

EXTRAORDINARY

GOVERNMENT OF FIJI GAZETTE SUPPLEMENT

No. 16

TUESDAY, 23rd MAY

2017

[LEGAL NOTICE NO. 34]

CIVIL SERVICE ACT 1999

Civil Service (General) (Amendment) Regulations 2017

IN exercise of the powers conferred on it by section 15 of the Civil Service Act 1999 and with the agreement of the Prime Minister, the Public Service Commission makes these Regulations—

Short title and commencement

1.—(1) These Regulations may be cited as the Civil Service (General) (Amendment) Regulations 2017.

(2) These Regulations come into force on the date of publication in the Gazette.

(3) In these Regulations, the Civil Service (General) Regulations 1999 is referred to as the “Principal Regulations”.

Regulation 3 amended

2. Regulation 3 of the Principal Regulations is amended by inserting the following new definition—

““investigation” means an investigation conducted and documented in accordance with written guidelines or policies issued by the Commission;”.

Regulation 7 amended

3. Regulation 7 of the Principal Regulations is amended by—

(a) renumbering the existing regulation as subregulation (1);

(b) in subregulation (1), inserting “not exceeding 5 years, provided that the fixed term is determined so as to meet the requirements of the ministry’s planned programme of work” after “term”; and

(c) inserting after subregulation (1) the following new subregulation—

“(2) The renewal or continuation of employment on contract is subject to the performance of the employee in accordance with any performance management system guidelines issued by the respective permanent secretary.”.

Regulation 8 amended

4. Regulation 8(3) of the Principal Regulations is amended by deleting “, and is subject to other terms and conditions of employment, decided” and substituting “determined by the requirements of the position they occupy, as decided”.

Regulation 9 amended

5. Regulation 9 of the Principal Regulations is amended by deleting subregulations (1) and (2) and substituting the following—

“(1) A person appointed to the civil service as an employee may be on probation at the commencement of his or her employment in the civil service.

(2) The period of probation must be proportional to the length of the contract and must not exceed one-sixth of the contracted period or 6 months, whichever is shorter.”.

Regulation 14 amended

6. Regulation 14 of the Principal Regulations is amended by deleting subregulations (2) and (3) and substituting the following—

“(2) Subregulation (1) does not apply to an employee if the permanent secretary, in agreement with the Minister responsible for the ministry and with the approval of the Minister responsible for civil service, determines that the employee is to be retained in the interests of the civil service.

(3) In determining whether approval may be given under subregulation (2), the Minister responsible for civil service must consider—

- (a) the lack of suitably qualified candidates for the position where there is confirmation of the scarcity of the relevant skill;
- (b) whether there are development and succession plans in place for the position to ensure future recruitment for the position; and
- (c) whether there are clear plans in place to phase out the extension of the employee’s contract over a period not exceeding one year.”.

Regulation 22 amended

7. Regulation 22 of the Principal Regulations is amended by—

- (a) in subregulation (1)—
 - (i) deleting “may take one or more of the following actions” and substituting “may direct the permanent secretary to implement one or more of the following penalties”;
 - (ii) deleting paragraph (b) and substituting the following—
 - “(b) demote the employee, provided that the disciplinary charge is related to performance and the employee had a good performance record at a lower level prior to promotion;”;
 - (iii) in paragraph (c), inserting “, provided that the disciplinary charges relate to the specific location of the employee” after “other duties”;
 - (iv) in paragraph (e), inserting “, provided that the reduction is within the salary band or classification for the position occupied” after “remuneration”; and
 - (v) in paragraph (f), deleting “\$500” and substituting “10% of the employee’s annual salary”;

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

“(2) A permanent secretary must implement the penalty that the Public Service Disciplinary Tribunal directs the permanent secretary to implement under subregulation (1).”; and

(c) renumbering subregulation (4) as subregulation (3).

Regulation 23 substituted

8. The Principal Regulations are amended by deleting regulation 23 and substituting the following—

“Suspension

23.—(1) The permanent secretary may suspend an employee at any stage during the disciplinary process.

(2) In determining whether suspension is warranted, the permanent secretary must consider whether—

(a) the presence of the employee could compromise safety in the workplace;

(b) the presence of the employee could compromise or hinder the investigation;
or

(c) there are concerns about the preservation or integrity of the ministry’s information, property or ability to provide services to the public.

(3) If the permanent secretary decides to suspend an employee, the permanent secretary must confirm the decision to suspend to the employee in writing, including all relevant details of the suspension.

(4) A period of suspension while the matter is under investigation by the ministry is on full pay.

(5) Upon completing the investigation, the permanent secretary of the relevant ministry or the Commission may decide to institute disciplinary action by referring the case to the Public Service Disciplinary Tribunal.

(6) Subject to subregulations (7) and (8), a referral to the Public Service Disciplinary Tribunal has the effect of suspending the employee commencing from the date the case is referred and the suspension must initially be on no pay, provided however that where the employee occupies staff quarters or receives a housing allowance, then that employee continues to be entitled to occupy the staff quarters or receive the housing allowance until the determination of the disciplinary charge by the Public Service Disciplinary Tribunal.

(7) The Public Service Disciplinary Tribunal may, on the application of the employee, reinstate the payment of an employee’s salary following a request by the employee to the Public Service Disciplinary Tribunal in accordance with the Public Service Disciplinary Tribunal’s procedures.

(8) Where an employee occupies staff quarters or receives a housing allowance, the Public Service Disciplinary Tribunal may, on the application of the employing authority, direct the employee to vacate the staff quarters or direct the suspension of the housing allowance.”.

Regulation 26 amended

9. Regulation 26 of the Principal Regulations is amended by—

- (a) in subregulation (2)(e), deleting “merit pay” and substituting “performance pay in accordance with written guidelines issued by the Commission”; and
- (b) in subregulation (4)—
 - (i) in paragraph (d), deleting “and”;
 - (ii) in paragraph (e), deleting “.” and substituting “; and”; and
 - (iii) inserting after paragraph (e) the following new paragraph—
 - “(f) be in accordance with any further written guidelines and instructions issued by the Commission.”.

Regulation 29 amended

10. Regulation 29 of the Principal Regulations is amended by deleting “Ministry of Civil Service” and substituting “ministry”.

Made this 23rd day of May 2017.

V. MOHAN
Chairperson
Public Service Commission

Approved by the Prime Minister this 23rd day of May 2017.

A. SAYED-KHAIYUM
Acting Prime Minister