



**REPUBLIC OF VANUATU**

**PUBLIC SERVICE (AMENDMENT)  
ACT NO. 7 OF 2018**

**Arrangement of Sections**

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# REPUBLIC OF VANUATU

Assent: 06/07/2018  
Commencement: 27/07/2018

## PUBLIC SERVICE (AMENDMENT) ACT NO. 7 OF 2018

An Act to amend the Public Service Act [CAP 246].

Be it enacted by the President and Parliament as follows-

### **1 Amendment**

The Public Service Act [CAP 246] is amended as set out in the Schedule.

### **2 Commencement**

This Act commences on the day on which it is published in the Gazette.

## SCHEDULE

### AMENDMENTS OF PUBLIC SERVICE ACT [CAP 246]

**1 Subsection 17A(1)**

Delete “The Minister on the recommendation of the Commission, ”, substitute “The Commission”

**2 After subsection 17A(1)**

Insert

“(1A) The Commission is to conduct performance appraisals annually for each director-general.”

**3 Subsection 17A(2)**

Delete “Minister after consultation with the Commission”, substitute “Government Remuneration Tribunal”

**4 Subsection 17A(3)**

Delete “Minister”, substitute “Commission”

**5 Section 17B (Heading)**

Delete “a recommendation”, substitute “an appointment”

**6 Section 17B**

Delete “a recommendation”, substitute “an appointment”

**7 Paragraph 17B(a)**

Repeal the paragraph, substitute

“(a) advertise the position in any form of media with a wide circulation in Vanuatu in the 3 official languages; and”

**8 Paragraph 17B(e)**

(a) Delete “recommendation to the Minister”, substitute “appointment”;

(b) After “list”, insert “or re-advertise the position”

**9 Section 17C**

Delete “Minister”, substitute “Commission”

**10 Paragraph 17C(a)**

Delete “Staff Manual”, substitute “terms and conditions of his or her contract”

**11 Subsection 18(1)**

Repeal the subsection, substitute:

- “(1) The Commission may appoint a person to be a director under a contract of employment for a period of 3 years and the person may be reappointed twice.
- (1A) The Commission is to conduct performance appraisals annually for each director.
- (1B) The Commission is to re-appoint a person as director only when it is satisfied with the performance of that person.”

**12 Subsection 18(2)**

Delete “or promoting”

**12A After section 18**

Insert

**“18A Appointment of Secretary General of Provincial Government Council**

- (1) The Commission is to appoint a person to be a Secretary General under a contract of employment for a period of 4 years and the person may be reappointed only once.
- (2) The Commission is to conduct performance appraisals annually for each Secretary General.
- (3) The remuneration and allowances of a Secretary General are to be determined by the Government Remuneration Tribunal.
- (4) If no determination is made by the Government Remuneration Tribunal, the Commission may determine the remuneration and allowances of a Secretary General. The determination made by the Commission is to apply until such time a determination is made under subsection (3).
- (5) The terms and conditions of appointment of a Secretary General are to be set out in the contract made between the Commission and the Secretary General.

**18B Procedures for making an appointment**

The Commission must, prior to making an appointment of a Secretary General, comply with the following procedures:

- (a) to advertise the position in any form of media with a wide circulation in Vanuatu in the 3 official languages; and
- (b) to ensure the advertisement allows an applicant a minimum of 2 weeks in which to make an application; and
- (c) to provide an address for applications to be sent to; and
- (d) to convene a panel of 3 independent persons to interview applicants and to require the panel, having regard to section 15 (imposing a duty to act as a good employer), to recommend to the Commission, a short list of the most competent applicants; and
- (e) to make the appointment from the short list or decide for re-advertisement of the position if the Commission is not satisfied with the recruitment process.

**18C Grounds for removal of Secretary General**

A Secretary General may be terminated by the Commission on any of the following grounds:

- (a) for serious misconduct as defined in the terms and conditions of his or her contract; or
- (b) on account of physical or mental incapacity to carry out his or her official duties efficiently; or
- (c) for incompetence as shown in the performance appraisal carried out by the Commission; or
- (d) for neglect of duty; or
- (e) for bankruptcy; or
- (f) if he or she becomes a member of:

- (i) Parliament; or
- (ii) a Municipal Council ; or
- (iii) a Provincial Government Council; or
- (iv) the Malvatumauri Council of Chiefs; or
- (v) a member of the Commission, Police Service Commission or Teaching Service Commission.

**18D Appointment of Clerk of a Municipal Council**

- (1) The Commission is to appoint a person to be a Clerk of a Municipal Council under a contract of employment for a period of 4 years and the person may be reappointed only once.
- (2) The Commission is to conduct performance appraisals annually for each Town Clerk.
- (3) The remuneration and allowances of a Clerk are to be determined by the Government Remuneration Tribunal.
- (4) If no determination is made by the Government Remuneration Tribunal, the Commission may determine the remuneration and allowances of a Clerk. The determination made by the Commission will apply until such time a determination is made under subsection (3).
- (5) The terms and conditions of appointment of a Clerk are to be set out in the contract made between the Commission and the Clerk.

**18E Procedures for making an appointment**

The Commission must, prior to making an appointment of a Clerk, comply with the following procedures:

- (a) to advertise the position in any form of media with a wide circulation in Vanuatu in the 3 official languages; and

- (b) to ensure the advertisement allows an applicant a minimum of 2 weeks in which to make an application; and
- (c) to provide an address for applications to be sent to; and
- (d) to convene a panel of 3 independent persons to interview applicants and to require the panel, having regard to section 15 (imposing a duty to act as a good employer), to recommend to the Commission a short list of the most competent applicants; and
- (e) to make the appointment from the short list or decide for re-advertisement of the position if the Commission is not satisfied with the recruitment process.

**18F Grounds for removal of Clerk**

A Clerk may be terminated by the Commission on any of the following grounds:

- (a) for serious misconduct as defined in the terms and conditions of his or her contract; or
- (b) on account of physical or mental incapacity to carry out his or her official duties efficiently; or
- (c) for incompetence as shown in the performance appraisal carried out by the Commission; or
- (d) for neglect of duty; or
- (e) for bankruptcy; or
- (f) if he or she becomes a member of:
  - (i) Parliament; or
  - (ii) a Municipal Council; or
  - (iii) a Provincial Government Council; or
  - (iv) the Malvatumauri Council of Chiefs; or

- (v) a member of the Commission, Police Service Commission or Teaching Service Commission.”

**13 Subsection 19B(1)**

Delete “or the Auditor-General”, insert “, Auditor-General or the Secretary of the Public Service Commission upon receiving complaints from any other person”

**14 Paragraph 19B(2)(c)**

Delete “21”, substitute “7”

**15 Paragraph 19B(4)(a)**

Delete “75”, substitute “21”

**16 Subsection 32(2)**

Repeal the subsection, substitute

- “(2) A public servant who intends to contest for an election, to Parliament, to a Municipal Council or a Provincial Government Council, must resign from the public service within 9 months before the election year.”

**16A At the end of section 32**

Add

- “(3) A public servant who intends to contest a by-election to Parliament, to a Municipal Council or a Provincial Government Council, must resign from the public service within 30 days before the polling day.”

**17 Transitional provision for director-general’s**

A person who occupied the position of director-general immediately before the commencement of this Act is deemed to have been appointed under section 17A.

**18 Transitional provision for directors**

- (1) A person who occupied the position of director immediately before the commencement of this Act is to continue to be employed as a director for a period of 6 months commencing from the date on which this Act comes into force.
- (2) A director’s employment is deemed to be terminated by the Public Service Commission on the expiry of the period provided under subsection (1).

- (3) A director on the expiry of the period provided under subsection (1), is to be paid by the Commission any severance, redundancy or other entitlements under this Act or any other Act.

**19 Transitional provision for Secretary Generals and Clerks**

- (1) A person who occupies the position of a Secretary General or a Clerk, immediately before the commencement of this Act is to continue to be employed as a Secretary General or a Clerk, for a period of 6 months commencing from the date on which this Act comes into force.
- (2) The employment of a Secretary General and a Clerk are deemed to be terminated by the Commission on the expiry of the period provided under subsection (1).
- (3) A Secretary General or a Clerk is to be paid by the Commission a severance or other entitlements under this Act or any other Act, on the expiry of the period provided under subsection (1).