



REPUBLIC OF NAURU

# PARLIAMENTARY SERVICES (EMPLOYMENT AND PROCEDURES) REGULATIONS 2021

---

SL No. 14 of 2021

---

Notified: 2<sup>nd</sup> July 2021

## Table of Provisions

<b>PART 1 – PRELIMINARY .....</b>	<b>6</b>
1 Citation .....	6
2 Commencement .....	6
3 Objects of Regulations.....	6
4 Interpretation .....	6
5 Meaning of ‘absent without leave’ .....	9
6 Meaning of ‘continuous period of service’ .....	9
<b>PART 2 – STRUCTURE OF THE OFFICE OF PARLIAMENTARY SERVICES .....</b>	<b>10</b>
7 Establishment of Divisions.....	10
8 Establishment of Sections .....	10
9 Office positions .....	10
10 Office position may be held on a permanent basis or fixed term.....	11
11 Reduction in remuneration following reclassification .....	11

12	Increase in remuneration following reclassification.....	11
13	Change of eligibility requirements.....	12
<b>PART 3 – SELECTION AND APPOINTMENT OF EMPLOYEES.....</b>		<b>12</b>
14	Merit principle applicable to all appointments .....	12
15	Advertising vacant position .....	13
16	Eligibility for appointment.....	13
17	Basis of appointment – permanent or fixed term .....	13
18	Medical and Police Clearance .....	14
19	Publication of notice of appointment.....	14
20	Probationary period .....	14
21	Vacancies filled by internal transfer or promotion .....	15
22	Power of Clerk to transfer after 3 years .....	15
23	Permission to decline promotion or transfer .....	15
24	Employment of temporary employees .....	15
25	Review of status of temporary employee.....	16
26	Temporary employee – application of Code of Conduct.....	16
27	Temporary employees - application of Disciplinary Regulations.....	16
28	Contract positions.....	17
29	Contract position held by a permanent employee.....	17
30	Employment of contract employees.....	17
31	Misconduct by contract employees.....	18
32	Managing the work performance of a contract employee .....	18
33	Termination of employment – contract employee .....	18
<b>PART 4 - TERMS AND CONDITIONS OF EMPLOYMENT .....</b>		<b>19</b>
Division 1 – Hours of attendance.....		19
34	Standard hours of attendance .....	19
35	Base hours of attendance for each working day.....	19
36	Absence without leave.....	19
37	Overtime.....	19
38	Record of attendance .....	20
Division 2 – Leave generally.....		20
39	Definition of employee .....	20
Division 3 - Recreation leave .....		20
40	Purpose of recreation leave.....	20
41	Entitlement to recreation leave .....	21
42	Accumulation of recreation leave – maximum .....	21
43	Taking recreation leave .....	21
44	Public holiday during recreation leave .....	22

Division 4 - Sick leave .....	22
45 Purpose of sick leave.....	22
46 Entitlement to sick leave .....	22
47 Taking sick leave – evidence.....	23
48 Taking sick leave – amount .....	23
49 Public holiday during sick leave.....	23
Division 5 – Maternity leave.....	23
50 Purpose of maternity leave .....	23
51 Entitlement to maternity leave .....	24
52 Taking maternity leave.....	24
53 Returning to duty after maternity leave .....	25
54 Restriction on termination .....	25
Division 6 – Paternity leave .....	25
55 Purpose of paternity leave .....	25
56 Entitlement to paternity leave .....	25
57 Taking paternity leave.....	25
Division 7 – Adoption leave .....	26
58 Purpose of adoption leave .....	26
59 Entitlement to adoption leave .....	26
60 Taking adoption leave.....	27
Division 8 – Special leave.....	27
61 Purpose of special leave.....	27
62 Entitlement to special leave .....	27
63 Application for special leave .....	28
Division 9 – Official leave .....	28
64 Purpose of official leave.....	28
65 Application for official leave .....	28
66 Allowances for official leave.....	28
Division 10 - Leave without pay .....	28
67 Purpose of leave without pay.....	28
68 Taking leave without pay .....	29
Division 11 – Long service leave .....	30
69 Purpose of long service leave.....	30
70 Calculation of long service leave .....	30
71 Taking long service leave .....	30
72 Furlough Leave.....	31
73 Calculation and taking of Furlough Leave.....	31
Division 12 – Other leave of absence .....	32

74	Leave of absence for Office employees called as witnesses .....	32
	Division 13 – Public holidays .....	32
75	Public holidays.....	32
	<b>PART 5 - EMPLOYEE RECORDS .....</b>	<b>33</b>
76	Identification Card.....	33
77	Personal files .....	34
	<b>PART 6 – TERMINATION OF EMPLOYMENT .....</b>	<b>35</b>
	Division 1 – Preliminary .....	35
78	How employment terminates .....	35
79	Criminal Offence.....	35
	Division 2 – Resignation .....	35
80	Resignation of employee .....	35
81	Deemed resignation.....	36
82	Election candidates – resignation and reemployment.....	36
	Division 3 – Retirement .....	37
83	Voluntary retirement of employee .....	37
84	Clerk may require medical examination.....	37
85	Medical examination report.....	38
86	Medical retirement of employee.....	38
87	Death of an employee.....	39
	Division 4 – Redundancy .....	39
88	Abolition of permanent employee’s substantive position .....	39
89	Return of substantive holder – position occupied by temporary employee .....	39
90	Abolition of position occupied by temporary employee .....	39
91	Requirement to give notice .....	40
	Division 5 – Performance assessment .....	40
92	Performance assessment.....	40
93	Unsatisfactory performance – remedial action.....	40
94	Unsatisfactory performance – alternative action .....	41
95	Disciplinary matters and procedure .....	41
	Division 6 – Termination entitlements.....	41
96	Termination entitlements cumulative .....	41
97	Notice requirement – termination of probationary employee .....	41
98	Notice requirement – termination of employee .....	42
99	Notice requirement – medical retirement.....	42
100	Severance entitlement – redundancy .....	42
101	Payment of accrued entitlements .....	42
102	Deduction of amount if notice not given.....	43

**PART 7 – GIFTS AND DONATIONS, AND EQUIPMENT AND PROPERTY, OF THE OFFICE ..... 43**  
103 Application ..... 43  
104 Declaration of gifts, donations, rewards and other benefits ..... 44  
105 Responsibilities for declared items and other equipment, property or assets ..... 44  
106 Loss and damage to equipment, property or other asset..... 44  
**PART 8 – MISCELLANEOUS ..... 45**  
107 Other instruments and manuals..... 45  
108 Forms ..... 45  
109 Delegation ..... 45  
SCHEDULE 1 ..... 46

The Speaker makes the following Regulations under Sections 20(3) and 50 of the *Parliamentary Services Act 2020*:

## **PART 1 – PRELIMINARY**

### **1 Citation**

These Regulations may be cited as the *Parliamentary Services (Employment and Procedures) Regulations 2021*.

### **2 Commencement**

These Regulations come into effect on 1 July 2021.

### **3 Objects of Regulations**

The objects of these Regulations are:

- (a) to provide for:
  - (i) the terms and conditions of employment of employees of the Office of Parliamentary Services; and
  - (ii) the establishment of Divisions and Sections in the Office;
- (b) to provide for certain employment processes so as to ensure that:
  - (i) employment decisions are based on merit;
  - (ii) employees are treated fairly and reasonably; and
  - (iii) equal employment opportunity is promoted; and
- (c) to make provision about matters for the administration of the Office and other matters necessary to operationalize the Act.

### **4 Interpretation**

In these Regulations, unless the context otherwise requires:

**‘absent without leave’**, see regulation 5;

**‘accrual year’**, for an employee, means a continuous period of service of 12 months beginning on:

- (a) for the employee’s first year of employment in the Office – the day the employee is taken to be an employee under Section 52 of the Act or appointed as an employee; or
- (b) for each following year – the day after the employee completes the previous accrual year;

**'Act'** means the *Parliamentary Services Act 2020*;

**'adoption order'**, has the same meaning it has in Section 3 of the *Adoption of Children Act 1965*;

**'adoptive parent'**, has the same meaning it has in Section 3 of the *Adoption of Children Act 1965*;

**'balance'**, for a type of leave, means the amount of the type of leave an employee has accrued but not used;

**'base hours of attendance'**, for an Office employee, means the base hours of attendance that apply to the employee under regulation 35;

**'classification'**, for an Office position, means a description that identifies the class of positions to which the position belongs;

**'Clerk'** means the Clerk of Parliament;

**'Code of Conduct'** means the Code of Conduct in Schedule 2 of the Act;

**'continuous period of service'**, see regulation 6;

**'contract employee'** within the Office means a person who is employed under a contract of employment under regulation 28;

**'Division'** means a Division of the Office established under these Regulations;

**'employee'** has the same meaning as it has in the Act;

**'HR Division'** means the Division within the Office responsible for human resources and administration;

**'leave'** includes paid leave, leave without pay and official leave;

**'medical certificate'** means a certificate given by a registered health practitioner or dentist;

**'misconduct'** means a breach of the Code of Conduct of a disciplinary offence prescribed under the *Parliamentary Services (Disciplinary) Regulations 2021*;

**'Office'** has the same meaning as it has in the Act;

**'Office employee'** means a person employed in a Division on a permanent basis and does not include a temporary employee, casual employee or contract employee;

**'Office position'** means a position in the Office created by the Clerk under regulation 9;

**'paid leave'** means recreation leave, sick leave, maternity leave, adoption leave, paternity leave, special leave, long service leave or other leave of absence;

**'permanent employee'** means a person who has completed a probationary period and continuous 12 months service and holds a position in the Office on a permanent basis;

**'probationary employee'** means a person who holds a position on a probationary period of 6 months or as determined by the Clerk;

**'probationary period'**, for an employee, means:

- (a) the initial period of probation mentioned in regulation 20(2); and
- (b) any extended period mentioned in regulation 20(4);

**'public service employee'** means a person employed in a Department of the public service on a permanent basis and does not include a temporary employee, casual employee or a contract employee;

**'required hours of attendance'**, for an employee, means:

- (a) the employee's base hours of attendance; and
- (b) any additional hours the employee is required to attend duty under regulation 37;

**'Section'** means a Section of the Office established under these Regulations;

**'Speaker'** means the Speaker of Parliament;

**'standard hours of attendance'** means the hours specified in regulation 34;

**'substantive holder'**, of a position, means the permanent employee who holds the position on a permanent basis;

**'substantive position'**, for a permanent employee, means the position the employee holds on a permanent basis;

**'supervisor'**, of an employee, means:

- (a) the relevant head of Division for the employee; or
- (b) a person authorised by the relevant head of Division to supervise the employee;

**'temporary employee'** means a person who does not hold another Office position and who is employed within the Office for a temporary purpose not exceeding 6 months;



**'termination date'** means the date an employee's employment in the Office terminates;

**'termination entitlement'** means an amount an employee is entitled to under Part 6, when the employee's employment in the Office terminates;

**'outside employment'** means employment outside the Office for which the person employed receives a reward; and

**'vacant'**, for a position, means that the position is not:

- (a) held by a permanent employee on a permanent basis; or
- (b) occupied by a permanent or temporary employee for a fixed term.

## **5 Meaning of 'absent without leave'**

(1) An employee is **'absent without leave'** if the employee is:

- (a) absent from duty during the employee's required hours of attendance; and
- (b) the employee has not been granted leave for the absence.

(2) However, the employee is not absent without leave if:

- (a) the employee informs the employee's supervisor of the absence and the reason for it as soon as practicable; and
- (b) the employee applies for leave for the absence as soon as practicable; and
- (c) the leave is granted.

## **6 Meaning of 'continuous period of service'**

(1) A **'continuous period of service'**, for an employee means a period during which the employee is continuously employed in the Office.

(2) Leave without pay does not break a continuous period of service, but the time the employee is on leave without pay does not count towards the period of service.

(3) An employee who resigns from his or her employment in the Office, but at a future date reapplies for another position in the Office, breaks his or her continuous period of service when the employee resigned from his or her first position.

## **PART 2 – STRUCTURE OF THE OFFICE OF PARLIAMENTARY SERVICES**

### **7 Establishment of Divisions**

The following Divisions are established within the Office:

- (a) the Executive Division;
- (b) the Corporate Services Division; and
- (c) the Legislation Division.

### **8 Establishment of Sections**

The following Sections are established within the Office:

- (a) the Section responsible for finance;
- (b) the Section responsible for human resources and administration;
- (c) the Section responsible for Hansard and official reporting;
- (d) the Section responsible for advisory support;
- (e) the Section responsible for information technology and communications;
- (f) the Section responsible for the library; and
- (g) the Section responsible for support to committees.

### **9 Office positions**

- (1) The Clerk may by Gazette notice:
  - (a) create an Office position; or
  - (b) abolish an Office position.
- (2) The Clerk shall specify, in the Gazette notice that creates an Office position, the classification of the position.
- (3) The Clerk may, by subsequent Gazette notice, change the classification of an Office position.

- (4) The Clerk may specify, in the Gazette notice that creates an Office position or in a subsequent Gazette notice, eligibility requirements for a person holding or occupying the position.
- (5) The Clerk may, by subsequent Gazette notice, change the eligibility requirements of an Office position.
- (6) The Clerk may, in a notice under subregulation (3), (4) or (5), declare that the change of classification or the imposition or change of eligibility requirements does not take effect until the position next becomes vacant.

**10 Office position may be held on a permanent basis or fixed term, or be vacant**

An Office position may be:

- (a) held on a permanent basis by a permanent employee; or
- (b) held on a fixed term by a temporary employee or a contract employee; or
- (c) vacant.

**11 Reduction in remuneration following reclassification**

- (1) This regulation applies if:
  - (a) the classification of a position (other than a vacant position) is changed; and
  - (b) the rate of remuneration or the maximum rate of remuneration, of the position immediately after the change is lower than the rate of remuneration, or the maximum rate of remuneration, of the position immediately before the change.
- (2) An employee holding or occupying the position immediately before the change of classification may elect to continue to hold or occupy the position under the new classification.
- (3) If the employee does not elect to continue to occupy or hold the position under the new classification, the position is taken to have been abolished.

**12 Increase in remuneration following reclassification**

- (1) This regulation applies if:
  - (a) the classification of a position, other than a vacant position, is changed; and

- (b) the rate of remuneration or the maximum rate of, of the position immediately after the change is higher than the rate of remuneration, or the maximum rate of remuneration, of the position immediately before the change.
- (2) The position is taken to be vacant one month after the change in classification unless a person is appointed to the position before that time.
- (3) If an employee holding or occupying the position immediately before the change of classification is not re-appointed to the position, the position is taken to have been abolished.

**13 Change of eligibility requirements**

If:

- (a) the eligibility requirements for a position are changed; and
- (b) the employee who holds or occupies the position does not meet the eligibility requirements and has not done so within a reasonable period allowed by the Clerk,

Division 4 of Part 6 applies to the employee as if the position had been abolished.

**PART 3 – SELECTION AND APPOINTMENT OF EMPLOYEES**

**14 Merit principle applicable to all appointments**

- (1) The selection of a person for appointment to a position in the Office shall be based on merit alone.
- (2) If the Clerk considers that more than one candidate for appointment to a particular position is suitable for the appointment, the Clerk shall select the candidate the Clerk reasonably believes has the greatest merit for the appointment.
- (3) The Clerk shall take the following matters into account in deciding the merit of a person for appointment to a position:
  - (a) the extent to which the person has the abilities, aptitude, skills, qualifications, knowledge, experience and personal qualities relevant to performing the duties of the position; and
  - (b) if relevant:
    - (i) the way in which the person performed any previous employment duties; and
    - (ii) the extent to which the person has potential for development.

**15 Advertising vacant position**

- (1) Before a vacancy within the Office is filled, the vacancy shall be advertised:
  - (a) in the Gazette; and
  - (b) in a newspaper or on the Office website.
- (2) A vacancy shall be advertised for a minimum period of 5 working days.

**16 Eligibility for appointment**

- (1) A person is not eligible for appointment as an Office employee if the person is:
  - (a) under the age of 18 years; or
  - (b) a Member of Parliament; or
  - (c) is not a Nauruan citizen.
- (2) A person who is not eligible under subregulation (1)(c) may be appointed as a contract employee.
- (3) Subregulation (2) does not limit the eligibility of Nauruan citizens from being employed in the Office as contract employees.
- (4) Upon being appointed as an Office employee, a person is required to affirm or swear before the Clerk, an oath on appointment as contained in Schedule 1.
- (5) All appointments of contract employees who are not Nauruan citizens shall be conducted in a transparent manner and so far as practicable in accordance with best human resources standards, policies and practices.

**17 Basis of appointment – permanent or fixed term**

- (1) Subject to regulation 16, the Clerk in consultation with the Speaker may appoint a person to a position in the Office:
  - (a) on a permanent basis; or
  - (b) for a fixed term as a temporary employee or a contract employee.
- (2) However, the Clerk shall not appoint a person to a position on a permanent basis if another employee holds the position on a permanent basis.

**18 Medical and Police Clearance**

- (1) Before an appointment to an Office position is made, a candidate selected for appointment shall undergo a medical examination and be passed as being in all respects physically and mentally fit by a registered health practitioner authorised by the Clerk.
- (2) The selection of a person for appointment to an Office position is subject to the person providing to the Clerk a satisfactory police record.

**19 Publication of notice of appointment**

The Clerk shall publish notice of each appointment to a position in the Gazette within 14 days after the appointment is made.

**20 Probationary period**

- (1) This regulation applies:
  - (a) if a person is appointed to an Office position; and
  - (b) immediately before the appointment, the person was not a public service employee within the meaning of the *Public Service Act 2016* or an Office employee.
- (2) The appointment is subject to an initial period of probation of 6 months.
- (3) The purpose of the probationary period is to determine whether the person is suitable for the position.
- (4) One month before the end of the initial period of probation for the person, the Clerk:
  - (a) shall conduct or instruct the person's immediate supervisor to conduct a performance appraisal to determine if the person's performance meets the requirements for continued employment; and
  - (b) may extend the period of probation for a further single period of up to 6 months if the Clerk reasonably believes it is necessary to do so to determine whether the person is suitable for the position.
- (5) Subject to subregulation (4), the person's appointment is taken to be confirmed at the end of the probationary period unless the Clerk has earlier terminated the person's employment.
- (6) The Clerk may terminate the person's employment at any time during the probationary period.

**21 Vacancies filled by internal transfer or promotion**

- (1) If a vacancy exists for a position in the Office, the Clerk may seek expressions of interest from existing employees for internal transfer or promotion.
- (2) A vacancy for a position may be filled by the Clerk transferring or promoting an Office employee to the vacant position.
- (3) The selection of a person to be transferred or promoted to a vacant position shall be based on merit alone.
- (4) The promotion or transfer of an employee shall be published in the Gazette.
- (5) To avoid doubt, the requirement to publicly advertise a vacancy under regulation 15 shall be complied with even if the Clerk seeks expressions of interest under subregulation (1).

**22 Power of Clerk to transfer after 3 years**

The Clerk may internally transfer an employee from one position to another:

- (a) if the employee has served in the same position for 3 years or more; and
- (b) the Clerk considers it in the interest of the Office to transfer the employee to that other position.

**23 Permission to decline promotion or transfer**

- (1) The Clerk may permit an employee to decline a promotion or internal transfer without prejudice to his or her right of future promotion or transfer.
- (2) If a decision has been made to internally transfer an employee due to misconduct, the Clerk shall direct the transfer of the employee and the employee shall comply with the direction.
- (3) Non-compliance with a direction given under subregulation (2), may result in further disciplinary action being taken against the employee or termination.

**24 Employment of temporary employees**

- (1) The Clerk may, to meet temporary circumstances, employ a person as a temporary employee to perform work of a type ordinarily performed by an Office employee.
- (2) The employment may be on a temporary basis and full-time or part time, but shall not exceed 6 months unless extended by the Clerk.

- (3) A person employed under this regulation does not, by reason of employment, become an Office employee.
- (4) The process of the selection and appointment of a temporary employee applies as if the position were a permanent position.

**25 Review of status of temporary employee**

- (1) The Clerk shall, 2 weeks before the end of the employment of a temporary employee, decide whether:
  - (a) the person may be employed as a permanent employee; or
  - (b) the person's temporary employment is to be continued for another period of 6 months only; or
  - (c) the person's employment is to end or lapse on the completion of any period or extended period of temporary employment.
- (2) Regulations (1)(a) and (b) are subject to:
  - (a) consultation with the Speaker; and
  - (b) the existence of a relevant vacancy within the Office.
- (3) If the Clerk does not make a decision within the 2 weeks period, the Clerk is taken to have decided that the person's employment ends.
- (4) A temporary employee shall not be paid any remuneration or benefit beyond the period when his or her temporary employment ends.
- (5) Despite any other provisions of these Regulations, temporary employees are eligible for official travel, special leave, sick leave and official leave on the same terms and conditions as permanent employees.
- (6) A temporary employee is eligible for recreation leave if he or she completes 12 months continuous period of service.
- (7) If a temporary employee is absent from work without the prior leave or approval of his or her supervisor or the Clerk, he or she may be terminated by written notice by the Clerk on the recommendation of the supervisor.

**26 Temporary employee – application of Code of Conduct**

The Code of Conduct applies to a temporary employee as if the employee were a permanent employee.

**27 Temporary employees - application of Disciplinary Regulations**



The *Parliamentary Services (Disciplinary) Regulations 2021* apply to a temporary employee as if the employee were a permanent employee.

**28 Contract positions**

- (1) The Clerk may, with the approval of the Speaker, determine that an existing permanent position in a Division is to be a contract position.
- (2) The Speaker may, upon the request of the Clerk, establish a new contract position in the Office.
- (3) If a contract position is vacant, the Clerk may fill the position in accordance with regulation 30.
- (4) The determination of a position under contract shall be published in the Gazette.

**29 Contract position held by a permanent employee**

- (1) If the Clerk determines that an existing position in the Office is to be a contract position and that position is held by a permanent employee, the following provisions apply:
  - (a) the Clerk shall give the employee notice in writing of the determination;
  - (b) the notice shall state that the change in status of the position will take effect 4 weeks after the date of the notice;
  - (c) the employee is taken to have resigned from his or her employment 4 weeks after the date of the notice, and shall be paid the entitlements that would be due to the employee because of his or her resignation;
  - (d) the Clerk may offer the employee a contract of employment as a contract employee in the position not less than 2 weeks after the date of the notice;
  - (e) if the employee signs the contract of employment before the end of the 4 week period from the date of the notice, the employee becomes a contract employee with effect from the date of signature; and
  - (f) if the employee does not sign the contract before the end of the 4 week period from the date of the notice, the offer lapses at the end of the 4 week period.
- (2) If the offer of contract employment lapses under subregulation (1)(f), the Clerk shall advertise the position in accordance with regulation 15.

**30 Employment of contract employees**

- (1) If the Clerk wishes to employ a person in a contract position, the Clerk shall advertise the position in accordance with regulation 15.
- (2) The employment of a person in a contract position shall be based on merit alone.
- (3) The contract of employment of a contract employee shall be in writing and shall be signed by the contract employee and the Clerk on behalf of the Office.
- (4) The Code of Conduct applies to a contract employee.

**31 Misconduct by contract employees**

- (1) The Clerk shall provide a report to the Speaker if the Clerk:
  - (a) becomes aware that a contract employee has been charged with having committed a criminal offence; or
  - (b) suspects that a contract employee may have committed any misconduct.
- (2) The Clerk shall use discretion when applying the provisions of the *Parliamentary Services (Disciplinary) Regulations 2021* to a contract employee suspected of committing a breach of discipline.
- (3) A contract employee has no right to lodge an appeal to the Public Service Appeals Board.

**32 Managing the work performance of a contract employee**

- (1) If the Clerk considers that a contract employee is not performing his or her duties at the standard expected of a contract employee of that classification, the Clerk shall provide a report on the matter to the Speaker.
- (2) Regulations 94 and 95 on unsatisfactory performance apply to the work performance of a contract employee.

**33 Termination of employment – contract employee**

- (1) A contract employee may be terminated according to the terms and conditions of his or her contract.
- (2) The Clerk shall terminate the contract of a contract employee if he or she:
  - (a) abandons work without prior notification;
  - (b) is absent from work for a period of 14 days without prior approval;

- (c) whilst on a category of leave attempts to extend leave by other forms of leave without any reasonable cause; or
- (d) leaves the Republic with no intention of returning.

## **PART 4 - TERMS AND CONDITIONS OF EMPLOYMENT**

### **Division 1 – Hours of attendance**

#### **34 Standard hours of attendance**

The standard hours of attendance for an employee are 40 hours from Monday to Friday, excluding overtime.

#### **35 Base hours of attendance for each working day**

- (1) An employee shall attend work from 9am to 5pm on each working day.
- (2) On each working day, an employee is entitled to a one hour meal break, which shall be taken at a time approved by the employee's supervisor.

#### **36 Absence without leave**

- (1) An employee is not entitled to receive remuneration for any time the employee is absent without leave.
- (2) An employee who is absent without leave for a continuous period exceeding 14 days may be disciplined under the *Parliamentary Service (Disciplinary) Regulations 2021* and may be terminated without any remuneration or other benefits being paid out to the employee.
- (3) An employee who, having been granted leave, fails to return to duty at the proper time is liable to disciplinary action and it may include termination under the *Parliament Service (Disciplinary) Regulations 2021*.

#### **37 Overtime**

- (1) Based on the prior authorisation of the Clerk, an employee may be required to attend work for a reasonable number of hours in addition to the employee's base hours of attendance, and the employee shall be compensated for the additional hours by way of:
  - (a) additional remuneration at the appropriate overtime rate determined by the Clerk; or
  - (b) time off work at another time on an hour for hour basis.
- (2) An employee may only work overtime on the recommendation of the employee's supervisor and with the prior authorisation of the Clerk.

- (3) Any hours worked without such recommendation and authorisation will not be considered as overtime.
- (4) The Clerk when approving a request to work overtime shall determine the additional hours of attendance, including:
  - (a) the maximum amount of additional hours an employee may be required to attend work; and
  - (b) the compensation the employee shall be given for the additional hours.

**38 Record of attendance**

- (1) Unless exempted by name by the Clerk, every employee, except the Clerk and Deputy Clerk, shall:
  - (a) sign the Attendance Register when arriving at work each day and indicate the time of arrival;
  - (b) sign the Register when leaving work and indicate the time of departure; and
  - (c) give the reason for any late arrival or early departure in the space provided in the Register.
- (2) If an employee is absent for any reason other than duty, the employee shall ensure that a message explaining his or her absence is sent immediately to the employee's supervisor.
- (3) Supervisors are required to check and initial daily the Attendance Register under their control and take appropriate action in case of persistent offenders who are either late or fail to sign in or out.
- (4) Any absence from duty occasioned by late arrival or early departure from work except in respect of sickness may be deducted from an employee's remuneration.

**Division 2 – Leave generally**

**39 Definition of employee**

For the purpose of Divisions 3 to 11 of this Part (other than Division 10), 'employee' means a permanent employee or a contract employee.

**Division 3 - Recreation leave**

**40 Purpose of recreation leave**

Recreation leave is available to an employee to enable the employee to take leave from duty to promote good physical and mental health and to allow the employee to balance work with his or her personal life .

**41 Entitlement to recreation leave**

- (1) For each year of service, an employee is entitled to 20 working days of recreation leave on full remuneration (the employee's '**annual entitlement**').
- (2) An employee's annual entitlement may be calculated on a *pro rata* basis.

**42 Accumulation of recreation leave – maximum**

- (1) Recreation leave accrues cumulatively up to a maximum of 3 years.
- (2) If an employee reaches the maximum recreation leave balance, the Clerk shall direct the employee to immediately:
  - (a) take an amount of recreation leave that will reduce the employee's recreation leave balance so it does not exceed the maximum annual balance when the employee next accrues recreation leave; or
  - (b) cash out an amount of recreation leave that will reduce the employee's recreation leave so it does not exceed the maximum recreation leave balance when the employee next accrues recreation leave.
- (3) The Clerk may direct an employee to cash out leave only if there are exceptional operational reasons preventing the employee from taking recreation leave.
- (4) An employee may only cash out recreation leave if the Clerk directs the employee to do so under subregulation (3).
- (5) For this regulation, recreation leave is cashed out when:
  - (a) the employee is paid an amount equal to the amount of remuneration the employee would be entitled to be paid during a period (the '**cash out period**') if the employee were on recreation leave; and
  - (b) the employee's recreation leave balance is reduced by the number of days equal to the cashed out period.

**43 Taking recreation leave**

- (1) Subject to subregulation (2), an employee shall apply through his or her supervisor to the Clerk to take recreation leave at least 14 days prior to taking the leave.
- (2) An employee may only apply to take leave under subregulation (1) if his or her leave calculated under regulation 41(2) is not less than 5 days at any given time.
- (3) An employee shall as far as practicable take his or her recreation leave when it is due.
- (4) An employee seeking to defer his or her recreation leave shall first obtain the written approval of the Clerk.
- (5) The Clerk shall grant the recreation leave to the extent of the employee's recreation leave balance if:
  - (a) the employee has completed an initial continuous period of service of 3 months; and
  - (b) the Clerk agrees that the timing of the leave is operationally convenient.
- (6) The Clerk may only refuse to grant leave to an employee for operational reasons.
- (7) If the Clerk refuses to grant leave for operational reasons, the Clerk shall consult with the employee to determine an alternative time for the employee to take the leave.

#### **44 Public holiday during recreation leave**

If a public holiday occurs during a period an employee is absent from duty on recreation leave, the day shall not be deducted from the employee's recreation leave balance.

### **Division 4 - Sick leave**

#### **45 Purpose of sick leave**

Sick leave is available to an employee to enable the employee to be absent from duty because the employee is unfit for duty due to illness or injury.

#### **46 Entitlement to sick leave**

- (1) For each year of service, an employee is entitled to up to ten days of sick leave on full remuneration (the employee's '*annual entitlement*').
- (2) The employee accrues the annual entitlement:
  - (a) on appointment to the Office; and

(b) on completing each accrual year.

(3) Sick leave does not accrue cumulatively.

**47 Taking sick leave – evidence**

(1) An employee shall apply through his or her supervisor to the Clerk to take a period of sick leave.

(2) If an employee is absent from duty for more than one day, the employee shall produce a medical certificate from a registered health practitioner evidencing the employee's unfitness for duty.

(3) If an employee is absent from duty for one day only, on sick leave, he or she is not required to produce a medical certificate.

(4) Subregulation (3) applies to 3 non-consecutive days out of the total of the ten days sick leave permitted per year by regulation 46.

(5) The remaining 7 days of sick leave whether for one or more days requires the provision of a medical certificate by the employee.

(6) The Clerk may grant the employee the sick leave if the employee gives the Clerk any required documentary evidence for the application.

(7) Despite subregulation (1), the Clerk may approve an employee's sick leave up to a maximum of 3 months with full pay for inpatient hospitalisation or for other medical reasons certified by a registered health practitioner.

(8) Upon the expiration of the term approved under subregulation (7) and on the application of the employee, the Clerk may grant the employee leave without pay for a period not exceeding 12 months to allow the employee to remain away from his or her employment due to prolonged hospitalization, illness or injury.

**48 Taking sick leave – amount**

The Clerk may only grant an employee sick leave to the extent of the employee's sick leave balance except as set out in regulation 47(7).

**49 Public holiday during sick leave**

If a public holiday occurs during a period when an employee is absent from duty on sick leave, the day shall not be deducted from the employee's sick leave balance.

**Division 5 – Maternity leave**

**50 Purpose of maternity leave**

- (1) Maternity leave is available to a female employee to enable the employee to be absent from duty during or immediately after the employee's pregnancy.
- (2) Maternity leave is to be taken at an appropriate time on the advice of a health practitioner.

**51 Entitlement to maternity leave**

- (1) An employee is entitled to paid maternity leave if she has completed 6 months of continuous service on the day she begins maternity leave.
- (2) An employee is entitled to 84 consecutive days of maternity leave:
  - (a) with full remuneration in relation to the first 4 pregnancies; and
  - (b) on half remuneration in relation to any subsequent pregnancies.
- (3) However, the employee is not entitled to maternity leave beyond the date on which she would have ceased employment had she not taken maternity leave.
- (4) If the employee completes 6 months of continuous service during the period of maternity leave, she is entitled to be paid her full remuneration for the remaining period of maternity leave.
- (5) Maternity leave does not accrue cumulatively.

**52 Taking maternity leave**

- (1) An employee shall apply to the Clerk to take maternity leave.
- (2) The employee shall apply at least 3 months before she intends to start the leave.
- (3) The Clerk may apply discretion if an application for maternity leave is submitted less than 3 months before the intended start of leave.
- (4) The Clerk shall grant the maternity leave if the employee submits to the Clerk a medical certificate certifying:
  - (a) the employee is pregnant; and
  - (b) the expected date of birth of the employee's child; and
  - (c) the date on which the employee shall cease duties.
- (5) An employee shall start maternity leave no less than 6 weeks prior to the expected date of delivery unless a registered health practitioner certifies that she is fit to continue duties.



**53           Returning to duty after maternity leave**

- (1) An employee who has been on maternity leave shall contact the Clerk at least 4 weeks before the end of her leave to confirm that she is returning to work at the end of her maternity leave.
- (2) An employee who returns to her employment after maternity leave shall resume at the same or equivalent position held prior to proceeding on maternity leave, without any loss of remuneration, benefits and seniority.

**54           Restriction on termination**

- (1) An employee shall not be terminated from her employment on the ground of pregnancy.
- (2) If a termination occurs while the employee is pregnant, the burden of disproving that the termination was related to that condition rests with the Clerk.
- (3) If, after 3 months from the expiration of her maternity leave, an employee remains absent from work, as a result of illness (certified by a registered health practitioner) arising out of her pregnancy or the birth of her child rendering her unfit for work, the Clerk may give her notice of termination in accordance with Part 6.

**Division 6 – Paternity leave**

**55           Purpose of paternity leave**

Paternity leave is available to a male employee to enable him to be absent from duty immediately after the birth of his child or after the adoption of a child less than 12 months old.

**56           Entitlement to paternity leave**

- (1) An employee is entitled to 10 working days of paid paternity leave per year if he has completed 6 months of continuous service on the day he begins paternity leave.
- (2) However, he is not entitled to paternity leave beyond the date on which he would have ceased employment in the Office had he not taken paternity leave.
- (3) If the employee completes 6 months of continuous service during the period of paternity leave, he is entitled to be paid his full remuneration for the remaining period of paternity leave.
- (4) Paternity leave does not accrue cumulatively.

**57           Taking paternity leave**

- (1) An employee shall apply to the Clerk to take paternity leave.
- (2) An employee shall apply at least 3 months before he intends to start the leave.
- (3) The Clerk may apply discretion if an application for paternity leave is submitted less than 3 months before the intended start of the leave.
- (4) The Clerk shall grant the paternity leave if:
  - (a) either:
    - (i) the employee gives the Clerk a medical certificate stating the expected date of birth of the child; or
    - (ii) the employee gives the Clerk a certified copy of the adoption order evidencing the adoption; and
  - (b) the Clerk is satisfied that the employee is a parent or adoptive parent of the child.
- (5) The employee shall also give the Clerk an extract from the Register of Births kept under Section 6 of the *Births Deaths and Marriages Registration Act 2017* as soon as practicable showing:
  - (a) the birth of the child or the registration of the child; and
  - (b) that he is the father of the child.

### **Division 7 – Adoption leave**

#### **58 Purpose of adoption leave**

Adoption leave is available to a female employee to enable her to be absent from duty immediately after adopting a child who is less than 12 months old.

#### **59 Entitlement to adoption leave**

- (1) An employee is entitled to 12 weeks of paid adoption leave if she has completed 6 months of continuous service on the day she begins adoption leave.
- (2) An employee who becomes an adoptive parent of a child is entitled to up to 12 weeks of adoption leave in relation to the adoption if the child:
  - (a) is under the age of 12 months at the time of the adoption; and
  - (b) is not the child or step-child of the employee's spouse.

- (3) However, the employee is not entitled to adoption leave beyond the date on which she would have ceased employment had she not taken adoption leave.
- (4) If the employee completes 6 months of continuous service during the period of adoption leave, she is entitled to be paid her full remuneration for the remaining period of adoption leave.
- (5) Adoption leave does not accrue cumulatively.

**60 Taking adoption leave**

- (1) An employee who intends to take adoption leave shall inform the Clerk of the intention as soon as practicable after she applies for the adoption order in relation to the adoption.
- (2) The employee shall apply to the Clerk for the adoption leave as soon as practicable after she becomes an adoptive parent.
- (3) The Clerk shall grant the adoption leave if:
  - (a) the employee gives the Clerk a certified copy of the adoption order evidencing the adoption; and
  - (b) the Clerk is satisfied that the employee is otherwise entitled to adoption leave under regulation 59.
- (3) The adoption leave shall be granted from the date of the adoption, even if the date of the adoption is before the date of the application for adoption leave.

**Division 8 – Special leave**

**61 Purpose of special leave**

Special leave may be available to an employee to enable the employee to be absent from duty without deduction from the employee's recreation leave balance.

**62 Entitlement to special leave**

- (1) For each year of service, an employee is entitled to 3 days of special leave on full remuneration (the employee's '**annual entitlement**').
- (2) The employee accrues the annual entitlement:
  - (a) on appointment to the Office; and
  - (b) on completing each accrual year.
- (3) Special leave does not accrue cumulatively.

**63 Application for special leave**

An employee may apply to the Clerk to take a period of special leave and the Clerk, upon sufficient reason being shown, may grant to the employee special leave of absence with remuneration.

**Division 9 – Official leave**

**64 Purpose of official leave**

- (1) Official leave may be available to an employee to enable the employee to travel outside of Nauru for an official purpose.
- (2) The Clerk may by notice in the Gazette determine the meaning of '**official purpose**' in subregulation (1).
- (3) If official leave has been granted to an employee, and he or she is for any reason, unable to travel, complete or engage in the purpose for which the leave was approved, the employee shall report to work as soon as practicable despite the prior approval of leave.
- (4) An employee who does not report back to the Office as required under subregulation (3), will be treated as being absent without leave and subject to disciplinary action under *the Parliamentary Services (Disciplinary) Regulations 2021*.

**65 Application for official leave**

- (1) An employee shall apply to the Clerk to take a period of official leave.
- (2) The Clerk may, upon review of the relevant documents and upon sufficient cause being shown, grant to the employee official leave of absence with remuneration.
- (3) The Clerk may by notice in the Gazette determine the meaning of '**relevant documents**' in subregulation (2).

**66 Allowances for official leave**

- (1) An employee who has been granted official leave may also be paid an allowance at a rate that is determined by the Speaker.
- (2) Any allowance paid to an employee under subregulation (1) shall be returned in full or on a pro rata basis to the Clerk within 5 working days if the employee is unable or does not complete his or her travel.

**Division 10 - Leave without pay**

**67 Purpose of leave without pay**

Leave without pay may be available to a permanent employee to enable the employee to be absent from duty in circumstances in which the employee cannot access any other type of leave.

**68 Taking leave without pay**

- (1) An employee shall apply to the Clerk to take a period of leave without pay.
- (2) The application shall include:
  - (a) the purpose of the leave; and
  - (b) evidence of the purpose, if available.
- (3) The Clerk may grant the leave if satisfied that:
  - (a) the purpose for the leave stated in the application is genuine;
  - (b) the employee cannot access any other type of leave for the purpose;
  - (c) the grant of leave is justified in the circumstances; and
  - (d) the relevant supervisor consents to the grant of leave.
- (4) The maximum period of leave without pay that the Clerk may grant is 12 months, unless:
  - (a) the purpose of the leave is formal study that is directly relevant to the employee's current or future employment in the Office; or
  - (b) in the opinion of the Clerk, exceptional circumstances exist justifying a grant of leave longer than 12 months.
- (5) The Clerk shall not grant leave without pay beyond the date on which the employee would have ceased employment in the Office had the employee not taken leave without pay.
- (6) Leave granted under this category does not count as service for any purpose.
- (7) An employee granted leave without pay for the purpose of study is not entitled to be paid allowances under any other provision of these Regulations but may be paid, in respect of that period, allowances at such respective rates as the Clerk and the Speaker determine.
- (8) An employee who is on a temporary or probationary appointment is not entitled to apply for leave without pay.
- (9) The Clerk shall not consider an application by an employee on a temporary or probationary appointment for leave without pay.

## **Division 11 – Long service leave**

### **69 Purpose of long service leave**

- (1) Long service leave is available on full pay to an employee to enable the employee to be absent from duty in recognition of the employee's length of service.
- (2) An employee becomes entitled to long service leave after completing a continuous period of 5 years of service.
- (3) For the purposes of entitlement to long service leave:
  - (a) retirement includes retirement on other grounds such as medical, redundancy or termination without cause but excludes termination for misconduct; and
  - (b) contract employees are included.

### **70 Calculation of long service leave**

- (1) The Clerk shall grant long service leave as follows:
  - (a) if the period of service is not less than 5 years but is less than 8 years, 20 working days; and
  - (b) if the period of service is not less than 8 years but is less than 10 years, 40 working days.
- (2) Long service leave shall only be granted by the Clerk on the expiry of contracts, retirement or resignation of an employee.
- (3) The Clerk may allow the encashment of any accrued long service leave.

### **71 Taking long service leave**

- (1) An employee shall apply to the Clerk at least one month before he or she intends to take a period of long service leave.
- (2) The Clerk may exercise his or her discretion in granting leave if an application for long service leave is submitted less than one month before the intended start of the leave.
- (3) The Clerk may only grant long service leave to the extent of the employee's long service balance if:
  - (a) the employee has completed a continuous period of service provided for under regulation 70(1);
  - (b) the Head of the Division in which the employee is employed consents to the grant of leave; and

- (c) the period of leave is a multiple of 3 weeks.
- (4) The Clerk may only refuse to consent to grant long service leave for operational reasons.
- (5) If the Clerk refuses to grant long service leave for operational reasons, the Clerk shall consult with the employee to determine an alternative time for the employee to take leave.
- (6) If a public holiday occurs during a period of long service leave granted to an employee, the public holiday is not to be regarded as part of the long service leave and the day shall not be deducted from the employee's long service leave balance.
- (7) If an employee, who has become eligible for long service leave, dies without taking it, the employee's estate shall be paid a sum equivalent to the amount of the employee's long service leave.
- (8) If an employee has already taken long service leave, he or she is not eligible for any additional long service leave.

**72 Furlough Leave**

- (1) Furlough leave is available on full pay to an employee to enable the employee to be absent from duty in recognition of the employee's length of service.
- (2) An employee is entitled to furlough leave after having served for a continuous period of 10 years.
- (3) For the purposes of entitlement to furlough leave:
  - (a) retirement includes retirement on other grounds such as medical, redundancy or termination without cause but excludes termination for misconduct; and
  - (b) contract employees are included.

**73 Calculation and taking of Furlough Leave**

- (1) An employee who has served for a continuous period of 10 years is eligible for furlough leave of:
  - (a) 60 days; and
  - (b) 9 days after completion of each additional year of service.

- (2) Subject to subregulation (3), any accrued furlough leave may be taken by an employee on the approval of the Clerk.
- (3) The Clerk may allow the encashment of any accrued furlough leave.
- (4) If an employee, who has become eligible for furlough leave, dies without taking it, the employee's estate shall be paid a sum equivalent to the amount of the employee's furlough leave.
- (5) If a public holiday occurs during a period of furlough leave granted to an employee, the public holiday is not to be regarded as part of the furlough leave and the Clerk will grant the employee a day off in lieu.

### **Division 12 – Other leave of absence**

#### **74 Leave of absence for Office employees called as witnesses**

- (1) An Office employee who is subpoenaed or called as a witness in any court proceeding shall promptly notify the Head of his or her Division.
- (2) An Office employee who is subpoenaed or called as a witness on behalf of the Republic shall be granted leave with pay for the period necessary for his or her attendance as a witness.
- (3) If it is necessary for the employee to travel to attend the court proceeding, the employee is entitled to the payment of travelling allowances and expenses as if he or she were travelling in the course of his or her duties.
- (4) An Office employee who, by reason of attending to give evidence in the circumstance referred to in subregulation (2) receives payment, other than payment of travelling allowances and expenses by reason of the operation of that subregulation, of witnesses' expenses, shall pay the amount received to the Republic.
- (5) If an Office employee is subpoenaed or called as a witness in any other circumstances, he or she may be granted leave without pay and any fees received as a witness may be retained by the employee.

### **Division 13 – Public holidays**

#### **75 Public holidays**

- (1) A public holiday is a weekday that is pre-determined as a national holiday by law or declaration by the relevant Minister by Gazette Notice. (e.g. national emergency).



- (2) The following days ('public holidays') each year are holidays in the Office:
- (a) 1 January;
  - (b) 31 January (Independence Day);
  - (c) 1 February;
  - (d) Good Friday;
  - (e) Easter Monday;
  - (f) the Tuesday following Easter Monday;
  - (g) 17 May (Constitution Day);
  - (h) 26 October (Angam Day);
  - (i) 25 December (Christmas Day);
  - (j) 26 December (Boxing Day); and
  - (k) any other day declared to be a public holiday by the responsible Minister by Gazette Notice.
- (2) However, if:
- (a) a public holiday, other than Independence Day or Christmas Day, falls on a Saturday or Sunday, there is no holiday on the day and instead the following Monday is a holiday;
  - (b) Independence Day falls on a Saturday or Sunday, there is a no holiday on the day and instead the following Monday and Tuesday are holidays;
  - (c) Christmas Day falls on a Sunday, there is no holiday on the day and instead the following Tuesday is a holiday; and
  - (d) Christmas Day falls on a Saturday, there is no holiday on the day or for Boxing Day on the following Sunday and instead the following Monday and Tuesday are holidays in the Parliament.
- (3) The Minister responsible may, by Gazette Notice, declare that a specified day in a particular year is a holiday in substitution for a specified day that would otherwise be a public holiday in the year.

## **PART 5 - EMPLOYEE RECORDS**

- (1) The Clerk shall cause an identification card to be issued to an employee.
- (2) An employee may use his or her identification card when visiting other Government offices for purposes associated with his or her duties.
- (3) An identification card shall contain an employee's name, picture, identification number and position.
- (4) An identification card shall not be altered in any way and is the property of the Office.
- (5) If an identification card is stolen or destroyed, or an employee loses his or her identification card, the employee shall report details of the stolen, destroyed or lost card to the head of the HR Division.
- (6) An employee shall return his or her identification card to the Office upon resignation, retirement, termination or cessation of work.

## 77

### **Personal files**

- (1) An employee shall have a personal file (*'a personal file'*).
- (2) A personal file is an official record containing personal information about the employee.
- (3) Personal information about an employee is to be held in confidence by the Office, but may be used for the performance of functions or duties within the Office, subject to subregulation (7).
- (4) Information or a document shall not be placed on an employee's personal file without the permission of the employee's supervisor.
- (5) Documents on an employee's personal file relating to the discipline of the employee shall be marked "C" for confidential and the employee's supervisor shall make him or her aware of the disciplinary documents or information placed on his or her personal file.
- (6) An employee of the HR Division shall not allow:
  - (a) a personal file to be viewed or used by any person unless he or she is approved by the head of the HR Division; and
  - (b) allow any information or document to be removed from a personal file without the approval of the head of the HR Division based on a written request by the person seeking the information or document.
- (7) Any external request to use or view information or documents on an employee's personal file shall be provided in writing to the Clerk and the Clerk may approve or reject the request.

- (8) The head of the HR Division is responsible for ensuring personal files of employees are kept up to date.
- (9) The head of the HR Division may cause other personnel records of employees to be maintained.

## **PART 6 – TERMINATION OF EMPLOYMENT**

### **Division 1 – Preliminary**

#### **78 How employment terminates**

An employee's employment terminates:

- (a) if the employee resigns or is taken to have resigned;
- (b) upon the expiry of the employee's contract;
- (c) if the employee voluntarily retires under regulation 83;
- (d) if the Clerk retires the employee under Division 3 of this Part;
- (e) if the employee is declared redundant or his or her employment is terminated on the ground of redundancy under Division 4 of this Part;
- (f) if the employee is terminated due to misconduct;
- (g) if the employee is convicted of a criminal offence; or
- (h) if the Clerk terminates the employee under the *Parliamentary Services (Disciplinary) Regulations 2021*.

#### **79 Criminal Offence**

- (1) If an employee is charged with a criminal offence, he or she shall be suspended from employment without remuneration pending the final determination of the criminal case.
- (2) If an employee has been convicted of a criminal offence, irrespective of the sentence imposed by the court, the Clerk shall summarily terminate the employee's employment.
- (3) This regulation applies to all employees.

### **Division 2 – Resignation**

#### **80 Resignation of employee**

- (1) An employee, other than a probationary employee, may resign from the Office by written notice given to the Clerk through the employee's supervisor:
  - (a) at least 30 days before the notice is to take effect; or
  - (b) within a shorter period approved by the Clerk.
- (2) Unless approved by the Clerk, an employee who resigns without giving 30 days' notice may be required to pay 30 days in lieu of notice.
- (3) A probationary employee may resign by written notice given to the Clerk through the employee's supervisor:
  - (a) at least 14 days before the notice is to take effect; or
  - (b) within a shorter period approved by the Clerk.
- (4) A notice of resignation takes effect from the date of receipt of the notice by the Clerk.

**81 Deemed resignation**

- (1) It is the responsibility of an employee to inform his or her supervisor of any absence from duty and to seek the appropriate form of leave to cover that absence.
- (2) Subject to subregulation (3), an employee may be absent from duty without approval for a period not exceeding 14 days (***‘the absence period’***).
- (3) On or before the end of the absence period, the employee shall resume duty and provide the Clerk with a written explanation for his or her absence.
- (4) If the employee fails to resume duty and provide an explanation under subregulation (3), the employee is taken to have resigned from the Office on the last day of the absence period and the position becomes immediately vacant.
- (5) Any employee who is taken to have resigned under subregulation (4) loses all rights and privileges of his or her position from a date decided by the Clerk.
- (6) If an employee is taken to have resigned under subregulation (4), the employee shall not be re-employed in the Office within a period of 6 months from the last day of the absence period.

**82 Election candidates – resignation and reemployment**

- (1) An employee who intends to submit a nomination as a candidate in the general elections shall resign 3 months before submitting his or her nomination.
- (2) An employee who intends to submit a nomination as a candidate in a by-election shall resign within 5 days from the date the writ of elections is published under Section 56 of the Electoral Act 2016.
- (3) An employee who intends to submit a nomination as a candidate in an election held as a consequence of the earlier dissolution of Parliament than its full term of 3 years under Article 41(7) of the *Constitution* shall resign within 5 days from the date the writ of elections is published under Section 56 of the *Electoral Act 2016*.
- (4) A person who resigns under subregulation (1), (2) or (3) is eligible to be re-employed in the Office if the person:
  - (a) was a candidate at that election; and
  - (b) failed to be elected at that election; and
  - (c) within 2 months after the declaration of the result of that election, applied in writing to the Clerk for re-employment in the Office.
- (5) For the purposes of this regulation, 'employee' includes Office employees, contract employees and temporary employees.

### **Division 3 – Retirement**

#### **83 Voluntary retirement of employee**

- (1) An employee who is at least 60 years of age may voluntarily retire by written notice of retirement given to the Clerk:
  - (a) at least 30 days before the notice is to take effect; or
  - (b) within a shorter period approved by the Clerk.
- (2) The notice takes effect from the date of receipt by the Clerk.
- (3) It is the responsibility of the head of the HR Division to notify the Clerk of any retirement 4 months prior to an employee reaching the age of 60.
- (4) An employee shall be paid all entitlements due prior to his or her retirement.

#### **84 Clerk may require medical examination**

- (1) This regulation applies to an employee, other than a probationary employee, if:

- (a) either:
    - (i) the employee is absent from duty; or
    - (ii) the Clerk believes on reasonable grounds that the employee is not performing his or her duties satisfactorily; and
  - (b) the Clerk reasonably suspects that the employee's absence or unsatisfactory performance is caused by a mental or physical illness or disability.
- (2) The Clerk may:
- (a) appoint a registered health practitioner to examine the employee and prepare a written report on the examination; and
  - (b) require the employee to undergo the medical examination.
- (3) The health practitioner shall give the medical report to the Clerk who shall give the employee a copy of it.

**85 Medical examination report**

- (1) The report on the medical examination conducted under regulation 84 shall include the health practitioner's opinion about whether the employee has a mental or physical illness or disability that may adversely affect the employee's performance of his or her duties.
- (2) If the health practitioner considers that the employee has a mental or physical illness or disability that may adversely affect the employee's performance of his or her duties, the report shall also include the health practitioner's opinion about:
- (a) the likely direct or indirect effect of the illness or disability on the employee's performance of his or her duties; and
  - (b) an estimate of how long the illness or disability or its effects are likely to continue.

**86 Medical retirement of employee**

After considering the report of the medical examination under regulation 84, the Clerk may retire an employee from the service if the Clerk is reasonably satisfied that:

- (a) the employee's absence or unsatisfactory performance is caused by mental or physical illness or disability; and

- (b) the illness or disability or its effects will not end within a reasonable time.

**87 Death of an employee**

- (1) The death of an employee shall be reported as soon as practicable to the head of the HR Division and he or she shall then inform the Clerk accordingly.

- (2) If:

- (a) an employee dies; or

- (b) is taken by the Clerk to have died on a certain date,

then the Clerk may, subject to any other law, approve the payment to the former employee's dependents or legal representative of the amount to which the former employee would have been entitled had the employee ceased employment on resignation or retirement.

#### **Division 4 – Redundancy**

**88 Abolition of permanent employee's substantive position**

- (1) This regulation applies if a permanent employee's substantive position is abolished under these Regulations.
- (2) The Clerk shall declare the employee redundant or terminate his or her employment on the ground of redundancy.
- (3) The Clerk shall give the former employee notice that he or she is declared redundant or his or her employment is terminated.

**89 Return of substantive holder – position occupied by temporary employee**

- (1) This regulation applies if:
  - (a) a position is occupied by a temporary employee; and
  - (b) the substantive holder of the position returns to the position.
- (2) The temporary employee's employment is terminated on the ground of redundancy.

**90 Abolition of position occupied by temporary employee**

- (1) This regulation applies if:
  - (a) a position is abolished under these Regulations; and

- (b) immediately before its abolishment, the position was occupied by a temporary employee for a fixed term.
- (2) The temporary employee's employment is terminated on the ground of redundancy.

**91 Requirement to give notice**

- (1) This regulation applies if:
  - (a) a position is abolished under these Regulations; and
  - (b) the abolition of the position results in the termination of an employee's employment under this Part.
- (2) The Clerk shall give the employee written notice of the decision to abolish the position.

**Division 5 – Performance assessment**

**92 Performance assessment**

- (1) The Clerk shall implement a method by which the work performance of an employee is evaluated annually by the employee's immediate supervisor or another person determined by the Clerk.
- (2) An employee shall be formally assessed annually through his or her agreed work plan and the employee's supervisor shall assess progress, provide coaching and discuss performance improvement action with the employee.
- (3) An employee on study leave, prolonged sick leave or other longer term leave shall not be required to be assessed until he or she returns to duty.
- (4) An employee who fails to meet his or her performance targets due to factors outside the employee's control shall be supported to improve through training, mentoring, coaching and other assistance programs.
- (5) It is the responsibility of the HR Division to collate and ensure safekeeping of appraisals following endorsement by the Clerk.

**93 Unsatisfactory performance – remedial action**

- (1) If, in the opinion of the Clerk, an employee is not performing the employee's duties in a satisfactory way, the Clerk may proceed to manage the unsatisfactory work performance aimed at improving the performance of the employee ('remedial action').
- (2) The Clerk shall provide the employee with an opportunity to raise any issues or concerns that may be impacting on his or her performance at



work and these issues shall be carefully considered as part of the plan to resolve the performance issue.

- (3) The Clerk shall provide the employee with an opportunity to improve within a reasonable timeframe.
- (4) Remedial action may include all or any of the following:
  - (a) increased supervision and feedback;
  - (b) providing performance counselling to the employee;
  - (c) providing mentoring and coaching to the employee;
  - (d) providing training and development for the employee;
  - (e) developing specific strategies to address specific areas of poor performance; or
  - (f) making changes and implementing a performance management plan for the employee.

**94 Unsatisfactory performance – alternative action**

If the Clerk has taken remedial action referred to in regulation 93(4) and is of the opinion that the employee fails to improve the performance of his or her duties in a satisfactory way, the Clerk may treat the case as misconduct and may institute disciplinary action against the employee under the *Parliamentary Services (Disciplinary) Regulation 2021*.

**95 Disciplinary matters and procedure**

The provisions governing disciplinary proceedings and dealing with misconduct are to be found in the *Parliamentary Services (Disciplinary) Regulations 2021*.

**Division 6 – Termination entitlements**

**96 Termination entitlements cumulative**

If an employee's employment is terminated, the employee is entitled to receive each of the termination entitlements that apply to the employee.

**97 Notice requirement – termination of probationary employee**

- (1) This regulation applies to a probationary employee if the Clerk terminates the employee's employment for any reason other than misconduct.
- (2) The employee shall be given:
  - (a) one week notice of the termination; or

- (b) an amount equal to the employee's remuneration over a one week period.

**98 Notice requirement – termination of employee**

- (1) This regulation applies to an employee if:
  - (a) the employee's employment is terminated on the ground of redundancy under Division 4 of this Part; or
  - (b) the employee is terminated without cause.
- (2) The employee referred to in subregulation (1) shall be given:
  - (a) 4 weeks' notice of the termination; or
  - (b) an amount equal to the employee's remuneration for 4 weeks.
- (3) For the avoidance of any doubt, an employee who is terminated on the ground of misconduct is not entitled to any period of notice or payment of remuneration in lieu.

**99 Notice requirement – medical retirement**

- (1) This regulation applies to an employee if the Clerk retires the employee under regulation 86 (medical retirement).
- (2) The employee shall be paid an amount equal to the employee's remuneration over a 4 week period instead of notice of the retirement and the amount shall be paid on or before the employee's last day of duty.

**100 Severance entitlement – redundancy**

- (1) This regulation applies to a permanent employee whose employment is terminated on the ground of redundancy under Division 4 of this Part.
- (2) The employee shall be paid an amount equal to the employee's remuneration over a 12 week period and the amount shall be paid on or before the employee's last day of duty.

**101 Payment of accrued entitlements**

- (1) This regulation applies to an employee if the employee's employment terminates for any reason.
- (2) An employee referred to in subregulation (1), shall be paid for his or her accrued:
  - (a) annual leave; and

- (b) long service leave.
- (3) If:
  - (a) before an employee has completed 12 years' service; and
  - (b) either before or after he or she has attained the age of 60 years:
    - (i) the employee dies; or
    - (ii) the Clerk, after consideration of all the circumstances, directs that the death of the employee be presumed, subject to any other law, the Clerk may authorise payment to the dependents of the employee of an amount calculated under subregulation (4).
- (4) The amount is equivalent to the amount of remuneration which the Clerk could have authorised to be paid to the employee under subregulation (2) if:
  - (a) the employee had retired on the date of his or her death or, where the Clerk has directed that the death of the employee be presumed, on a date determined by the Clerk; and
  - (b) in the case of an employee who had not attained the age of 60 years at that date, he or she had attained that age.

**102 Deduction of amount if notice not given**

- (1) This regulation applies to an employee if:
  - (a) the employee resigns or voluntarily retires; and
  - (b) the employee gives the Clerk less than the required period of notice of the resignation or retirement,
- (2) The Clerk may deduct from the payment of the employee's accrued entitlements an amount equal to the employee's remuneration over the period of notice the employee failed to give.

**PART 7 – GIFTS AND DONATIONS, AND EQUIPMENT AND PROPERTY,  
OF THE OFFICE**

**103 Application**

This Part applies to all equipment, property and other assets of the Office, whether it was procured by the Office, received by way of gift or donated to the Office.

**104 Declaration of gifts, donations, rewards and other benefits**

- (1) Employees shall not:
  - (a) abuse their official positions for private gain; or
  - (b) solicit gifts, donations, rewards or other benefits which might compromise, or be seen to compromise, their integrity as employees of the Office.
- (2) All gifts, donations, rewards and other benefits received by employees in their official capacities shall be declared to the Clerk within 7 days after receiving them or their arrival in Nauru, whichever occurs first.
- (3) Declared items are to be presented as soon as practicable to the Clerk for sighting together with a written acknowledgement of the donor and all documents pertaining to the items, if available, are also to be submitted to the Clerk.

**105 Responsibilities for declared items and other equipment, property or assets**

- (1) The Clerk shall:
  - (a) inform the Speaker of the items that have been declared under regulation 104; and
  - (b) keep a record of all the items received in a register or database; and
  - (c) secure a place to store the items; and
  - (d) decide in consultation with the Speaker on the use of the items.
- (2) It is the individual responsibility of all employees to take care of and to safeguard, all declared items and any other equipment, property or assets of the Office keeping them in as close to as new condition as possible.

**106 Loss and damage to equipment, property or other asset**

- (1) Within 48 hours after an employee becomes aware of any loss, damage or theft of any equipment, property or other asset of the Office, the employee shall notify the Clerk of it and provide an explanation for the loss, damage or theft.
- (2) If an employee believes on reasonable grounds that any equipment, property or other asset of the Office has been stolen, the employee shall obtain a Police Report within 48 hours after the estimated time of the theft and forward the Police Report to the Clerk.

- (3) The cost of any equipment, property or other asset of the Office that is lost, damaged or stolen may deducted from the remuneration of an employee if the Clerk is satisfied on reasonable grounds that the employee has committed the theft or was negligently responsible for the loss or damage.

## **PART 8 – MISCELLANEOUS**

### **107 Other instruments and manuals**

- (1) The Clerk may issue instructions, directions, manuals and guidelines for the purposes of these Regulations.
- (2) An instruction, direction, manual or guideline shall not be issued that is inconsistent with the Act or these Regulations.

### **108 Forms**

The Clerk may prescribe leave application forms and other forms for the purposes of these Regulations.

### **109 Delegation**

Subject to directions of the Speaker, the Clerk may in writing delegate any of his or her powers or functions under these Regulations to an Office employee, except for this power of delegation.

## **SCHEDULE 1**

*[Regulation 16]*

### **Oath of Appointment**

I [*insert name*], do swear/affirm\* that I will render true and faithful service as an employee of the Office of Parliamentary Services of the Republic of Nauru. [*SO HELP ME GOD.*]\*

\* delete where applicable