

No. 28 of 2013.

Regulatory Statutory Authority (Appointment to Certain Offices) (Amendment) Act 2013.

Certified on: 17/02/14



No. of 2013.

Regulatory Statutory Authority (Appointment to Certain Offices) (Amendment) Act 2013.

ARRANGEMENT OF SECTIONS.

1. Vacancy in Office of Chief Executive Officer (Amendment of Section 4).
2. Merit-Based Appointment Process (Amendment of Section 5).
3. Procedure following Merit-Based Appointment Process (Amendment of Section 6).
4. Investigations of grounds for dismissal (Amendment of Section 7).
5. Suspension of a Chief Executive Officer (Amendment of Section 8).
6. Acting appointment of Chief Executive Officers (Amendment of Section 9).
7. Appointment of Non Ex Officio Members of Boards of Regulatory Statutory Authorities (Amendment of Section 10).
8. Amendment of Schedule 2.

SCHEDULE.



No. of 2013.

AN ACT

entitled

Regulatory Statutory Authority (Appointment to Certain Offices) (Amendment) Act 2013,

Being an Act to amend the *Regulatory Statutory Authority (Appointment to Certain Offices) Act 2004,*

MADE by the National Parliament.

1. VACANCY IN OFFICE OF CHIEF EXECUTIVE OFFICER (AMENDMENT OF SECTION 4).

Section 4 of the Principal Act is amended -

(a) in Subsection (1) by repealing Paragraph (a) and (b) and substituting the following new paragraphs:

- “(a) consider the performance of the incumbent chief executive officer over each year of the chief executive officer’s contract of employment and determine whether or not the chief executive officer should be re-appointed for a further term; and
- (b) where the Board does not wish to recommend re-appointment of the incumbent chief executive officers, the Board shall, by notice in the National Gazette and in at least one newspaper circulating generally in Papua New Guinea, declare the office vacant; and
- (c) advertise the vacancy and invite applications for appointment to the office.”; and

(b) by repealing Subsection (2) and substituting the following:

“(2) Where Subsection (1)(a) does not apply, the Board shall, following the merit-based appointment process specified in Section 5, prepare from the applications received a ranked list of three candidates in the order of preference.”; and

(c) by repealing Subsection (3) and substituting the following new subsection:

“(3) Where, in relation to an advertised vacancy, the applications received are less than five, the Departmental Head responsible for personnel management matters shall advise the Board whether the position is to be re-advertised or whether the merit based selection and appointment process should proceed.”.

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2. MERIT-BASED APPOINTMENT PROCESS (AMENDMENT OF SECTION 5).

Section 5 of the Principal Act is amended by repealing Paragraphs (d) and (e) and replacing them with the following new paragraphs:

- “(d) the merit based assessment described in Paragraphs (a) to (c) is the primary consideration of the Board in the determination of a ranked list of three preferred candidates; and
- (e) all other considerations not related to the above shall have no bearing on the decision of the Board in Paragraph (d).”

3. PROCEDURE FOLLOWING MERIT-BASED APPOINTMENT PROCESS (AMENDMENT OF SECTION 6).

Section 6 of the Principal Act is amended -

- (a) by repealing Subsections (1),(2) and (3) and substituting the following:

“(1) The Board shall forward the ranked list of three preferred candidates determined in the process described in Section 5 to the Minister who shall submit the list to the Ministerial Executive Appointments Committee established under the provisions of the *Public Services Management Act 2013*, in which Committee the Minister is a Member.

(2) The Ministerial Executive Appointments Committee may, in considering the submission from the Minister under Subsection (1) -

- (a) select one of the candidates recommended by the Minister and advise the National Executive Council to make the appointment of the selected candidate to the position; or
- (b) reject any recommendation for appointment, in which case, the Board shall re-advertise the position and the procedure described under Section 5 shall be repeated; or

(3) In the event that the National Executive Council selects a candidate for the appointment pursuant to Subsection (2) the National Executive Council shall advise the Head of State to make the appointment.”

4. INVESTIGATIONS OF GROUNDS FOR DISMISSAL (AMENDMENT OF SECTION 7).

Section 7 of the Principal Act is amended -

- (a) in Subsection (2) by repealing the words “in the Regulation” and replacing them with “in the said contract of employment”; and
- (b) by repealing Subsections (3), (4) and (5) and substituting them with the following new subsections:

“(3) Where the Board has made an investigation under Subsection (1), it shall, in consultation with the Departmental Head responsible for personnel management matters, submit a report on its investigation together with its recommendations to the Ministerial Executive Appointments Committee.

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- (4) On the receipt of a report under Subsection (3), the Ministerial Executive Appointments Committee shall -
- (a) consider the evidence provided and the recommendations of the Board; and
 - (b) on the basis of the report and the results of further investigations (if any), determine whether or not the appointment of the chief executive officer should be revoked.

(5) The Ministerial Executive Appointments Committee shall convey its recommendation to the National Executive Council and in the event that the National Executive Council approves the recommendation of the Ministerial Executive Appointments Committee to revoke the appointment of the chief executive officer, the National Executive Council shall advise the Head of State to revoke the appointment of the chief executive officer.”

5. SUSPENSION OF A CHIEF EXECUTIVE OFFICER (AMENDMENT OF SECTION 8).

Section 8 of the Principal Act is amended by repealing Subsections (3) and (4) and replacing them with the following:

“(3) Where the Board determines, in consultations with the Departmental Head responsible for personnel management matters, that grounds exist for the suspension of the chief executive officer, the Board shall advise the Minister to recommend to the Ministerial Executive Appointments Committee, the suspension of the chief executive officer on full pay for the duration of the investigation.

(4) In the event that the Ministerial Executive Appointments Committee approves the recommendation of the Minister for the suspension of the chief executive officer, the National Executive Council shall advise the Head of State to suspend the chief executive officer.”

6. ACTING APPOINTMENT OF CHIEF EXECUTIVE OFFICERS (AMENDMENT OF SECTION 9).

Section 9 of the Principal Act is amended -

- (a) in Subsection (1) by repealing the words “Public Service Commission” and substituting “Ministerial Executive Appointment Committee”; and
- (b) by repealing Subsection (2) and substituting the following new subsection:

“(2) On receipt of recommendation under Subsection (1), the Ministerial Executive Appointments Committee shall advise the Head of State to make an acting appointment.”

7. APPOINTMENT OF NON EX OFFICIO MEMBERS OF BOARDS OF REGULATORY STATUTORY AUTHORITIES (AMENDMENT OF SECTION 10).

Section 10 of the Principal Act is amended -

- (a) in Subsection (1), by repealing the words “by the Head of State, acting on advice” and replacing them with “by the National Executive Council”; and

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- (b) in Subsections (2), (3) and (4), by repealing the words "Public Service Commission" whenever they appear and substituting in their place "Ministerial Executive Appointment Committee"; and
- (c) by repealing Subsection (6)"; and
- (d) in Subsection (7) by repealing the word "Minister" and substituting "Ministerial Executive Appointment Committee"; and
- (e) by deleting the numeral "7" in Subsection (7) and inserting the numeral "5" in its stead.

8. AMENDMENT OF SCHEDULE 2.

Schedule 2 of the Principal Act is amended -

- (a) by repealing the following acts, sections, subsections and paragraphs as specified in the following table:

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SCHEDULE 2.

Act Sec. 3(3)(b) and (c), Sec. 14.

Column 1. Act	Column 2. Provision	Column 3. Items
ITEM 1.		
<i>Correctional Services Act 1995</i>	Section 8	In Subsection (2), repeal Paragraph (b) and replace it with the following:- “(b) shall be appointed, suspended or dismissed in the manner as is specified in the <i>Regulatory Statutory Authorities Act 2003</i> .”; and
ITEM 2.		
<i>Defence Force Retirement Benefits Act 1974</i>	Section 5	(a) Repeal Subsection (1), repeal Paragraph (a) and replace it with the following:- “(1) The Board shall consist of five members, of whom two shall be members of the Defence Force appointed as contributor’s representatives, appointed in accordance with the <i>Regulatory Statutory Authorities Act 2003</i> ; and” (b) repeal Subsections (2) and (4).
<i>Public Hospitals Act 1994</i>	Section 22	Repeal Subsection (1) and replace with the following:- “(1) There shall be a Chief Executive Officer for each public hospital whose manner of appointment, suspension and dismissal is as specified in the <i>Regulatory Statutory Authorities Act 2003</i> .”.
ITEM 3.		
<i>Public Officers Superannuation Fund Act 1990</i>	Section 4	In Subsection (3), repeal Paragraph (b) and replace it with the following:- “appointed in accordance with the <i>Regulatory Statutory Authorities Act 2003</i> ; and”.
	Section 12	(a) Repeal Subsection () and replace with the following:- “(1) There shall be a Managing Director of the Fund whose manner of appointment, suspension and dismissal is as specified in the <i>Regulatory Statutory Authorities Act 2003</i> ”; and (b) by inserting after Subsection (1) the following new subsection:- “(1A) The Board shall appoint a suitably qualified person to be Secretary to the Board.”.

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I hereby certify that the above is a fair print of the *Regulatory Statutory Authority (Appointment to Certain Offices) (Amendment) Act 2013*, which has been made by the National Parliament.

Clerk of the National Parliament.

I hereby certify that the *Regulatory Statutory Authority (Appointment to Certain Offices) (Amendment) Act 2013*, was made by the National Parliament on 26 November, 2013.

Speaker of the National Parliament.