



GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

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Government Notice

OFFICE OF THE PRIME MINISTER

No. 363

2018

PROMULGATION OF ACT OF PARLIAMENT

The following Act which has been passed by the Parliament and signed by the President in terms of the Namibian Constitution is hereby published in terms of Article 56 of that Constitution.

No. 18 of 2018: Public Service Amendment Act, 2018.

Act No. 18, 2018 PUBLIC SERVICE AMENDMENT ACT, 2018**EXPLANATORY NOTE:**

_____ Words underlined with a solid line indicate insertions in existing provisions.

[] Words in bold type in square brackets indicate omissions from existing provisions.

ACT

To amend the Public Service Act, 1995, so as to substitute the term “executive director” for the term “permanent secretary”; to provide for the appointment of executive directors on fixed-term contracts; and to provide for incidental matters.

(Signed by the President on 21 December 2018)

BE IT ENACTED as passed by the Parliament, and assented to by the President, of the Republic of Namibia as follows:

Amendment of section 1 of Act No. 13 of 1995 as amended by Act No. 9 of 2012

1. Section 1 of the Public Service Act, 1995 (hereafter referred to as the “Principal Act”) is amended -

(a) by the insertion after the definition of “establishment” of the following definition:

“ “executive director” means a person who has been appointed as an executive director under section 19(1);” and

(b) by the deletion of the definition of “permanent secretary”.

Amendment of section 19 of Act No. 13 of 1995

2. Section 19 of the Principal Act is amended by the substitution for paragraph (a) of the following paragraph -

“(a) of **[permanent secretary]** executive director or of Secretary to the President shall subject to the provisions of section 5(1), be made from a list of candidates submitted to the Prime Minister by the Secretary to the Cabinet;”.

Insertion of section 19A in Act No. 13 of 1995

3. The following section is inserted after section 19 of the Principal Act:

“Term of appointment and conditions of service of executive director

“19A. (1) The appointment of an executive director shall be effected under a fixed term contract of five years or for a shorter period.

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(2) A fixed term contract shall not extend beyond the retirement age of the executive director specified in section 24(1), but the Prime Minister may subject to section 24(2), enter into another fixed term contract with an executive director.

(3) The fixed term contract period expires on the date specified in the contract.

(4) Notwithstanding subsection (3), a fixed-term contract may be terminated, before it expires, on the grounds applicable to the discharge of staff members provided in this Act.

(5) On the expiry of the fixed term contract, the Prime Minister may, if it is in the interest of Public Service, enter into another fixed term contract with the executive director.

(6) The transfer of an executive director, at the same post or designation, within the Public Service shall not extend or otherwise affect, the term of office which commenced before the transfer.”.

Amendment of section 24 of Act No. 13 of 1995

4. Section 24 of the Principal Act is amended by the substitution for subsection (1) of the following subsection:

“(1) Subject to the provisions of subsections (2) and (3) and section 19A(2), any staff member shall retire from the Public Service on attaining the age of 60 years and shall be so retired on reaching the said age.”.

Amendment of section 37 of Act No. 13 of 1995

5. Section 37 of the Principal Act is amended by the insertion after subsection (2) of the following subsections:

“(2A) A person who is employed as a permanent secretary whether on a fixed-term contract or for an indefinite contract term immediately before the date of commencement of this section, shall continue to be employed under such contract or indefinite but under the designation “executive director”.

(2B) Each executive director who is employed for an indefinite term before the date of commencement of this section may, within 12 months from the date of commencement of this section, elect to be employed under a fixed-term contract as contemplated in section 19A, in which case the provisions of this Act relating to executive directors employed under fixed-term contracts shall apply to that executive director.”.

Amendment of section 38 of Act No. 13 of 1995

6. Section 38 of the Principal Act is amended by the substitution for paragraph (b) of the following paragraph:

“(b) to the head of a department [**or to**] , a secretary of a department or a permanent secretary of an office, ministry or agency, shall be construed

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as a reference to the [permanent secretary] executive director of the corresponding office, ministry or agency, as the case may be; and;”.

General amendment of Act No. 13 of 1995

7. The Principal Act is amended -
- (a) in sections 3(3), 11, 12(1), 16(1)(b)(i), 26(1) and 37(2)(a), by the substitution for the expression “a permanent secretary” wherever it occurs in any those provisions, of the expression “an executive director”; and
 - (b) by the substitution for the expressions “permanent secretary” and “permanent secretaries” wherever they occurs in the rest of the provisions of the principal Act, of the expression “executive director” and “executive directors”.

Short title

8. This Act is called the Public Service Amendment Act, 2018.
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