



Tonga

**PUBLIC SERVICE (DISCIPLINARY
PROCEDURES) REGULATIONS 2003**

GS 19 of 2003



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Arrangement of Regulations

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PUBLIC SERVICE ACT 2002

I assent,
TAUFA'AHAU TUPOU IV,
Date of Assent

[Date]

IN EXERCISE of the powers conferred by sections 21 and 22 of the Public Service Act 2002, the Prime Minister with the consent of Cabinet makes the following Regulations:

PART 1—PRELIMINARY

1 Short Title

These Regulations may be cited as the Public Service (Disciplinary Procedures) Regulations 2003.

2 Interpretation

In these Regulations, unless the context otherwise requires—

“**Commission**” means the Public Service Commission established under the Public Service Act 2002;

“**employee**” means all persons employed in the Public Service; and

“**Secretary**” means the Secretary appointed under the Public Service Act 2002.

PART II—DISCIPLINARY PROCEDURES

3 Classification of disciplinary case

Subject to these Regulations, the Head of Department shall decide whether a breach of discipline is minor or serious.

4 Minor disciplinary cases

- (1) In a minor breach of discipline, the Head of Department may admonish, counsel or reprimand an employee.
- (2) A record of such minor breach of discipline and punishment shall be given to the employee and placed on his personal file by the Head of Department.

5 Serious disciplinary cases reported by Head of Department

- (1) In the case of a serious breach of discipline or repeated minor breaches of discipline, the Head of Department shall inquire into and forward a complete report of the case to the Secretary.
- (2) Where it appears that a criminal offence may have been committed the Head of Department shall report the matter to the Police and forward a complete report of the case to the Secretary.

6 Serious disciplinary cases reported by Auditor General

- (1) In cases of serious financial irregularity, the Auditor General shall initiate serious disciplinary action by giving a complete report to the appropriate Head of Department and to the Secretary.

- (2) The Auditor General may make any recommendations to the Commission on any serious financial irregularity.

7 Procedure for serious disciplinary charges

- (1) Where a serious breach of discipline has been reported to the Secretary under these Regulations against an employee, the Secretary shall—
 - (a) within 7 working days of receipt of the report convene a committee consisting of the Head of Department, Solicitor General, Auditor General and the Secretary which shall formulate the charges;
 - (b) charge the employee in writing within 14 working days of receipt of the report;
 - (c) attach to the charge, a copy of the report from the Head of Department or the Auditor General as the case may be; and
 - (d) subject to this Regulation, specify the time within which a written reply may be made.
- (2) Upon receipt of the charge, where the employee does not dispute the charge, he shall inform the Secretary in writing within 14 days and shall include mitigation, and the Secretary shall—
 - (a) forthwith bring the matter to the Commission for a decision; and
 - (b) advise the employee in writing of the decision.
- (3) Upon receipt of the charge, where the employee disputes the charge, he may give a written reply regarding the charge to the Secretary within 14 working days.
- (4) The Secretary shall forthwith forward the charge, report from the Head of Department and the reply from the employee to the Commission and the Commission shall—
 - (a) consider the case provided that the employee shall have the right to make oral representation if he so requests; and
 - (b) decide the case and the Secretary shall advise the employee in writing of its decision.
- (5) Where the employee does not reply within the specified time under this Regulations, the Secretary shall proceed with the matter as if the reply has been received.
- (6) The Secretary may extend the time required for a reply but such extension shall not exceed 1 month.

8 Committee of Enquiry

In any serious disciplinary action, the Commission may appoint a Committee of Enquiry to undertake an investigation.

9 Suspension

- (1) Upon receipt of a report under regulation 5 relating to a serious breach of discipline, the Commission may suspend the employee pending a final decision.
- (2) Suspension under these Regulations shall be without pay.

10 Penalties

Subject to regulation 7, where an employee is found guilty of a serious breach of discipline or the repetition of minor breaches of discipline, the Commission may impose one or more of the following penalties—

- (a) reprimand;
- (b) stoppage of pay by way of restitution (in whole or in part) of loss or damage caused by the employee;
- (c) stoppage of a future increment, removal of an increment or increments;
- (d) transfer to another post or locality;
- (e) demotion;
- (f) suspension;
- (g) dismissal; or
- (h) any other action that the Commission may consider necessary.

11 Effect of dismissal

An employee dismissed from the Public Service shall forfeit all benefits, privileges and entitlements.

12 Acquittal

Where an employee is acquitted of—

- (a) a serious breach of discipline; or
- (b) the repetition of minor breach of discipline;

the Commission shall, if the employee was suspended, reinstate and pay the employee in full the salary for the period of suspension.

13 Appeals

- (1) An employee has the right to appeal to Cabinet against any decision of the Commission.
- (2) An employee shall lodge his written appeal with the Secretary within 30 days following receipt by the employee of the written communication of the decision.
- (3) The Secretary shall forward the appeal within 7 days of receipt to Cabinet, which may confirm, rescind or amend the decision of the Commission.

14 Recovery of loss

- (1) Where an employee has been disciplined under these Regulations and the Commission is satisfied that the breach has resulted in an assessable loss to Government, the Commission may direct that any amount up to the full extent of the loss be recovered from the employee by deduction from the employee's salary or entitlements.
- (2) The deduction referred to in sub-regulation (1) shall be no more than 30% of the gross payable salary of the employee, provided that if the employee is dismissed, the total amount of the assessable loss owing shall be deducted.

Made at Nuku'alofa this 29 day of July, 2003.