

DEPARTMENT OF PERSONNEL MANAGEMENT
Office of the Secretary

CIRCULAR INSTRUCTION NO: 17/2016

DATE: 22/08/2016

FILE: SEC: 1 – 4 – 12 (a)

TO: ALL DEPARTMENTAL HEADS
ALL PROVINCIAL ADMINISTRATORS
ALL HEADS OF PUBLIC AUTHORITIES

SUBJECT: IMPROVED LAW TO ADDRESS SOVEREIGNTY ISSUES ASSOCIATED
WITH NON-CITIZEN TECHNICAL ADVISERS TO BE EFFECTIVE ON
1 SEPTEMBER 2016

1. Purpose

The purpose of this Circular Instruction is to inform all Departmental Heads, Provincial Administrators and Heads of Public Authorities of the adoption of a new Regulation to better address sovereignty issues associated with the engagement of Non-Citizen Technical Advisors.

2. New legislation follows extensive stakeholder consultation

A copy of the new *Public Employment (Engagement of Non-Citizen Technical Advisors) Regulation 2016* No. 8 of 2016 is attached to this Circular.

The updated law has been introduced following feedback from Departmental Heads and a number of PNG's development partners. In particular, the changes significantly reduce the 'red-tape' associated with the recruitment process for these advisers while, at the same time, strengthening the sovereignty principles underpinning the law.

3. Commencement date

In accordance with NEC Decision 171/2016 the new Regulation will come into effect on 1 September 2016. It will replace the previous Regulation which operated from 1 January 2016.

4. Application

The Regulation applies to all Non-Citizen Technical Advisers who are employed by Development Contractors and other Aid Providers within the National Public Service.

The Regulation does not apply to expatriate advisers who are employed directly by a PNG Agency under General Order 11 and the *Public Employment (Non-citizen) Act 1978*.

The arrangements also do not apply to Non-Citizen Technical Advisers within Statutory Authorities, Constitutional Offices or the Discipline Forces.

Finally, the Regulation will not apply at present within the Autonomous Region of Bougainville as my Department is currently discussing this issue with the ABG Chief Secretary.

5. Performance and Conduct Agreement and Code of Conduct

A central component of the law is the requirement for a Non-Citizen Technical Adviser to sign a *Performance and Conduct Agreement*. This Agreement creates the legal link between the Adviser and their Departmental Head – in essence it returns control over these Advisers to each Departmental Head.

The Performance and Conduct Agreement also binds the Adviser to observe the provisions of the *Non-Citizen Technical Adviser Code of Conduct*. The Code includes the requirement for Advisers to (1) maintain confidentiality of information, (2) act with honesty and integrity, (3) comply with any lawful and reasonable direction given by their Agency Head and (4) not to engage in any political activities.

A copy of the Performance and Conduct Agreement and the Code of Conduct is attached to this Circular.

6. The Recruitment Process

The recruitment of Non-Citizen Technical Adviser support will continue to be the responsibility of each Departmental Head. However, the law is now clear that the final decision on a preferred candidate rests with the relevant Departmental Head alone.

Each Performance and Conduct Agreement is to be signed by the relevant Agency Secretary following the conclusion of the recruitment process. The Agreement will then be transmitted by the contractor to DPM for endorsement. The DPM Secretary will endorse the contract if there are no adverse or negative records associated with the Non-Citizen in the Register of Non-Citizen Technical Advisers.

Following DPM endorsement, the Agreement will be transmitted by the Aid Provider to the Adviser for signature as part of their employment contract. The Regulation is clear that the Non-Citizen Technical Adviser must sign the Agreement before they enter PNG.

A "Process Map" illustrating the recruitment process is attached to this Circular.

7. Foreign government employees

In accordance with Government policy, no foreign government employees may be engaged in the National Public Service unless they are performing activities under an Institutional Partnerships Agreement (discussed below).

8. Institutional Partnerships

The Regulation facilitates the making of Institutional Partnership Agreements (IPA) between PNG and foreign institutions. Formerly referred to as "Twinning" these partnerships allow Government Agencies to collaborate with similar institutions of foreign governments to promote capacity building. The Regulation requires an IPA to be formalized in an MOU or similar arrangement.

Foreign government employees may be engaged under an IPA as long as they perform activities which are permitted under the Regulation. These employees will usually be in PNG for a short or medium term duration and will be involved in activities such as: special projects, training, capacity building, specialized assistance, professional development/mentoring etc.

9. Citizen Technical Advisers

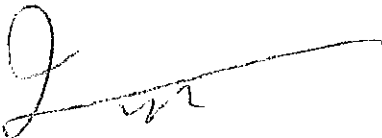
DPM is currently reviewing the arrangements that apply to Citizen Technical Advisers who are also employed by development contractors. The purpose of this review is to ensure consistency between the arrangements for Non-Citizen and Citizen Technical Advisers.

10. More Information

The DPM website (www.dpm.gov.pg) has been updated to provide more information on the new Regulation. In addition to copies of the relevant documents, DPM has developed a series of "Questions and Answers" which are aimed at assisting Departmental Heads and other officers understand and implement the new requirements.

Further information can also be obtained by contacting:

- Mrs Agnes Friday, Deputy Secretary, Human Resource Compliance and Corporate Affairs on telephone 327 6355 or email agnes_friday@dpm.gov.pg or
- Mr Yetrus Z. Buka, Manager, Contract Administration and Employment on telephone 327 6360 or email yetrus_buka@dpm.gov.pg.



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