



REPUBLIC OF NAURU

PUBLIC SERVICE (DISCIPLINARY) REGULATIONS 2020

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Cabinet makes the following Regulations under *Section 97* of the *Public Service Act 2016*:

PART 1 - PRELIMINARY

1 Citation

These Regulations may be cited as the *Public Service (Disciplinary) Regulations 2020*.

2 Commencement

These Regulations come into effect on the day they are notified in the Gazette.

3 Objectives

The objectives of these Regulations are to:

- (a) foster professional employment relations in the public service;
- (b) promote mutual respect between employees and between employer and employees;
- (c) provide a framework for acceptable conduct in the workplace and the consequences of deviating from acceptable conduct;
- (d) ensure there is mutual knowledge and understanding between the employer and employees of the application of the disciplinary procedure and penalty for misconduct by an employee; and
- (e) provide a fair and impartial determination of any misconduct at the workplace.

4 Application of Regulations

- (1) These Regulations apply to all persons employed in the public service which include:
 - (a) public service employees;
 - (b) temporary employees;
 - (c) contract employees;
 - (d) Heads of Departments as specified in the Act and these Regulations;
 - (e) foreign service employees; and
 - (f) service providers whose terms and conditions of engagement is subject to the Act.
- (2) These Regulations may not apply to any persons employed under a written law which specifically provides for the terms and conditions of such employment.

5 Interpretation

In these Regulations:

‘Code of Conduct’ refers to the Code of Conduct in Section 8 of the Act;

‘disciplinary proceedings’ means the process of receiving complaint, investigation, hearing and determination of a misconduct;

‘employee’ includes persons referred to in Regulation 4;

‘legal practitioner’ has the same meaning it has in the *Legal Practitioners Act 2019*;

‘Minister’ means the Minister responsible for the Public Service unless stated otherwise;

‘misconduct’ has the meaning given to it in Regulation 8;

‘relevant Head of Department’ refers to the Secretary or person in charge of a Department in which a particular employee is employed.

PART 2 – CHIEF SECRETARY TO DEAL WITH MISCONDUCT

6 Powers of the Chief Secretary and Heads of Departments

- (1) Subject to subregulation (2), the Chief Secretary shall exercise disciplinary control over persons employed in the public service under the Act or any written law.
- (2) Subregulation (1) shall not apply to an employee whose employment is specifically governed by a written law, which provides for its own disciplinary procedure, process or penalty.
- (3) The Chief Secretary may in writing delegate powers to the Heads of Departments to exercise disciplinary control over employees.
- (4) The delegation of powers under subregulation (3) shall not prohibit the Chief Secretary from exercising such powers independent of the Head of Department, subject to an employee’s right to protection under the principle of double jeopardy.
- (5) The Head of Department shall not exercise powers delegated to him or her under subregulation (3), where the Chief Secretary has already exercised or is in the process of exercising such powers.

7 Refusal by Head of Department to exercise power

Where the Chief Secretary reasonably believes that the Head of Department wilfully fails or neglects to exercise the power delegated to him or her under the Act or these Regulations, the Chief Secretary may:

- (a) direct the Head of Department to exercise such power and where the Head of Department fails to do so, the Chief Secretary may discipline the Head of Department and submit a report to the Minister; and

- (b) concurrently exercise such power himself or herself.

PART 3 – MISCONDUCT

8 Misconduct

A misconduct consists of:

- (a) a breach of the Code of Conduct;
- (b) a commission of a disciplinary offence in Schedule 1; or
- (c) a combination of both (a) and (b).

9 Multiplicity of disciplinary offences

- (1) Where misconduct may constitute a number of breaches of the Code of Conduct or disciplinary offences, the employee may be charged with the most serious of the disciplinary offences.
- (2) Where an employee is charged with multiple disciplinary offences arising from the same facts or conduct, the penalty shall reflect the most serious of the charges so that the penalty imposed is reasonably appropriate for the gravity or impact of such offence or offences.

PART 4 – PROCEDURE FOR COMPLAINTS AGAINST EMPLOYEES EXCEPT HEADS OF DEPARTMENTS OR CHIEF SECRETARY

10 Complaint

- (1) Any person may lodge a complaint in respect of an employee:
 - (a) to the relevant Head of Department in relation to an alleged misconduct of an employee; or
 - (b) to the Chief Secretary.
- (2) Where a complaint is lodged with the Chief Secretary, against an employee other than that of the Department of Chief Secretary, he or she shall refer the complaint to the relevant Head of Department for his or her consideration.
- (3) The complaint, insofar as practicable, shall be in writing and accompanied by available supporting evidence.
- (4) A complaint made under subregulation (1) or (2) shall be acknowledged in writing by the Head of Department or the Chief Secretary respectively.

11 Head of Department may initiate investigation

Notwithstanding Regulation 10, a Head of Department may initiate an investigation for any alleged misconduct in relation to any one or more of the employees in his or her Department, without a formal complaint.