

No. 13 of 1997.

Constitutional Development Commission Act 1997.

Certified on: / /20 .

INDEPENDENT STATE OF PAPUA NEW GUINEA.



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INDEPENDENT STATE OF PAPUA NEW GUINEA.



AN ACT

entitled

Constitutional Development Commission Act 1997,

Being an Act to establish a Constitutional Development Commission to—

- (a) liaise with the National Government in the preparation of such legislation as is necessary to implement the recommendations of the previous Constitutional Commission insofar as adopted as National Government policy by the National Executive Council; and
- (b) in the event of the legislation referred to in Paragraph (a) being passed by the National Parliament, liaise with the National Government in monitoring its implementation; and
- (c) review the workings of the Constitution and Organic Laws; and
- (d) inquire into such other matter of a Constitutional nature as the Head of State, acting on advice, may direct; and
- (e) provide for the functions, duties, responsibilities and powers of the Commission; and
- (f) to repeal the *Constitutional Commission (No. 2) Act 1993*,

and for related purposes.

1. **INTERPRETATION.**

In this Act, unless the contrary intention appears—

“**committee**” means a committee established under this Act;

“**Chairman**” means the Chairman of the Commission;

“**Commission**” means the Constitutional Development Commission established by Section 2;

“**member**” means a member of the Commission;

“previous Constitutional Commission” means the Constitutional Commission established by the *Constitutional Commission (No. 2) Act 1993*;

“this Act” includes the Regulations.

2. ESTABLISHMENT OF THE CONSTITUTIONAL DEVELOPMENT COMMISSION.

(1) A Constitutional Development Commission is hereby established.

(2) The Commission shall consist of 10 members as follows:–

- (a) five Members of the Parliament; and
- (b) one person with experience in constitutional law; and
- (c) one person with experience in anthropology, sociology or political science; and
- (d) one person nominated by the Papua New Guinea Trade Union Congress; and
- (e) two prominent persons nominated by the Prime Minister in consultation with the Chairman.

(3) Two of the members referred to in Subsection (2)(a) shall be appointed by the Leader of the Opposition.

(4) The members referred to in–

- (a) Subsection (2)(a), other than those referred to in Subsection (3), shall be appointed by notice in the National Gazette by the Prime Minister; and
- (b) Subsection (2)(b), (c), (d) and (e) shall–
 - (i) be citizens; and
 - (ii) be appointed by notice in the National Gazette by the Head of State, acting on advice; and
 - (iii) include at least two women members.

(5) The Chairman shall be appointed by the Prime Minister from amongst the members appointed under Subsection (2)(a).

(6) The Prime Minister, in consultation with the Chairman, shall appoint a member referred to in Subsection (2)(a) to be the Deputy Chairman of the Commission.

(7) It is hereby declared that the office of member of the Commission is an office in relation to which Division III.2 (*leadership code*) of the *Constitution* applies.

3. CONDITIONS OF APPOINTMENTS.

The conditions of appointment of–

- (a) the members referred to in Section 2(2)(a) shall be determined by the Salaries and Remuneration Commission established by Section 216A (*Salaries and Remuneration Commission*) of the *Constitution*; and
- (b) the members referred to in Section 2(2)(b), (c), (d) and (e) shall be determined by the Head of State, acting on advice.

4. DISQUALIFICATIONS FROM OFFICE.

A person shall not be appointed to be a member, or, if a member, shall cease to be a member, if he—

- (a) is or becomes an undischarged bankrupt or insolvent; or
- (b) is or becomes of unsound mind within the meaning of any law relating to the protection of the persons and property of persons of unsound mind; or
- (c) is or becomes under sentence of death or imprisonment; or
- (d) is or becomes under disqualification under Section 31 (*disqualifications on dismissal*) of the *Constitution*; or
- (e) in the case of a member appointed under Section 2(2)(a), ceases to be a member of the Parliament; or
- (f) in the case of a member referred to in Section 2(2)(b), (c), (d) or (e) ceases to be a citizen.

5. RESIGNATION.

(1) A member, other than the Chairman or Deputy Chairman, may resign from the Commission by giving written notice to the Chairman, which notice shall take effect on the receipt of resignation by the Commission.

(2) The Chairman or Deputy Chairman may resign from the Commission by giving one month's written notice to the Prime Minister.

6. APPOINTMENT TO FILL VACANCY, ETC.

The Head of State, acting on advice, given after consultation with the Permanent Parliamentary Committee on Appointments, may, at any time, appoint a person—

- (a) to become a member when a vacancy occurs on the Commission; or
- (b) to fill temporarily a vacancy on the Commission; or
- (c) to act in the absence of a member for any reason.

7. DECLARATION OF OFFICE.

Before entering on the duties of his office, a member shall make the Declaration of Office and, if he has not already made it, the Declaration of Loyalty, before the Head of State or a person appointed by the Head of State for the purpose.

8. PROCEDURES OF THE COMMISSION.

(1) Subject to Subsection (2), the Commission shall hold four meetings in each year.

(2) Where the business of the Commission requires it, the Commission may, in addition to the meetings under Subsection (1), hold further meetings to be called special meetings, but there shall be not more than four special meetings in a year.

(3) The Chairman shall fix the times and places for meetings of the commission.

(4) At a meeting of the Commission—

(a) seven members constitute a quorum; and

(b) the Chairman, or in his absence the Deputy Chairman, shall preside, or, if the Chairman and Deputy Chairman are both absent, the members present shall appoint one of their number to be the Chairman for that meeting; and

(c) all matters shall be decided by a majority of votes, but this provision does not prevent a member or members from submitting a minority report to the Parliament; and

(d) in the event of an equality of votes on a matter the member presiding has a casting as well as a deliberative vote.

(5) The Commission shall cause minutes of its meetings to be kept.

(6) Subject to this Act, the procedures of the Commission are as determined by it.

9. COMMITTEES.

(1) The Commission may appoint and dissolve committees for general or special purposes which in the Commission's opinion would be better dealt with by committees.

(2) The Commission may appoint to serve on a committee a person or persons with special qualifications who is not a member of, or who are not members of, the Commission.

(3) The functions, powers and procedures of a committee appointed under this section are as determined by the Commission.

10. POWERS OF COMMISSION.

The Commission shall have all reasonable powers that are necessary or convenient for the exercise and performance of its powers, functions, duties and responsibilities and such other powers as may be prescribed.

11. DUTIES OF THE COMMISSION.

(1) The Commission shall—

- (a) liaise with the National Government in the preparation of such legislation as is necessary to implement the recommendations of the previous Constitutional Commission insofar as adopted as National Government policy by the National Executive Council; and
- (b) in the event of the legislation referred to in Paragraph (a) being passed by the National Parliament, liaise with the National Government in monitoring its implementation; and
- (c) review the workings of the Constitution and Organic Laws; and
- (d) inquire into such other matter of a Constitutional nature as the Head of State, acting on advice, may direct.

(2) The Commission shall—

- (a) in respect of its duties under Subsection (1)(a) and (b)—prepare a Final Report before 31 December 2001; and
- (b) in respect of its duties under Subsection (1)(c) and (d)—prepare a Final Report before 31 December 2001.

(3) The Commission shall prepare Interim Reports—

- (a) as soon as practicable after 16 September in each year; and
- (b) at such other times as the Commission considers appropriate.

(4) The Final Reports or an Interim Report prepared in accordance with Subsection (2) or (3) shall be forwarded by the Commission to the Speaker for presentation by him to the Parliament and—

- (a) shall set out the Commission's findings on matters monitored, reviewed or inquired into by the Commission; and
- (b) may make recommendations for the amendment of the *Constitution*, any Organic Law or any Act; and
- (c) may propose new Organic Laws or Acts; and
- (d) may recommend a review of any administrative procedure; and
- (e) may make general recommendations and comments.

12. PARLIAMENT IS NOT BOUND BY REPORTS.

The Parliament is not in any way bound by anything contained in a report presented to it under Section 11(4).

13. EFFECT OF THIS ACT.

This Act does not operate so as to invalidate or call in question any Act.

14. STAFF OF COMMISSION.

(1) The Commission shall have facilities and staff sufficient to enable it to perform its duties under this Act.

(2) The staff of the Commission shall be appointed by the Prime Minister after consultation with—

- (a) the Chairman of the Commission; and
- (b) the Departmental Head of the Department responsible for personnel management matters.

(3) The terms and conditions of employment of the Commission's staff shall be determined by the Prime Minister after consultation with the Salaries and Conditions Monitoring Committee established under the *Salaries and Conditions Monitoring Committee Act 1988*.

15. OBLIGATION OF DEPARTMENTS ETC.

(1) The National Government and all other government bodies, and all public officeholders and institutions shall, so far as it is within their respective legal powers, ensure that all arrangements are made, staff and facilities are provided and steps taken to enable and facilitate, as far as may reasonably be, the proper and convenient performance of the duties, powers and functions of the Commission.

(2) In accordance with Subsection (1) the Department responsible for finance matters shall on behalf of the National Government ensure the allocation to the Commission of the necessary funds to enable the Commission to perform its powers, functions, duties and responsibilities each year.

(3) Where, in accordance with Subsection (1), the services of a person are made available to the Commission, the period during which those services are available to the Commission shall, in respect of the person whose services are made available, be regarded for all purposes as part of that person's period of service with the National Government or other government body, public office-holder or institution which made his services available to the Commission.

16. REGULATIONS.

The Head of State, acting on advice, may make regulations not inconsistent with this Act, prescribing all matters that by this Act are required or permitted to be

prescribed, or that are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

17. REPEAL.

The following Acts are repealed:–

- (a) *Constitutional Commission (No. 2) Act 1993;*
- (b) *Constitutional Commission (No. 2) (Amendment) Act 1994;*
- (c) *Constitutional Commission (No. 2) (Amendment) Act 1996.*

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