

No. **22** of 2014.

*Public Services (Management) Act 2014*

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*Public Service (Management)*

7. Disqualification from office.
8. Special conditions of employment.
9. Resignation.
10. Retirement.
11. Acting Chairperson and Acting Members of the Commission.
12. Powers of the Commission.
13. Commission proceedings in camera.
14. Procedures of the Commission.
15. Delegation by the Commission.
16. Annual report by the Commission.
17. Secretariat of the Commission.

**PART III. - REVIEW OF PERSONNEL MATTERS.**

18. Review of personnel matters connected with the National Public Service.

**PART IV. - REVIEW OF ORGANISATIONAL MATTERS.**

19. Review of organisational matters.

**PART V. - ORGANISATION OF THE NATIONAL PUBLIC SERVICE.**

20. Departments of the public service and offices deemed as Departments.
21. Functions of departments.

**PART VI. - DEPARTMENTAL HEADS.**

*Division 1. - General*

22. Functions of departmental heads.
23. Powers of the departmental head of the Department of Personnel Management.
24. Delegation of powers and functions by the departmental head of the Department of Personnel Management.
25. Delegation of powers and functions by departmental heads.
26. Work performance of departmental heads.
27. Appointments, etc., of departmental heads.
28. Ministerial Executive Appointments Committee.

*Division 2. - Employment of Departmental Heads on Contract.*

29. Contracts of employment.
30. Employment under contract to constitute service.
31. Cessation of employment in public service.

*Division 3. - Reports.*

32. Performance reports.

*Public Service (Management)*

**PART XV. - RESIGNATION AND RETIREMENT.**

- 56. Persons who have resigned from the Public Service to become candidates at elections.
- 57. Age of retirement.
- 58. Retirement on account of infirmity or incapacity.

**PART XVI. - PROVINCIAL GOVERNMENT AND LOCAL-LEVEL GOVERNMENT ADMINISTRATION.**

- 59. Provincial and local-level administrative organisation.
- 60. Functions of a provincial and local-level government administrative organisation.
- 61. Procedures relating to appointment, etc., of provincial administrators.
- 62. Terms and conditions of employment of provincial administrators.
- 63. Additional functions of provincial administrators.
- 64. Procedures relating to appointment, etc., of district administrators.
- 65. Terms and conditions of employment of district administrators.
- 66. Additional functions of district administrators.
- 67. Assignment of staff.
- 68. Secondment of staff to and from other bodies.
- 69. Matters relating to Provincial Treasurers and other officers assigned to Provincial and District Treasuries.
- 70. Provincial Government and Local-level Government Secretariats.
- 71. Appointments to offices in Provincial Governments and Local-level Governments Secretariats, etc.

**PART XVII. - GENERAL ORDERS AND CODES OF CONDUCT.**

- 72. General Orders.
- 73. Codes of conduct.
- 74. Gender equity and socially acceptable inclusiveness.

**PART XVIII. - MISCELLANEOUS.**

- 75. Interpretation of Part XVIII.
- 76. Designated positions.
- 77. Appointments to designated positions.
- 78. Eligibility for appointment to offices generally.
- 79. Engagement in outside employment and acquisition of land.
- 80. Air insurance cover.
- 81. Regulations.

**PART XIX. - REPEAL.**

- 82.. Repeal.

**PART XX. - TRANSITIONAL AND SAVING.**

- 83. Transfer of departments.
- 84. Transfer of offices.



No. **22** of 2014.

AN ACT

Entitled

*Public Services (Management) Act 2014.*

Being an Act to -

- (a) make provision for the appointment, conditions of employment, constitution, powers, procedures and functions of the Public Services Commission in accordance with Sections 190 (*Establishment of the Commission*) and 191 (*Functions of the Commission*) of the *Constitution*; and
- (b) implement Section 195 (*Organisation, etc., of the State Services*) of the *Constitution* in relation to the Public Service; and
- (c) implement the *Organic Law on Provincial Governments and Local-level Governments* insofar as an Act of the Parliament is required to make provision relating to the staffing of Provincial Governments and Local-level Governments; and
- (d) make provision for ensuring the implementation of decisions, directions and policies of the National Executive Council by the National Public Service and public bodies, and for related purposes,

MADE by the National Parliament to come into operation in accordance with a notice in the National Gazette by the Head of State, acting with and in accordance with, the advice of the Minister.

#### PART I. - PRELIMINARY.

##### 1. COMPLIANCE WITH CONSTITUTIONAL REQUIREMENTS.

This Act, to the extent that it regulates or restricts a right or freedom referred to in Subdivision III.3.C (*qualified rights*) of the *Constitution*, namely -

- (a) freedom of expression conferred by Section 46 of the *Constitution*; and
- (b) freedom of assembly and association conferred by Section 47 of the *Constitution*; and
- (c) freedom of employment conferred by Section 48 of the *Constitution*; and
- (d) the right to privacy conferred by Section 49 of the *Constitution*; and
- (e) the right to vote and stand for public office conferred by Section 50 of the *Constitution*; and
- (f) the right to freedom of information conferred by Section 51 of the *Constitution*; and
- (g) the right to equality of treatment in employment conferred by Section 55 of the *Constitution*;

is a law that is made for the purpose of giving effect to the public interest in public order and public welfare.

*Public Services (Management)*

"Provincial Administrator" means a Provincial Administrator appointed under Section 73(2) or (2A) of the *Organic Law on Provincial Governments and Local-level Governments* and, in relation to a province, means the Provincial Administrator for that province;

"Provincial Governor" means the Provincial Governor of a province in accordance with the *Organic Law on Provincial Governments and Local-level Governments*, and, in relation to a province, means the Governor of that province;

"public body" means any body, authority or instrumentality (corporate or un-incorporate) established by or under an Act or Constitutional Law other than -

- (a) Constitutional Office-holder or the Office of a Constitutional Office-holder; or
- (b) a body, authority or instrumentality incorporated or continued in existence under the *Companies Act 1997*;

"Public Service Commission Appointments Committee" means the Public Service Commission Appointments Committee referred to in Section 190(2) (*establishment of the Commission*) of the *Constitution*;

"seniority" in relation to an officer, means their seniority as determined in the prescribed manner;

"terms and conditions of service" means the obligations, entitlements and all benefits as specified in General Orders and Regulations;

"the repealed Acts" means the Acts specified in Schedule 2;

"this Act" includes the Regulations and the General Orders;

"unattached officer" means an officer who is not occupying an office.

**3. APPLICATION OF THIS ACT.**

This Act applies to and in relation to officers, employees and all other persons otherwise employed or engaged under this Act, whether inside or outside Papua New Guinea.

**4. APPLICATION OF PUBLIC SERVICES CONCILIATION AND ARBITRATION ACT 1969.**

This Act does not affect the operation of the *Public Services Conciliation and Arbitration Act 1969* or any determination made under that Act, in respect to its application to the officers and employees of the Public Service.

**PART II. - THE PUBLIC SERVICE COMMISSION.**

**5. CONDITIONS OF EMPLOYMENT.**

The salary and other conditions of employment of the chairperson and members of the Commission are as determined by the Salaries and Remuneration Commission.

**6. DECLARATION OF OFFICE.**

Before entering upon the duties of his office, a member of the Commission shall make the Declaration of Office before the Head of State or a person appointed by the Head of State.

**7. DISQUALIFICATION FROM OFFICE.**

A person is not qualified to be, or to remain, a member of the Commission if that person is -

- (a) a member of the Parliament; or
- (b) a member of a Provincial Assembly; or
- (c) a member of a Local-level Government; or

*Public Services (Management)*

(2) The Head of State, acting with, and in accordance with, the advice of the Public Service Commission Appointments Committee, may, for special reasons in an appropriate case, appoint or re-appoint a person who is over 60 years of age to be the Chairperson or a member of the Commission but in no case shall the Chairperson or a member of the Commission continue to act as Chairperson or a member of the Commission after he or she has attained the age of 65 years.

**11. ACTING CHAIRPERSON AND ACTING MEMBERS OF THE COMMISSION.**

(1) The Head of State, acting with, and in accordance with, the advice of the Public Services Commission Appointments Committee, may appoint a member of the Commission to be an Acting Chairperson of the Commission -

- (a) to temporarily fill a vacancy; or
- (b) in the absence of the Chairperson from duty for any reason.

(2) The Public Service Commission Appointments Committee may appoint a person who is qualified under this Act to be a member of the Commission to be an acting member of the Commission -

- (a) to fill a temporary vacancy; or
- (b) where a member of the Commission is absent from duty for any reason.

**12. POWERS OF THE COMMISSION.**

(1) The Commission may at any time, for the purpose of performing its functions -

- (a) enter premises occupied or used by -
  - (i) a department of government; or
  - (ii) any State Service (other than the Defence Force); or
  - (iii) any Provincial Government; or
  - (iv) any other governmental service; and
- (b) summons a person whose evidence appears to be material to the determining of any subject, inspection, inquiry, review or investigation being conducted by the Commission; and
- (c) take evidence on oath or affirmation and for that purpose administer oaths and affirmations; and
- (d) require any person to produce documents within his possession or subject to his control.

(2) A person who knowingly makes any false or misleading statements in any evidence before the Commission commits an offence.  
Penalty: A fine not exceeding K200.00.

(3) Any officer who neglects or fails, without reasonable cause (the burden of proof of which lies upon him), to attend in obedience to a summons under Subsection (1), or to be sworn or answer questions or produce documents relevant to the subject of an inspection, inquiry or investigation when required to do so under this subsection, commits an offence.  
Penalty: A fine not exceeding K200.00.

(4) A person other than an officer who, after payment or tender of reasonable expenses, neglects or fails, without reasonable cause (the burden of proof of which lies upon him), to attend in obedience to a summons under Subsection (1) or to be sworn or answer questions or to produce a document relevant to the subject of an inspection, inquiry or investigation when required to do so under this subsection, commits an offence.

*Public Services (Management)*

- (7) The Commission shall cause minutes of its meetings to be kept.
- (8) Subject to this Act, the procedures of the Commission are as determined by the Commission.

**15. DELEGATION BY THE COMMISSION.**

- (1) The Commission may, by instrument in writing under the hand of the Chairperson, delegate to any person all or any of its powers and functions (other than this power of delegation or any prescribed power or function) so that the delegated powers and functions may be exercised and performed by the delegate in relation to the matter or class of matters specified in the instrument of delegation.
- (2) Every delegation under Subsection (1) is revocable, in writing, at will, and no such delegation affects the exercise of a power or the performance of a function by the Commission.

**16. ANNUAL REPORT BY THE COMMISSION.**

- (1) The Commission shall, no later than 31 March in each year, give to the Head of State, for presentation to the National Parliament, a report on the work of the Commission and the National Public Service during the preceding period of 12 months with such recommendations as to improvement as it thinks proper.
- (2) Nothing in Subsection (1) prevents the Commission from making, on its own initiative, or at the request of the National Parliament or of the National Executive Council, other reports of the work of the Commission.

**17. SECRETARIAT OF THE COMMISSION.**

- (1) There shall be a Secretariat to the Commission established in accordance with this section.
- (2) The departmental head of the Department of Personnel Management, after consultation with the Commission, shall appoint an officer to be the Head of the Secretariat.
- (3) The terms and conditions of employment of the Head of the Secretariat shall be equivalent to the terms and conditions of employment of a Deputy Secretary of the Department of Personnel Management.
- (4) The departmental head of the Department of Personnel Management shall manage all personnel matters relating to the Head of the Secretariat, including determination of disciplinary matters on the recommendation of the Commission.
- (5) There shall be a staff to the Secretariat which
  - (a) shall be officers of the National Public Service; and
  - (b) shall be governed by General Orders specifically made, in consultation with the Commission, for the purpose of management by the Head of the Secretariat; and
  - (c) shall be subject to appointment, revocation of appointment and discipline by the Head of the Secretariat.
- (6) The Head of the Secretariat is accorded the powers necessary to enable the head to carry out his or her functions under this section.

*Public Services (Management)*

**PART IV. - REVIEW OF ORGANISATIONAL MATTERS.**

**19. REVIEW OF ORGANISATIONAL MATTERS.**

- (1) In the performance of its duty under Section 191(1)(b) (*Functions of the Commission*) of the *Constitution*, the Commission shall, before deciding whether advice should be given to the National Executive Council or other authority on a particular matter, consider -
- (a) the relative importance of that matter; and
- (b) any advice, recommendations, opinions or views submitted by any governmental body.
- (2) In formulating its advice, the Commission shall have, as its principal objective, the communication of the views of the individual members of the Commission as representatives of officers of long-standing and experience in the National Public Service.

**PART V. - ORGANISATION OF THE NATIONAL PUBLIC SERVICE.**

**20. DEPARTMENTS OF THE PUBLIC SERVICE AND OFFICES DEEMED AS DEPARTMENTS.**

- (1) There shall be -
- (a) a Department of the Prime Minister and National Executive Council; and
- (b) a Department of Personnel Management; and
- (c) such other Departments and Offices deemed as Departments as are established under Subsection (2).
- (2) The Head of State, acting on advice, may, by notice in the National Gazette -
- (a) establish a Department or an Office deemed as a Department; or
- (b) abolish a Department or deemed Department; or
- (c) alter the name of a Department or deemed Department other than the Department of Prime Minister and National Executive Council and the Department of Personnel Management.
- (3) In this Act, "Department" includes deemed Department for all purposes.
- (4) For purposes of this Act -
- (a) the Commissioner General of Internal Revenue; and
- (b) the Auditor-General; and
- (c) a Provincial Administrator; and
- (d) such other officers as specified by the Head of State, acting on advice, shall, in relation to the officers and employees of, and offices in the organisations of which they are respectively in charge, be deemed to be the Departmental Heads.

**21. FUNCTIONS OF DEPARTMENTS.**

- The functions of -
- (a) the Department of the Prime Minister and National Executive Council are as provided for under the *Prime Minister and National Executive Council Act 2002*; and
- (b) the Department of Personnel Management are, as determined by Section 22(2), together with any other functions as determined by the Head of State, acting on advice; and



*Public Services (Management)*

(3) In the performance of any of the functions under this Act, the departmental head of the Department of Personnel Management shall consult with the respective departmental heads of the appropriate central agencies of government.

- (4) The functions of other departmental heads and deemed departmental heads are -
- (a) to be the principal adviser to the portfolio Minister in respect to the functions for which the portfolio Minister is responsible under the Ministerial Determinations made by the Prime Minister under Section 148 of the *Constitution*; and
  - (b) to administer the respective legislation for which the portfolio Minister is responsible by virtue of the Ministerial Determinations; and
  - (c) to administer those sections of the *Public Services (Management) Act 2014* and the *Public Finances (Management) Act 1995* which have been delegated to them by the legislation or by the respective departmental heads with responsibility for these Acts; and
  - (3) to ensure the efficient and effective performance of the department in the delivery of services to the public, enforcing compliance with legislation, and implementing Government policies; and
  - (e) to cooperate with the departmental head of the Department of Prime Minister and National Executive Council in the exercise of that departmental head's functions under Subsection (1), and in particular shall -
    - (i) comply with regulations issued under the *Prime Minister and National Executive Council Act 2002* for the policy review of National Executive Council submissions; and
    - (ii) provide timely reports to the departmental head, Department of Prime Minister and National Executive Council in respect to the implementation of National Executive Council decisions; and
    - (iii) produce timely action plans for consideration by the Central Agencies Coordinating Committee and any sub-committees as prescribed by the Chairman of the Central Agencies Coordination Committee; and
  - (f) to cooperate with the departmental head of the Department of Personnel Management in the exercise of that departmental head's functions and in particular shall -
    - (i) comply with the Regulations, General Orders and Circular Instructions issued to effect government employment strategies, policies and procedures, and in particular to maintain equitable and socially inclusive principles and values prescribed by this Act; and
    - (ii) provide reports to the departmental head of the Department of Personnel Management in respect to all employment matters covered by the General Orders to effect greater and more economical efficiency of the department; and
    - (iii) seek advice from the officers of the Department of Personnel Management in respect to the application of policies and procedures governing those matters delegated to the said departmental head under Section 24; and
    - (iv) inform the departmental head of the Department of Personnel Management of any matter in relation to corruption within the department as prescribed by the National Public Service Code of Ethics and Conduct; and
    - (v) satisfy the departmental head's performance requirements under Section 26.

*Public Services (Management)*

**27. APPOINTMENTS, ETC., OF DEPARTMENTAL HEADS.**

- (1) The procedures relating to the substantive appointments, temporary appointments, suspension and termination of appointments of departmental heads referred to in Section 193 (*appointments to certain offices*) of the *Constitution* are as prescribed in the Regulations.
- (2) The procedures relating to the substantive appointment, temporary appointment, suspension and termination of appointment of the Secretary to the National Executive Council, the departmental head of the Department of Personnel Management and the Chief Secretary are as prescribed in the Regulations.
- (3) The merit-based selection process as prescribed by the Regulations shall be the primary consideration of the Ministerial Executive Appointments Committee created under Section 28 in making a recommendation to the National Executive Council on the appointments under this section.
- (4) All other considerations not related to the processes described in this section shall not have any bearing in the recommendation made by the Ministerial Executive Appointments Committee to the National Executive Council for the purpose of making a final decision under this section.

**28. MINISTERIAL EXECUTIVE APPOINTMENTS COMMITTEE.**

- (1) This section does not abrogate the review functions of the Public Services Commission under Section 191 (*Functions of the Commission*) of the *Constitution* to review personnel matters.
- (2) There shall be established a Ministerial Executive Appointments Committee comprising of the following:
  - (a) the Minister responsible for Public Services employment functions; and
  - (b) the Minister responsible for the portfolio functions of the department concerned; and
  - (c) the Minister responsible for Treasury functions; and
  - (d) the Minister responsible for National Planning functions; and
  - (e) the Minister responsible for Justice and Attorney General functions.
- (3) The Minister for Public Service shall be the Chairperson of the Committee.
- (4) Three members, including the Chairperson and the portfolio Minister in Subsection 2(b), constitute a quorum for a meeting of the Committee.
- (5) There shall be a Secretariat to the Committee provided by the departmental head of the Department of Personnel Management as detailed in the Regulations.
- (6) The functions of the Ministerial Executive Appointments Committee shall be exercised in accordance with the following broad responsibilities with details contained in the Regulations -
  - (a) to assess a short list of candidates provided by the departmental head of the Department of Personnel Management for the appointment of a departmental head, following a merit-based selection process; and
  - (b) to recommend to the National Executive Council one candidate for appointment as a departmental head; and
  - (c) to analyse a report on the performance of a serving departmental head and his eligibility for reappointment as a departmental head; and

*Division 3. - Reports.*

**32. PERFORMANCE REPORTS.**

Each departmental head shall -

- (a) by 31 March in each year, prepare a report on the attainment of the planned objectives of his department on all matters under this Act for the year ending 31 December preceding; and
- (b) produce or cause to be produced such further reports as may be required by -
  - (i) the departmental head of the Department of Personnel Management; or
  - (ii) the National Executive Council.

**PART VII. - CREATION OF OFFICES.**

**33. CREATION AND ABOLITION OF OFFICES.**

- (1) This section does not apply to the office of a departmental head.
- (2) The departmental head of the Department of Personnel Management may, in relation to a department or a deemed department -
  - (a) create an office and specify the qualifications for, and the duties of, the office; or
  - (b) abolish an office; or
  - (c) alter the designation of an office; or
  - (d) raise the classification of an office; or
  - (e) lower the classification of an office; or
  - (f) alter the qualifications for, or the duties of, an office; or
  - (g) transfer an office from one department to another department.

(3) Subject to Subsections (4) and (5), where a department is re-organised, all offices in the department are deemed to be vacant and shall be advertised in accordance with this Act.

(4) Where -

- (a) a department is re-organised; and
  - (b) the re-organisation affects the number of offices or designation of offices or of a class of offices,
- the departmental head of the Department of Personnel Management may, by notice in the National Gazette, declare those offices or classes of offices not to be affected by the re-organisation.

(5) Substantive occupants of offices or classes of offices declared in the National Gazette under Subsection (4) shall retain their offices and the positions shall not be advertised.

**34. TEMPORARY OFFICES.**

The departmental head of the Department of Personnel Management may, in his discretion -

- (a) create or abolish an office or upgrade or downgrade the classification of an office; or
- (b) appoint, transfer or re-deploy a person from one office to another, for purposes of project implementation.

*Public Services (Management)*

**37. SUBSTANTIVE APPOINTMENTS.**

An officer may only be substantively appointed to a position through a merit-based procedure determined by the departmental head of the Department of Personnel Management and published in a General Order.

**38. ACTING APPOINTMENTS.**

Where an officer, other than a departmental head, is absent from office or unable to perform the duties of the office for purposes specified in Section 36(4) or when there is a vacancy in an office other than an office of departmental head, the departmental head concerned may appoint another officer to act in the place of the officer during the said absence or inability, or may appoint an officer to fill the vacancy temporarily.

**39. TEMPORARY EMPLOYMENT.**

- (1) Where, in the opinion of the departmental head of the Department of Personnel Management, the business of a department -
- (a) warrants the engagement of temporary assistance to provide a particular skill or service to a department; or
  - (b) has given rise to an unexpected workload which could not have been anticipated and is expected to continue for more than six months,
- the departmental head of the Department of Personnel Management may approve the employment of a person or persons to render temporary assistance to that department, for a period not exceeding 12 months.
- (2) A person employed under Subsection (1) shall be employed on contract as specified in the General Orders.
- (3) Notwithstanding Subsection (1)(b), a person may be employed on contract under this section for a period exceeding 12 months where the departmental head of the Department of Personnel Management so authorises as prescribed in the General Orders.
- (4) A national contract to which this section applies shall provide for a salary and duty-related allowances.
- (5) A person employed under a national contract may apply to the departmental head of the Department of Personnel Management for a discretionary allowance and may be granted if warranted.

**PART X. - EMPLOYMENT CONTRACT FOR SENIOR OFFICERS.**

**40. DESIGNATION OF SENIOR OFFICERS.**

- (1) The Minister may, pursuant to a directive of the National Executive Council, by notice in the National Gazette, designate an office, other than an office of departmental head, as a senior office for the purposes of this Division.
- (2) A notice under Subsection (1) shall specify, in relation to each senior position whether a person is to be appointed to that office by -
- (a) the Head of State, acting on advice; or
  - (b) the departmental head of the Department of Personnel Management,
- in accordance with this Act.

*Public Services (Management)*

**PART XI. - TRAINING.**

**44. TRAINING AND CAREER PATH PLANNING.**

- (1) The departmental head of the Department of Personnel Management is responsible for initiating and co-ordinating manpower, career and training plans for the Public Service.
- (2) A departmental head is responsible for -
  - (a) producing manpower, career and training plans for the department of which he is departmental head; and
  - (b) submitting plans produced under Paragraph (a), by 31 March of each year, to the departmental head of the Department of Personnel Management.
- (3) Any training, whether local or overseas, for an officer shall be consistent with the manpower, career and training plans of the department in which the officer is employed.
- (4) An officer who is sent on a course of study for the purpose of career progression to a higher office shall, on successful completion of that study, be given first consideration in the selection process for appointment to that higher office.
- (5) If an officer who is employed on contract under Section 41 proceeds on a course of study of more than three months he shall be paid such contractual entitlements as specified in the General Orders.

**PART XII. - AID FUNDED TECHNICAL ADVISERS.**

**45. AID FUNDED CITIZEN TECHNICAL ADVISERS.**

Subject to this Act and the regulations -

- (a) a citizen Technical Adviser may be engaged by the State in a designated position to provide technical and capacity building support to a departmental head as an employee of an accredited aid agency under a bi-lateral aid donor agreement between the State and the foreign government; and
- (b) the Technical Adviser may only be engaged in the service of a department through the procedures administered by the departmental head of the Department of Personnel Management, and shall enter into a contract with the State and the department and the provisions of the contract under this section are as set out in the regulations and includes a job description and terms of reference governing the service to be provided; and
- (c) the Technical Adviser shall not be an employee of the State and the department has no liability for any component of a Technical Adviser's remuneration unless, the departmental head of the Department of Personnel Management authorise payment of an ex-gratia allowance to a Technical Adviser in recognition of work performed, subject to the provisions of the *Salaries and Conditions Monitoring Committee Act 1988*; and
- (d) the Technical Adviser shall report to the departmental head and is accountable to the departmental head for his or her performance under the contract and shall pledge primary loyalty to the State, despite the employment arrangement made between the accredited aid agency and the Technical Adviser; and

**PART XIV. - DISCIPLINE.**

**51. DISCIPLINARY OFFENCES.**

An officer who -

- (a) commits a breach of this Act including the Public Service Code of Business Ethics and Conduct; or
  - (b) divulges, directly or indirectly, any confidential information concerning public business or any matters of which he has official knowledge, except as authorised in the course of official duty; or
  - (c) publicly comments on an administrative action or the administration of a department, except with the consent of the Head of State, acting on advice, or of an officer authorised for the purpose by the Head of State, acting on advice; or
  - (d) willfully disobeys or disregards a lawful order made or given by a person having authority to make or give it; or
  - (e) is negligent or careless in the discharge of his duties; or
  - (f) is inefficient or incompetent from causes within his own control; or
  - (g) uses intoxicating liquors or drugs to excess; or
  - (h) solicits or accepts a fee, reward, gratuity or gift (other than his official remuneration) in connection with the discharge of his official duties; or
  - (i) is guilty of disgraceful or improper conduct in his official capacity or otherwise; or
  - (j) having taken an oath or made an affirmation in the prescribed form, does or says anything in violation of it; or
  - (k) seeks the influence or interest of any person in order to gain promotion, transfer or other advantage; or
  - (l) supplies to another officer, for use for any purpose referred to in Paragraph (k), a certificate or testimonial relating to official capacity or the performance of official duties,
- is guilty of a disciplinary offence and is liable to be dealt with and punished -
- (m) in the case of a departmental head, under Part VI; and
  - (n) in the case of an officer other than a departmental head, under this Part.

**52. DEALING WITH MINOR DISCIPLINARY OFFENCES.**

(1) If the departmental head, or an officer authorised by the departmental head to deal with minor offences, has reason to believe that an officer other than a departmental head has committed a disciplinary offence that, in his opinion, would properly be dealt with under this section, the departmental head or the authorised officer may call on the officer for an explanation as to the alleged offence, and if, on consideration of the explanation, the departmental head or the authorised officer is of the opinion that the offence has been committed, the departmental head or the authorised officer may caution or reprimand the offending officer.

(2) A caution or reprimand by an officer other than a departmental head shall be immediately reported to the departmental head.

**53. DEALING WITH SERIOUS DISCIPLINARY OFFENCES.**

(1) Where there is reason to believe that an officer, other than a departmental head, has committed a disciplinary offence other than an offence that may be dealt with under Section 51, the provisions of this section apply.

*Public Services (Management)*

(3) Where the officer is convicted of an offence which does not relate to the duties of his office by a Court of competent jurisdiction, he may be dismissed by the departmental head, unless the departmental head determines otherwise.

**55. STRIKES.**

- (1) An officer who aids, abets, foments or takes part in a strike that -
- (a) interferes with or prevents; or
  - (b) is intended or calculated to interfere with or prevent; or
  - (c) attempts to interfere or prevent,
- the carrying on of any part of the public service or utilities of the country commits an illegal act against the peace and good order of the country.
- (2) Any officer adjudged by the departmental head concerned, after investigation and hearing, to be guilty of any action referred to in Subsection (1) may be summarily dismissed by the departmental head from the Public Service, without regard to the procedures prescribed in this Act for dealing with disciplinary offences.

**PART XV. - RESIGNATION AND RETIREMENT.**

**56. PERSONS WHO HAVE RESIGNED FROM THE PUBLIC SERVICE TO BECOME CANDIDATES AT ELECTIONS.**

(1) An officer (including a departmental head) who wishes to contest in a National or Local Level Government election shall resign in order to stand as a candidate in the election by giving the required notice under employment arrangements.

- (2) An officer exercising the right to resign and stand for election shall resign -
- (a) in the case of a National Election, not less than six months before the issuance of the writs for the election; and
  - (b) in the case of a Local-level Government election not less than one month before the issuance of the writs for the election.

(3) The office held by the officer at the time of resignation under this section becomes vacant and may be filled substantively or in an acting capacity by another officer.

(4) An officer who has resigned and has failed to win a seat in the election has no automatic right to be re-admitted to the Public Service and if wishing to be re-admitted to the Public Service shall apply for re-appointment.

(5) An officer who resigns under this section may exercise the option to leave his service without taking receipt of his service related termination benefits and in the event of failing to win a seat and having successfully obtained re-admittance to the Public Service, the period of absence shall be counted as leave without pay and not to count as service.

**57. AGE OF RETIREMENT.**

Subject to this Act and the Regulations -

- (a) a departmental head who has attained the age of 50 years is entitled to retire from the Public Service if he desires to do so, but may, continue in the Public Service until attaining the normal retirement age of 60 years, at which age the departmental head is entitled to retire by giving due notice under the contract of employment; and

*Public Services (Management)*

(a) to be, by reason of mental or bodily infirmity or for any other reason, unfit to discharge or incapable of discharging the duties of his office efficiently; or

(b) to have ceased to have the qualifications specified for their office, or to be or to have become legally disqualified from carrying out those duties or legally incompetent to carry them out,

the departmental head, may retire the officer from the Public Service or transfer the officer to some other position of equal or lower status and pay in accordance with the criteria and the procedures in the General Orders.

(2) The retirement of an officer under this section shall not be deemed to be on account of mental or bodily infirmity unless it is so stated in the instrument affecting the retirement.

**PART XVI. - PROVINCIAL GOVERNMENT AND LOCAL-LEVEL GOVERNMENT ADMINISTRATION.**

**59. PROVINCIAL AND LOCAL-LEVEL ADMINISTRATIVE ORGANISATION.**

The Head of State, acting on advice, given after receiving a report from the departmental head of the Department of Personnel Management, may, by notice in the National Gazette -

(a) establish; or

(b) abolish; or

(c) alter the name of,

a provincial or local-level government administrative organisation in a province.

**60. FUNCTIONS OF A PROVINCIAL AND LOCAL-LEVEL GOVERNMENT ADMINISTRATIVE ORGANISATION.**

The functions of a provincial and local-level government administrative organisation in a province are -

(a) to effect the administration required by the *Organic Law on Provincial Governments and Local-level Governments*; and

(b) such other functions as are determined by the Head of State, acting on advice.

**61. PROCEDURES RELATING TO APPOINTMENTS, ETC., OF PROVINCIAL ADMINISTRATORS.**

The procedures relating to the substantive appointments, temporary appointments, suspension or termination of appointment of departmental head referred to in Section 193 (*appointments to certain offices*) of the *Constitution*, as determined in the Regulations, apply to provincial administrators who are deemed departmental heads.

**62. TERMS AND CONDITIONS OF EMPLOYMENT OF PROVINCIAL ADMINISTRATORS.**

The terms and conditions of employment of a provincial administrator are as determined in a contract of employment as a deemed departmental head made under Section 29 of this Act and the salaries and allowances are as determined by the Salaries and Remuneration Commission as detailed in the Regulations.

**63. ADDITIONAL FUNCTIONS OF PROVINCIAL ADMINISTRATORS.**

In addition to the functions specified in Section 74(1) of the *Organic Law on Provincial Governments and Local-level Governments*, the provincial administrator of a province -

(a) is the chief adviser to the Provincial Governor and to the Provincial Executive Council; and



*Public Services (Management)*

- (b) a person from any other public or private body to the provincial or local-level administrative organisation, for training or specialist service purposes.
- (2) Before arranging a secondment under Subsection (1), a Provincial Administrator must consult with -
  - (a) the departmental head of the Department of Personnel Management; and
  - (b) the departmental head of the Department responsible for provincial and local-level government matters.

**69. MATTERS RELATING TO PROVINCIAL TREASURERS AND OTHER OFFICERS ASSIGNED TO PROVINCIAL AND DISTRICT TREASURERS.**

- (1) Provincial treasurers and district treasurers are appointed by the departmental head responsible for financial matters under the provisions of the *Public Finances (Management) Act 1995* and the Regulations under that Act, in accordance with the General Orders.
- (2) Provincial treasurers and district treasurers are officers of the Public Service and shall be subject to the day to day supervision by the Provincial Administrator except for decisions to be taken pursuant to the *Public Finances (Management) Act 1995* and the Regulations under that Act.
- (3) The recruitment, appointment, promotion, transfer, discipline or termination of provincial or district treasurers and other officers of the provincial and district treasuries are those applicable to officers under this Act.
- (4) The Provincial Administrator shall provide regular reports to the Secretary for Finance on the discipline and performance of each provincial treasurer and district treasurer.

**70. PROVINCIAL GOVERNMENT AND LOCAL-LEVEL GOVERNMENT**

**SECRETARIATS.**

- (1) The Head of State, acting on advice, may, by notice in the National Gazette -
  - (a) establish; or
  - (b) abolish; or
  - (c) change the name of,a provincial government and local-level government secretariat for a province.

- (2) The Head of State, acting on advice, given after considering a recommendation from the departmental head of the Department of Personnel Management, may, by notice in the National Gazette -

- (a) create; or
- (b) abolish; or
- (c) upgrade; or
- (d) downgrade; or
- (e) rename,

the office of the head of a Provincial Government or a Local-level Government Secretariat.

- (3) Subject to Subsection (4), a Provincial Administrator may, after consultation with the departmental head of the Department of Personnel Management -

*Public Services (Management)*

**73. CODES OF CONDUCT.**

- (1) The Head of State, acting on advice, given after considering recommendations from the departmental head of the Department of Personnel Management, may issue -
  - (a) a Code of Business Ethics and Conduct for all officers and employees of the National Public Service; and
  - (b) a Code of Conduct relating to the specialised function of any department, office or division of the National Public Service.
- (2) A Code issued under Subsection (1) -
  - (a) shall be published in the National Gazette; and
  - (b) may otherwise be published or circulated in such manner as the departmental head of the Department of Personnel Management determines.
- (3) A Code under Subsection (1) shall specify the persons to whom it applies and it is the duty of each person to comply with the Code.
- (4) A person who fails to comply with a Code issued under Subsection (1) shall -
  - (a) where the failure constitutes an offence or breach of duty under any other law, be dealt with in accordance with that other law; and
  - (b) where the failure does not constitute an offence or breach of duty under any other law, be considered to have committed a minor disciplinary offence for the purposes of Section 52 or a serious disciplinary offence under a contract of employment under Section 53.

**74. GENDER EQUITY AND SOCIALLY ACCEPTABLE INCLUSIVENESS.**

- (1) In accordance with the provisions of the *Constitution*, all matters determined in relation to the requirements of this Act shall be underpinned by equitable and socially inclusive principles and values that exhibit fairness and transparency.
- (2) These principles and values ensure that the rights, privileges, obligations and duties of individuals are protected irrespective of race, tribe, place of origin, political opinion, colour, creed, sex or social constructions of gender.
- (3) The making of additional processes, policies or laws to address under-privileged or less advantaged people shall be supported by this Act.

**PART XVIII. - MISCELLANEOUS.**

**75. INTERPRETATION OF PART XVIII.**

In this Part -

- “designated position” means an office declared under Section 76 to be a designated position for the purposes of this Part;
- “the Education Gazette” means the publication known as the Papua New Guinea Education Gazette published under the authority of the departmental head of the department responsible for education matters;
- “teacher” means a teacher within the meaning of the *Education Act 1983*.

*Public Services (Management)*

**79. ENGAGEMENT IN OUTSIDE EMPLOYMENT AND ACQUISITION OF LAND.**

- (1) Subject to this section, except with the permission of the departmental head of the Department of Personnel Management (which permission may be withdrawn at any time) an officer shall not -
- (a) accept or continue to hold a position in or under the Government of another country or in or under any public or municipal corporation; or
  - (b) accept or continue to hold or discharge the duties of, or be employed in, a paid job in connection with any banking, insurance, agricultural, mining, mercantile or other commercial business, whether carried on by a corporation, a firm or an individual; or
  - (c) engage in or undertake any business as principal or as agent; or
  - (d) engage or continue in the private practice of any profession, occupation or trade; or
  - (e) enter into any employment, whether remunerative or not, with any person, company or firm who or which is so engaged; or
  - (f) accept or engage in any remunerative employment other than in connection with the duties of his office or offices in the Public Service.
- (2) Subject to the succeeding provisions of this section, Subsection (1) does not prevent an officer from becoming a member or shareholder only of an incorporated company or of a company or society or persons registered under a law of the country or elsewhere, but he shall not take any part in the conduct of the business of the company or society otherwise than by the exercise of his right to vote as a member or shareholder.
- (3) The departmental head of the Department of Personnel Management may, by notice in the National Gazette, list companies and societies or persons which are authorised companies and societies for the purposes of this section.
- (4) Except with the written consent of the departmental head of the Department of Personnel Management, an officer shall not personally or by his agent -
- (a) hold shares in a company or society of persons operating in the country other than in a company or society authorised under Subsection (3); or
  - (b) acquire land in the country other than land on which a building is or is to be erected that is to be occupied by him as a resident or a dwelling-house for occasional use by him for purposes of health.
- (5) For the purposes of Subsection (4), the wife or husband of an officer may be deemed to be the agent of the husband or wife, as the case may be.
- (6) Subsection (4) does not prevent an officer from acquiring land in accordance with custom.
- (7) Notwithstanding this section, an officer may, with the approval of the departmental head of the Department of Personnel Management (which approval may at any time be withdrawn) act as a director of a co-operative company.

**80. AIR INSURANCE COVER.**

- (1) Subject to Subsection (9), where an officer travels by air on official duty and suffers death or permanent incapacity as a result, the State is liable in accordance with this section.

*Public Services (Management)*

**84. TRANSFER OF OFFICES.**

All offices (including offices of departmental heads) established under the repealed Acts and in existence immediately before the coming into operation of this Act are, on that coming into operation, deemed to be offices created under this Act with the same

- (a) designation; and
- (b) duties; and
- (c) requirements or qualifications; and
- (d) classifications,

that they had, and in the same departments as they were in, under the repealed Acts immediately before the coming into operation of this Act.

**85. TRANSFER OF OFFICERS.**

(1) A person who, immediately before the coming into operation of this Act, was a departmental head under the repealed Acts is deemed, on that coming into operation, to be a departmental head under this Act.

(2) An officer who, immediately before the coming into operation of this Act, was the substantive occupant of an office under the repealed Acts is deemed, on that coming into operation, to have been appointed to the equivalent office under this Act.

(3) A person who, immediately before the coming into operation of this Act, was an unattached officer under any provision of the repealed Acts is, on that coming into operation, deemed to be an unattached officer under the equivalent provision of this Act.

(4) Where a person to whom Subsections (1), (2) or (3) applies was, immediately before the coming into operation of this Act, an officer on probation under the repealed Acts, he is deemed to be an officer on probation under this Act for the period of probation remaining unexpired immediately before that commencement.

(5) A person who, immediately before the coming into operation of this Act, was an employee under the repealed Acts is, on that coming into operation, deemed to be an employee under this Act.

(6) An officer or employee who was, immediately before the coming into operation of this Act, acting in an office by virtue of the provisions of the repealed Acts, shall, on that commencement, continue to act under this Act.

**86. DISCIPLINARY OFFENCES.**

(1) Where, prior to the coming into operation of this Act, an officer has been charged with committing a disciplinary offence under the repealed Acts, and on that coming into operation, the procedure set out for dealing with the disciplinary offence under the repealed Acts had not been completed, that disciplinary offence shall continue to be dealt with in accordance with the provisions of the repealed Acts.

(2) For the purposes of this Act, an offence against the repealed Acts committed prior to the coming into operation of this Act, but in respect of which no charge had been made at that coming into operation, is deemed to be a disciplinary offence under Section 51 of this Act.

*Public Services (Management)*

SCHEDULE 2.

REPEALED ACTS.

Sec. 82(1).

*Public Services (Management) Act 2013.*

*Public Services (Management) Act 1995.*

*Public Services (Management) (Amendment) Act 1998 (No. 24 of 1998).*

*Public Services (Management) (Amendment) Act 2002 (No. 24 of 2002).*

*Public Services (Management) (Amendment) Act 2003 (No. 2 of 2003).*

*Public Services (Management) (Amendment) Act 2004 (No. 2 of 2004).*

I hereby certify that the above is a fair print of the *Public Services (Management) Act 2014* which has been made by the National Parliament.

Acting Clerk of the National Parliament.

I hereby certify that the *Public Services (Management) Act 2014* was made by the National Parliament on 5 September, 2014 by an absolute majority in accordance with the *Constitution*.

Speaker of the National Parliament.