

**REPUBLIC OF VANUATU**

**BILL FOR THE**

**PUBLIC SERVICE (AMENDMENT)**

**ACT NO. OF 2024**

**Explanatory Note**

This Bill amends the Public Service Act [CAP 246] (“the Act”).

The Act currently provides that the Commission may only remove a director-general or director if he or she is not performing, commits a misconduct, is physically or mentally incapacitated or becomes bankrupt. However, the Commission cannot remove the director-general or director unless it complies with the procedure of receiving a complaint in writing and to carry out an investigation. This is an issue for the Commission when a director-general or director does not perform and it cannot remove him or her if a complaint is not made and an investigation is not undertaken.

The Act provides for the appointment of a Secretary General to a Provincial Government Council. Secretary Generals have the same status as director-generals and directors and there is the need to allow Secretary Generals to have the same powers, such as the power to suspend an employee.

The Act does not have provision for allowing the Commission to delegate any of its functions and powers. The Commission acknowledges the need for such a provision so that it can delegate its functions and powers to director-generals, directors and Secretary Generals to assist it to effectively carry out these functions and exercise these powers.

Key features of this Bill include:

- (a) the definition of ‘director’ to mean person who is appointed as a director or a person to a position equivalent to the position of a director; and
- (b) the Commission may delegate its functions and powers to a director-general, a director or a Secretary General; and
- (c) subject to a performance appraisal, a director may be terminated by the Commission if he or she is not performing; and
- (d) the procedure for the Commission to remove a director-general or a director if he or she is not performing, commits a misconduct, is physically or mentally incapacitated or becomes bankrupt is no longer subject to the procedure of the Commission receiving a complaint in writing; and
- (e) the power of the Secretary General to suspend an employee.

**Prime Minister**



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PUBLIC SERVICE (AMENDMENT)  
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**Arrangement of Sections**

<b>1</b>	<b>Amendment .....</b>	<b>2</b>
<b>2</b>	<b>Commencement.....</b>	<b>2</b>

# REPUBLIC OF VANUATU

## **BILL FOR THE PUBLIC SERVICE (AMENDMENT) ACT NO. OF 2024**

An Act to amend the Public Service Act [CAP 246].

Be it enacted by the President and Parliament as follows-

### **1 Amendment**

The Public Service Act [CAP 246] is amended as set out in the Schedule.

### **2 Commencement**

This Act commences on the day on which it is published in the Gazette.

## SCHEDULE

### AMENDMENTS OF PUBLIC SERVICE ACT [CAP 246]

**1 Section 5 (Definition of ‘director of department’ or ‘director’)**

Repeal the definition, substitute

“director” means a person appointed as a director or a person appointed to a position equivalent to the position of a director under section 18;”

**2 Section 11**

Repeal the section, substitute

**“11 Delegation of functions and powers**

- (1) Subject to this section, the Commission may delegate its functions and powers to a director-general, director or Secretary General.
- (2) The Commission cannot delegate the power of delegation.
- (3) A delegation made under subsection (1) is subject to instructions, guidelines or conditions imposed by the Commission.
- (4) A delegation under this section does not prevent the exercise of any powers by the Commission.
- (5) A delegation under this section may be revoked by the Commission at any time.

**3 Section 18 (heading)**

Delete “of departments”

**4 Subsection 18(1)**

Delete “or appoint a person to a position equivalent to the position of a director”

**5 Subsection 18(1B)**

Repeal the subsection, substitute

“(1B) If it is proven in a performance appraisal that a director is not performing, the Commission must give notice for the termination of his or her contract of employment.”

**6 Section 19 (heading)**

Delete “of department”

**7 Subsection 19A(4)**

Repeal the subsection.

**8 Section 19B (heading)**

Repeal the heading, substitute

**“19B. Complaints against director generals and directors**

**9 Subsection 19B(1)**

Repeal the subsection, substitute

“(1) The Commission may receive complaints in writing against a director-general or a director.”

**10 Subsection 35(3)**

Delete “or a director”, substitute “, a director or a Secretary General”