

No. 5 of 2020.

Public Services (Management)(Amendment) Act 2020.

Certified on : 29 APR 2020



No. 5 of 2020.

Public Services (Management)(Amendment) Act 2020.

ARRANGEMENT OF SECTIONS.

1. Interpretation (Amendment of Section 2).
 "Department"
 "Head of Mission"
2. Departments of the Public Service (Repeal and replacement of Section 20).
3. Departmental Heads (Amendment of Section 22).
4. New Sections 22A and 22B.

"22A. FUNCTIONS OF DEPARTMENTAL HEADS.

22B. POWERS OF THE DEPARTMENTAL HEAD OF THE DEPARTMENT OF PERSONNEL MANAGEMENT."

5. Delegation by Departmental Head (Repeal and replacement of Section 23).
6. Work performance of Departmental Heads (Repeal and replacement of Section 24A).
7. Contracts of employment (Repeal and replacement of Section 28).
8. Procedures relating to substantive appointment of Departmental Heads (Repeal and replacement of Section 31A).
9. Procedures relating to temporary appointments of Departmental Heads (Repeal and replacement of Section 31B).
10. New Section 44A.

"44A. CITIZEN TECHNICAL ADVISERS."

11. Persons who have resigned from the Public Service to become candidates at elections (Repeal and replacement of Section 55).
12. Age of retirement (Repeal and replacement of Section 56).
13. New Sections 56A and 56B.

"56A. RETIREMENT AGE FOR HEAD OF MISSIONS.

56B. DEPARTMENTAL HEAD TO KEEP RECORDS OF STAFF FOR RETIREMENT PURPOSES."

14. Retirement on account of infirmity or incapacity (Repeal and replacement of Section 57).
15. Procedures relating to substantive appointments of Provincial Administrators (Repeal and replacement of Section 60).
16. Appointment procedures in relation to District Administrators (Repeal and replacement of Section 61).
17. Terms and conditions of employment of Provincial Administrators and District Administrators (Repeal and replacement of Section 62).

18. Additional functions of Provincial Administrators (Repeal and replacement of Section 63).
19. Assignment of staff (Amendment of Section 65).
20. Matters relating to Provincial Treasurers and other officers assigned to Provincial and District Treasuries (Repeal and replacement of Section 67).
21. General Orders (Repeal and replacement of Section 70).
22. Codes of Conduct (Amendment to Section 70A).
23. New Section 70B.

**“70B. GENDER EQUITY AND SOCIALLY ACCEPTABLE
INCLUSIVENESS.”**

24. Transitional and savings (Amendment of Part XX.).
25. New Division 2.

***“Division 2. - Transitional provisions for the Public Services (Management)
(Amendment) Act 2020.”***



No. 5 of 2020.

AN ACT

entitled

Public Services (Management)(Amendment) Act 2020.

Being an Act to amend the *Public Services (Management) Act 1995*, and for related matters.

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.

1. INTERPRETATION (AMENDMENT OF SECTION 2).

Section 2 of the Principal Act is amended by inserting the following new definitions in their correct alphabetical order:

“Department” means a Department established under Section 20 and includes a deemed Department established under Section 20(2)(a);

“Head of Mission” means a person appointed as an Ambassador or High Commissioner or Consul-General to any of Papua New Guinea’s overseas missions;”

2. DEPARTMENTS OF THE PUBLIC SERVICE (REPEAL AND REPLACEMENT OF SECTION 20).

Section 20 of the Principal Act is repealed and replaced with the following new section:

20. DEPARTMENTS OF THE PUBLIC SERVICE.

(1) There shall be -

(a) a Department of the Prime Minister and National Executive Council; and

(b) a Department of Personnel Management; and

(c) other Departments and Offices deemed to be Departments established under Subsection (2).

(2) The Head of State, acting on advice, may, by notice in the National Gazette -

(a) establish a Department or establish an Office and deem the Office as a Department; or

(b) abolish a Department; or

(c) alter the name of a Department other than the Department of Prime Minister and National Executive Council and the Department of Personnel Management.”

3. DEPARTMENTAL HEADS (AMENDMENT OF SECTION 22).

Section 22 of the Principal Act is amended -

(a) in Subsection (1) by repealing the words “There shall be -” and replacing them with the words “There must be -”; and

Public Services (Management)(Amendment)

- (b) in Subsection (1)(a) by repealing the words "*Prime Minister Act 2002*" and replacing them with the words "*Prime Minister and National Executive Council Act 2002*"; and
- (c) by inserting a new subsection after Subsection (2) as follows:

- "(3) For the purposes of this Act, the following are deemed Departmental Heads:
 - (a) the Commissioner General of Internal Revenue Commission; and
 - (b) the Auditor-General; and
 - (c) a Provincial Administrator; and
 - (d) the First Legislative Counsel; and
 - (e) such other officers specified by the Head of State, acting on advice."

4. NEW SECTIONS 22A AND 22B.

The Principal Act is amended by inserting immediately after Section 22, the following new sections:

"22A. FUNCTIONS OF DEPARTMENTAL HEADS.

(1) The functions of the Departmental Head of the Department of Prime Minister and National Executive Council are as specified in the *Prime Minister and National Executive Council Act 2002*.

(2) The functions of the Departmental Head of the Department of Personnel Management are -

- (a) to be the principal adviser to the National Executive Council and the Minister on all matters concerning employment in the National Public Service and all public bodies, including the following:
 - (i) the structures and organisations of the National Public Service; and
 - (ii) the employment of persons in the National Public Service; and
 - (iii) the terms and conditions of appointment to, and employment in the National Public Service; and
 - (iv) the employment of persons in the provincial administrations of the National Public Service under the *Organic Law on Provincial Governments and Local-level Governments*; and
- (b) to administer the *Salaries and Conditions Monitoring Committee Act 1988* in the determination and application of Government pay policy in all public bodies; and
- (c) to administer the *Public Employment (Non-Citizens) Act 1978* in the employment of non-citizens in prescribed public bodies; and
- (d) to formulate regulations, General Orders and Circular Instructions for the implementation of this Act and other laws governing employment in the National Public Service and Government employment policies; and
- (e) to undertake regular audits of human resources and related payroll matters across all departments and to provide reports to the National Executive Council on Departmental Heads' performance; and

Public Services (Management)(Amendment)

- (f) to advise Departmental Heads and heads of public bodies as required by law, on all matters concerning employment of public employees in accordance with government policy; and
- (g) to formulate and co-ordinate the implementation of systems and procedures for the effective management and performance of the National Public Service, taking into consideration, equitable and socially inclusive principles and values; and
- (h) to manage and co-ordinate government relations with all public sector industrial organisations as advocate and negotiator; and
- (i) to formulate and co-ordinate organisational and governance reviews of the National Public Service to facilitate administrative reforms for greater efficiency of service delivery; and
- (j) to co-operate with the Departmental Head of the Department of Prime Minister and National Executive Council in the exercise of that Departmental Head's functions; and
- (k) such other functions as are determined by the Head of State acting on advice, or by any other law.

(3) In the performance of any of his functions, the Departmental Head of the Department of Personnel Management must consult with the respective Departmental Heads of the appropriate central agencies of government.

- (4) The functions of any other Departmental Head are -
- (a) to be the principal adviser to the portfolio Minister in respect of the functions of the portfolio Minister 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 under the Ministerial Determinations; and
 - (c) 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
 - (d) to co-operate with the Departmental Head of the Department of Prime Minister and National Executive Council in the exercise of that Departmental Head's functions and in particular to -
 - (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 of the Department of Prime Minister and National Executive Council in respect of the implementation of National Executive Council decisions; and
 - (iii) produce timely action plans for consideration by the Central Agencies Co-ordination Committee and any sub-committees as required by the Chairman of the Central Agencies Co-ordination Committee; and

Public Services (Management)(Amendment)

- (e) to co-operate with the Departmental Head of the Department of Personnel Management in the exercise of that Departmental Head's functions and in particular to -
- (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 23; 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 24A.

22B. POWERS OF THE DEPARTMENTAL HEAD OF THE DEPARTMENT OF PERSONNEL MANAGEMENT.

The Departmental Head of the Department of Personnel Management may, at any time, for the purpose of the performance of his functions -

- (a) enter premises occupied or used by a Department or a Provincial Government or a public body; and
- (b) question a person who appears likely to have information relevant to the functions of the Departmental Head of the Department of Personnel Management; and
- (c) require any person to provide information relative to the functions of the Departmental Head of the Department of Personnel Management; and
- (d) require any person to produce documents within his possession or subject to his control where such documents are relevant to the functions of the Departmental Head of the Department of Personnel Management; and
- (e) make and retain copies of documents referred to in Paragraph (d); and
- (f) require a Departmental Head, a head of a public body or a Provincial Administrator to appear before the Departmental Head of the Department of Personnel Management to give information on matters under this section."

Public Services (Management)(Amendment)

5. DELEGATION BY DEPARTMENTAL HEAD (REPEAL AND REPLACEMENT OF SECTION 23).

Section 23 of the Principal Act is repealed and replaced with the following new section:

“23. DELEGATION OF POWERS AND FUNCTIONS BY THE DEPARTMENTAL HEAD OF THE DEPARTMENT OF PERSONNEL MANAGEMENT.

(1) The Departmental Head of the Department of Personnel Management may, by written instrument, delegate to any other Departmental Head, any of his powers and functions under this Act (except this power of delegation).

(2) A Departmental Head, other than the Departmental Head of the Department of Personnel Management, may, by written instrument, delegate to an officer any of the powers and functions given to the Departmental Head under this Act (except this power of delegation).

(3) A delegation by the Departmental Head of the Department of Personnel Management, including a Departmental Head, under this section may be revoked at any time.”.

6. WORK PERFORMANCE OF DEPARTMENTAL HEADS (REPEAL AND REPLACEMENT OF SECTION 24A).

Section 24A of the Principal Act is repealed and replaced with the following new section:

“24A. WORK PERFORMANCE OF DEPARTMENTAL HEADS.

(1) The Head of State, acting on advice, given after consideration of recommendations made by the Departmental Head of the Department of Personnel Management, in consultation with the Chief Secretary to Government, may make regulations prescribing standard criteria and procedures for the appraisal of the performance of Departmental Heads consistent with the provisions of their Contracts of Employment under Section 28 of this Act.

(2) The Prime Minister may establish a separate performance review process conducted by non-public service adjudicators accredited by the Public Service Commission for that purpose, in respect to the appraisal of performance of the Departmental Head of the Department of Personnel Management and the Chief Secretary to Government as prescribed in the regulations.

(3) In the performance of his functions under this Act or any other laws, a Departmental Head, including the Departmental Head of Department of Personnel Management and the Chief Secretary to Government, a Provincial Administrator, a head of a statutory body or a head of a government agency must ensure that the staff ceiling and personnel emolument ceiling must be maintained within the prescribed ceilings set by the Departmental Heads of the departments responsible for personnel management and treasury matters respectively.

Public Services (Management)(Amendment)

(4) In the performance of his financial management functions or as a Section 32 Officer under the *Public Finances (Management) Act 1995*, a Departmental Head, including the Departmental Head of the Department of Personnel Management and the Chief Secretary to Government, a Provincial Administrator, a head of a statutory body or a head of a government agency must ensure that he complies with the requirements of the *Public Finances (Management) Act 1995*.

(5) A failure by a Departmental Head, including the Departmental Head of the Department of Personnel Management and the Chief Secretary to Government, a Provincial Administrator, a head of a statutory body or a head of a government agency to comply with the requirements of Subsections (3) and (4) is a ground for termination of his contract of employment.”.

7. **CONTRACTS OF EMPLOYMENT (REPEAL AND REPLACEMENT OF SECTION 28).**

Section 28 of the Principal Act is repealed and replaced with the following new section:

“28. CONTRACTS OF EMPLOYMENT.

(1) A Departmental Head must be employed under, and must hold office in accordance with the terms and conditions of a contract of employment with the State.

(2) The contract of employment must be executed by the Head of State, acting on advice, on behalf of the State, and the Departmental Head and must be witnessed by the Departmental Head of the Department of Personnel Management.

(3) The regulation must prescribe standard contract of employment and the Departmental Head of the Department of Personnel Management is responsible for the interpretation and administration of contracts.

(4) Legal clearance must be obtained from the State Solicitor for all contracts to be executed by the Head of State and the decision on legal clearance must be made by the State Solicitor within 14 days of the request being made by the Departmental Head of the Department of Personnel Management.

(5) If the State Solicitor fails to give clearance within 14 days, the State Solicitor must give reasons to the Departmental Head of the Department of Personnel Management, and where such reasons are not justifiable in the opinion of the Departmental Head of the Department of Personnel Management, the Departmental Head of the Department of Personnel Management may seek intervention from the Attorney-General.

(6) A Departmental Head must not continue in office in the event that the Departmental Head refuses, for any reason, to execute a contract under this section within the period of notice under the contract.”.

Public Services (Management)(Amendment)

8. **PROCEDURES RELATING TO SUBSTANTIVE APPOINTMENT OF DEPARTMENTAL HEADS (REPEAL AND REPLACEMENT OF SECTION 31A).**
Section 31A of the Principal Act is repealed and replaced with the following new section:

"31A. PROCEDURES RELATING TO SUBSTANTIVE APPOINTMENT OF DEPARTMENTAL HEADS.

- (1) The procedures relating to the substantive appointments of Departmental Heads referred to in Section 193(1A) (*appointments to certain offices*) of the *Constitution* are as follows:
- (a) where an office of the Departmental Head is vacant or is likely to be vacant, the Departmental Head of the Department of Personnel Management must -
 - (i) declare that the Departmental Head's office is vacant or likely to be vacant; and
 - (ii) notify the Commission of the vacancy; and
 - (iii) advertise the vacancy of the Departmental Head's office for applications on two separate occasions in a newspaper circulated nationally, including advertising in the National Gazette or in such other manner as the Departmental Head of the Department of Personnel Management considers appropriate; and
 - (b) after consideration and assessment of the applications, the Departmental Head of the Department of Personnel Management must -
 - (i) compile a list of not less than five candidates who have the minimum requisites for the office; and
 - (ii) submit to the Commission, the list of candidates for consideration, together with all other applications received from the advertisement under Paragraph (a)(iii); and
 - (c) assess the applicants for the office of a Departmental Head based on -
 - (i) the minimum requisites for the position; and
 - (ii) where available, any appraisal of performance and discipline under Section 24A; and
 - (d) submit the list to the Commission, which must -
 - (i) consider the list of candidates submitted by the Departmental Head of the Department of Personnel Management; and
 - (ii) consider the applications received in response to the advertisement under Paragraph (a)(iii); and
 - (iii) compile and submit to the National Executive Council, a list of three candidates, in order of preference, as a recommendation; and
 - (e) the National Executive Council may select one of the three candidates for appointment and advise the Head of State to make the substantive appointment as Departmental Head.

Public Services (Management)(Amendment)

(2) If the National Executive Council does not consider a candidate for the substantive appointment of a Departmental Head -

- (a) the National Executive Council must advise the Commission and the Departmental Head of the Department of Personnel Management; and
- (b) the procedure for a substantive appointment for a Departmental Head specified under Subsection (1) must be repeated.

(3) The Departmental Head of the Department of Personnel Management must notify the Commission if -

- (a) an office of the Departmental Head is vacant or is likely to become vacant; and
- (b) the person holding the office or who held the office before the office became vacant, is willing and eligible to continue in office.

(4) If the Commission receives a notice from the Departmental Head of the Department of Personnel Management under Subsection (3), the Commission must recommend to the National Executive Council to re-appoint the person holding the office.

(5) Where the National Executive Council agrees to re-appoint the person, the National Executive Council must advise the Head of State to re-appoint the person as the substantive Departmental Head.

(6) The position of Chief Secretary to Government must be advertised in the manner described in this section by an independent recruitment agency engaged by the Commission which must make its recommendation to the Commission and the Commission must obtain the views of the Prime Minister on the preferred candidate for recommendation to the National Executive Council.

(7) The position of the Departmental Head of the Department of Personnel Management must be facilitated by the Chief Secretary through an independent recruitment agency engaged by the Chief Secretary, and the Chief Secretary must obtain the views of the Commission on a preferred candidate for recommendation to the National Executive Council.”.

9. **PROCEDURES RELATING TO TEMPORARY APPOINTMENTS OF DEPARTMENTAL HEADS (REPEAL AND REPLACEMENT OF SECTION 31B).**
Section 31B of the Principal Act is repealed and replaced with the following new section:

“31B. PROCEDURES RELATING TO TEMPORARY APPOINTMENTS OF DEPARTMENTAL HEADS.

(1) Where a temporary appointment is to be made to the office of a Departmental Head to which Section 193(1B) (*appointment to certain offices*) of the *Constitution* applies, the Departmental Head of the Department of Personnel Management must notify the Commission accordingly and submit the name of the person to the Commission.

Public Services (Management)(Amendment)

(2) The Commission must submit the name of the person to the Minister as recommendation for appointment as a temporary Departmental Head.

(3) The Minister must exercise the delegated powers of the National Executive Council to advise the Head of State to make the temporary appointment of the person whose name was submitted under Subsection (1) as Departmental Head.

(4) The delegated powers of the Minister are specifically in the following areas only:

(a) absence from office for more than 10 working days due to short leave such as recreational leave, sick leave, compassionate leave or official travel in-country or overseas; and

(b) extensions of acting appointment.

(5) The power to make all acting appointments as a result of -

(a) disciplinary action against substantive Departmental Heads which may lead to suspension and termination; and

(b) substantive vacancies,

remains with the National Executive Council.”.

10. NEW SECTION 44A.

The Principal Act is amended by inserting the following new section immediately after Section 44:

“44A. CITIZEN TECHNICAL ADVISERS.

(1) This section applies to a citizen who is employed by an accredited aid agency to provide advisory support to the National Public Service (a citizen technical adviser).

(2) The regulations may require that a citizen technical adviser enter into a performance and conduct agreement with the relevant Departmental Head.

(3) Unless expressly provided for in his contract of employment with the accredited aid agency, a citizen technical adviser is not -

(a) an officer of the Public Service; or

(b) subject to -

(i) any other provisions of this Act; or

(ii) the General Orders of the Public Service; or

(iii) the Codes of Conduct issued under Section 70A(1).

(4) In this section, unless the contrary intention appears -

“accredited aid agency” means an aid agency, contractor or an entity that is authorised to employ a citizen technical adviser;

“advisory support” includes those activities that are intended to enhance the performance and capacity of the National Public Service.”.

Public Services (Management)(Amendment)

11. PERSONS WHO HAVE RESIGNED FROM THE PUBLIC SERVICE TO BECOME CANDIDATES AT ELECTIONS (REPEAL AND REPLACEMENT OF SECTION 55).

Section 55 of the Principal Act is repealed and replaced with the following new section:

“55. 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 must resign in order to stand as a candidate in the election by giving the required notice under this Act and the General Orders.

(2) An officer exercising the right to resign and stand for election must resign -

- (a) in the case of a National Election, not less than six months before the writs are issued 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) If the officer fails to win a seat in the election, the officer has no automatic right to be re-admitted to the Public Service but may apply for re-appointment.

(5) The officer may exercise the option to leave the service without receiving his service related termination benefits and if re-admitted to the Public Service, having failed to win a seat, the period of absence is taken to be leave without pay.”.

12. AGE OF RETIREMENT (REPEAL AND REPLACEMENT OF SECTION 56).

Section 56 of the Principal Act is repealed and replaced with the following new section:

“56. AGE OF RETIREMENT.

(1) This section does not apply to Heads of Missions.

(2) A Departmental Head or an officer who has attained the age of 60 years may voluntarily retire from the Public Service.

(3) A Departmental Head or an officer who has attained the age of 65 years must be compulsorily retired from the Public Service.

(4) A retirement under this section must be effected on behalf of the State by the Departmental Head of the employing department, subject to consultation with the Departmental Heads responsible for personnel management matters and treasury matters as defined by the General Orders.”.

Public Services (Management)(Amendment)

13. NEW SECTIONS 56A AND 56B.

The Principal Act is amended by inserting, immediately after Section 56, the following new sections:

"56A. RETIREMENT AGE FOR HEADS OF MISSIONS.

(1) A Head of Mission who has attained the age of 65 years may voluntarily retire as Head of Mission.

(2) A Head of Mission who has attained the age of 70 years must be compulsorily retired as Head of Mission.

(3) A Departmental Head or an officer who retires, is eligible to be appointed as a Head of Mission.

56B. DEPARTMENTAL HEAD TO KEEP RECORDS OF STAFF FOR RETIREMENT PURPOSES.

(1) In order to administer the retirement provisions, a Departmental Head must maintain an accurate and verifiable records of the dates of birth of all staff employed in the department and must provide to the Departmental Head of the Department of Personnel Management prescribed reports on retirement plans from time to time in accordance with the General Orders."

14. RETIREMENT ON ACCOUNT OF INFIRMITY OR INCAPACITY (REPEAL AND REPLACEMENT OF SECTION 57).

Section 57 of the Principal Act is repealed and replaced with the following new section:

"57. RETIREMENT ON ACCOUNT OF OFFICER'S INCAPACITY.

(1) In the event that an officer appears to the Departmental Head, after full investigation of the circumstances -

(a) to be mentally or physically 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 physical incapacity unless it is so stated in the instrument affecting the retirement."

15. PROCEDURES RELATING TO SUBSTANTIVE APPOINTMENTS OF PROVINCIAL ADMINISTRATORS (REPEAL AND REPLACEMENT OF SECTION 60).

Section 60 of the Principal Act is repealed and replaced with the following new section:

"60. PROCEDURES RELATING TO SUBSTANTIVE APPOINTMENTS OF PROVINCIAL ADMINISTRATORS.

Public Services (Management)(Amendment)

(1) The procedures relating to the substantive appointment of a Provincial Administrator under Section 73(2) of the ***Organic Law on Provincial Governments and Local-Level Governments*** are as follows:

- (a) where an office of a Provincial Administrator is vacant or is likely to be vacant, the Departmental Head of the Department of Personnel Management must -
 - (i) declare that the office of the Provincial Administrator is vacant or likely to be vacant; and
 - (ii) notify the Commission and the relevant Provincial Executive Council of the vacancy; and
 - (iii) advertise for applications for the vacancy in a newspaper that is circulated nationally and in such other manner as it considers appropriate; and
- (b) after consideration and assessment of the applications, the Departmental Head of the Department of Personnel Management must -
 - (i) compile a list of not less than five candidates who have the minimum requisites for the office; and
 - (ii) submit the list of five candidates and the applications received in response of the advertisement to the Commission for consideration; and
- (c) the Commission must assess the applicants based on -
 - (i) the minimum requisites for the position; and
 - (ii) where available, any appraisal of performance and discipline under Section 24A.

(2) The Commission must consider the list of five candidates and all the applications received in response to the advertisement under Paragraph (a)(iii) and the Commission must compile a list of three candidates, in order of preference and submit the list to the Provincial Executive Council concerned.

(3) The Provincial Executive Council must consider the list from the Commission and submit to the National Executive Council, a list of three persons in order of preference, and the National Executive Council shall make the appointment from that list.

(4) Where -

- (a) an office of the Provincial Administrator is vacant or becomes vacant; and
 - (b) the person holding the office or who held that office before the vacancy is willing and eligible to continue in that office,
- the Departmental Head of the Department of Personnel Management must justify the re-appointment of that person and notify the Commission accordingly and the procedure under this section must not apply for the re-appointment.

(5) On receipt of a notification under Subsection (4), the Commission must recommend to the Provincial Executive Council that the person be re-appointed and -

Public Services (Management)(Amendment)

- (a) where the Provincial Executive Council agrees to the re-appointment, it must advise the National Executive Council to re-appoint the person as substantive Provincial Administrator; or
- (b) where the Provincial Executive Council does not agree to the re-appointment -
 - (i) it must advise the Commission and the Departmental Head of the Department of Personnel Management; and
 - (ii) the procedures in this section apply.”.

16. APPOINTMENT PROCEDURES IN RELATION TO DISTRICT ADMINISTRATORS (REPEAL AND REPLACEMENT OF SECTION 61).

Section 61 of the Principal Act is repealed and replaced with the following new section:

“61. APPOINTMENT PROCEDURES IN RELATION TO DISTRICT ADMINISTRATORS.

(1) A District Administrator shall be appointed by the Provincial Administrator, in consultation with the elected Member of Parliament representing the district following a merit-based selection process in accordance with the Regulations.

(2) The procedures relating to the substantive appointment, temporary appointment, suspension or termination of appointment of a District Administrator are as prescribed in the Regulations.”.

17. TERMS AND CONDITIONS OF EMPLOYMENT OF PROVINCIAL ADMINISTRATORS AND DISTRICT ADMINISTRATORS (REPEAL AND REPLACEMENT OF SECTION 62).

Section 62 of the Principal Act is repealed and replaced with the following new section:

“62. TERMS AND CONDITIONS OF EMPLOYMENT OF PROVINCIAL ADMINISTRATORS AND DISTRICT ADMINISTRATORS.

(1) 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 and the salaries and allowances are as determined by the Salaries and Remuneration Commission as detailed in the Regulations.

- (2) A District Administrator is -
 - (a) an officer of the Public Service appointed in accordance with the Regulations made under this Act; and
 - (b) subject to the *Salaries and Conditions Monitoring Committee Act 1988*, employed on terms and conditions determined by the Departmental Head of the Department of Personnel Management after consultation with the Provincial Administrator of the Province concerned.”.

18. ADDITIONAL FUNCTIONS OF PROVINCIAL ADMINISTRATORS (REPEAL AND REPLACEMENT OF SECTION 63).

Section 63 of the Principal Act is repealed and replaced with the following new section:

Public Services (Management)(Amendment)

"63. ADDITIONAL FUNCTIONS OF A PROVINCIAL ADMINISTRATOR.

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
- (b) subject to relevant national laws -
 - (i) is responsible to the Provincial Executive Council for strategic planning, project development and financial and human resource management; and
 - (ii) is responsible to the Provincial Executive Council for the performance of any other public authority in the Province."

19. ASSIGNMENT OF STAFF (AMENDMENT OF SECTION 65).

Section 65 of the Principal Act is amended by repealing Subsection (1) and replacing it with the following new subsection:

"(1) The Departmental Head of the Department of Personnel Management may assign an officer to a Provincial or Local-level administrative organisation through procedures specified in the General Orders."

20. MATTERS RELATING TO PROVINCIAL TREASURERS AND OTHER OFFICERS ASSIGNED TO PROVINCIAL AND DISTRICT TREASURIES (REPEAL AND REPLACEMENT OF SECTION 67).

Section 67 of the Principal Act is repealed and replaced with the following new section:

"67. MATTERS RELATING TO PROVINCIAL TREASURERS AND OTHER OFFICERS ASSIGNED TO PROVINCIAL AND DISTRICT TREASURIES.

(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 under 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 must provide regular reports to the Departmental Head of the department responsible for financial matters on the discipline and performance of each Provincial Treasurer and District Treasurer."

Public Services (Management)(Amendment)

21. GENERAL ORDERS (REPEAL AND REPLACEMENT OF SECTION 70).

Section 70 of the Principal Act is repealed and replaced with the following new section:

“70. GENERAL ORDERS.

(1) The Departmental Head of the Department of Personnel Management may give to officers directions (to be known as “General Orders”), not inconsistent with this Act, as to any matter prescribed by this Act or that are necessary or convenient to be prescribed for carrying out or giving effect to this Act, or for the more efficient control and management of the Public Service and the welfare of the officers and employees.

(2) The General Orders formulated by the Departmental Head of the Department of Personnel Management must be made only in respect of the policy decisions of the National Executive Council in relation to this Act and must encompass equitable and socially inclusive principles and values.”.

22. CODES OF CONDUCT (AMENDMENT OF SECTION 70A).

Section 70A of the Principal Act is amended by deleting the word “serious” twice appearing in Paragraph (4)(b) and replacing them with the word “minor”; and

23. NEW SECTION 70B.

The Principal Act is amended by inserting a new section immediately after Section 70A as follows:

“70B. 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 must 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, color, 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.”.

24. TRANSITIONAL AND SAVINGS (AMENDMENT OF PART XX).

The Principal Act is amended in Part XX by inserting the following before Section 80:

“Division 1. - Transitional provisions for the repealed Acts.”.

25. NEW DIVISION 2.

The Principal Act is amended by inserting a new division after Section 87 as follows:

“Division 2. - Transitional provisions for the Public Services (Management)(Amendment) Act 2020.

Public Services (Management)(Amendment)

88. RETIREMENT AGE OF EXISTING DEPARTMENTAL HEADS AND OFFICERS.

(1) In this section, "commencement date" means the date on which the *Public Services (Management)(Amendment) Act 2020* comes into operation.

(2) To avoid doubt, the voluntary and compulsory retirement ages specified in Section 56 apply to -

- (a) a person who was a Departmental Head or an officer immediately before the commencement date, regardless of the date on which the person was appointed to be a Departmental Head or an officer; and
- (b) a person who is appointed to be a Departmental Head or an officer on or after the commencement date.

(3) To avoid doubt, the voluntary and compulsory retirement ages specified in Section 56A apply to -

- (a) a person who was a Head of Mission immediately before the commencement date, regardless of the date the person was appointed to be Head of Mission; and
- (b) a person who is appointed to be a Head of Mission on or after the commencement date.

(4) Where, immediately before the coming into operation of this Act, an action, decision or proceeding was taken by, against or in favor of an officer or a Departmental Head under the provisions of the *Public Services (Management) Act 1995*, that action, decision or proceeding is not affected by this Act."

I hereby certify that the above is a fair print of the *Public Services (Management)(Amendment) Act 2020* which has been made by the National Parliament.


Acting Clerk of the National Parliament.

29 APR 2020

I hereby certify that the *Public Services (Management)(Amendment) Act 2020* was made by the National Parliament on 18 February 2020.


Speaker of the National Parliament.

29 APR 2020