

Decree of the President of the Transitional Islamic State of Afghanistan

Regulation on the functions and activities of the Independent Administrative Reforms and Civil Service Commission

Article 1

The Regulation on the functions and activities of the Independent Administrative Reform and Civil Service Commission within seven sections and forty four articles including its schedules number one, two, three and four is approved.

Article 2

This decree comes into force on the day it is signed and will be published in the Official Gazette.

Hamid Karzai
President of the Transitional Islamic State of Afghanistan

Regulation on the functions and activities of the Independent Administrative Reform and Civil Service Commission

Section 1: General Provisions

1. This Regulation is issued according to Decree No.25 dated 1382/3/20 of the President on the functions and activities of the Independent Administrative Reform and Civil Service Commission
2. In order to achieve these goals the Independent Administrative Reform and Civil Service Commission will undertake the following activities:
 - a. Lead public administration systems for the country
 - b. Coordination of all organisations of government to meet the development needs of society
 - c. Organise and improve administrative affairs within Government
 - d. Organise and improve the personnel management of civil servants
3. In this Regulation the Independent Administrative Reform and Civil Service Commission will be known as the Commission

Section 2: Organisation

4. The Commission consists of 3 main functions:
 - i. The Independent Appointments Board and The Independent Appeals Board
 - ii. The Civil Service Management Department
 - iii. The Administrative Reform Secretariat
5. The Commission will be headed by the Chairman who will be directly responsible to the President for the performance of his/her functions
6. The Commission is an autonomous entity within the Government budget approved by the President

Section 3: Functions and Responsibilities

7. The duties of the Commission are:
 - i. Design and implementation of government administrative policy in order to create a viable and sustainable Civil Service system. The Civil Service will be impartial, without political interference, and appropriately skilled for its tasks
 - ii. Identify and propose senior level civil servants to the President , based on impartiality, merit and competence
 - iii. Review, evaluate and confirm proposals from Ministries and other government agencies for appointment of senior civil servants
 - iv. Monitor appointments of lower level staff by Ministries and government agencies
 - v. Hearing appeals against unfair, unlawful or discriminatory Practices
 - vi. Design and implement guidelines and training to build capacity of civil servants in various fields of administration and management
 - vii. Improve government institutions and public administration systems in cooperation with the Ministerial Advisory Committee for Administrative Reform
 - viii. Oversee implementation of the administrative reforms programme within Ministries and other government agencies and provide reports to the relevant authorities
 - ix. Provide proposals for government on administration reforms that may be necessary from time to time
 - x. Cooperate with Ministries and other government agencies in order to create a viable and sustainable administrative system.
 - xi. Establish training courses, seminars, workshops and conferences on public administration and management at central and provincial level and evaluate the outcome with the relevant Ministries and agencies

- xii. Provide advise on the creation of new institutional structures
- xiii. Conduct scientific research into different aspects of public administration and management
- xiv. Publish and disseminate a glossary of public administration and management terms and their meanings, based on accepted scientific and legal norms
- xv. Design procedures for the implementation of this Regulation
- xvi. Discover the causes of corruption in order to find efficient solutions.

8. The Commission's will be transparent and will communicate its activities to the public via mass media

9. The Administrative Reform & Civil Service Commission will report regularly to the President and publish an annual report on its activities

Section 4: Independent Appointments and Appeals Boards

10.

There will be two independent Boards:

- 1. Independent Appointment Board
- 2. Independent Appeal Board.

11.

- i. A total of 8 Board members will be appointed by the President
- iii. Board members may not work in other agencies concurrently

12.

- i. The composition of the Boards will reflect all sections of Afghan society, including women.
- ii. Criteria for appointment of Board members will include:
 - Experience in public administration
 - Familiarity with international good practice in public administration
 - Not affiliated with a political party
 - Persons of good morals, character and reputation
 - Commitment to building an ethical, politically impartial, efficient and effective Civil Service dedicated to serving the people of Afghanistan

13.

- i. In appointing Board members the President may, at his discretion, seek nominations and advice from respected sources on the persons who best meet the criteria cited in section 11 above
- ii. The names of Board members will be published

14.

- i. Board members will be appointed for periods of between 1 – 3 years, renewable at the discretion of the President for one further period of 3 years
- ii. In the event that the Boards' workload becomes exceptionally heavy, or for other good reasons, the President may, at his discretion, appoint up to 5 additional members for periods of between 2 – 6 months

15. The Chairman of the Commission will oversee the Boards' affairs and ensure they fulfil their responsibilities, but will not participate in their decision.

16.

- i. The Commission Chairman will assign 5 Board members to the Appointments Board, and 3 members to the Appeals Board
- ii. The Commission Chairman will appoint one member of each Board to act as Chairman for renewable periods of 1 year

iii. Board members cannot be assigned to both Boards.

17.

- i. The Independent Appointments Board will identify and recommend to the President for recruitment of civil servants at category 2 and above (or equivalent in any new grading structure) based on merit in accordance with Schedule 1 of this regulation.
- ii. In making recommendations under article 17.i. the Independent Appointments Board will review and confirm the candidates proposed by Ministries and agencies for recruitment, promotion and redeployment in accordance with Schedule 1 of this regulation.
- iii. Armed forces and elected municipal staff are excluded from the provisions of this article

18. The names of all eligible and suitably qualified candidates for appointment will be maintained in an HR database and provided to the Board.

19. The Independent Appointments Board will regularly review and oversee recruitment, promotion and other status of Civil Servants below grade 2 carried out by Ministries and government agencies and school teachers in accordance with Schedule 2 of this Regulation.

20. The Independent Appeals Board will consider and review appeals by serving civil servants and applicants for Civil Service employment in accordance with Schedule 3 of this Regulation.

21. The Independent Appeals Board Chairman may at his/her discretion request the participation and advice of responsible officials and experts on the case being reviewed

22.

- i. Each Board will have its own Secretariat which will organize its operational affairs.
- ii. Suitably qualified and experienced staff appointed for periods of up to 3 years and may not serve in both Secretariats concurrently

23. The Secretariats will have the following functions:

- Organise the daily work of the Board
- Provide technical and legal advice on implementation of employment laws
- Preparation of documents and record Board decisions
- Arrangement of meetings, preparation and timely distribution of agenda and minutes to Board members

24. The Board Secretariats will report to the relevant Board Chairman for their daily work.

Section 5: Department of Civil Service Management

25. The Civil Service Department will be responsible, under the direction of the Chairman of the Administrative Reform and Civil Service Commission, for establishing and implementing policies on employment and management of civil servants and administrative and institutional efficiency in collaboration with relevant Ministries and agencies in the following areas:

- i. Develop civil service laws and regulations;
- ii. Establish personnel management policy;
- iii. Establish standards and regulations for office administration;
- iv. Develop and maintain information management systems and technology;
- v. Improve the capacity of the Civil Service

26. In developing the laws, policies and practices on 25 above, the Department of Civil Service Management will take account of existing relevant laws and accepted principles of public administration and international practice.

27. The Civil Service Management Department will advise government through the Commission Chairman on improvements to personnel management

28. The Civil Service Management Department could establish and implement institutional arrangements and programmes to provide training and capacity building including international scholarships in the field of public administration.

29. The Civil Service Management Department will develop an HR Management Information System to assist with the recruitment and appointment of civil servants in order to improve HR planning and develop training and capacity building programmes.

30. Ministries and government agencies will be required to provide information to the Civil Service Management department to enter on the HR database.

31. The Civil Service Management department, in order to improve the organisation of Ministries and agencies will provide recommendations to the government through the Chairman of the Commission.

32. The Civil Service Management Department, in order to improve administrative systems and their functioning, will review existing systems and take appropriate action.

33. The Civil Service Management Department will develop a single strategy to increase the use of modern information systems and technology to share information with ministries.

34. The Civil Service Management Department in collaboration with relevant Ministries and agencies will develop and implement policies for procurement of information technology and equipment in order to ensure consistency of standards, optimal interoperability and to obtain maximum financial benefit

Section 6: Secretariat for Administrative Reform

35.

- i. The Secretariat within the Commission will provide secretariat services to the Ministerial Advisory Committee described in articles (39, 40 & 41) of section [7] below, and will perform other tasks to support the Chairman of the Commission in leading and managing the administrative reform programme.
- ii. The Secretariat will monitor implementation of programmes, projects and activities of the administrative reform programme and prepare a written report every 3 months for the Chairman and members of the Ministerial Advisory Committee
- iii. For this purpose the Secretariat may request Ministries and agencies to submit written reports related to section ii of this article in a standard format. All the Ministries and government agencies are responsible for providing reports in a timely manner

36. The Secretariat will prepare and maintain documents which:

- i. Set out the main programmes and projects which form the administrative reform programme and the target dates by which these are to be delivered;
- ii. Identify the Ministries and government agencies responsible for delivering each programme and project
- iii. Report on progress in implementing the Administrative Reform Programme

37. The Secretariat will review programmes, projects and activities and advise the Head of the Commission on any overlaps, inconsistencies, potential conflicts of interest or any other obstacles which may impede the implementation of the Programme

38. The Secretariat will, at the request of the Commission Chairman, provide advice on possible future developments in the field of administrative reform, and will conduct research into regional and international practice for this purpose.

Section 7: Final provisions

39.

- i. The Chairman of the Commission is responsible for leading and managing the administrative reform programme.
- ii. In order to assist the chairman in the exercise of his responsibilities, he will be supported and advised by a Ministerial Advisory Committee on Administrative Reform.

40.

- i. Members of the Ministerial Advisory Committee will include the Ministers of Foreign Affairs, Interior, Finance, Justice, Labour & Social Affairs, and up to three other Ministries on an annual rotating basis, appointed for 1 year;
- ii. The Ministerial Advisory Committee may invite other Ministries and agencies to attend meetings to discuss matters relevant to the subject

41.

- i. The Ministerial Advisory Committee will assist the Commission Chairman to lead and direct the Public Administration Reform programme.
- ii. The Committee under the leadership of the Commission Chairman will act in accordance with Schedule 4 of this Regulation

42. In order to implement the provisions of these Regulations, the Commission will develop procedures.

43. The Commission will have an official stamp bearing the state emblem and the Commission's name.

44. This Regulation comes into force on the day it is signed and will be published in the Official Gazette..

Schedule 1: Appointment

1. In order to ensure that Civil Service posts are filled solely on the basis of merit, the following principles will be applied to all recruitment, promotion and redeployments:

- a. Posts will be filled through a competitive, documented process which results in the selection of the most suitable candidate for appointment.
- b. Every post will have a job description setting out its purpose and main duties, and specifying the qualifications, experience and personal attributes required.
- c. The required qualifications, experience and personal attributes will be objective, job-related and non-discriminatory.
- d. The post will be advertised within the Civil Service and, as appropriate, externally to encourage applications from suitably qualified potential applicants.
- e. All applicants will be considered for shortlisting.
- f. All shortlisted candidates will be interviewed for final selection.
- g. Candidates will be shortlisted and interviewed for final selection by a panel which:
 1. Are more senior in grade than the level of the post to be filled.
 2. Has 3 members or higher.
- h. Shortlists will be created and final selection interviews will be assessed on the basis of pre-determined, objective, job-related and non-discriminatory criteria applied equally to all applicants.
- i. The candidate ranked first following the final selection interview will be recommended for appointment.
- j. If the first-ranked candidate is not appointed, the appointing authority should provide fully documented reasons.
- k. Written records of all documents relating to the recruitment/appointment competition will be kept by the Independent Appointment Board.

2. In order to ensure compliance with these principles, the Independent Appointment Board may issue instructions and guidance to Ministries and other government agencies.

Schedule 2: Independent Appointments Board oversight of appointment by Ministries and other government agencies

1. In order to ensure that recruitment, promotion and redeployment is conducted on the basis of merit, the Independent Appointments Board will carry out regular audits of recruitment and appointment exercises by Ministries and other government agencies for posts below grade 2.

2. For this purpose, the Independent Appointments Board may, at its discretion:

a. Require Ministries and other government agencies to provide written details of recruitment and appointments exercises conducted during a specified period, including:

- i. The means by which such posts were advertised, together with the relevant job descriptions, and selection criteria;
- ii. The names of all applicants, and of these: those shortlisted; those interviewed for final selection; those recommended for appointment ranked in order of merit; and the name of the person selected for appointment;
- iii. The names and titles/positions of the shortlisting and final selection panel;
- iv. If the first-ranked candidate was not selected, the documented reason for this, signed by relevant the appointing authority.

b. Attend any part of any recruitment and appointment proceeding as an observer, and intervene as it deems necessary to prevent a breach of the principles set out in Schedule 1 to this decree.

3. In the light of its findings at paragraph 2 above, the Board may report on any violations of the principles set out in schedule 1 of this decree to the President with a recommendation that the recruitment/appointment exercise in question may, at his discretion be declared null and void and, as necessary, repeated.

4. In accordance with the duty and powers conferred upon them by their independent status, the Independent Appointments Board will include details of any unresolved violation of the principles set out in Schedule 1 to this decree in their published annual report.

5. The Independent Appointments Board may issue instructions and guidance to Ministries and other government agencies to assist them to comply with the principles set out in this schedule.

Schedule 3: Appeals

1. The following principles will apply to the appeals process:
 - a. Appeals may be made by:
 - i. Serving civil servants;
 - ii. Applicants for appointment to the Civil Service;
 - b. Appeals may be made by serving civil servants for the following reasons:
 - i. Unfair or discriminatory appointment practices;
 - ii. Unfair or discriminatory disciplinary practices and policies;
 - iii. Unlawful or unethical management instructions;
 - iv. Instructions from superiors which, if carried out, would violate the civil servant's duty of political impartiality;
 - v. Instructions from superiors which, if carried out, would violate the civil servant's duty of confidentiality;
 - vi. Unfair or discriminatory practices in the workplace by a supervisor or co-worker
 - vii. Harassment on sexual, religious or any other grounds;
 - viii. Other grounds which the ICSC deems justified;
 - c. Appeals may be made by applicants for Service Appointments for the following reasons:
 - i. Refusal to consider application for employment without good cause;
 - ii. Unfair or discriminatory treatment during the recruitment process;
 - iii. Unfair or discriminatory decision by the recruitment panel.
 - d. Appeals to the Independent Appeals Board must be made in writing and accompanied by relevant evidence;
 - e. Appeals will not be considered by the Independent Appeals Board without evidence that the appellant has first exhausted all other means of resolving the grievance with the relevant Ministry or other government agency;
 - f. The Independent Appeals Board may reject appeals that, on the basis of the written evidence presented, do not provide sufficient evidentiary grounds for appeal. In such cases the Board will explain the reasons for its decision in writing to the appellant;
 - g. The Independent Appeals Board may, at its discretion, make decisions on the basis of the written evidence alone, and may require additional written information to be provided from relevant witnesses for this purpose;
 - h. Alternatively, the Independent Appeals Board may summon the appellant and relevant witnesses to an appeals hearing, and make decisions accordingly;
 - i. All decisions will be fully documented. The Board's decisions will be conveyed in writing to the appellant and to the relevant Ministry or other government agency.
 - j. The Independent Appeals Board may issue further regulations on the appeals process.

Schedule 4: Ministerial Advisory Committee on Administrative Reform - Terms of Reference

1. The Ministerial Advisory Committee on Administrative Reform will:
 - a. Provide strategic direction and oversight of the entire Administrative Reform Programme;
 - b. Ensure that the Programme reflects the government's ongoing national development priorities;
 - c. Regularly review the achievements of each programme and project, and use its best efforts to overcome problems that may be impeding progress;
 - d. Ensure that overlaps, duplications and conflicts of interest are addressed and resolved;
 - e. Act as a focal point of contact with international funding agencies who are supporting the Administrative Reform Programme, and ensure that external funds are appropriately coordinated and focused on national priorities.
2. The Ministerial Advisory Committee will regularly report to the President on progress in implementing the Administrative Reform Programme, and will recommend action as appropriate to enhance the speed and effectiveness of its implementation.
3. The Ministerial Advisory Committee will regularly and openly communicate its decisions and on progress in implementing the Public Administration reform programme within the Civil Service and publicly.