has decided in terms of the above Sub-section (12) that there is no need for a punishment to be imposed on the officer or where a punishment has been imposed, he should convey such fact, without delay, to the accused officer and take such action as may be necessary, or where an order has been made to hold a formal disciplinary inquiry he should forthwith appoint a Tribunal and cause the inquiry be held, or where other appropriate action is ordered, take expeditious action accordingly.
- (14) The Tribunal shall forward to the Disciplinary Authority, without delay, its report, record of proceedings, summary of the evidence for both prosecution and the defence together with the documents submitted by both parties with regard to the inquiry it held into the charges against the officer. Where unavoidable delays occur in the course of the inquiry, timely intimation of such fact must forthwith be made to the Disciplinary Authority in writing.
- (15) If the Disciplinary Authority observes that the inquiry held against the officer is unduly delayed he may, at any stage of the inquiry, rescind the entire proceedings up to that point and appoint a fresh Tribunal to conduct a fresh inquiry or, if the relevant parties agree, to continue the inquiry from the point it was terminated.
- (16) The Disciplinary Authority may, after careful study of all reports and documents submitted after inquiry by the Tribunal, decide whether or not the accused officer is guilty of the charges referred against him, and if found not guilty clear him of all the charges in the charge sheet and acquit him, and if found guilty order his dismissal or make any other appropriate disciplinary order or take such other course of action as he deems fit.
- (17) Where the relevant Disciplinary Authority does not agree with the findings of the Tribunal, he may make a disciplinary order contrary to the findings of the Tribunal in accordance with his own findings independently reached by him based on the record of proceedings and other documents. When issuing such contrary disciplinary order the Disciplinary Authority should state, clearly and specifically, in the disciplinary file all the reasons that led to making such an order before it is issued.
- (18) When the relevant Head of the Institution is directed by the Disciplinary Authority in terms of above sub-sections (16) and (17), such directions shall be executed without delay and a report be made to the Disciplinary Authority.

15. Procedure to be followed with regard to disciplinary actions of officers temporarily released from the Provincial Council Public Service shall be as mentioned below.

- (1) Where disciplinary action is contemplated against an officer temporarily released from the Provincial Council Public Service by the Disciplinary Authority relevant to his substantive post or service for an offence committed by the officer in a post previously held by him, it will be the responsibility of the Disciplinary Authority or Appointing Authority or Administrative Authority to recall the officer forthwith to the post or service in which he last served before release.
- (2) With regard to an offence committed by an officer temporarily released from the Provincial Public Service after his release, the relevant Head of Institution should conduct a preliminary investigation and, if sufficient material is disclosed, prepare a draft charge sheet and forward it with other documents together with the observations and recommendations of the Head of the Institution to the Disciplinary Authority in charge of the substantive post of the accused officer. In such an event, it will be the responsibility of the Disciplinary Authority or Appointing Authority or Administrative Authority to recall such officer forthwith to the post or service in which he last served to enable disciplinary action be initiated against him.

- (3) Where an act of misconduct committed by an officer temporarily released during the period of release has been disclosed after he was recalled or after he reported to his substantive service, the Head of Institution in which the officer served on release should hold a preliminary investigation, and if sufficient material is disclosed, prepare a draft charge sheet and forward it with other documents, without delay, to the present Disciplinary Authority of the officer of his substantive post. It will be the responsibility of the officer subject to such preliminary investigation to make necessary statements or provide documents or bring to the notice of the Investigating Officer any matters of which he is, or ought to be, aware for the purposes of the preliminary investigation.
- (4) In the event the charges preferred against an officer who has been recalled or has reported to his substantive post or service appear *prima-facie* so serious as to warrant his dismissal, or if the Disciplinary Authority is of opinion that his continuance in the Provincial Council Public Service is imprudent, the officer concerned should be interdicted.
- (5) The Disciplinary Authority relevant to the substantive post of the officer recalled to the substantive service should duly issue a charge sheet on the officer, appoint a Tribunal and take disciplinary action in accordance with the provisions of these Disciplinary Procedural Rules. When the Tribunal forwards the record of proceedings, notes of inquiry and other documents, the relevant Disciplinary Authority should take action to make an appropriate disciplinary order after obtaining, wherever necessary, the observations and recommendations of the Head of the institution to which the officer had been released.

16. The procedure to be followed with regard to disciplinary actions pertaining officers permanently released from the Provincial Council Public Service shall be as follows:

- (1) When an officer who has held a permanent and pensionable post in the Public Service of Provincial Council and permanently released is found to have committed an offence calling for disciplinary action while holding a post before his release by the Disciplinary Authority relevant to such post or service, such fact should be conveyed to the Head of the Institution in which the officer now serves.
- (2) The Head of the Institution at which it was disclosed that the officer had committed an offence should prepare a draft charge sheet and forward it with other documents to the Disciplinary Authority relevant to the post or service in which the officer had served before he was permanently released to enable disciplinary action to be taken against him.
- (3) The Disciplinary Authority should issue to the relevant officer the charge sheet forwarded to him and take disciplinary action against the officer in accordance with the provisions of these Disciplinary Procedural Rules. Copies of the charge sheet so issued should also be sent to the Head of the Institution or Department in which the officer now serves.
- (4) If after perusal of the report of the inquiry note of inquiry and other documents forwarded to the Disciplinary Authority by the Tribunal it is found that the officer is guilty of one or some or all of the charges preferred against the officer, the relevant documents should be forwarded to the Director of Pensions with a copy to Secretary in charge of the subject of Public Administration recommending that the officer be deprived of his full pension or a certain percentage thereof taking the nature of the offence into consideration and action in that regard should be taken according to decision of the Director of Pensions.

17. Procedure to be followed regarding Officers Transferred or Appointed to another Post from one Provincial Ministry or Provincial Department or other Institution of Provincial Council Public Service to another Provincial Ministry or Provincial Department or other Institution of Provincial Council Public Service, shall be as follows:

- (1) When disciplinary action is contemplated against an officer transferred or appointed to another post from one Provincial Ministry or Provincial Department or other Institution of Provincial Council Public Service to another Provincial Ministry or Provincial Department or other Institution of Provincial Council Public Service for an offence committed by him before such transfer or appointment by the Head of his previous

Institution, the latter will cause to be made a preliminary investigation against the officer and if *prima-facie* case is disclosed, he should prepare a draft charge sheet and forward it together with the report of the preliminary investigation and all other documents to the relevant Disciplinary Authority through the Head of the Department in which the officer now serves. On receiving such documents by the Head of the present Institution he should, without delay, forward all such documents to the Disciplinary Authority.

- (2) It will be the responsibility of the relevant Disciplinary Authority, on receiving the draft charge sheet and other documents in terms of Sub-section (1) above, to duly issue the charge sheet, with amendments wherever necessary, to the officer, appoint a Tribunal and take disciplinary action against the officer in accordance with the provisions of these Disciplinary Procedural Rules.
- (3) In such a formal disciplinary inquiry, the responsibility for appointing an officer to present the case for the prosecution rests on the Head of the Institution in which the officer served at the time he committed the offence.

18. Disciplinary Action against an officer whenever there is a change in the relevant Disciplinary Authority in the course of a Disciplinary Inquiry.

- (1) Where a formal charge sheet has been issued to a particular officer and where there is a change in his Disciplinary Authority at any stage before a disciplinary order is issued, such change will in no way affect the disciplinary proceedings in progress. The previous Disciplinary Authority should continue the disciplinary proceedings in accordance with the provisions of these Disciplinary Procedural Rules irrespective of the change in the Disciplinary Authority.
- (2) The previous Disciplinary Authority pertaining to the accused officer should, at the conclusion of the formal disciplinary inquiry forward, without delay, the findings of the Tribunal and his recommendations on the findings and on the disciplinary order to be issued and all other documents in connection with the disciplinary inquiry to the present Disciplinary Authority pertaining to the accused officer.
- (3) It will be the responsibility of the present Disciplinary Authority pertaining to the officer, on receiving the documents and the observations and recommendations of the previous Disciplinary Authority pertaining to the officer in terms of Sub-section (2) above, to make an appropriate disciplinary order after careful study of the above documents.
- (4) Where the present Disciplinary Authority disagrees with the findings of the Tribunal or with the recommendations of the previous Disciplinary Authority, he may make a disciplinary order contrary to the findings of the Tribunal in accordance with the findings arrived at by him independently based on the report of the disciplinary inquiry and other documents. The Disciplinary Authority should state clearly and specifically the reasons for making such contrary disciplinary order in the disciplinary file before such order is issued.

19. Procedure to be followed regarding Officers Charged for the Same Transaction or a Series of Transactions:

- (1) Where a Disciplinary Authority has issued charge sheets for disciplinary action against more than one officer coming under his area of authority for offences committed in the course of the same transaction or a series of transactions, he should appoint one Tribunal for all the accused officers and take disciplinary action in accordance with the provisions of these Disciplinary Procedural Rules.
- (2) The Disciplinary Authority may, taking into consideration the similarities and dissimilarities of all the charges in the various charge sheets issued in terms of sub-section (1) above, order one formal disciplinary inquiry or separate disciplinary inquiries for all the accused officers or order separate disciplinary inquiries for the accused officers divided into groups. Whether one formal disciplinary inquiry was held in respect of all the accused officers or several disciplinary inquiries were held in respect of the accused officers divided into groups, it will be the responsibility of the Tribunal to prepare inquiry reports in respect of each accused officer separately and forward them to the relevant Disciplinary Authority.

- (3) Where officers not under the control of the same Disciplinary Authority are to be charged for an offence committed in the course of the same transaction or a series of transactions, the Head of the Institution in which the offence connected with the transaction or transactions was committed should prepare separate charge sheets in respect of each officer and forward them to the relevant Disciplinary Authorities. The Head of Institution should also forward, together with the draft charge sheet, particulars regarding all officers to be charged and the background information regarding the transaction for the information of the relevant Disciplinary Authorities.
- (4) Where disciplinary proceedings are decided to be held against the officers by the respective Disciplinary Authorities and if it is considered prudent to hold one disciplinary inquiry in respect of all the accused officers, it would be more appropriate for the other Disciplinary Authorities to appoint the same Tribunal that is appointed in respect of the highest officer by his Disciplinary Authority as the Tribunal in respect of all other accused officers as well.

20. The following matters shall be considered when a Preliminary Investigation relating to an officer, employee of Provincial Council Public Service is conducted:

- (1) A preliminary investigation is that which is conducted by a Disciplinary Authority or Head of Department or Head of Institution or an officer or a Committee of Officers duly authorized by the above authorities to find facts as are necessary to ascertain the truth of a suspicion or information that an act of misconduct has been committed by an officer or several officers in Provincial Council Public Service, and to find out and report whether there are, *prima-facie*, sufficient material and evidence to prefer charges and take disciplinary action against the officer or officers under suspicion. The primary task of an officer or Committee of Officers conducting a preliminary investigation is the recording of statements of relevant persons, examination of documents and records, obtaining of originals or certified copies thereof, physical verification of Provincial Council-owned assets in the charge of the officer or officers subject to the investigation, examination of relevant premises, taking over of all articles and documents which are considered necessary and making their observations and recommendations on matters found out by them regarding the act of misconduct committed.
- (2) An authority ordering a preliminary investigation into an act of misconduct should, at the same time that such order is issued, specify the time limit within which the officer or Committee of officers should complete the preliminary investigation taking into consideration the nature of each act of misconduct, as the case may be. An authority ordering a preliminary investigation into an act of misconduct should, at the same time that such order is issued, specify the time limit within which the officer or Committee of Officers should complete the preliminary investigation taking into consideration the nature of each act of misconduct, as the case may be. However, where the officer or Committee of Officers conducting the preliminary investigation adduces reasons that there are valid obstacles to completing the investigation within the specified time limit, the relevant Authority may grant an appropriate extension of time. Nevertheless, all relevant parties should ensure that such preliminary investigations are carried out and are completed with the least possible delay.
- (3) An officer appointed by a relevant Authority to conduct a preliminary investigation shall be released from his substantive duties by the relevant Head of Institution to enable the officer to devote his full time continuously on such task.
- (4) The relevant Authority may appoint several officers or groups of officers, as the case may be, to independently conduct a preliminary investigation into a single transaction or a series of transactions.
- (5) The suspected officer or officers or their representatives should not be allowed to be present when statements are recorded from connected parties in a preliminary investigation.
- (6) Where the alleged charges relate to a shortage or misappropriation of goods, a count of all the relevant stock in the charge of the relevant officer should be taken.

- (7) The suspect officer or officers have a right to be present when documents and stocks in their charge that belong to the State or Provincial Council or Local Government Authority are verified. At the end of the verification, they should hand over a statement to the officer conducting the preliminary investigation that the verification was done in their presence and whether or not they were satisfied with the results of the verification. Further the suspect officer or officers have the right to be present when materials that seem to be necessary for production at the formal disciplinary inquiry are selected and sealed and observe such process.
- (8) Where, during a preliminary investigation, an officer or officers willfully neglect to produce State or Provincial Council or Local Government Authority property, documents and money in their charge for verification or where they fail to do so for some other reason, the relevant Authority should appoint a Board comprising three competent officers to verify such property, documents and money or inventories or make copies thereof. Such a Board will have the authority, wherever necessary, to break open the locks of relevant store rooms, almirahs, safes, drawers or other places under lock and key.
- (9) It is not essential that the officer conducting the preliminary investigation is senior to the suspect officer. But it is more appropriate to appoint, whenever possible, an officer senior to the suspect officer. Further, the officer appointed thus shall not be a retired Public Service officer.
- (10) It would be an act of grave misconduct for an officer to refuse to make a statement with regard to an investigation when he is required to do so by an officer duly appointed to conduct a preliminary investigation. When such an incident is reported by an officer conducting a preliminary investigation, it will be the responsibility of the relevant Head of Institution to report such fact to the relevant Disciplinary Authority to enable him to take disciplinary action against the officer concerned.
- (11) Although the suspect officer or officers admit that they have committed the particular act of misconduct in the course of the preliminary investigation, it will be the responsibility of the officer conducting the preliminary investigation to continue the investigation to its end and forward his observations and recommendations to the appropriate authority.
- (12) After the completion of the preliminary investigation, the officer conducting the investigation should forward the report of the preliminary investigation together with the statements obtained from the relevant parties, documents, etc. taken into his custody and his observations and recommendations to the appropriate authority. The officer conducting the preliminary investigation should also prepare a draft charge sheet as per Appendix 1 of these Disciplinary Procedural Rules and forward it to the relevant authority in the event that sufficient material is disclosed that call for disciplinary action against the suspect officer or officers.

21. The following matters to be considered when Issuing a Charge Sheet to an Accused Officer:

- (1) The charge need not take a legalistic form. However, it should be clear and simple statement or statements of any acts of misconduct or lapses committed or believed to have been committed by the accused officer that call for a formal disciplinary inquiry against him.
- (2) The charge sheet should essentially contain the following recitals:
 - (i) Under which Section or Sections of these Rules the Charge Sheet against the officer is issued.
 - (ii) Under which schedule of these Rules do the charges preferred fall.
 - (iii) The time limit allowed for the accused officer to submit his answers to the Charge Sheet.
 - (iv) To whom should the answers to the Charge Sheet be submitted.
 - (v) The charges preferred.

- (vi) The names, posts and present places of work of witnesses who are expected to be summoned for the formal disciplinary inquiry to substantiate the charges.
 - (vii) Statements of witnesses and documents that would be used to substantiate the charges at the formal disciplinary inquiry.
 - (viii) In whose custody are the documents that constitute evidence, and how and where they could be examined by the accused officer himself or with his representative.
 - (ix) That the accused officer has the right to appoint an officer to represent him.
 - (x) Action that would be taken if answers to the Charge Sheet are not received within the stipulated period.
- (3) Whenever a charge sheet is issued against an accused officer by a Disciplinary Authority or by any other Authority duly authorized by the former, it should be in the form as given in the specimen in Appendix 1 or 2, as the case may be.
- (4) A Disciplinary Authority may amend a charge sheet at any time between its handover to the accused officer and the commencement of the formal disciplinary inquiry.
- (5) Whenever a charge sheet is amended in terms of Sub-section (4) above, the Disciplinary Authority should give sufficient time to the accused officer to submit his explanations to the amended charge sheet or to examine the documents.
- (6) Where an officer presenting the case for the prosecution considers in the course of a disciplinary inquiry, but before leading evidence for the prosecution is over, that the charge sheet should be amended, and where such amendments relate to the charges preferred, he should forward the proposed amendments in writing to the appropriate Disciplinary Authority. In such an instance, the Tribunal should adjourn the inquiry until such amendments are approved or not approved by the Disciplinary Authority. It will be the responsibility of the Disciplinary Authority to make available his decision expeditiously to enable inquiry to be held continuously.
- (7) The number of occasions that a charge sheet could be amended in terms of Sub-section (6) above is limited to two.
- (8) When the officer presenting the case for the prosecution makes a request, after the commencement of the disciplinary inquiry, to amend the list of documents or the list of names of witnesses mentioned in the charge sheet, the Tribunal may take a decision on such request as is necessary. The number of occasions that a list of documents or list of witnesses could be amended is limited to two.
- (9) It will be the responsibility of the Disciplinary Authority or any other officer mentioned in the charge sheet as the officer in whose charge the documents are kept to provide the opportunity to the accused officer or to the officer duly appointed to represent him to examine statements and documents in so far as they relate to the documentary evidence mentioned in the charge sheet against the officer.
- (10) It will be the responsibility of the officer in charge of the documents to ensure their absolute security during such examination as referred to in Sub-section (9) above.
- (11) On the request made by the accused officer or the officer appearing for him, photocopies of relevant statements and documents may, at the discretion of the officer in charge of the documents, be made available. Action should be taken to recover a specified fee for the State when making available such photocopies.

- (12) When a formal charge sheet has been issued against an officer for disciplinary action against him, granting him salary increments, promotions, foreign trips and scholarship, study leave with pay, loans and advances, no-pay leave locally and abroad and secondments should forthwith be suspended until the final outcome of the inquiry. Nevertheless, if it becomes necessary for an accused officer to proceed abroad to get treatment for an illness on the recommendation of a Medical Specialist permission should be obtained from the Disciplinary Authority.
- (13) When an officer of Provincial Council Public Service has satisfied all the prerequisite qualifications to face an examination conducted to promote to a particular post or a Departmental Examination or an Efficiency Bar Examination, he shall not become unsuitable to sit to the relevant promotion examination or Departmental Examination or Efficiency Bar Examination merely on the basis of his interdiction.

22. The following matters shall apply regarding Answers to the Charge Sheet by the Accused Officer

- (1) The accused officer should forward his answers to the charges to the Disciplinary Authority within the stipulated period and in such manner as mentioned in the charge sheet.
- (2) Where the accused officer makes a written request giving valid reasons for failure to furnish his answers within the stipulated period, the Disciplinary Authority may, taking such reasons into consideration and, at his discretion, grant an extension of time to furnish answers to the charges.
- (3) Where the accused officer has failed to furnish his answers to the charges within the stipulated period, the relevant Head of Institution should forward a report to the Disciplinary Authority together with a certificate confirming that the charge sheet was duly handed over to the accused officer.
- (4) In the case of an accused officer who fails or willfully neglects to furnish his answers to the charges within the stipulated period, the Disciplinary Authority may, at his discretion, make an appropriate disciplinary order or take some other course of action as he deems fit presuming that the accused officer is guilty of all the charges.
- (5) Where the accused officer pleads guilty in his answers to only one or some of the charges in the charge sheet or where it appears from his answers that he is guilty of only one or some of the charges, the Disciplinary Authority should order a formal disciplinary inquiry into the entire charge sheet.
- (6) Where the accused officer in his answers to the charges has expressly admitted that he is guilty of all the charges in the charge sheet duly issued to him, the Disciplinary Authority may order an appropriate punishment on him or order a formal disciplinary inquiry irrespective of the fact that the officer has pleaded guilty.
- (7) An officer called upon to furnish answers to charges has the right either to furnish a comprehensive answer or plead 'guilty' or 'not guilty' and request for an inquiry to prove his innocence.
- (8) An officer who furnishes a comprehensive answer to the charges in terms of Sub-section (7) above, should also furnish together with such answer original or certified copies of documents on which he relies to establish his innocence and particulars of his witnesses and affidavits containing their statements.
- (9) Where the Disciplinary Authority finds that the accused officer has in his answers sufficiently established his innocence, he may clear the accused officer of all the charges and acquit him, or where the Disciplinary Authority finds that the accused officer is guilty of an offence falling under the Second Schedule, order a minor punishment, or where the Disciplinary Authority finds the officer is, *prima-facie*, guilty of an offence falling under the First Schedule order a formal disciplinary inquiry against him.

23. The following provisions shall apply with regard to Documents used as Documentary Evidence in a Formal Disciplinary Inquiry:

- (1) All documents produced at a formal disciplinary inquiry to establish charges against an accused officer should be confined to only those cited as documentary evidence in the relevant charge sheet. Fresh documents may be introduced whenever the charge sheet is duly amended.
- (2) The officer presenting the case for the prosecution may produce relevant documents in terms of sub-section (1) above before the Tribunal either personally or through witnesses as is appropriate.
- (3) The original of an official document in the custody of an officer in an office of Government or Provincial Council Public Service or of any Institution or Statutory Institution of Provincial Council need not be produced at any formal disciplinary inquiry held under these Disciplinary Procedural Rules. A duly certified copy of the document would suffice unless the Tribunal considers it necessary to peruse the original document itself.
- (4) In the case of a document which is not an official document as referred to in sub-section (3) above, the original itself must be produced before the Tribunal at a formal disciplinary inquiry. Where it is not possible to do so, a certified copy must be verified with the original and the Tribunal must satisfy itself before making a decision.
- (5) An accused officer or his representative should be allowed by the officer specified in the charge sheet to examine any document that is intended to be used against him. But where a document is produced in the course of an inquiry it will be sufficient if the Tribunal permits the defence to examine it on production. Where necessary the Tribunal may adjourn the inquiry for such purpose.

24. The following provisions shall apply to the prosecution in a formal disciplinary inquiry:

- (1) It is the Disciplinary Authority in consultation with the Head of the Ministry or Department or Institution of the Provincial Council in which the accused officer was working at the time he committed the offence who should appoint the officer to present the case for the prosecution at a formal disciplinary inquiry.
- (2) It will be the sole responsibility of the officer conducting the case for the prosecution to conduct the case in such manner as to establish the charges preferred against the officer in the charge sheet issued to him by the Disciplinary Authority making use of the relevant documents and witnesses.
- (3) The officer presenting the case for the prosecution cannot be a witness of the same formal disciplinary inquiry.
- (4) If, after the commencement of the formal disciplinary inquiry but before the conclusion of evidence for the prosecution, the officer presenting the case for the prosecution decides on valid reasons that charges issued against the accused officer should be amended, he may apply to the Disciplinary Authority in writing to amend the charges subject to a maximum of two occasions.
- (5) When an officer to present the case for the prosecution is appointed by the relevant Head of Institution by himself or with the consent of any other Head of Institution, it will be the responsibility of the relevant Head of Institution to release the officer, wherever necessary, from his normal duties to enable him to perform such task effectively.
- (6) Where a particular public officer has been appointed by a relevant authority to present the case for the prosecution in a formal disciplinary inquiry, he may not refuse such appointment. However, if the officer appointed to present the case for the prosecution makes written representations to the relevant authority on the obstacles and difficulties that confront him in the satisfactory discharge of obligations that authority may, taking into consideration such representations, and if found necessary, cancel such appointment.

- (7) The refusal by a Provincial Council Public Service Officer appointed to present the case for prosecution in a disciplinary inquiry to accept such appointment without valid reasons will render him liable to disciplinary action for misconduct.
- (8) An officer entrusted with the responsibility of presenting the case for the prosecution in a formal disciplinary inquiry should extend his fullest co-operation to the Tribunal to enable it to conduct the inquiry without causing inconvenience to connected parties.
- (9) Where an officer presenting the case for the prosecution in a formal disciplinary inquiry retires from the provincial public service before the completion of the inquiry, such retirement will in no way affect his obligation of presenting the case for the prosecution.
- (10) The function of the officer appointed to present the case for the prosecution should not be entrusted to any other officer unless for such reasons as the failure of the officer to discharge his duties efficiently and loyally, his dismissal, interdiction, serious illness or physical and mental incapacity making him incapable of conducting the prosecution or his death.
- (11) Every officer appointed to present the case for the prosecution should perform such task honestly, efficiently, loyally and protecting the interests of the State and Provincial Council so that the trust placed in him by the relevant Authority is not betrayed.
- (12) The officer presenting the case for the prosecution should, within a period of fourteen days of the completion of the formal disciplinary inquiry or within a period as specified by the Tribunal, forward to the Tribunal a comprehensive summary of evidence pinpointing all the facts that would relate to finding the accused officer guilty of the charges preferred against him.
- (13) It will be the responsibility of the officer presenting the case for the prosecution to correctly and duly take into his custody all documents intended to be produced at the formal disciplinary inquiry, to keep them in his custody securely and confidentially until they are produced at the inquiry, to produce them before the Tribunal for marking, to obtain a formal statement from the Tribunal that the documents so marked were taken into its custody, to return to the appropriate authorities any documents that remain with him without being produced and also to forward a copy of the statement by the Tribunal that the documents were taken over by it to the appropriate authority.

25. The following provisions shall apply to Appearance on behalf of the Accused Officers at Formal Disciplinary Inquiries.

- (1) The accused officer has the right to appoint a person who is eligible in terms of the qualifications mentioned below to appear for him with prior, written concurrence of the Disciplinary Authority.
- (2) The accused officer may appoint a person who, by that time, is serving in the public service or provincial public service, or a retired public officer, who has retired from the public service or provincial public service, to appear for him as a representative officer.
- (3) Where an accused officer has made a request for the appointment of an Attorney-at-Law to appear for him as a representative officer at a formal disciplinary inquiry, the Disciplinary Authority may, taking into consideration the nature of the charges in the charge sheet and the complexity of the evidence likely to be led at the inquiry, agree to such request as is appropriate.
- (4) Where the person named to represent the accused officer as a representative officer is an Attorney-at-Law who is also an officer of the Provincial Council Public Service, the Disciplinary Authority shall treat him as an officer of the Provincial Council Public Service.

- (5) Where the tribunal is convinced that a particular officer appearing for an accused officer is conducting himself in such a manner as to impede the due progress of the inquiry, the Tribunal should send a detailed report on such officer to the Disciplinary authority of the accused officer. Where the Disciplinary Authority, taking into consideration of the contents of the report, decides that allowing the officer representing the accused officer to continue his work would seriously hamper the disciplinary proceedings, he may withdraw the concurrence given by him in respect of such officer and direct the accused officer to get another officer to represent him with the concurrence of the Disciplinary Authority.

26. The following provisions shall apply regarding Tribunals of Inquiry.

- (1) It will be the function of the Disciplinary Authority to determine on the person or persons who would constitute the Tribunal appointed for a formal disciplinary inquiry in accordance with the provisions of this Code.
- (2) Where an accused officer wishes to have an Attorney-at-Law appointed as the Tribunal in a formal disciplinary inquiry against him, he should apply in writing to the Disciplinary Authority giving sufficient reasons. But the disciplinary authority may, at this discretion, take a decision on such request as appropriate. Whenever such a request is refused the Disciplinary Authority should note explicitly the reasons for such refusal in the relevant file.
- (3) It is only a person who holds or has held an office senior to that of the accused officer who should be appointed by the Disciplinary Authority as a member of a Tribunal.
- (4) An officer of Provincial Council Public Service is liable to be appointed by the Disciplinary Authority as a Tribunal at a formal disciplinary inquiry if the relevant officer, during his period of service, has not committed an offence stipulated in Schedule 1 of these Disciplinary Procedural Rules or has not undergone punishment to an offence specified under the First Schedule to Chapter XLVIII of the Establishments Code, or if he has completed a satisfactory service of five years subsequent to committing an offence indicated under the Second Schedule of these Disciplinary Procedural Rules or committing an offence stipulated under the Second Schedule to Chapter XLVIII of the Establishments Code during his period of service.
- (5) The Provincial Public Service Commission should constitute a Panel of Inquiry Officers consisting of Staff Officers, Attorneys-at-Law retired from the Provincial Council Public Service or Public Service who, during their period of service, have not been punished for an offence indicated under the First Schedule to Chapter XLVIII of the Establishments Code or an offence under First Schedule of these Disciplinary Procedural Rules or has completed a satisfactory service of five years subsequent to committing an offence stipulated under the Second Schedule to Chapter XLVIII of the Establishments Code or committing an offence indicated under the Second Schedule of these Disciplinary Procedural Rules, and maintain it revising it as appropriate. It will also be the responsibility of the Secretary of the Commission to convey particulars regarding such Panel, from time to time, to the Disciplinary Authorities of the Provincial Public Service.
- (6) Where the Disciplinary Authority decides to appoint as Inquiry Officer a retired officer of the Public Service or the Provincial Council Public Service or an Attorney-at-Law with at least ten years of experience, such Inquiry Officer should be selected only from the Panel referred to in the above sub-section (5).
- (7) Where the Disciplinary Authority appoints more than one inquiry officer as the Tribunal for a formal disciplinary inquiry such number should be an odd number, and one of them should be designated as Chairman.
- (8) Where the Disciplinary Authority contemplates disciplinary action against an accused officer for an offence falling under the Second Schedule of this Procedural Rules, the Tribunal appointed for the purpose should consist of only one member.

- (9) Where a serving Provincial Council Public Service Officer is appointed by a Disciplinary Authority as a Tribunal for a formal disciplinary inquiry, it will be the responsibility of the Head of the relevant Institution to release him from normal duties when necessary to enable that disciplinary inquiry to be carried out successfully.
- (10) Where a serving Provincial Council Public Service Officer is appointed by a Disciplinary Authority as a Tribunal for a formal disciplinary inquiry as per sub-section (9) above, it will be the responsibility of such officer to conduct the inquiry impartially, fairly and expeditiously in accordance with the provisions of these Procedural Rules and forward the report of the inquiry without delay, to the Disciplinary Authority.
- (11) Where the report of the inquiry is not submitted within the period specified by the Disciplinary Authority or within a reasonable period, the Disciplinary Authority may report such fact to the Disciplinary pertaining to the Inquiry Officer to enable disciplinary action to be taken against him.
- (12) Where the Disciplinary Authority appoints an officer belonging to the Panel of inquiry Officers maintained in terms of the provisions of these rules as a Tribunal in a formal disciplinary inquiry, it will be the responsibility of such Tribunal to conduct the inquiry impartially, fairly and expeditiously and submit the report of the Inquiry to the Disciplinary Authority. Where the inquiry Officer fails to transmit the report of the Inquiry within the period specified by the Disciplinary Authority or within a reasonable period, the Disciplinary Authority may deduct the appropriate percentage of the allowance payable to him or, as the case may be recommend to the Secretary of the Provincial Public Service Commission to delete his name from the Panel of Inquiry Officers.
- (13) An officer appointed as a Tribunal for one formal disciplinary inquiry among several other such inquiries which relate or correspond to each other and held in connection with the same transaction or a series of transactions will not be eligible to be appointed to appear for an accused officer or present the case for the prosecution in another inquiry which relates to or corresponds to the above inquiries.

27. The role of an officer of Provincial Council Public Service who is a witness of a formal disciplinary inquiry should be as follows.

- (1) Where any officer of Provincial Council Public Service nominated by a Disciplinary Authority as a witness for the prosecution in a formal disciplinary inquiry is summoned by the relevant Tribunal, he is bound to participate in such inquiry as instructed by the Tribunal.
- (2) An officer of Provincial Council Public Service who is summoned to testify in a formal disciplinary inquiry in accordance with above sub-section (1) is bound by liability to give truthful evidence honestly, faithfully, completely and accurately on all matters within his knowledge and on those matters that ought to be within his knowledge by virtue of the nature of his duties, and giving such evidence should be considered part and parcel of the duties that belong to the post he holds.
- (3) If a public officer summoned to give evidence in a formal disciplinary inquiry in terms of sub-section (2) above, willfully or negligently or inadvertently abdicates the responsibilities enumerated in sub-section (2) above, the Tribunal, if it considers such action so serious as to warrant disciplinary action against the officer, should send a complete report containing all facts as would establish the allegations against the officer together with its observations and recommendations to the Disciplinary Authority of the officer concerned with a copy to the Disciplinary Officer of the accused officer.
- (4) Where a Disciplinary Authority who receives a report in terms of the above sub-section (3) is satisfied that there is sufficient material in the report to take disciplinary action against the officer, he may issue a charge sheet in connection with the charges preferred against him by the Tribunal on the officer, call for his explanations, and order appropriate punishment deeming such offence as falling under the provisions of these Disciplinary Procedural Rules.

28 The following provisions shall apply regarding the Conduct of a Formal Disciplinary Inquiry

- (1) An officer appointed as a Tribunal in a formal disciplinary inquiry should hold the inquiry, without delay, or within a period specified by the Disciplinary Authority and transmit, as soon as possible, the report of Inquiry to him. Where it is evident that representations made by a particular party are done with the sole purpose of delaying or frustrating the course of justice, requests for postponements should not be granted by the Tribunal on such occasions.
- (2) Where the accused officer absents himself from the inquiry consecutively on two occasions without giving prior notice indicating valid reasons for his absence, and if he will not participate in the inquiry on the next date too, the Tribunal shall inform the accused officer under registered post that the inquiry will be held *ex parte*. Where the accused officer fails to appear when the inquiry is resumed on the next date, the Tribunal should proceed with the inquiry whether or not the accused officer participates in the proceedings.
- (3) The Tribunal may, depending on the nature of the charges, arrive at a decision on documentary evidence alone. Similarly, the Tribunal may arrive at a decision on oral evidence alone or on both documentary and oral evidence led before the Tribunal.
- (4) Where the charge sheet has been amended after the commencement of the inquiry and the officer presenting the case for the prosecution requests, in view of such amendment, that he be allowed to recall witnesses, summon new witnesses and entertain any further documents as he considers necessary, the Tribunal should grant such request.
- (5) In a situation such as referred to in sub-section (4) above, the Tribunal shall give the accused officer adequate opportunity to defend himself against such amended charges by examining documents or cross-examining witnesses.
- (6) The Tribunal may direct the relevant parties to produce any document the relevant authority considers as strictly confidential, which has not been produced and the perusal of which the tribunal considers would help in arriving at a decision.
- (7) The Tribunal may read a document which the relevant authority has decided as confidential. But if matters contained therein are to be used against the accused officer, the document or the relevant extract shall be shown to the accused officer or the officer appearing for him.
- (8) The decision of the Tribunal on any matter of procedure as laid down by these Disciplinary Procedural Rules for formal disciplinary inquiries or on any objection taken on procedural grounds shall be final. The principle by which the Tribunal shall be guided in such matters is the objective of the inquiry to arrive at the truth speedily, and that mere inconsequential technicalities, whether procedural or otherwise, shall not be allowed to impede its progress.
- (9) Where, the accused officer or the officer appearing for him or any other party on behalf of the accused officer hampers the progress of the inquiry, the Tribunal shall, without delay, report such matter in detail to the relevant Disciplinary Authority.
- (10) The Tribunal shall direct itself by the best evidence which it can procure or which is led before it, whether or not such evidence is admissible in a Court of law.
- (11) Any objection raised in the course of an inquiry and the ruling of the Tribunal thereon with relevant reasons shall be recorded within square brackets in the record or proceedings.
- (12) If an officer's handwriting or signature is in question in the course of an inquiry, it will be sufficient if two witnesses who are familiar with the officer's handwriting or signature testify that it is that of the officer concerned. However, this will not preclude the Tribunal from obtaining expert opinion where necessary.

- (13) When a witness accepts that a written statement made by him at a preliminary investigation is true, matters contained in such statement will be accepted as evidence led at the formal disciplinary inquiry.
- (14) In a case where evidence is not led afresh in terms of sub-section (13) above, the Tribunal or the officer presenting the case for the prosecution may question the witness on any matter on which they consider that further elucidation is necessary and, likewise, permit the defense to cross-examine the witness on the recorded statement and on any other oral evidence led from him at the inquiry.
- (15) The accused officer may give evidence on his behalf at a formal disciplinary inquiry, in which event he may be cross-examined. Likewise, the accused officer, as he chooses, may refrain from giving evidence or make only a written or an oral statement.
- (16) All the witnesses to the formal disciplinary inquiry shall be summoned by the Tribunal. Official witnesses either of Provincial Council Public Service or Public Service shall be summoned through their Heads of the Departments.
- (17) The Tribunal may, before permitting the summoning of a witness or the production of a document, require to be satisfied as to the relevance of the testimony or the document.
- (18) No witness shall be permitted by the Tribunal to be present when the evidence of any other witness is being recorded.
- (19) The accused officer may elect to make a statement after all the evidence has been recorded. The fact that in such a case, he will not be liable to be cross-examined on such a statement, will have to be taken into account when assessing the evidentiary value of such a statement. However, even though such a statement is not liable to be cross-examined, the Tribunal may seek further elucidation, which it considers necessary, from the accused officer on matters arising from such statement.
- (20) Any objection made to the general conduct of the inquiry by the connected parties and the comments of the Tribunal thereon shall be noted in the record of proceedings at the conclusion of the inquiry. Provided that any such objections were not made, the record of the proceedings shall be signed by all the parties connected to the inquiry stating that the inquiry was conducted satisfactorily.
- (21) At the end of the each day of the inquiry, the Tribunal will make available to the officer presenting the case for the prosecution and the accused officer or the officer appearing for him uncertified copies of the notes of inquiry containing the evidence of witnesses.
- (22) The Tribunal shall at no time give any indication to anyone of what its findings are likely to be.
- (23) At the conclusion of the formal disciplinary inquiry the Tribunal shall inform the officer presenting the case for the prosecution and the accused officer to make their written submissions to reach the Tribunal within fourteen days of the completion of the inquiry. However, where the Tribunal considers that owing to the nature of the inquiry or other unavoidable circumstances, the period of fourteen days is insufficient; it may specify a reasonable period of time to make such submissions. If within the fourteen days or within the period specified by the Tribunal the relevant parties fail to make written submissions, the Tribunal shall send its final report, without delay, to the relevant Disciplinary authority deeming that written submission have not been made. Any written submissions made will form a part of the record and shall be forwarded as annexes.
- (24) The Tribunal may refer to any document even though it has not been produced in evidence, which assists it in arriving at a decision. Nevertheless, such a document shall not properly be regarded as evidence.
- (25) The report of the Tribunal shall, among other things, invariably contain the following,
 - (i) The background to the incident in brief;

- (ii) General remarks on the conduct of the formal disciplinary inquiry;
 - (iii) Summary of evidence led on each charge;
 - (iv) Analysis of evidences on each charge and the findings of the Tribunal on each charge;
 - (v) Where the accused officer is found guilty of even one charge the opinion of the Tribunal as to the seriousness of the charge and suggestions to the Disciplinary Authority on imposing punishment;
 - (vi) Where, according to matters led before the Tribunal, it is found that a witness for the inquiry or the accused officer or any other officer of Provincial Council Public Service has committed another act of misconduct, all relevant facts to enable disciplinary action to be taken against the connected parties;
 - (vii) In the light of the matters revealed by the inquiry, the observations and suggestions of the Tribunal regarding changes that shall be effected in the Administration or procedure for the prevention or restriction of such incidents for the future well-being of the public service.
- (26) The Tribunal shall, as soon as possible after the conclusion of the inquiry, transmit its type-written report thereon together with the record of proceedings and all connected documents and productions to the appropriate Disciplinary Authority. Where the transmission of the inquiry report is inordinately delayed the reasons for such delay shall accompany the report.
- (27) The Tribunal may use whatever relevant written law when arriving at its decision even though such documents have not been produced in evidence at the formal disciplinary inquiry by the prosecution or the defence.

29. The role of the Disciplinary Authority in relation to a Tribunal shall be as follows.

- (1)
 - (i) Where it is observed that the proceedings of a formal disciplinary inquiry are being unduly delayed, it will be the responsibility of the Disciplinary Authority to take action, as and when necessary, to avoid such delays.
 - (ii) The Disciplinary Authority shall take the necessary steps to issue a charge sheet against the accused officer, complete the relevant investigation as soon as possible and issue a disciplinary order.
 - (iii) Where the charge is not related to a financial matter and if the investigation is delayed for more than a year due to any reason other than a delay in the investigation due to a delay by the accused officer, the accused officer, if he has been suspended, shall be reinstated in service and paid with salary from that date. Upon receipt of the disciplinary order, salary unpaid till then shall be dealt with as prescribed in the disciplinary order.
- (2) It is the responsibility of the Disciplinary Authority to keep the proceedings of the formal disciplinary inquiry, from its commencement to the conclusion, under his constant observation and take corrective action, as and when necessary, so that the expenses the Provincial Council will have to incur on travelling expenses and other allowances caused by postponements in the course of the inquiry could be minimized.
- (3) It is the responsibility of the Disciplinary Authority to cause to be sent to him, without delay, the final report and other relevant documents relating to a formal disciplinary inquiry in respect of which he has to make a disciplinary order.

- (4) It is the responsibility of a Disciplinary Authority to carefully study the report of a formal disciplinary inquiry forwarded to him and make his disciplinary order without delay. Here, the Disciplinary Authority shall always keep in mind the adage that "justice delayed is justice denied" .
- (5) A Disciplinary Authority may after careful study of the report of a formal disciplinary inquiry forwarded to him by the Tribunal, arrive at the following decisions.
 - (i) Convict the officer of one or some or all of the charges.
 - (ii) Acquit the accused officer of any or some or all of the charges.
 - (iii) Quash the proceedings of the formal disciplinary inquiry and order a fresh disciplinary inquiry.
- (6) The disciplinary Authority may accept, reject or revise any or several or all of the findings of the Tribunal in arriving at a decision in terms of the above Sub-sections 5 (i) and (ii).
- (7) Where any or some or all of the findings of the Tribunal are accepted or rejected or revised in terms of the above Sub-section (6), the Disciplinary Authority should note clearly and specifically in the relevant disciplinary file all the reasons on which such decision was based.
- (8) The Disciplinary Authority should decide to quash the entire inquiry proceedings in terms of the above Sub-section 5 (iii) only when the Tribunal has conducted the inquiry improperly and in contravention of the approved procedure or when the officer presenting the case for the prosecution willfully or negligently or inadvertently failed to present the case for the prosecution in such manner as to protect the interests of the Government.
- (9) Where Disciplinary Authority makes a decision in terms of Sub-section (8) above, he should clearly and specifically note in the relevant disciplinary file all the reasons on which such decision was based.

30. In delivering a Disciplinary Order, below mentioned provisions should be considered by a Disciplinary Authority.

- (1) A Disciplinary order made by a Disciplinary Authority should compulsorily contain the following.
 - (i) Whether the accused officer is guilty or not guilty for each charge or the charges made against him in the charge sheet.
 - (ii) Punishments and conditions imposed in respect of charges of which the accused officer is found guilty.
- (2) Where a Disciplinary Authority decides to acquit an accused officer of all the charges against him, such decision should be forthwith communicated to him. The Disciplinary Order should contain an order for reinstatement if the accused officer is under interdiction in connection with the charges and an order to pay any emoluments withheld during the period of interdiction.
- (3) Where the Disciplinary Authority finds the accused officer guilty of one or some or all of the charges he may impose a separate punishment in respect of each charge or impose a punishment or punishments common to all the charges of which the accused officer is found guilty.
- (4) Where the disciplinary order is not one of dismissal, it should contain an order for the immediate reinstatement of the accused officer if he is under interdiction and an order as to what percentage of any emoluments or allowances withheld during the period of interdiction should be paid to him or whether the whole of the emoluments and allowances withheld should not be paid.
- (5) Where a compulsory transfer is ordered on the accused officer as a punishment in the disciplinary order it should, whenever possible, indicate the new place of work to which the officer should be transferred. When such transfers are ordered the officer is not entitled to travelling expenses, settling-in allowances, etc.

- (6) Where the recovery of a certain sum of money as a surcharge or for a loss caused to the Government or to the Provincial Council by the accused officer forms a part of the Disciplinary Order, it is the responsibility of the relevant Accounting Officer to recover such sum of money. If any emolument or allowance withheld has to be paid to the officer according to the Disciplinary Order, such payment may be paid only after the recovery from such payment the amount due to the Government or Provincial Council from the officer.
- (7) Where a certain sum of money has to be recovered as a surcharge or for a loss caused to the Provincial Council from an accused officer punished with a dismissal, it is the responsibility of the relevant Head of the Department to initiate, whenever necessary, legal proceedings against the officer, without delay, to recover such sum of money.
- (8) The effective date of a punishment imposed by the Disciplinary Authority on an accused officer after the completion of a formal disciplinary inquiry or after calling for his explanations, should be the date on which the accused officer committed his offence relevant to the charge made against him.

31. The punishments that can be imposed by the Disciplinary Authority with respect to a Disciplinary Order should be as follows:

- (1) Punishments are classified as minor and major punishments. Minor punishments will be appropriate for offenses in the Second Schedule and the offenses of the type similar to those. Major punishments will be appropriate for the offenses stated in the First Schedule and the offenses of the type similar to those.
- (2) Minor Punishments are as follows.
 - (i) Reprimand.
 - (ii) Severe Reprimand.
 - (iii) Censure.
 - (iv) Suspension of salary increment for a period not exceeding one year.
 - (v) Stoppage of the salary increment for a period not exceeding one year.
 - (vi) Order a disciplinary transfer on the officer at his own expense.
 - (vii) A fine not exceeding week's pay.
 - (viii) Any other form of punishment similar to but not more severe than the above mentioned punishments as determined by the relevant Disciplinary Authority. However, warning or a severe warning should not be considered as a punishment.
- (3) Major punishments are as follows.
 - (i) Dismissal.
 - (ii) Termination of the service of an officer serving a period of probation.
 - (iii) Retirement for general inefficiency.
 - (iv) Reduction in seniority.
 - (v) Reduction in rank.
 - (vi) Reduction to a lower post where the officer does not belong to a "service" but holds a department post.
 - (vii) Reduction of salary by a specific number of increments.
 - (viii) Deferment of salary increment.

- (ix) Deferment of promotions for a specific period.
 - (x) Disqualification from sitting for any promotional examination for a specific period.
 - (xi) Any other form of punishment similar to and not severe than those mentioned as determined by the relevant Disciplinary Authority.
- (4) Where a transfer is imposed on an accused officer as a part of the disciplinary order, the period after which he could again obtain a transfer to whatever post in the office he worked earlier should be specifically stated in the disciplinary order.
 - (5) Where deferment or reduction or stoppage of salary increment has been ordered as a part of the disciplinary order, such order should be implemented based on the salary step the officer last received and subjected to the provisions of the Sub-section 30(8) above.
 - (6) Where an order not to pay arrears of salary for the period under interdiction forms part of the disciplinary order, an officer will not be entitled to receive arrears of salary increments for which he would have been eligible. However, he should be placed on the relevant step on his salary scale reckoning the salary increments for which he would have been eligible, irrespective of the fact that he was not in the service, and paid accordingly.
 - (7) A Disciplinary Authority, other than the Governor and the Provincial Public Service Commission, is not competent to order compulsory retirement as a merciful alternative to dismissal. This is a prerogative of the appellate authority to be considered only if and when an appeal is duly made to it, and normally in the case of an officer whose previous record of service is long and meritorious.

32. The following provisions shall apply to the Imposition of Punishments under the Summary Disciplinary Procedure.

- (1) A Disciplinary Authority may impose punishments in accordance with the summary disciplinary procedure.
- (2) Action in terms of summary disciplinary procedure should be taken only on such occasions where the alleged offense is not so serious an act of misconduct calling for action under the formal disciplinary procedure.
- (3) When a Disciplinary Authority contemplates disciplinary action under summary disciplinary procedure against a subordinate officer he should inform the accused officer in writing the act of misconduct disclosed to have been committed by him and order him to show cause, if any, within an appropriate and reasonable period, as to why he should not be punished for such misconduct. The above communication should also state that if the accused officer fails to submit his explanations within the stipulated period, action will be taken presuming that the officer has no explanations to offer.
- (4) Where the explanations submitted by an officer called upon to do so in terms of Sub-section (3) above within the stipulated period is insufficient to acquit him or where he fails to submit his explanations within the stipulated period, the officer holding delegated authority may, taking into consideration of the nature of the offense, impose punishment in terms of the summary disciplinary procedure.
- (5) The punishment imposed on an officer found guilty under the summary disciplinary procedure should not be more severe than a fine equivalent to a day's pay of the officer concerned.
- (6) The officers subjected to minor punishments under the summary disciplinary procedure have the right to appeal against such punishments under these Disciplinary Procedural Rules.

33. The following provisions shall apply with regard to Revision of Disciplinary Orders and Appeals against Disciplinary Orders.

- (1) The revision, variation or cancellation of any disciplinary order by the Disciplinary Authority itself, after the order has been made, should be done only for the sole purpose of correcting an error or irregularity appearing on the face of such order. Whenever the Disciplinary Authority decides as stated above, to revise, vary, or cancel a disciplinary order issued by itself, he should note clearly and specifically in the relevant disciplinary file all the reasons on which such decision was based.
- (2) The officer aggrieved by the issuance of a disciplinary order by a Disciplinary Authority may, within three months upon receiving such order, appeal to Provincial Public Service Commission and based on the facts presented by such appeal within the prescribed time period, the said Commission as the appellative authority, as the case may be, may revise, vary or cancel such disciplinary order, or reject the appeal based on lack of sufficient facts supporting its acceptance.
- (3) An officer aggrieved by a decision taken by the Provincial Public Service Commission regarding a disciplinary order may appeal to the Governor within one year of being notified of that decision.
- (4) An appeal should be made by the aggrieved officer himself. An appeal made by any other person on his behalf will not be entertained or acknowledged by the relevant Appellate Authority.
- (5) An appeal to the Appellate Authority by an officer in the Provincial Council Public Service should be made through his Head of the Institution. Handing over the appeal to the Head of the Institution before the expiry of three months of the delivery of the disciplinary order will be deemed as the appeal has been forwarded within the specific period. It will be the responsibility of the Head of the Institution as well as the Disciplinary Authority to deal with appeals received by them expeditiously and transmit them to the Appellate Authority, without delay, together with their observations and recommendations and all the relevant files and documents in accordance with the provisions of these disciplinary procedural rules. An officer dismissed from the public service should forward his appeal directly to the Appellate Authority under registered post.
- (6) Where the appellant is no longer in the service, the decision of the Appellate Authority should be conveyed directly to him and where the appellant is in service such decision should be conveyed to him through the relevant Disciplinary Authority and Head of the Institution. In both instances, a copy of the decision should also be sent by the Appellant Authority to the relevant Disciplinary Authority.
- (7) When on examination of the report of the Inquiry and other documents by the Appellate Authority it is disclosed that an officer other than the accused officer is guilty of any act of misconduct, or lapse, the Appellate Authority may direct or recommend to the Disciplinary Authority that necessary disciplinary action be taken against such an officer.
- (8) When an accused officer requests a copy of the report of formal disciplinary inquiry to present his appeal, the Disciplinary Authority should provide it.

34. Procedure to be followed when Court of Law or a Statutory Authority proceeds against a Public Officer in Provincial Public Service shall be as follows.

- (1) When a criminal offence punishable under the Law of Sri Lanka by a Court of Law is disclosed, *prima facie* against an officer in Provincial Council Public Service on facts or evidence led in the course of a preliminary investigation or in some other manner, such matter shall without delay, be reported by the Disciplinary Authority to Head of Institution of such officer to the Police or Appropriate Statutory Authority for suitable action to be taken against the officer under the Law of Sri Lanka.
- (2) When an offence of bribery or corruption is disclosed, *prima facie*, against an officer in Provincial Council Public Service, on facts or evidence led in the course of a preliminary investigation or in some other manner,

such matter shall, without delay, be reported by the Disciplinary Authority or Head of Institution of such officer to the Commission to Investigate Allegations of Bribery or Corruption or to such other statutory authority empowered by law to investigate such allegations for suitable actions to be taken against the officer under the appropriate law.

- (3) When an offence punishable through a duly authorized statutory authority or institution for violating any provision in a statutory law or a statute passed by the Legislature of Sri Lanka is disclosed, *prima facie*, against an officer in Provincial Council Public Service on facts or evidence in the course of a preliminary investigation or in some other manner, such matter shall, without delay, be reported by the Disciplinary Authority or Head of the Institution of such officer to the appropriate statutory authority or Institution for suitable action to be taken against the officer under the appropriate law.
- (4) Even though transmission of information as referred to in Sub-sections (1), (2) and (3) above to the respective authorities has been done, a preliminary investigation in progress of work with regard to holding a preliminary investigation where sufficient matters are disclosed shall not be suspended or postponed unless there are compelling reasons or unavoidable circumstances. If the preliminary investigation is suspended owing to a compelling reason or an impediment it shall be re-commenced and concluded as soon as possible.
- (5) Where respective authorities have been informed to take legal action in terms of Sub-Section (1), (2) and (3) above and such authorities ask for documents, any relevant article or anything else that are relevant for purposes of their investigations and legal proceedings, the relevant Head of the Institution or Disciplinary Authority shall make available such items to the respective authorities.
- (6) In terms of the sub-section (5), where documents as are necessary for preliminary investigations or legal proceedings are handed over to the respective authorities, the Head of the Institution or a Staff Officer shall retain photocopies of such documents certified by them that may be necessary for any disciplinary proceedings likely to be taken against the accused officer by the Institution. Certified copies of the documents thus retained shall be totally admissible in a formal disciplinary inquiry against the officer.
- (7) Where an officer in Provincial Public Service is taken into custody by the Police or some other statutory authority pending legal proceedings against him or where he is remanded before the commencement of legal proceedings in a Court of Law the officer shall be granted compulsory leave to cover such period.
- (8) When a public officer taken into custody by the Police or any other statutory authority is released from custody he shall be reinstated. However, if such reinstatement would obstruct a formal disciplinary inquiry scheduled to be held by the Disciplinary Authority, the accused officer shall not be reinstated but interdicted.
- (9) When an officer remanded pending legal proceedings against him is released on bail, he shall be reinstated in service if the Disciplinary Authority determines that his reinstatement will not adversely affect the interests of the Provincial Council Public Service. If the Disciplinary Authority is satisfied that his reinstatement in service will adversely affect the interests of the Provincial Council Public Service he shall be further kept on compulsory leave. Similarly, where the Disciplinary Authority contemplates disciplinary action against the officer and his reinstatement is an impediment to the contemplated disciplinary proceedings the officer shall be interdicted as appropriate.
- (10) Where legal proceedings are taken against an officer in Provincial Council Public service for a criminal offence of bribery or corruption the relevant officer shall be forthwith interdicted by the appropriate authority.
 - (i) In case of having proceedings in the Court of Law for a criminal offence which is not relevant to the duty of the officer, excluding the charges on bribery or corruption or anti-government or terrorist acts, considering the nature of the charge, such a person shall be reinstated in service, if the Disciplinary Authority decides that the reinstatement of the officer does not cause any ill-effect to the integrity of the provincial public service.

- (ii) In terms of sub-section (i) above, if the Disciplinary Authority feels that the reinstatement of the officer in service can be harmful to the integrity of the Provincial Public Service, such officer shall be further interdicted until the Court order is received. If the receipt of the Court order takes time more than a year, the Disciplinary Authority can give powers to pay to the officer a sum of money not exceeding half of the salary of the officer.
- (11) Even when Court proceedings are in progress against an officer of Provincial Council Public Service for an offence which falls under these disciplinary procedural rules, the relevant Disciplinary Authority shall hold a disciplinary inquiry against the officer independent of Court proceedings. The suspension or postponement of the departmental disciplinary inquiry shall be done only when there is a compelling reason or unavoidable obstacle.
- (12) The fact that Court proceedings against the officer are still in progress will in no way affect the making of a disciplinary order at the conclusion of the disciplinary inquiry against him in terms of sub-section (11) above.
- (13) Where at the time of making the order in the Court proceedings against an officer in terms of sub-section (11) above, the institutional disciplinary inquiry against him is still in progress, it shall be continued to its conclusion, irrespective of the Court order, and the disciplinary order made unless there is a compelling reason or an unavoidable obstacle for the continuance of the inquiry.
- (14) Where an officer acquitted by an institutional disciplinary inquiry of a charge or a series of charges is found guilty by a Court of Law of the same charges, the fact that he has been acquitted by the institutional inquiry shall not stand in the way of taking action against him in terms of Section 35 of these Disciplinary Procedural Rules.
- (15) Where Court proceeding and an institutional disciplinary inquiry have been held with regard to a charge or a series of charges, and where the institutional inquiry finds the officer guilty, the fact that the officer is acquitted in the Court proceedings shall in no way affect the implementing of the disciplinary order made on matters revealed in the institutional disciplinary inquiry.

35. When Executing Disciplinary Action against an Officer in Provincial Public Service in view of Orders issued against him by a Court of law or a Statutory Authority, the following provisions shall be applied.

- (1) If an officer in Provincial Council Public Service is convicted by a Court of Law in any criminal proceedings, or is summarily convicted by a Court of Law under section 449 of the Code of Criminal Procedure Act, or is found guilty of any offence or is subjected to any penalty by any Statutory Authority empowered by law to do so, the authority that instigated Court action or relevant Statutory Authority will report the facts to the Disciplinary Authority of the relevant officer with a certified copy of the proceedings.
- (2) In terms of the sub-section (1) above, conviction for the purpose of these rules includes warning and discharge or conditional discharge under Section 15 of the Code of Criminal Procedure Act, No. 15 of 1979.
- (3) On receiving a report from a Court or Statutory Authority in terms of sub-section (1) above, the Disciplinary Authority may, where the department has not held a formal disciplinary inquiry or where disciplinary proceedings are not contemplated against the officer regarding the incident concerned, make a disciplinary order against the relevant officer without holding a formal disciplinary inquiry taking into consideration the findings of the Court or the Statutory Authority as the case may be.
- (4) In making a disciplinary order in terms of sub-section (3) above, the Disciplinary Authority shall base such order on the fact that the officer has been convicted and the seriousness of the offence or offences, It will not be necessary to take note of the punishment imposed by the Court of the Statutory Authority.

- (5) In the event of conviction by the Court or Statutory Authority of an officer of Provincial Council Public Service in terms of the sub-section (1) above, if the officer furnishes to the Disciplinary Authority proof of the fact that he has appealed against the conviction, order or findings of the Court or Statutory Authority, the Disciplinary Authority will await the outcome of such appeal before ordering punishment. If the officer has been interdicted in this connection, he shall remain interdicted.
- (6) The fact that an officer has been acquitted or discharged or found not guilty by a Court of Law or Statutory Authority is no reason at all why he shall not be dealt with under these Disciplinary Procedural Rules, if there is sufficient material on which disciplinary proceedings can be taken against him.
- (7) An officer who has been punished under these Disciplinary Procedural Rules for any offence, other than a punishment in terms of sub- section (3) above, may not claim remission of such punishment on the grounds that he has subsequently been acquitted or discharged by a Court of Law in respect of that same offence, or that the order of a Court has been set a side in appeal.

36. Disciplinary Procedure in respect of the Offences Disclosed in an Audit Report shall be as follows.

- (1) Where a report by the Auditor- General discloses that an officer or a group of officers have committed irregularities or acts of misconduct because of not adhering to existing rules and regulations or through negligence or inadvertence, the relevant Disciplinary Authority shall invariably take disciplinary action against such officer or officers.
- (2) If the report of the Auditor- General is comprehensive enough as to establish the charges to be preferred against the officer, a charge sheet shall be issued based on such report and a formal disciplinary inquiry held and necessary action taken.
- (3) Where the Disciplinary Authority is of opinion that preparing a charge sheet or establishing the charges against an accused officer on the report of the Auditor –General is difficult, the relevant Head of Institution or Disciplinary Authority shall, without delay, hold a preliminary investigation to further consolidate the acts of misconduct mentioned in the report of the Auditor-General and to facilitate the proper presentation of the charges at a formal disciplinary inquiry. Where a case of misconduct is *prima facie* disclosed by the preliminary investigation, the relevant Disciplinary Authority shall take disciplinary action against the accused officer in accordance with the provisions of these Disciplinary Procedural Rules.

37. Disciplinary Procedure in respect of the Offences Disclosed in a report of a Commission of Inquiry shall be as follows.

- (1) Where charges for misconduct are disclosed against an officer in Provincial Council Public Service by a report of a Commission of Inquiry appointed by an authority duly empowered by the law in force at the time and where the relevant officer has been punished by Parliament or a Court of Law consequent upon reference of such charges by the Commission, the relevant Disciplinary Authority shall take action in terms of Section 35 of these Disciplinary Procedural Rules.
- (2) Where it is observed, *prima facie*, by the Disciplinary Authority that the facts revealed in the report of the Commission of Inquiry are sufficient to establish the charges preferred against the accused officer in a formal disciplinary inquiry, action shall be taken to issue a charge sheet on such report and to hold a formal disciplinary inquiry and take suitable action.
- (3) Where the Disciplinary Authority is of opinion that preparing a charge sheet or establishing the charges against an accused officer on the report of a Commission of Inquiry is difficult, the relevant Head of Institution or Disciplinary Authority shall without delay, hold a preliminary investigation to further consolidate the acts of misconduct mentioned in the report of the Commission of Inquiry and to facilitate the proper presentation of the charges at a formal disciplinary inquiry. Where a case of misconduct is disclosed by the preliminary investigation, the Disciplinary Authority shall take disciplinary action against the officer in accordance with the provisions of these Disciplinary Procedural Rules.

38. Following provisions shall be applied in respect of Interdiction and Compulsory Leave with regard to an officer in Provincial Council Public Service.

- (1) Where it is disclosed, *prima facie* that an officer in Provincial Council Public Service has committed either one or some or all of the following acts of misconduct, the relevant Disciplinary Authority, or the Head of the Institution not holding disciplinary authority, or an authority not holding disciplinary authority but assigned with power to interdict, may forthwith interdict the officer concerned subject to the covering approval of the Disciplinary Authority. Yet in every instance, where the interdiction is made subject to the covering approval, the covering approval shall be obtained, without delay from the relevant Disciplinary Authority. Similarly, when the interdiction is made not by a Disciplinary Authority, a copy of the Letter of Interdiction shall be sent to the relevant Disciplinary Authority immediately.
 - (i) Non-allegiance to the Constitution of the Democratic Socialist Republic of Sri Lanka.
 - (ii) Act or cause to act in such manner as to bring the Democratic Socialist Republic of Sri Lanka or the Provincial Council or Local Government Authority into disrepute.
 - (iii) Being prosecuted in a Court of Law on anti-government, terrorist or criminal charges.
 - (iv) Being prosecuted in a Court of Law on bribery or corruption charges.
 - (v) Being drunk within duty hours or within Government or Provincial Council or Local Government Authority Office premises.
 - (vi) Use or be in possession of narcotic drugs within duty hours or within Government or Provincial Council or Local Government Authority Office premises.
 - (vii) Misappropriate or cause another to misappropriate Government funds, Provincial Council funds or Local Government funds.
 - (viii) Misappropriate Government or Provincial Council or Local Government resources or cause such misappropriation, or cause destruction or depreciation of such resources willfully or negligently.
 - (ix) Act or cause to act negligently or inadvertently or willfully in such manner as to harm Government or Provincial Council or Local Government interests.
 - (x) Act in such manner as to bring the Public Service or the Provincial Council Public Service into disrepute.
 - (xi) Divulge information that may harm the State, Provincial Council or public Service or Provincial Council Public Service or government institution or provincial council institution or make available or cause to make available state, provincial council, local government documents or copies thereof to outside parties without the permission of an appropriate authority.
 - (xii) Alter, distort, destroy or fudge state documents.
 - (xiii) Conduct oneself or act in such manner as to obstruct a Public Officer or officer in Provincial Council Public Service in the discharge of his duties, or insult, or cause or threaten to cause bodily harm to a Public Officer or officer in Provincial Council Public Service.
 - (xiv) Refuse or neglect to carry out lawful orders given by a senior officer, or insubordination.
 - (xv) Where it is considered that allowing an officer to perform his duties is harmful or imprudent so far as the Provincial Council Public Service is concerned.
- (2) The Disciplinary Authority only may interdict an officer of Provincial Council Public Service in terms of sub clause (xv) in sub-section (1) above.
- (3) An authority who decides to interdict an officer of Provincial Council Public Service in terms of sub- section (1) above shall note clearly and specifically in the relevant file the reasons on which such decision was based.

- (4) An officer in Provincial Council Public Service shall be interdicted on matters disclosed in a preliminary investigation held into charges against him. Nevertheless, in such instances given below, a relevant authority may interdict an officer in Provincial Council Public Service even without holding a preliminary investigation.
 - (i) Where it is evident to the relevant authority that the continuance of the officer in Provincial Council Public Service is detrimental to the holding of a preliminary investigation against him.
 - (ii) Where the first information itself on the suspected acts of misconduct committed by the officer is sufficient to establish the relevant matters.
 - (iii) Where Court proceedings related to a criminal offence has been initiated against an officer in Provincial Council Public Service.
- (5) Even in the case of an officer interdicted in terms of 4 (i), (ii) and (iii) above, a preliminary investigation shall be held, without delay, after interdiction.
- (6) When an officer in Provincial Council Public Service subjected to interdiction in terms of sub-section (4) above is summoned for a preliminary investigation in connection with himself or another officer, he is bound to participate in such investigation and reveal to the investigating officer any information of which he is aware or ought to be aware.
- (7) Where an officer in Provincial Council Public Service is interdicted by a Head of the Provincial Council Institution who is not a Disciplinary Authority, the record of the preliminary investigation on which the interdiction was based and other relevant particulars together with the report containing recommendations as to the payment of emoluments to the officer during the period of interdiction shall be sent, without delay, to the relevant Disciplinary Authority.
- (8) The non-payment or the payment of one-half of the emoluments to a Provincial Council Public Service officer under interdiction for the period of interdiction is decided by the Disciplinary Authority.
- (9) An officer in Provincial Council Public Service interdicted under the following circumstances shall not be paid any emoluments during the period of interdiction:
 - (i) Where legal proceedings have been initiated for a terrorist offence or anti-government activities or criminal offence or an offence of bribery or corruption or fraud.
 - (ii) Where misappropriation of a serious nature of Public, Provincial Council or Local Government funds and property is committed or where they are caused to be destroyed or depreciated by acts of commission or omission.
- (10) In the case of instances not falling under sub-section (9) above, the Disciplinary Authority may decide either not to pay the emoluments or to pay one-half of the emoluments in consideration of the seriousness of the charge, prior record of service of the officer, his financial needs, etc.
- (11) Where a Disciplinary Authority is satisfied that an officer under interdiction, while receiving one-half of the emoluments, acts wilfully or negligently in such manner as to impede the progress of the formal disciplinary inquiry held into the charges against him or to unduly delay such proceedings, the Disciplinary Authority may suspend the payment of one-half of the emoluments to the officer. In such case, the Disciplinary Authority shall note clearly and specifically in the relevant file the reasons on which such decision was based.
- (12) If the disciplinary order imposed consequent upon the formal disciplinary inquiry results in any lesser punishment than dismissal, the Disciplinary Authority shall decide on the full payment of the emoluments withheld, or of a certain percentage thereof, and such decision will form part of the disciplinary order.

- (13) An officer's "emoluments" means the emoluments of his substantive post. It shall not include any allowance in the nature of a duty allowance, or a reimbursement of expenditure incurred on official duty such as traveling, transport and combined allowance.
- (14) If an officer cannot appropriately be interdicted in terms of the preceding sub sections, but it is in the interest of the preliminary investigation or the formal disciplinary inquiry that he shall not exercise the functions of his office, he shall be transferred or attached to an institution within the relevant institution or he shall be placed on compulsory leave in terms of the provisions of Part I of the Establishments Code or Establishments Procedural Rules applicable to the Western Provincial Council Public Service imposed for that purpose.
- (15) As the reinstatement of an officer who is not found guilty owing to his being interdicted without sufficient cause would result in the payment of his emoluments for the period of no work, the appropriate authority shall personally satisfy himself before an officer is interdicted.

39. Following Provisions shall be applied regarding Compulsory Retirement for Offences under the First Schedule.

- (1) Where there is a prima facie case against executive officers who bear similar posts to the Grade I of the All Island Service in Provincial Public Service in respect of an offence in the First schedule warranting disciplinary action, and where the Secretary to the relevant Provincial Ministry, taking into careful consideration, the nature of the offence, the period of service of the officer, his prior service, the difficulty in adopting a formal disciplinary procedure, the reasons which led the officer to commit such offence and its background, considers that the most appropriate action in the circumstances is the compulsory retirement of the officer, he shall send a complete report on the matter to the Chief Secretary.
- (2) Provided, however, that where charges of terrorist or anti-government activities or criminal or bribery or corruption charges alleged, or misappropriation of funds and property of Government, Provincial Council or Local Government Authorities or causing another party to commit such acts are involved or where it appears that a decision has been taken with a view to earning an undue advantage for oneself or for another party by abusing one's official status, a formal disciplinary inquiry shall be held, instead of resorting to the provisions of Sub-section (1) above, against such officer in accordance with the other provisions of these Disciplinary Procedural Rules.
- (3) On receiving a report in terms of Sub-section (1) above, the Chief Secretary shall call upon the officer to submit, within a stipulated period, a complete and accurate clarification on the charges preferred against him.
- (4) Where an officer fails or willfully neglects to submit his explanations or clarification within the stipulated period, the Chief Secretary shall inform the relevant Secretary to suspend further actions under sub section (1) above and take formal disciplinary action against the officer in accordance with the provisions of these Disciplinary Procedural Rules.
- (5) After careful study of the matters represented by the relevant Secretary of the Ministry and the explanations submitted by the officer, the Chief Secretary, together with his observations and recommendations, shall report to the Governor.
- (6) On receiving a report in terms of sub-section (5) above, the Governor may, in consideration of the matters contained therein, order that the officer be compulsorily retired or that normal disciplinary action be taken against him.

40. The following provisions shall be applied in sending an officer of Provincial Council Public Service on Retirement for General inefficiency

- (1) Where warnings, reprimands and other punishments imposed on an officer over a long period of time on various occasions during his period of service for acts of misconduct, or misdemeanor, or negligence, or

inadvertence have failed in improving his conduct and efficiency, the Disciplinary Authority may, if he determines that his continuation in the Provincial Council Public Service is detrimental to the efficiency of the Provincial Council Public Service, retire the officer for general inefficiency.

- (2) Where a Head of an Institution of Provincial Council is of opinion that there is cause for action to be taken in terms of sub section (1) above, he shall send a full report based on information gathered, wherever necessary, from the departments or institutions in which the officer had earlier worked, together with his observations and recommendations, to the appropriate Disciplinary Authority.
- (3) A Disciplinary Authority receiving a report in terms of Sub-section (2) above, shall direct the relevant officer to show cause, if any, in writing, within a stipulated period, as to why he shall not be retired for general inefficiency.
- (4) The Disciplinary Authority may, in consideration of the matters contained in the report submitted by the Head of Provincial Council Institution and the explanations submitted by the officer, retire him for general inefficiency or order any other appropriate punishment.
- (5) Where the officer fails or willfully neglects to submit his explanations within the stipulated period it will be deemed that he has no explanations to offer and the Disciplinary Authority may impose an appropriate order under Sub-section (4) above.
- (6) The Disciplinary Authority making an order for retirement of the officer for general inefficiency may, taking into consideration the nature of the offences committed or the inefficiency of the officer, recommend to the Chief Secretary that a certain percentage of the pension payable to the officer be deducted.

41. The following provisions shall apply where permission to leave the Island when preliminary action is being taken to commence disciplinary proceedings against an officer in Provincial Council Public Service or while a formal disciplinary inquiry is pending after the issue of a charge sheet or proceedings are in progress.

- (1) Where preliminary work with regard to taking disciplinary action against an officer in Provincial Council Public Service has been done by the relevant Disciplinary Authority or Head of Institution but a charge sheet has not yet been issued to him, and the officer requests that he be allowed to leave the Island, the Head of Institution shall forward such application together with his observations and recommendations to the relevant Disciplinary Authority. The Disciplinary Authority, taking in to consideration all relevant matters, shall forward his observations and recommendations on the application of the officer to the authority approving the leave. The authority approving the leave shall take note of the observations and recommendations made by the Disciplinary Authority when approving such leave.
- (2) Whenever an officer in Provincial Council Public Service to whom a charge sheet has been issued in connection with a formal disciplinary inquiry to be held against him wants to leave the island he shall obtain the written concurrence of the Disciplinary Authority through the Head of his institution. On receiving such an application the Disciplinary Authority, taking all the relevant matters to his consideration, shall make his recommendation, as the case may be, to the authority approving leave out of the Island. The Authority approving the leave shall take note of the observations and recommendations of the Disciplinary Authority when approving leave.

42. The following provisions shall apply regarding Resignation of a Provincial Council Public Service Officer when Disciplinary Proceedings against him are in Progress:

- (1) Any written application made by an officer in Provincial Council Public Service for resignation after disciplinary proceedings against him have been initiated but before the disciplinary order is made shall be rejected.
- (2) If the officer is already in service and has failed to report for duty after the rejection of the application for rejection as per sub-section (1) above, the Disciplinary Authority shall take action considering that the relevant officer has vacated the post.

- (3) Even when the officer is already under interdiction and has failed to participate in the formal disciplinary inquiry that is being held against him, actions shall be taken, considering that the relevant officer has vacated the post.
- (4) When an officer makes an application for resignation after the formal disciplinary inquiry against him has been concluded but before the disciplinary order is made, the Disciplinary Authority shall reject such application and make the disciplinary order.

43. The following provisions shall apply regarding Disciplinary Procedure against an officer reaching the Optional Age of Retirement.

- (1) When an officer in Provincial Council Public Service, against whom a formal disciplinary inquiry is in progress requests that he be allowed to retire on reaching the optional age of retirement or when the officer reaches the compulsory age of retirement, he should be retired subject to Section 2-12 of the Pensions Minute.
- (2) It will be the responsibility of the relevant Disciplinary Authority to take every possible precaution to conclude with the least possible delay any preliminary investigation or work in connection with disciplinary proceedings or the formal disciplinary inquiry against an officer serving under extension of service.
- (3) The preliminary investigation, work in connection with the disciplinary proceedings and the formal disciplinary inquiry against an officer retired subject to Section 2-12 of the Pensions Minute shall be held and concluded by the Disciplinary Authority irrespective of the retirement of the officer . In such instance, the Disciplinary Authority shall function in accordance with the provisions stipulated under these Disciplinary Procedural Rules.
- (4) An officer retired subject to Section 2- 12 of the Pensions Minute is bound to participate in the preliminary investigation or formal disciplinary inquiry held against him, furnish information and assist in the completion of such task with the least possible delay.
- (5) If, at the conclusion of the formal disciplinary inquiry, the Disciplinary Authority in consideration of the report of the inquiry and other connected documents finds the officer not guilty of the charges preferred against him, the Disciplinary Authority shall inform the Director of Pensions to convert the retirement granted subject to Section 2- 12 of the Pensions Minute into a normal retirement.
- (6) Where the Disciplinary Authority finds the officer guilty of one, some or all the charges according to the material disclosed at the formal disciplinary inquiry, he shall, depending on the nature of the charge or charges of which the officer is found guilty, send his observations and recommendations , without delay, whether the officer shall be deprived of his full pension, gratuity and other allowances payable to him or whether a certain percentage thereof shall be deducted, together with the charge sheet, report of the inquiry and all other relevant documents to the Chief Secretary .

44. The following provisions shall apply regarding Vacation of Post by an officer in Provincial Council Public Service.

- (1) Where an officer who has been served with a Notice of Vacation of Post under the provisions of Chapter V of Part I of the Establishments Code or Procedural Rules applicable to the Western Provincial Public Service intends to tender an appeal against such Notice, such appeal shall be tendered to the appropriate Disciplinary Authority before the expiry of three months from the date on which the Notice of Vacation of Post was served on him.
- (2) If the Disciplinary Authority considers, in view of the matters represented in the appeal submitted to him in terms of sub-section (1) above that the officer has not reported for duty due to acceptable reasons, he may order the reinstatement of the officer after imposing punishment for not reporting for duty without permission.

- (3) Where the Disciplinary Authority has rejected the reinstatement of the officer, he may appeal against such decision to the Provincial Public Service Commission, as the case may be, within six months from the date of such decision.
 - (4) Where the appeal has been rejected by the Provincial Public Service Commission, a person who is dissatisfied by such rejection, can direct an appeal to the Governor within one year from the date of submission of decision and such appeal can be made only once.
45. **By the effective date of these rules, the provisions under these Disciplinary Procedural Rules shall be applicable without prejudice to the actions taken under Chapter XLVIII of the Establishments Code of the Government of Sri Lanka.**
46. **Formats to be applied in implementing these Disciplinary Procedural Rules shall be as prescribed by the Chief Secretary.**
47. **In the event of any inconsistency between the Sinhala, Tamil and English texts of these Disciplinary Procedural Rules, the Sinhala text shall prevail.**
48. **In this Code of Disciplinary Procedural Rules, unless the context otherwise requires,**
“Governor” means the Governor of Western Province,
”Chief Secretary” means the Chief Secretary of Western Province, and
”Secretary to the Ministry” means a Secretary to a subject ministry in Western Provincial Council.

THE FIRST SCHEDULE

Relating to Offences Committed by Provincial Council Public Officers

- (1) Non-allegiance to the Constitution of the Democratic Socialist Republic of Sri Lanka.
- (2) Act or cause to act in such manner as to bring the Democratic Socialist Republic of Sri Lanka or Provincial Council or a Local Government Authority.
- (3) Anti-government or terrorist or criminal offences.
- (4) Bribery or Corruption
- (5) Being drunk or smelling of liquor within duty hours or within a premises of Government or Provincial Council or Local Government Authority office.
- (6) Use or be in possession of narcotic drugs within duty hours or within a premises of Government or Provincial Council or Local Government Authority office.
- (7) Misappropriate or cause another to misappropriate Public or Provincial Council funds or funds of Local Government Authorities.
- (8) Misappropriate Government or Provincial Council or Local Government Authority resources or cause such misappropriation or cause destruction or depreciation of Government or Provincial Council or Local Government Authority resources willfully or negligently.
- (9) Act or cause to act negligently or inadvertently or willfully in such manner so as to harm the interests of the Government, Provincial Council or Local Government Authority.
- (10) Act in such manner as to bring the Public Service or Provincial Public Service into disrepute.

- (11) Divulge information that may harm the State, Provincial Council or Public Service or Provincial Public Service or Government Institution or Provincial Council Institution or Local Government Authority, make available or cause to make available state, Provincial Council, Local Government documents or copies thereof to outside parties without the permission of an appropriate authority.
- (12) Alter, distort, destroy or fudge official documents
- (13) Conduct oneself or act in such manner as to obstruct a Public Officer or officer in Provincial Council Public Service in the discharge of his duties, or insult, or cause or threaten to cause bodily harm to a public officer.
- (14) Refuse or neglect to carry out lawful orders given by a senior Officer, or insubordination
- (15) Any violation of the provisions of the basic law, provisions mentioned under sub-laws, all procedural rules, financial rules, procurement rules of Western Province applicable for the Western Provincial Public service, all provisions made by circulars relevant to Provincial Council Public Service, provisions imposed by the Governor, Provincial Public Service Commission, the Chief Secretary, Secretaries to the provincial ministries, Heads of the Provincial Departments, and provisions of handbooks and manuals of provincial departments, provisions of the Establishment Code, Financial Regulations, Public Service Commission Circulars, Public Administration Circulars, Treasury Circulars, Department Circulars, Departmental handbooks and manuals, or willfully, inadvertently or negligently act in circumvention such provisions.
- (16) Aid and abet, or cause to commit the above offences.

THE SECOND SCHEDULE

Relating to Offences Committed by Provincial Council Public Officers

Offences, though not falling within the First Schedule above, are caused owing to the inefficiency, incompetence, inadvertence, lack of integrity, improper negligence and indiscipline of an officer.

APPENDIX 01

SPECIMEN CHARGE SHEET

(Specimen of a Charge Sheet issued by a Disciplinary Authority to an Accused Officer.)

You are hereby required under schedule..... of Western Provincial Council Disciplinary Procedural Rules to show cause, if any, in writing why you should not be dismissed or otherwise punished for committing one or some or all of the offences in conversation with acts of neglect of duty and/or misconduct embodied in the following charges falling under schedule..... of Western Provincial Council Disciplinary Procedural Rules, while you were serving as.....in..... Your reply shall reach me within.....days of receipt of this charge sheet.

Charges

- (i)
- (ii)
- (iii)
- (iv)

02. Following witnesses and documents will be made use of to establish the charges:

Witnesses

- (i)
- (ii)
- (iii)

Documents

- (i)
- (ii)
- (iii)

03. If you and/or the officer appearing for you wish to examine the documents referred to in para 02 (ii) above, you may do so with the prior approval of(Head of Department) on a date specified by him, and obtain photocopies of documents that you may require with the prior approval ofon payment of a specified fee.

04. If you wish to retain an officer to appear for you, you should inform me his designation (in the case of a retired officer the designation he held), his official/private address and his consent to appear for you on the annexed form, and obtain my prior approval. The officer appearing for you shall be a public officer or a retired public officer.

05. You may furnish your answers in terms of section.....of Provincial Council Disciplinary Procedural Rules. If you plead not guilty and request that a formal disciplinary inquiry be held to prove your innocence an Inquiry Officer will be appointed by me in terms of section.....of Provincial Council Disciplinary Procedural Rules. If you apply to retain an Attorney-at-law as Inquiry Officer you should support your application with valid reasons.

06. If your replies do not reach me through..... (Head of Department) within the stipulated period, it will be deemed that you have no explanations to offer and action will be taken accordingly.

07. Please acknowledge receipt of this Charge Sheet (Head of Department).

Disciplinary Authority

Copies: - 1.
2.

APPENDIX 02

SPECIMEN CHARGE SHEET

(Specimen of a Charge Sheet issued to an Officer retired subject to Section 12 of the Pensions Minute)

You are hereby required under schedule..... of Western Provincial Council Disciplinary Procedural Rules to show cause, if any, in writing why you should not be dismissed or otherwise punished for committing one or some or all of the offences in conversation with acts of neglect of duty and/or misconduct embodied in the following charges falling under schedule..... of Western Provincial Council Disciplinary Procedural Rules, while you were serving as.....in..... Your reply shall reach me within.....days of receipt of this charge sheet.

Charges

- (v)
- (vi)
- (vii)
- (viii)

02. Following witnesses and documents will be made use of to establish the charges:

Witnesses

- (iv)
- (v)
- (vi)

Documents

- (iv)
- (v)
- (vi)

- 03. If you and/or the officer appearing for you wish to examine the documents referred to in para 02 (ii) above, you may do so with the prior approval of(Head of Department) on a date specified by him, and obtain photocopies of documents that you may require with the prior approval ofon payment of a specified fee.
- 04. If you wish to retain an officer to appear for you, you should inform me his designation (in the case of a retired officer the designation he held), his official/private address and his consent to appear for you on the annexed form, and obtain my prior approval. The officer appearing for you shall be a public officer or a retired public officer.
- 05. You may furnish your answers in terms of section.....of Provincial Council Disciplinary Procedural Rules. If you plead not guilty and request that a formal disciplinary inquiry be held to prove your innocence an Inquiry Officer will be appointed by me in terms of section.....of Provincial Council Disciplinary Procedural Rules. If you apply to retain an Attorney-at-law you should support your application with valid reasons.
- 06. If your replies do not reach me through.....(Head of Department) within the stipulated period, it will be deemed that you have no explanations to offer and action will be taken accordingly.
- 07. Please acknowledge receipt of this Charge Sheet (Head of Department).

Disciplinary Authority

Copies:- 1.
2.