

No. 2 of 2004.

Public Services (Management) (Amendment) Act 2004.

Certified on: 13.04.04



INDEPENDENT STATE OF PAPUA NEW GUINEA

No. of 2004.

Public Services (Management) (Amendment) Act 2004.

ARRANGEMENT OF SECTIONS.

PART I. - PRELIMINARY.

1. Compliance with constitutional requirements.
2. Repeal and replacement of Section 25.

**"25. FILLING OF VACANCIES IN CERTAIN OFFICES OF
DEPARTMENTAL HEAD."**
3. New Section 25A.



INDEPENDENT STATE OF PAPUA NEW GUINEA.

AN ACT

entitled

Public Services (Management)(Amendment) Act 2004,

Being an Act to amend the ***Public Services (Management) Act 1995,***

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.

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

- (a) the right to freedom of expression and publication conferred by Section 46; and
- (b) the right peacefully to assemble and associate and to form or belong to, or not to belong to, political parties, industrial organizations or other associations conferred by Section 47; and
- (c) the right to freedom of choice of employment in any calling for which a person has the qualifications (if any) lawfully required conferred by Section 48; and
- (d) the right to reasonable privacy conferred by Section 49; and

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(e) the right of reasonable access to official documents conferred by Section 51, of the *Constitution*, is a law that is made (pursuant to Section 38 of the *Constitution*), taking account of the National Goals and Directive Principles and the Basic Social Obligations, in particular the National Goals and Directive Principles entitled –

- (f) national sovereignty and self reliance; and
- (g) natural resources and environment,

for the purpose of giving effect to the public interest in public order and public welfare.

(2) For the purposes of Section 41 of the *Organic Law on Provincial Governments and Local-level Governments*, it is declared that this Act relates to a matter of national interest.

2. REPEAL AND REPLACEMENT OF SECTION 25.

Section 25 of the Principal Act is repealed and is replaced with the following:-

“25. FILLING OF VACANCIES IN CERTAIN OFFICES OF DEPARTMENTAL HEAD.

In accordance with and subject to Section 193 (appointments to certain offices) of the *Constitution*, a vacancy in an office of Departmental Head may be filled by the Head of State acting on advice–

- (a) by the promotion or transfer of an officer; or
- (b) by an appointment made in accordance with a merit-based appointment process specified in Section 25A.

3. NEW SECTION 25A.

The Principal Act is amended by inserting after Section 25 the following new section:-

“25A. MERIT-BASED APPOINTMENT PROCESS.

Regulations may prescribe a merit-based appointment process for the filling of a vacancy under Section 25 which –

- (a) shall involve a recommendation of the Public Services Commission to be made solely on the basis of an assessment of a candidate’s suitability compared to the minimum person specification as advertised for the vacancy; and
- (b) shall be based on the following administrative processes:-
 - (i) the advertisement of the vacancy in an office in the prescribed format, together with the minimum person specification for applicants to the position;
 - (ii) the assessment of each applicant’s curriculum vitae, submitted in a prescribed format, and their competency to perform the prescribed duties as measured against the prescribed minimum person specification for the position;

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- (iii) a ranked ordered assessment of all applicants for the advertised position in terms of their relative competency to perform the prescribed duties;
- (iv) the merit based assessment described in this section shall be the primary consideration of the Public Services Commission in making a recommendation to the National Executive Council; and
- (v) all other considerations not related to the processes described in this section shall have no bearing in the recommendation of the Public Services Commission and of the National Executive Council in making a final decision on an appointment.”.

I hereby certify that the above is a fair print of the ***Public Services (Management) (Amendment) Act 2004*** which has been made by the National Parliament.

Clerk of the National Parliament.

I hereby certify that the ***Public Services (Management)(Amendment) Act 2004*** was made by the National Parliament on 20 January 2004.

Acting Speaker of the National Parliament.

