



*Tonga*

**PUBLIC SERVICE (GRIEVANCE AND  
DISPUTE PROCEDURES) (AMENDMENT)  
REGULATIONS 2010**





# PUBLIC SERVICE (GRIEVANCE AND DISPUTE PROCEDURES) (AMENDMENT) REGULATIONS 2010

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# **PUBLIC SERVICE (GRIEVANCE AND DISPUTE PROCEDURES) (AMENDMENT) REGULATIONS 2010**

## **PUBLIC SERVICE ACT**

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

### **1 Short Title**

- (1) These Regulations may be cited as the Public Service (Grievance and Dispute Procedures) (Amendment) Regulations 2010.
- (2) The Public Service (Grievance and Dispute Procedures) Regulations 2006 are in these Regulations referred to as the Principal Regulations.

### **2 Interpretation**

For the purposes of these regulations -

“Act” means the Public Service Act 2002 as amended.

### **3 Regulation 2 amended**

Regulation 2 of the Principal Regulations is amended as follows -

- (a) the definition of “employee” is amended by replacing the words “all persons” with the words “a person”, and by adding the words “and includes a daily paid worker” after the word “Service”;
- (b) the definition of “employer” is amended by inserting the words “or the Chief Executive Officer” after the word “Commission”;

- (c) the term “Head of Department” and its definition is deleted and replaced with the following -
- “Chief Executive Officer”** means any person in charge of the administration of a Ministry, who is employed under a fixed contract of employment under the Act;
- (d) the following new terms and their definitions are inserted where appropriate -
- (i) **“Secretary of the Tribunal”** means the Secretary of the Public Service Tribunal;
- (ii) **“Tribunal”** means the Public Service Tribunal established under the Act.

#### **4 Regulation 3 amended**

Regulation 3 of the Principal Regulations is amended by replacing the words “Head of Department” with the words “Chief Executive Officer”.

#### **5 Regulation 4 amended**

Regulation 4 of the Principal Regulations is amended as follows -

- (a) paragraph (a) is amended by replacing the words “Head of Department” with the words “Chief Executive Officer”, and by deleting the word “or”;
- (b) paragraph (b) is amended by replacing the words “Head of Department” with the words “Chief Executive Officer; or”;
- (c) by adding the following new paragraph (c) after paragraph (b) -
- “(c) Chairperson where the employment grievance relates to a decision by the Commission”.

#### **6 Regulation 7 amended**

Regulation 7 of the Principal Regulations is amended by replacing the number “5” with the number “6”.

#### **7 Regulation 9 amended**

Regulation 9 of the Principal Regulations is amended as follows -

- (a) paragraph (a) is amended by adding the words “to the conditions before the decision was made” after the word “employee”;
- (b) paragraph (b) is repealed;
- (c) paragraph (c) is amended by replacing the words “reimburse of” with the word “pay”.

## **8 Regulation 10 amended**

The Principal Regulations is amended by repealing Regulation 10 and replacing it with the following –

### **“10 Right of Appeal**

- (1) The employee shall have a right of appeal to the Tribunal against-
  - (a) any decision of the employer under regulation 8; or
  - (b) non compliance by the employer with the procedural requirements of this Part of the Regulations.
- (2) The employee shall, within 14 working days of receipt of the decision on the employment grievance file an appeal with the Secretary together with the prescribed fee set out in Schedule II.
- (3) The Secretary of the Tribunal shall within 3 working days from the date the appeal was filed, submit the appeal to the Tribunal.”

## **9 Regulation 11 amended**

Regulation 11 of the Principal Regulations is amended by adding the words “of the Tribunal” after the word “Secretary”.

## **10 Regulation 16 amended**

Regulation 16 of the Principal Regulations is amended by replacing the words “designated officer” with the word “investigator”.

## **11 Regulation 17 amended**

Regulation 17 of the Principal Regulations is amended by replacing the words “designated officer” with the word “investigator”.

## **12 Regulation 19 amended**

Regulation 19 of the Principal Regulations is repealed and replaced with the following -

### **“19 Right of appeal of Association**

- (1) The association shall have a right of appeal to the Tribunal against -
  - (a) any decision of the Commission; or

- (b) non-compliance by the employer with the procedural requirements of this Part of the Regulations.
- (2) An appeal shall be in the prescribed form set out in Schedule I to these Regulations.
- (3) The association shall file its appeal with the Secretary of the Tribunal within 14 working days of receipt of the decision together with payment of the prescribed fee set out in Schedule II.
- (4) The Secretary of the Tribunal shall acknowledge receipt of the notice.”

### **13 New Regulation 19A**

The Principal Regulations is amended by adding the following new regulation 19A after regulation 19 -

#### **“19A Contents of notice**

The appellant’s notice shall be signed and dated by or on behalf of the appellant and shall state –

- (a) the name and the address for the service of the appellant;
- (b) the name and address of the Tribunal;
- (c) details of the decision of which the application is made; and
- (d) the grounds for the application.”

### **14 Regulation 20 amended**

Regulation 20 of the Principal Regulations is amended by adding the words “of the Tribunal” after the word “Secretary”.

### **15 Regulation 21 amended**

Regulation 21 of the Principal Regulations is amended by replacing the words “Head of Department” with the words “Chief Executive Officer”.

### **16 Regulation 22 amended**

Regulation 22 of the Principal Regulations is amended by inserting the words “Tribunal or the” before the word “Commission”.



**17 Regulation 23 amended**

Regulation 23 (3) of the Principal Regulations is amended by deleting the words “General Revenue” and replacing them with the words “the Tonga Government Fund”.

**18 New Schedule I and II**

The Principal Regulations is amended by adding the following Schedules I and II -

**“SCHEDULE I  
NOTICE OF APPEAL**

**1. To**

**Secretary of the Public Service Tribunal  
NUKU‘ALOFA**

**I / We** \_\_\_\_\_

**of** \_\_\_\_\_

hereby give notice that I/we appeal to the Public Service Tribunal under section \_\_\_\_\_ of the Public Service Act 2002, against the decision made by the Public Service Commission on :

**Date** \_\_\_\_\_ **Decision number** \_\_\_\_\_

**2 Grounds of Appeal**

**The grounds of my appeal are as follows:**

**3 Address for Service**

All communications regarding the  
Appeal should be addressed to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

If the notice is signed on behalf of the appellant,  
the person who signs it must state below in what  
capacity or authority they sign.

\_\_\_\_\_

## **SCHEDULE II**

### **FEES**

Appeal to the Public Service Tribunal	\$100''
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Made at Nuku'alofa this 8<sup>th</sup> day of December 2010.