



REPUBLIC OF NAURU

# PUBLIC SERVICE (AMENDMENT) ACT 2022

---

No. 15 of 2022

---

An Act to amend the *Public Service Act 2016*.

Certified: [8<sup>th</sup> June 2022]

## Table of Provisions

1	Short title.....	2
2	Commencement.....	2
3	Amendment of the Public Service Act 2016.....	2
4	Insert new Section 40A.....	2
5	Amendment of Section 56.....	3
6	Insert new Section 84.....	3
7	Amendment of Section 105.....	4
8	Amendment of Section 107.....	4
9	Saving and transition.....	4

Enacted by the Parliament of Nauru as follows:

**1 Short title**

This Act may be cited as the *Public Service (Amendment) Act 2022*.

**2 Commencement**

This Act commences on 10 June 2022.

**3 Amendment of the Public Service Act 2016**

The *Public Service Act 2016* is amended by the provisions of this Act.

**4 Insert new Section 40A**

A new Section 40A is inserted immediately after Section 40 as follows:

***‘40A Reporting requirements for employees working from outside the Republic due to unexpected circumstances or events***

(1) *This Section applies where an employee:*

(a) *is outside of the Republic for leave approved under this Act;*

(b) *is unable to return to the Republic at the expiry of the approved leave due to prescribed circumstances outside of the employer’s or employee’s control; and*

(c) *as a result of not being in the Republic, is unable to comply with the requirements of this Division.*

(2) *Despite a determination made under Section 40, and where subsection (1) applies, the Minister may:*

(a) *authorise in writing that the employee is to perform the employee’s duties and responsibilities away from the place of duty;*

(b) *determine in writing, the terms and conditions of employment that the employee is to comply with whilst outside of the Republic and the following applies:*

(i) *the terms and conditions are regarded as a variation to the existing terms and conditions; and*

(ii) *the terms and conditions commence from the date determined by the Minister, and ceases upon the employee’s return to the Republic;*

(c) *authorize in writing that the employee be paid the salary determined under Section 38 for that employee, which may be:*

(i) *the full salary; or*

(ii) *partial salary; and*

(d) *make policy for the purpose of this Section notwithstanding existing terms and conditions of employment.*

(3) *Where it is authorised that an employee is to be paid a partial salary under subsection (2)(c), that employee shall be paid in accordance with the original terms and conditions:*

(a) *the remaining balance of salary that the employee is entitled to be paid as determined under Section 38; and*

(b) *upon return to the place of duty.*

(4) *For the purpose of this Section, ‘away from the place of duty’:*

(a) *means any place from where an employee shall perform the duties and responsibilities of his or her employment outside the Republic; or*

(b) *includes a place where the employee is required by the written laws of the Republic or written laws of a foreign jurisdiction to isolate for the purposes of travel, health or safety of the employee or the public.’.*

## **5 Amendment of Section 56**

Section 56(5) is amended by:

(a) deleting the words ‘*Chief Secretary*’ and substituting with ‘*Minister*’; and

(b) deleting the word ‘*without*’ and substituting with ‘*with or without full pay or with or without partial*’.

## **6 Insert new Section 84**

A new Section 84 is inserted as follows:

### **‘84 Election candidates, resignation and re-employment**

(1) *An employee who intends to contest in an election shall resign in accordance with Section 59 of the Electoral Act 2016.*

(2) *An employee who resigns may apply to be re-employed in the public service, if he or she:*

(a) *is a candidate at an election and fails to be elected at such election;*

(b) *applies in writing to the Chief Secretary for re-employment in the public service not earlier than 30 days from the first sitting of the Parliament after the election; and*

(c) *gives a written undertaking that he or she does not intend to challenge the results of the election.*

(3) *For the purpose of this Section, ‘employee’ includes a public service employee, contract employee, temporary employee, head of department or such other office prescribed as office of profit under this Act or any other written law.’*

## **7 Amendment of Section 105**

Section 105 is amended by:

(a) deleting subsection (1)(a) and substituting as follows:

*‘(a) the Chairperson appointed under Article 70(1) of the Constitution;’*

(b) deleting subsection (3) and substituting as follows:

*‘(3) The term is 3 years for a member of the Board:*

*(a) appointed under subsection (1)(b); or*

*(b) elected under subsection (1)(c).’*

(c) inserting a new subsection (4) as follows:

*‘(4) The Chairperson or a member of the Board whose term of office has expired may be reappointed or re-elected.’*

## **8 Amendment of Section 107**

Section 107 is amended:

(a) in subsection (1), by deleting ‘*other than the Chairperson;*’ and

(b) in subsection (2), by deleting ‘*Chairperson*’ and substituting with ‘*President*’.

## **9 Saving and transition**

(1) Any directions given to the parties to an appeal by the Board with the Chief Justice sitting as the Chairperson, shall be complied with by the parties and an appeal related to such direction shall proceed to be heard by the Board constituted under this Act.

(2) A pending decision of the Board on an application or appeal in which the Chief Justice presided as the Chairperson, shall be delivered within 30 days of the coming into effect of this Act, otherwise any such application or appeal shall be heard *de novo*.