

ACT NO. 2 OF 2016

I assent.

J. K. KONROTE
President

[15 February 2016]

AN ACT**TO AMEND THE PUBLIC SERVICE ACT 1999**

ENACTED by the Parliament of the Republic of Fiji—

Short title and commencement

- 1.—(1) This Act may be cited as the Public Service (Amendment) Act 2016.
- (2) This Act comes into force on the date of its publication in the Gazette.
- (3) In this Act, the Public Service Act 1999 is referred to as the “Principal Act”.

Long title amended

2. The Principal Act is amended by deleting the long title and substituting the following—

“AN ACT TO MAKE PROVISION FOR THE PUBLIC SERVICE COMMISSION
AND FOR RELATED MATTERS”.

Section 3 amended

3. Section 3 of the Principal Act is amended by—
 - (a) inserting the following new definitions—
 - ““Commission” means the Public Service Commission continued under section 125 of the Constitution;

“Constitution” means the Constitution of the Republic of Fiji;

“Judicial Services Commission” means the Judicial Services Commission continued under section 104 of the Constitution;

“Minister” means the minister responsible for civil service;

“Ministry” means the Ministry of Civil Service;”;

(b) deleting the definitions of—

(i) “Appeal Board”;

(ii) “delegate”;

(iii) “delegation”;

(iv) “Judicial Service Commission”;

(v) “member”;

(vi) “Public Service Commission”;

(vii) “relevant Commission”;

(viii) “relevant employee”;

(ix) “Senior Executive Service”;

(x) “service Commission”; and

(xi) “statutory functions”;

(c) in the definition of “directions”, deleting “a service Commission under section 20 of this Act” and substituting “the Commission under section 5(1)”;

(d) in the definition of “regulations”, deleting “a service Commission under this Act or section 173(1) of the Constitution” and substituting “the Commission under section 15”; and

(e) in the definition of “public service”, deleting “Service” and substituting “Services”.

Section 4 amended

4. Section 4 of the Principal Act is amended by deleting subsection (5).

Section 5 amended

5. Section 5 of the Principal Act is amended by—

(a) in subsection (1)(a), deleting “employees” and substituting “permanent secretaries”; and

(b) inserting the following new subsection after subsection (1)—

“(1A) All permanent secretaries must comply with any regulations prescribed or directions issued by the Commission under subsection (1).”

Sections 9 and 10 deleted

6. The Principal Act is amended by deleting sections 9 and 10.

Section 11 amended

7. The Principal Act is amended by deleting section 11 and substituting the following—

“Functions of the Commission

11. In addition to its functions under section 126 of the Constitution, the Commission must perform the following functions—

- (a) manage the performance of the permanent secretaries;
- (b) consider and determine appeals against decisions made by a permanent secretary in accordance with guidelines, directions, policies and other rules or regulations issued by the Commission;
- (c) manage the remuneration of permanent secretaries;
- (d) provide a written report to the Minister on any relevant matter or issue, in accordance with the Minister’s request; and
- (e) do all other things necessary for the performance of its functions and the implementation of this Act.”

Section 12 deleted

8. The Principal Act is amended by deleting section 12.

Section 13 amended

9. Section 13 of the Principal Act is amended by—

- (a) deleting subsection (1) and substituting the following new subsection—

“(1) The Commission may, on its own initiative, conduct an inquiry into an alleged breach of the Civil Service Code of Conduct and Civil Service Values by any permanent secretary.”; and

- (b) deleting subsection (7).

Section 14 amended

10. Section 14 of the Principal Act is amended by deleting subsections (1) and (2) and substituting the following new subsection—

“(1) Within 2 months after the end of each year ending on 31 December, the Commission must provide the Minister with an annual report and a report of the performance of each permanent secretary during the year.”

Section 15 amended

11. Section 15 of the Principal Act is amended by—

- (a) deleting in subsection (1)(c), “statutory”; and
- (b) deleting subsections (2), (3), (4) and (7).

Sections 16, 18, 19, 20 and Part 5 deleted

12. The Principal Act is amended by—

- (a) deleting sections 16, 18, 19 and 20; and
- (b) deleting Part 5.

Section 17 amended

13. The Principal Act is amended by deleting section 17 and substituting the following new section—

“Other staff of the Commission

17. The Commission must, in order to perform its functions be provided with staff from the Ministry to act as the secretariat of the Commission or for any other purposes the Commission deems necessary.”

Section 21 amended

14. The Principal Act is amended by deleting section 21 and substituting the following new section—

“Powers of the permanent secretary

21. In accordance with section 127(7) and (8) of the Constitution, a permanent secretary must exercise all of his or her powers in relation to the employment, recruitment, discipline and removal of any staff in accordance with guidelines, directions, policies and other rules or regulations issued by the Commission.”

Section 22 amended

15. The Principal Act is amended by deleting section 22 and substituting the following new section—

“Improperly influencing the Commission

22. Any person who seeks to, directly or indirectly, improperly influence the Commission or a member, employee or agent of the Commission commits an offence and is liable upon conviction to a fine not exceeding \$20,000.”

Section 23 amended

16. The Principal Act is amended by deleting section 23 and substituting the following new section—

“Protection of members of the Commission

23. A member, employee or agent of the Commission will not be liable for any act done or omitted to be done by that person in good faith, in relation to the performance or purported performance of a function or the exercise of a power, of the Commission.”

Section 31(d) amended

17. Section 31(d) of the Principal Act is amended by deleting “Secretary for the Public” and substituting “Ministry of Civil”.

Section 33 amended

18. Section 33 of the Principal Act is amended by deleting subsection (2).

References to Public Service Commission amended

19. The Principal Act is amended by deleting all references to—

(a) “Public Service Commission”; and

(b) “relevant Commission”,

and substituting “Commission”, wherever they appear, unless the context otherwise requires.

Consequential amendments

20.—(1) The Principal Act is amended by deleting all references to the provisions of the Constitution adopted under the Fiji Constitution Amendment Act 1997 and, unless the context otherwise requires, such references must be construed as references to the Constitution adopted under the Constitution of the Republic of Fiji (Promulgation) Decree 2013.

(2) The Principal Act, all State documents of any nature whatsoever and all written laws, including any Act, Proclamation, Promulgation, Decree and subsidiary legislation (including the titles of any written law) are consequently amended by deleting “public service” and substituting “civil service” wherever it appears, unless the context otherwise requires.

Passed by the Parliament of the Republic of Fiji this 10th day of February 2016.