



*Independent State of Papua New Guinea*

**GENERAL ORDER NO. 22**

**THE PUBLIC SERVICE COMMISSION**

*Being a General Order, made with the approval of the Public Service Commission to enable Departmental Heads and officers of the Public Service to understand and to comply with the roles and responsibilities of the Public Service Commission ("PSC") in the review of personnel matters and consultations on appointments as provided for by the Constitution and given effect by the Public Service (Management) Act 1995.*

Made under the:-

*Public Services (Management) Act 1995 (as amended)*

I, **John M Kali OBE**, Departmental Head of the Department of Personnel Management, by virtue of the powers conferred by Section 70 of the *Public Services (Management) Act 1995*, and all other powers me enabling, hereby issue General Order No 22 as part of the Fourth Edition of General Orders effective on and from 1<sup>st</sup> January 2012 and to remain in force until further notice.

**JOHN M KALI OBE**  
Secretary



**GENERAL ORDER NO. 22**

**THE PUBLIC SERVICE COMMISSION**

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## GENERAL ORDER NO. 22

### THE PUBLIC SERVICE COMMISSION

#### GENERAL INTRODUCTION

- 22.1 These General Orders are made in consultation with and agreement with the Public Service Commission pursuant to Section 17A of the *Public Services (Management) (Amendment) Act* effective on and from 1<sup>st</sup> June 2002.
- 22.2 The Public Service Commission (“the Commission”) is an independent Constitutional Office established under **Section 190 of the Constitution**. The Commission comprises three Commissioners appointed by the Head of State on advice, one of whom is the Chairman appointed by the National Executive Council, together with two other Commissioners. The Commissioners are appointed on their merit as experienced and qualified Public Service managers of Departmental Head status.
- 22.3 A Staff Secretariat provides administrative, research and investigative support to the Commission, and includes technical officers recruited from the National Public Service, having specific skills and expertise in the field of personnel management, relevant to the business of the Commission.
- 22.4 The Commission relies upon provisions of the *Public Services (Management) Act* in order to implement its powers bestowed under the **Constitution**. The Commission has all the necessary powers to summon witnesses, to take evidence, and to require persons to appear before it in the course of its investigations in the performance of its functions.
- 22.5 The *Public Services (Management) Act 1995* and the *Amendment Act 2002* which was brought into effect on 1<sup>st</sup> June 2002, provides for four specific areas of personnel management in which the Commission has a role and functions to perform, namely:
- (a) review of decisions made by Departmental Heads on personnel matters, either of its own volition, or as a result of a complaint or appeal against the decision being made by an officer;
  - (b) review of organizational matters by its own volition, and advice to the National Executive Council in the efficiency of organisations etc;
  - (c) advice to the National Executive Council on the appointment and termination of Departmental Heads, arising from consultation under Section 193 of the Constitution;
  - (d) advice to the Central Agencies Coordinating Committee established under the Prime Ministers Act on the performance of Departmental Heads under Section 24A of the *Public Services (Management) Act*.
- 22.6 The Commission under Section 17 of the Public Services (Management) Act has the authority to make reports on its activities and findings directly to the National Executive Council and to the National Parliament, which it is required to undertake annually.
- 22.7 The Commission’s decisions on reviews of Departmental Head decisions on personnel

matters defined hereunder, become binding upon Departments following defined periods of time, subject to the qualifications in General Order 22.32 and General Order 22.33.

## **SECRETARIAT OF THE COMMISSION**

### **Head of the Secretariat**

- 22.8 The Head of the Secretariat of the Commission, shall be appointed by the Secretary, Department of Personnel Management based on a recommendation from the Commission, the Commission having complied with normal selection and appointment procedures under General Order 3.
- 22.9 The terms and conditions of the Head of the Secretariat shall be the same as for a Deputy Secretary, Department of Personnel Management on Category “A” contract of employment made pursuant to Section 41 of the Act, and General Order 9.
- 22.10. The Head of the Secretariat shall be subject to direction and control by the Chairman of the Commission in the management of the staff of the Secretariat and in fulfilling the work functions and programmes of the Commission.
- 22.11 For the purpose of his or her own personnel administration, including application of discipline and assessment of performance etc, the Head of the Secretariat shall be subject to assessments by the Secretary, Department of Personnel Management on the advice of the Commission.
- 22.12. In accordance with Section 17A 5(c) of the Act, and these General Orders, for purposes of management and administration of the staff of the Secretariat, the Head of the Secretariat is given all the powers necessary under the General Orders, including disciplinary powers, and the Head of the Secretariat shall interpret the General Orders in a manner consistent with the interpretation provided by the Secretary, Department of Personnel Management.

### **Staff of the Secretariat**

- 22.13 The organization of the Secretariat shall be determined by the Commission, after consultation with the Secretary, Department of Personnel Management in the manner as for all funded offices for budgetary purposes.
- 22.14 Secretariat staff shall be appointed utilizing standard procedures for recruitment and selection under General Order 3, by the Head of the Secretariat in consultation with the Commission.
- 22.15 Secretariat staff shall be treated by the Head of the Secretariat in a similar manner as officers of the National Public Service to whom the *Public Services (Management) Act*, the General Orders, and standard Public Service terms & conditions made thereunder shall apply.
- 22.16. The application of these General Orders shall not interfere with the independence of the Commission, and personnel matters affecting the Secretariat shall be subject to the sole determination of the Head of the Secretariat in consultation with the Commission.
- 22.17. The senior officers of the Secretariat shall be appointed onto contract on terms and

conditions determined by the Commission subject to the *Salaries & Conditions Monitoring Committee Act*, and the said contracts shall be so written in standard format of the National Public Service and executed by the Head of the Secretariat on behalf of the Commission.

- 22.18 The Head of the Secretariat shall have the sole right to determine the appointment, management direction and control, performance assessment, salary administration, leave of absence, discipline, termination, and all other personnel management matters related to all contract and non-contract officers of the Commission, subject to consultation with the Commission.

## **REVIEW OF A PERSONNEL MATTER**

### **Officer's Right of Appeal on a Personnel Matter**

- 22.19 Officers of the Public Service have an exclusive right under the Constitution to complain or to appeal to the Commission against actions taken and decisions made by their Departmental Heads which they, the complainants, believe have infringed or offended their rights and interests under Public Service terms and conditions of employment.
- 22.20 It is important that officers who may have been improperly dealt with by their Departmental Heads have recourse to an appeals system and are able to seek redress for suffering injustice at the hands of their Departmental Heads. This process shall be administered in such a manner as to promote the maintenance of propriety in the Public Service.
- 22.21 Prior to taking a grievance over a personnel matter to the courts for judicial review, officers are required to exhaust the administrative process by appealing to the Commission as provided for under Section 18 of the Act and this General Order.
- 22.22 An officer may apply to the Commission for a review of a personnel matter, and the Commission shall determine the appropriate manner in which the review shall be conducted or otherwise as determined by the Act and this General Order.

### **Definition of a Personnel Matter**

- 22.23 "Personnel matters" are defined under the Act as being "*decisions and other service matters concerning an individual whether in relation to his appointment, promotion, demotion, transfer, suspension, discipline, or termination of employment, (except cessation or termination at the end of his normal period of employment as determined in accordance with law), or otherwise.*" "*Other service matters*" in this definition are deemed to include salaries and allowances, leave entitlements and training.

### **Procedure for Appeal by an Officer**

- 22.24 Complaints are to be made by an officer to the Commission in writing, copied to the Departmental Head affected and the Secretary, Department of Personnel Management, and must be made within 60 days of the date on which the offending decision was made by the Departmental Head.
- 22.25. The Commission shall summon the respective parties, namely the officer or complainant, the Secretary, Department of Personnel Management or his delegate, and the Departmental Head or his delegate, to provide written testimony to the Commission in

respect to the matter under complaint.

### **Secretary, Department of Personnel Management Shall Provide Policy Advice**

- 22.26 Upon receiving notification of a complaint by an officer made to the Commission under General Order 22.24, the Secretary shall provide to the Commission within 30 days advice on the policy implications of finding against the Departmental Head, having properly assessed the appeal on the basis of Government policy as recorded in the Act and the General Orders
- 22.27 Where specified by the Commission, the parties referred to under General Order 22.26 may be required to appear in person before the Commission in order to more readily provide evidence of circumstances or policy advice to the Commission.
- 22.28 Either of the parties may nominate a proxy as an advocate to appear before the Commission on their behalf, who may be a legal representative, delegate, or trade union representative, provided that an officer electing to appoint such a person to represent him/her at the Commission's hearings shall bear all costs associated with this representation.

### **Commission Shall Take Account of Government Policy**

- 22.29 The Commission shall, having taken into account the policy advice provided by the Secretary, Department of Personnel Management, give proper consideration to the testimony provided by the parties as outlined in these General Orders, and shall take into account the personnel management policies of the National Public Service, and the cost implications on the budgets of the Executive Government.
- 22.30 Upon completion of the review of a personnel matter by the Public Services Commission, the Commission may in its sole discretion either, uphold, vary, or revoke a decision or action of a Departmental Head in respect to the individual who was affected.

### **Decisions of the Commission Become Binding On Departmental Heads**

- 22.31 A decision of the Commission made under this General Order shall be settled within 90 days of receipt of the complaint hereunder, provided that the Commission in its sole discretion may extend the 90 day said period, and shall provide to the complainant a written explanation as to the reason for the delay.
- 22.32 The provision which makes decisions of the Commission on reviews of personnel matters binding on Departmental Heads, has no effect upon those decisions made by Departmental Heads prior to 1<sup>st</sup> June 2002, and as a consequence, has no effect upon review decisions made by the Commission in respect to those same decisions made by Departmental Heads prior to 1<sup>st</sup> June 2002.
- 22.33 Consistent with General Order 22.32, effective on and from 1<sup>st</sup> June 2002, decisions of the Commission made after 1<sup>st</sup> June 2002 in relation to complaints and appeals on personnel matters, shall become binding upon the Departmental Head, the complainant and the Secretary, Department of Personnel Management after a period of 30 days from the date of the decision, subject to the rights at law of either party.
- 22.34 The Secretary, Department of Personnel Management may make reference to a court of law in respect to a binding decision of the Commission hereunder which is perceived to



have been made contrary to policies of the National Executive Council and which would adversely affect the operations and or the budgets of the National Public Service, contrary to the intentions of the Act and the public interest.

- 22.35 In pursuance of action in the interest of the State and the public interest under General Order 22.34, the Secretary, Department of Personnel Management shall seek a policy directive from the National Executive Council, and such action shall be taken only following advice being given to the Commission.
- 22.36 The Public Services Commission may also review a personnel matter freely of its own resolution, even though no reference has been made by an officer, and the procedure under General Order 22.19 to General Order 22.34 shall apply.
- 22.37 Full details of the procedures relating to a review of a personnel matter are available from the Public Services Commission.

### **REVIEW OF ORGANISATIONAL MATTERS**

- 22.38 Section 191 of the Constitution, “Functions of the Commission” provides that the Commission may of its own volition investigate organizational matters in relation to the efficient operation of the Public Service, and to report the outcome of such an investigation to the National Executive Council.
- 22.39 Section 19 of the *Public Services (Management) Act* provides that in fulfilling its powers of review of organization matters, the Commission shall take into account the views of any advice, and views of other Government bodies. The Commission has undertaken to advise the Secretary, Department of Personnel Management prior to notifying the National Executive Council of its findings.

### **CONSULTATION ON APPOINTMENTS BY THE NATIONAL EXECUTIVE COUNCIL**

- 22.40 Section 193 of the Constitution requires that the Commission be consulted by the National Executive Council prior to a decision to appoint a candidate for the position of Departmental Head, Deemed Departmental Head, Provincial Administrator, Head of a State Service and to other important statutory positions.
- 22.41 In fulfilling this consultative role, the Commission shall ensure that candidates for high office have not compromised their right to consideration as a result of their past employment record, including criminal activities, improper conduct in public office or a generally poor disciplinary or performance record.
- 22.42 The Commission shall ensure that executive officers of the Government are appointed to positions on the basis of their merit alone, and are removed from office for justifiable reasons in accordance with their contracts of employment. For this purpose, Regulations shall be prescribed under Section 78 of the Act, for the purpose of defining selection and appointment criteria.
- 22.43 As a corollary under Section 193 of the Constitution, the Commission is also required to be consulted by the National Executive Council on the removal of Departmental Heads *et al* who are covered by Section 193 of the Constitution.
- 22.44 In performing its functions under this General Order, the Commission shall utilize and

take into account performance appraisal reports, if any, generated under Section 24A of the Act. The Secretary, Department of Personnel Management shall liaise closely with the Chairman of the Commission in the procedures for appointments to public offices, as provided by Section 24A of the Act.

### **WORK PERFORMANCE OF DEPARTMENTAL HEADS**

- 22.45 Section 24A of the *Public Services (Management) Act* provides that the Central Agencies Coordinating Committee shall consult the Commission on the making of Regulations by the Head of State, for the regular appraisal of work performance of Departmental Heads.
- 22.46 By virtue of a policy decision of the National Executive Council, and Section 28 of the Act a Departmental Head shall be appointed on a contract of fixed duration, which shall contain commitments by the Departmental Head to the achievement of defined performance targets and standards, which will be assessed by the Central Agencies Coordinating Committee.
- 22.47 In defining criteria for the purpose of prescribing Regulations, the Central Agencies Coordinating Committee shall be guided by policy advice provided by the Secretary, Department of Personnel Management and shall take into account the views of the Commission in providing recommendations to the National Executive Council.
- 22.48 The Chairman of the Central Agencies Coordinating Committee, shall through the Secretary, Department of Personnel Management, keep the Commission informed of performance assessments or appraisals of Departmental Heads, for the purpose of the Commission advising the National Executive Council of the suitability of Departmental Heads for renewal or termination of their appointments under Section 193 of the Constitution.
- 22.49 The Chairman of the Central Agencies Coordinating Committee in assessing the performance of the Departmental Heads of the Central Agencies shall consult the Commission in respect to the renewal or revocation of the appointments of Heads of the Central Agencies other than the Chairman himself/herself.
- 22.50 The Chairman of the Commission shall consult the Chairman of the Central Agencies Coordinating Committee, in respect to the advice provided to the National Executive Council on the renewal or revocation of appointments of Departmental Heads of the Central Agencies, other than the position of the Chairman himself/herself, as Chief Secretary to Government.
- 22.51 The Chairman of the Commission shall consult the Prime Minister in respect to the appraisal of the performance of the Chief Secretary to Government and shall take into account the performance appraisal in making its views known to the National Executive Council in respect to the appointment, and renewal or revocation of appointment of the Chief Secretary to Government.

### **PUBLIC SERVICE CODE OF BUSINESS ETHICS AND CONDUCT**

- 22.52 In assessing future complaints of officers and in providing its views on performance of Departmental Heads, the Commission shall take into account provisions of the Code of Business Ethics & Conduct made by the Head of State under Section 70A of the Act.



*Independent State of Papua New Guinea*

**NATIONAL PUBLIC SERVICE  
GENERAL ORDERS**

**RECOMMENDATION TO THE SECRETARY, MR JOHN M KALI OBE, TO  
APPROVE GENERAL ORDER NO. 22 OF 1<sup>ST</sup> JANUARY 2012**

**THE PUBLIC SERVICE COMMISSION**

To: Secretary

Date: 08 March 2012

We, the under-signed, confirm that **General Order No. 22 of 1<sup>st</sup> January 2012**, hereto attached, has been drafted in accordance with Government policies and the appropriate Sections of **Organic Law** the **Public Services (Management) Act**, and the **Regulations** and reflects:

- (a) all policy changes made by the National Executive Council in the period 1<sup>st</sup> June 2002 to 31<sup>st</sup> December 2011;
- (b) all changes to the **Constitution**, the **Organic Law on Provincial & Local Level Governments** and the **Public Services (Management) Act 1995**, to effect implementation of the Provincial and Local Level Government Reforms; and,
- (c) all other changes to the **Public Services (Management) Act 1995**, which have been brought into force since 1<sup>st</sup> June 2002.

On behalf of the Executive Management Team, we recommend that the Secretary authorise this General Order for publication and distribution to line Departments and Agencies.

  
**EMMA FAITELI**  
Executive Manager, I&ER

  
**TAIES SANSAN**  
Director, SES

  
**ISIKEL MESULAM**  
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**RAVU VERENAGI**  
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