

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

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# TONGA GOVERNMENT GAZETTE SUPPLEMENT EXTRAORDINARY

No. 19

1 August

2003.

## PUBLIC SERVICE ACT 2002

(Section 21 & 22)

### PUBLIC SERVICE (DISCIPLINARY PROCEDURES) REGULATIONS 2003

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 I - PRELIMINARY

1. These Regulations may be cited as the Public Service (Disciplinary Procedures) Regulations 2003. Short Title
2. In these Regulations, unless the context otherwise requires - Interpretation
  - "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. Subject to these Regulations, the Head of Department shall decide whether a breach of discipline is minor or serious. Classification of disciplinary case
4. (1) In a minor breach of discipline, the Head of Department may admonish, counsel or reprimand an employee. Minor disciplinary cases
  - (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. (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. Serious disciplinary cases reported by Head of Department
  - (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. (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. Serious disciplinary cases reported by Auditor General

**Procedure for  
serious  
disciplinary  
charges**

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

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

9. (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. **Suspension**
- (2) Suspension under these Regulations shall be without pay.
10. 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 – **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. An employee dismissed from the Public Service shall forfeit all benefits, privileges and entitlements. **Effect of dismissal**
12. Where an employee is acquitted of – **Acquittal**
- (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. (1) An employee has the right to appeal to Cabinet against any decision of the Commission. **Appeals**
- (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. (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. **Recovery of loss**

- (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.

**NGAAHI TU'UTU'UNI (NGAAHI FOUNGA TAUTEA) KI HE  
NGAUE FAKAPULE'ANGA 2003.**

**Fakahokohoko 'o e Ngaahi Tu'utu'uni**

**Konga I – Talateu**

1. Hingoa Nounou
2. 'UHINGA'I lea

**Konga II – Ngaahi Founga Tautea**

3. Fa'ahinga 'o e ngaahi maumau tu'utu'uni
4. Maumau tu'utu'uni si'isi'i
5. Maumau tu'utu'uni lahi 'oku lipooti 'e he Pule Potungaue
6. Maumau tu'utu'uni lahi 'oku lipooti 'e he 'Aotita Seniale
7. Founga ngaue ki he ngaahi faka'ilo maumau tu'utu'uni lahi
8. Komiti Faka'eke'eke
9. Fakamalolo fakataimi
10. Ngaahi tautea
11. Ola 'o e tuli
12. Hao
13. Ngaahi tangi
14. Ma'u mai 'o e mole

# FAKALAHI KI HE KASETE 'A E PULE'ANGA TONGA KASETE MAKEHE

No. 19

I 'Aokosi

2003

## LAO KI HE NGAUE FAKAPULE'ANGA 2002

(Kupu 21 &amp; 22)

### NGAAHI TU'UTU'UNI (NGAAHI FOUNGA TAUTEA) KI HE NGAUE FAKAPULE'ANGA 2003

'I hono ngaue'aki 'o e ngaahi mafai kuo foaki 'e he kupu 21 mo e 22 'o e Lao ki he Ngaue Fakapule'anga 2002, 'oku fa'u 'e he Palemia 'i he loto ki ai 'ā e Kapineta 'a e Ngaahi Tu'utu'uni ko 'eni:

#### KONGA I – TALATEU

1. 'E ui 'a e Ngaahi Tu'utu'uni ni ko e Ngaahi Tu'utu'uni (Ngaahi Founga Tautea) ki he Ngaue Fakapule'anga 2003. Hingoa nounou

2. 'I he Ngaahi Tu'utu'uni ko 'eni, tukuhehe 'o ka fiema'u ha 'uhinga kehe 'i hono tu'u'anga – 'Uhinga'i lea

"Komisoni" 'oku 'uhinga ki he Komisoni Ngaue Fakapule'anga kuo fokotu'u 'i he Lao ki he Ngaue Fakapule'anga 2002;

"taha ngaue" 'oku 'uhinga ki he taha kotoa 'oku fakangaue'i 'i he Ngaue Fakapule'anga; mo e

"Sekelitali" 'oku 'uhinga ki he Sekelitali kuo fokotu'u 'i he Lao ki he Ngaue Fakapule'anga 2002.

#### KONGA II – NGAahi FOUNGA TAUTEA

3. Fakatatau ki he Ngaahi Tu'utu'uni ni, kuo pau ki he Pule Potungaue ke ne tu'utu'uni 'oku si'isi'i pe lahi ha maumau tu'utu'uni. Fa'ahinga 'o e ngaahi maumau tu'utu'uni

4. (1) 'I ha maumau tu'utu'uni si'isi'i, 'e ngofua ki he Pule Potungaue ke lea'i, fale'i pe tafulu'i ha taha ngaue. Maumau tu'utu'uni si'isi'i

(2) Kuo pau ke 'oange ha lekooti 'o e maumau tu'utu'uni ko ia mo e tautea ki he taha ngaue pea fakahu ki he 'ene faile ngaue 'e he Pule Potungaue.

5. (1) 'I ha maumau tu'utu'uni lahi pe toutou maumau tu'utu'uni si'isi'i, kuo pau ki he Pule Potungaue ke faka'eke'eke ia pea 'ave ha lipooti kakato 'o e me'a na'e hoko ki he Sekelitali. Maumau tu'utu'uni lahi 'oku lipooti 'e he Pule Potungaue

(2) 'I he ha mai 'oku ngalingali na'e fakahoko ha hia kuo pau ke lipooti 'e he Pule Potungaue 'a e me'a ko ia ki he kau Polisi pea 'oatu ha lipooti kakato 'o e me'a na'e hoko ki he Sekelitali.

Maumau  
tu'utu'uni lahi  
'oku lipooti  
'e he 'Aotita  
Seniale

6. (1) 'I he hoko ha ta'emaau fakapa'anga lahi, kuo pau ke launga'i 'e he 'Aotita Seniale ha maumau tu'utu'uni lahi 'aki hono 'oatu ha lipooti kakato ki he Pule Potungaue 'oku fekau'aki mo ia pea mo e Sekelitali.
- (2) 'E ngofua ki he 'Aotita Seniale ke ne fai ha ngaahi fokotu'utu'uni ki he Komisoni ki ha ta'emaau fakapa'anga lahi.

Founga ngaue  
ki he ngaahi  
faka'ilo maumau  
tu'utu'uni lahi

7. (1) 'I ha lipooti atu ha maumau tu'utu'uni lahi ki he Sekelitali 'i he Ngaahi Tu'utu'uni ni fekau'aki mo ha taha ngaue, kuo pau ki he Sekelitali -
- (a) 'i loto 'i he 'aho ngaue 'e 7 mei hono ma'u 'o e lipooti ke ui ha komiti 'oku kau ki ai 'a e Pule Potungaue ko ia, Fakahinohino Lao Pule, 'Aotita Seniale mo e Sekelitali 'a ia te ne fa'u 'a e ngaahi faka'ilo;
- (b) faka'ilo 'a e taha ngaue 'i he tohi 'i loto 'i he 'aho ngaue 'e 14 mei hono ma'u 'o e lipooti;
- (c) fakapipiki ki he faka'ilo, ha tatau 'o e lipooti mei he Pule Potungaue pe 'Aotita Seniale fakatatau ki he me'a na'e hoko; pea
- (d) fakatatau ki he Tu'utu'uni ko 'eni, fakamahino 'a e taimi 'a ia ke fakahoko ai ha tali 'i ha tohi.
- (2) 'I hono ma'u 'o e faka'ilo, kapau 'oku 'ikai fakakikihi 'i 'e he taha ngaue 'a e faka'ilo, kuo pau ke ne fakaha 'i he tohi ki he Sekelitali 'i loto 'i he 'aho 'e 14 pea kuo pau ke kau ki ai ha fakamatala fakasi'isi'i tautea, pea kuo pau ki he Sekelitali -
- (a) ke fakahu leva 'a e me'a ki he Komisoni ke fai ha tu'utu'uni; pea
- (b) fakaha ki he taha ngaue 'a e tu'utu'uni 'i he tohi.
- (3) 'I hono ma'u 'o e faka'ilo, kapau 'oku fakakikihi 'i 'e he taha ngaue 'a e faka'ilo, 'e ngofua ke ne tali 'i he tohi felave'i mo e faka'ilo ki he Sekelitali 'i loto 'i he 'aho ngaue 'e 14.
- (4) Kuo pau ki he Sekelitali ke ne fakahu leva 'a e faka'ilo, lipooti mei he Pule Potungaue mo e tali mei he taha ngaue ki he Komisoni pea kuo pau ki he Komisoni ke ne -
- (a) fakakaukau'i 'a e me'a ko ia ka kuo pau ke 'i ai 'a e totonu 'a e taha ngaue ke fai ha fakamatala ngutu kapau 'oku ne fiema'u; mo
- (b) tu'utu'uni ki he me'a ko ia pea kuo pau ki he Sekelitali ke fakaha 'enau tu'utu'uni 'i he tohi ki he taha ngaue.
- (5) Kapau 'oku 'ikai ke fai ha tali 'a e taha ngaue 'i loto 'i he taimi kuo fakamahino 'i he Ngaahi Tu'utu'uni ni, kuo pau ki he Sekelitali ke hokohoko atu 'o hange pe na'e ma'u ha tali.



- (6) 'E ngofua ki he Sekelitali ke fakaloloa 'a e taimi 'oku fiema'u ki ai ha tali ka ko e fakaloloa ko ia kuo pau 'e 'ikai laka hake 'i he mahina 'e 1.
8. 'I ha maumau tu'utu'uni lahi, 'e ngofua ki he Komisoni ke fokotu'u ha Komiti Faka'eke'eke ke fakahoko ha fakatotolo. **Komiti Faka'eke'eke**
9. (1) 'I hono ma'u ha lipooti 'i he tu'utu'uni 5 felave'i mo ha maumau tu'utu'uni lahi, 'e ngofua ki he Komisoni ke fakamalolo fakataimi 'a e taha ngaue 'o fakatatali ki ha tu'utu'uni aofangatuku. **Fakamalolo fakataimi**
- (2) Ko e fakamalolo fakataimi 'i he Ngaahi Tu'utu'uni ni kuo pau ke ta'e vahe.
10. Fakatatau ki he tu'utu'uni 7, kapau 'e ma'u 'oku halaia ha taha ngaue ki ha maumau tu'utu'uni lahi pe toutou maumau tu'utu'uni si'isi'i, 'e ngofua ki he Komisoni ke hilifaki 'a e taha pe lahi ange 'o e ngaahi tautea ko 'eni - **Ngaahi tautea**
- (a) tafulu'i;
- (b) ta'ofi 'o e vahe ko e totongi huhu'i (kakato pe konga) 'o e mole pe maumau na'e fakahoko 'e he taha ngaue;
- (c) ta'ofi ha fakalahi vahe 'i he kaha'u, to'o ha fakalahi vahe pe ngaahi fakalahi vahe;
- (d) hiki ki ha lakanga pe feitu'u kehe;
- (e) fakahifo ki ha lakanga ma'ulalo ange;
- (f) fakamalolo fakataimi;
- (g) tuli; pe
- (h) ha founga kehe 'a ia 'oku pehe 'e he Komisoni 'oku fe'unga.
11. Ko ha taha ngaue 'oku tuli mei he Ngaue Fakapule'anga kuo pau ke fa'ao 'a 'ene ngaahi monuu, ngaahi monu'ia mo e ngaahi totonu. **Ola 'o e tuli**
12. 'I ha hao 'a ha taha ngaue mei - **Hao**
- (a) ha maumau tu'utu'uni lahi; pe
- (b) ha toutou maumau tu'utu'uni si'isi'i;
- kuo pau ki he Komisoni, kapau na'e fakamalolo fakataimi 'a e taha ngaue, ke to e fokotu'u pea totongi kakato 'a e vahenga 'o e taha ngaue ki he vaha'a taimi fakamalolo fakataimi.
13. (1) 'Oku 'i ai 'a e totonu 'a e taha ngaue ke tangi ki he Kapineta fekau'aki mo ha tu'utu'uni 'a e Komisoni. **Ngaahi tangi**
- (2) Kuo pau ki he taha ngaue ke fakahu 'ene tohi tangi ki he Sekelitali 'i lotu 'i he 'aho 'e 30 hili hono ma'u 'e he taha ngaue ha fetu'utaki tohi 'o e tu'utu'uni.

- (3) Kuo pau ke 'oatu 'e he Sekelitali ki he Kapineti 'a e tangi 'i loto 'i he 'aho 'e 7 mei hono ma'u, 'a ia 'e ngofua ke ne fakapapau'i, tamate'i pe fakatonotonu 'a e tu'utu'uni 'a e Komisoni.
14. (1) 'I ha tautea 'o ha taha ngaue 'i he Ngaahi Tu'utu'uni ni pea 'oku fiamalie 'a e Komisoni na'e fakatupu 'e he maumau ko ia ha mole ki he Pule'anga 'oku lava 'o fakafuofua'i, 'e ngofua ki he Komisoni ke tu'utu'uni ke totongi ha totongi 'o a'u ki he kotoa 'o e mole mei he taha ngaue 'aki hono to'o ia mei he vahenga pe ngaahi totonu 'a e taha ngaue.
- (2) Ko e to'o 'oku ha 'i he tu'utu'uni si'i (1) kuo pau 'e 'ikai laka hake 'i he 30% 'o e vahenga fakakatoa 'o e taha ngaue 'oku pau ke totongi ki ai, ka kapau 'oku tuli 'a e taha ngaue, kuo pau ke to'o kakato 'a e mole 'oku lava 'o fakafuofua'i.

Na'e fakahoko 'i Nuku'alofa 'i he 'aho ni 29 'o Siulai, 2003.