

No. 16 of 2007.

***Christian Health Services of Papua New Guinea Act 2007.***

Certified on: 15/11/2007.





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AN ACT

entitled

***Christian Health Services of Papua New Guinea Act 2007,***

Being an Act to provide for the Christian Health Services through government funded Christian health agencies,

MADE by the National Parliament to come into operation in accordance with a notice, in the National Gazette, by the Head of State, acting with, and in accordance with, the advice of the Minister.

**PART I. – PRELIMINARY.**

**1. PREAMBLE.**

(1) Whereas Christian health agencies have long been partners with the Government of Papua New Guinea in providing health services to the people of Papua New Guinea; and

(2) Whereas Christian health agencies may be funded through various government funded Christian health agencies.

**2. INTERPRETATION.**

In this Act, unless the contrary intention appears –

“**Health Service or service**” means the Christian Health Service of Papua New Guinea established by Section 4 of this Act;

“**service property**” means all real or personal property in Papua New Guinea for the time being belonging to the Health Service in which the service has any interest or title;

“**a church or Christian organization**” is a registered body of people who follow the doctrines of the Triune God, the Father, the Son, and the Holy Spirit, and that Jesus is the Son of God, was crucified, born again, ascended into heaven and works through the Holy Spirit;

“**Executive**” means the Executive of the Health Service to be established under Section 12 of this Act;

“**Delegate**” means a delegate to the General Assembly of the Service appointed under provisions of Section 12 of this Act;

**“Executive Member”** means a member of the Executive elected under Section 13 of the Act;

**“General Assembly”** means the General Assembly of the Christian Health Service composed of delegates of each member agency convened under provisions of Section 12;

**“a grant”** is defined by the *National Health Administration Act 1997* Section 27, as a grant, subsidy, gift, allocation, or allowance whether in money or in kind given by the National Government or a Provincial Government, or Local-level Government for the operation of health facilities or the provision of health services or programs;

**“a Health Worker”** is registered with the Nursing Council of Papua New Guinea or the Medical Board of Papua New Guinea;

**“Member”** is a Member of the Christian Health Services defined by Sections 6 and 7 of this Act;

**“associate member”** is an Associate Member of the Christian Health Service as defined by Section 7 of this Act;

**“full member”** is a Full Member of the Christian Health Association as defined by Section 6 of this Act;

**“a recipient”** is a Member in receipt of or entitled to receive a grant, as defined in the *National Health Administration Act 1997* Section 27(1);

**“a user fee”** is defined in the Public Hospital (Charges) Act whose collection is authorized by the *National Health Administration Act 1997* Section 29.

## **PART II. – CHRISTIAN HEALTH SERVICES.**

### **3. OBJECTS OF THE SERVICE.**

The objects of the Christian Health Services are –

- (a) to encourage and develop the highest level of physical, social, psychological and spiritual health for the people of Papua New Guinea, within the framework of national and provincial health policies, and in so doing offer the people belief in Christ as healer of all persons; and
- (b) to promote and ensure accountability and transparency of each Member for the effective and efficient use of Government funding; and
- (c) to support health workers and Members by providing means of Fellowship and Christian witness, and sharing of experience and knowledge in a ministry of healing; and
- (d) to promote co-operation between churches and Christian organizations in health matters; and
- (e) to foster the best possible provision of health services, training programs, joint planning and sharing of resources; and
- (f) to promote the ideals of –
  - (i) the caring community; and
  - (ii) social justice; and
  - (iii) self-reliance; and
- (g) to encourage Christian Health Services to contribute through –
  - (i) a service which emphasizes preventive and primary health care for all, with preferential option for the poor and the vulnerable; and
  - (ii) commitment and dedication of individual workers ensuring community of services; and
  - (iii) encouragement of self reliance by involving the community in providing better health services; and
  - (iv) training and providing staff particularly for work in rural areas; and
  - (v) finding new or alternative approaches to solving health problems; and
  - (vi) co-operation with the Government in planning and achieving objectives of national, provincial and district health plans.

### **4. INCORPORATION OF THE SERVICE.**

The Christian Health Service –

- (a) is a corporation by the names of Christian Health Services of Papua New Guinea; and
- (b) has perpetual succession; and
- (c) shall have a seal; and
- (d) is capable by that name of –
  - (i) suing and be sued;
  - (ii) taking purchasing and holding property (including property devised, bequeathed, or given to the Service); and
  - (iii) granting, selling, alienating, assigning and demising property.

**5. MEMBERSHIP OF THE SERVICE.**

(1) Each full Member of the Churches Medical Council at the time of the coming into operation of this Act is of right a full Member of the Service.

(2) Any Christian organization with at least four (4) health facilities or a Health Worker Training School recognized by Nursing Council or Medical Board may apply for full membership.

(3) A Christian organization wish to be a full Member of the Service must apply to the Secretary of the Service, with –

- (a) a statement of belief of the church or organization; and
- (b) references from two (2) member organization of the Papua New Guinea Council of Evangelical Churches; and
- (c) a description of health services offered by the agency; and
- (d) a statement from the Provincial Health Advisor of the province or provinces in which it has health work or plans health work, approving that work.

(4) Membership of the Service requires a two thirds majority vote of acceptance of delegates present at a General Assembly.

(5) Rights of Membership are not transmissible or transferable.

(6) The Service may accept or reject any application for membership.

(7) The Service may terminate membership of any Member –

- (a) if the Member acts contrary to the objects of the Service; and
- (b) two months after a notice of motion is sent to all Members; and
- (c) voted on by a two thirds majority of delegates present at a General Assembly.

**6. ASSOCIATE MEMBERSHIP.**

(1) Each Associate Member of the Churches Medical Council at the time of the commencement of this Act is of right an Associate Member of the Service.

(2) A Christian organization wishing to become an associate member must apply to the Secretary of the Service with a statement of belief of the church or organization.

(3) Associate Membership shall be decided by a vote of the Members of the Association, and shall require two thirds majority vote of acceptance of delegates present at a General Assembly.

(4) Rights of Associate Membership are not transmissible or transferable.

(5) The Association may accept or reject any application for associate membership.

(6) The Association may terminate the associate membership of any associate member of the Service –

- (a) if such an associate member acts contrary to the objects of the Service; and
- (b) two months after a notice of motion is sent to all members of the Service and voted on a two thirds majority of voting delegates; and
- (c) voted on by a two thirds majority of delegates present at a General Assembly.

**7. MEMBERSHIP FEES.**

(1) The General Assembly shall decide the annual membership fees.

(2) Membership fees will be due 1 January each year.



(3) The Treasurer shall send notice of fees due to Members before 1 January of the year in which they are due.

(4) Fees must be paid 30 days before the Annual General Assembly in order for the Member to seat voting delegates at the Annual General Assembly.

## **8. RULES, ETC.,.**

Subject to this Act, the Rules shall provide for the procedures of the Assembly and Executive.

## **9. COPY OF RULES TO BE LODGED.**

(1) As soon as practicable after commencement, a copy of the Rules certified under the seal of the Service shall be lodged in the office of the Registrar-General.

(2) A copy of any amendment to or replacement of the Rules shall as soon as practicable to certified under the seal of the Council and lodged in the office of the Registrar-General.

(3) The production of a copy certified as correct by the Registrar-General of any instrument lodged under this section shall be received as conclusive evidence of the contents of the instrument by all courts and persons.

## **10. POWERS OF THE SERVICE.**

The Service through the Annual General Assembly may do all things necessary or convenient to be done for providing and maintaining an efficient organization for the objects of the objects of the Association and in particular, and without limiting the generality of the foregoing power:

- (a) to enter into agreements with National, Provincial and Local-level Governments on operation of health facilities or delivery of health service or programs; and
- (b) to ensure that each Member is responsible for the wise, efficient and effective use of its resources and those of the State for operation of health facilities and delivery of health services and programs; and
- (c) to summon and arrange meetings; and
- (d) to appoint committees for furtherance of its objectives; and
- (e) to collect, receive and disburse monies for the objects of the service; and
- (f) to print, publish, and distribute books, pamphlets and other literature relating to its working; and
- (g) to accept and adopt an annual budget and request support from member and donor agencies; and
- (h) to invest and deal with funds of the Service not immediately required in such a manner as may from time to time be thought fit; and
- (i) to establish and maintain superannuation or annuity funds for permanent employees of the Service or employees of Members; and
- (j) to purchase, take on lease, acquired by gift, device, exchange or otherwise any property in Papua New Guinea; and
- (k) to sell the Service property or any part or parts of it, either together or in parcels, by public auction or private contract for cash or on credit, on such terms and subject to such conditions as the Service thinks proper; and
- (l) to exchange the Service property or any part or parts of it for other property; and

- (m) to transfer and assure the Service property when sold or exchanged to the purchaser or purchasers or to the person taking such exchange, freed and discharged from the trust affecting it; and
- (n) to raise sums of money when and on such terms as the Service thinks proper, by deposit, of deeds or by mortgage, with or without power of sale, of the Service property or any part or parts of it and to execute proper assurance for that purpose; and
- (o) to demise and lease the Service property or any part of it for such periods at such rents and on such terms and conditions as the Service thinks proper; and
- (p) to appoint by instrument under the seal of the Service a person or persons as the Attorney or Attorneys of the Service, either generally or in respect of specified matters, and to act in any place and all deeds signed by the attorney or attorneys, as the case may be, on behalf of the Service and under his seal or seals are binding on the Service and have effect as if they were under the seal of the Service; and
- (q) to receive gifts and endowments of land, money or other property, whether subject or not to any special trust or
- (r) to invest money in such lands, shares, bonds, stocks or other securities as it thinks proper; and
- (s) to insure Service property against such risks and to insure against claims for damages or compensation by employees.

## **11. GENERAL ASSEMBLY.**

(1) The General Assembly of the Service shall meet at least once a year in an ordinary session and at such frequency as circumstances dictate in extra-ordinary sessions.

(2) Extra-ordinary meetings of the General Assembly shall be convened at the request of the Executive or by petition from 25% of the Members.

(3) The venue of the Annual General Assembly shall be at any location in Papua New Guinea.

(4) Notice of not less than forty two (42) days of an Annual General Assembly shall be given to every Member as well as a request for additional agenda items.

(5) An agenda incorporating items shall be sent to every Member twenty one (21) days before the date of the Annual General Assembly together with an audited Financial Statement.

(6) Members and Associate Members may nominate observers.

(7) The number of voting delegates shall be based on the number of health workers employed by each member organization, according to the following formula: –

<b>4 or more health workers</b>	<b>1 delegate</b>
<b>25 or more health workers</b>	<b>2 delegates</b>
<b>50 or more health workers</b>	<b>3 delegates</b>
<b>100 or more health workers</b>	<b>4 delegates</b>
<b>300 or more health workers</b>	<b>5 delegates</b>
<b>500 or more health workers</b>	<b>6 delegates</b>
<b>750 or more health workers</b>	<b>7 delegates</b>

**1000 or more health workers      8 delegates**

(8) The Minister responsible for health matters or his nominee may attend but shall not have a right to vote.

(9) The Minister responsible for HIV and AIDS matters or his nominee may attend but shall not have a right to vote.

(10) The Chairman, or in his absence, the Vice Chairman shall chair each meeting of the General Assembly.

(11) In the absence of both a Chairman and Vice-Chairman from a meeting of the General Assembly, the delegates shall elect a Chairman for that meeting from the delegates present at the Assembly.

**12. THE EXECUTIVE.**

(1) There is established an Executive of the Health Service.

(2) The Annual General Meeting shall elect members of the Executive for a term of two (2) years.

(3) The Annual General Meeting shall elect to the Executive at least one representative from each of the following regions: –

- (a) New Guinea Island; and
- (b) Momase; and
- (c) Highlands; and
- (d) Southern.

(4) The Executive shall consist of –

- (a) The Chairman; and
- (b) Vice –Chairman; and
- (c) Secretary; and
- (d) Treasurer; and
- (e) Four (4) committee members.

(5) The Annual General Meeting shall elect Alternate Members of Executive for each region, and for Secretary and Treasurer.

**13. MEETINGS OF THE EXECUTIVE.**

(1) The Executive shall meet at least twice annually between Annual General Meetings.

(2) The Chairman or three members of the Executive may convene a meeting of the Executive.

(3) Members of the Executive shall receive the notice of meetings, with meeting agenda, at least twenty one (21) days before the date on which the meeting is called.

(4) The Chairman at meeting of the Executive: –

- (a) rules on matters of procedures; and
- (b) ensures efficient running of the meeting.

(5) In the absence of the Chairman, the Vice –Chairman will carry out the duties of the Chairman.

(6) All matters or questions to be decided at a meeting of the Executive shall be decided by a majority of the members present.

(7) The Chairman of the meeting shall have a deliberative, and in the event of an equality of votes on a matter, a casting vote.

(8) Not less than half of the members of the Executive shall be a quorum for a meeting of the Executive.

(9) A member of the Executive shall not vote in the Executive on any subject in which he has a pecuniary interest.

#### **14. VACATION OF OFFICE.**

If a member of the Executive –

- (a) dies; or
- (b) declines to act; or
- (c) is convicted in a Court of Law of any offence involving dishonesty or immorality; or
- (d) is guilty of conduct unworthy of Christian standards; or
- (e) resigns his seat; or
- (f) is absent without leave of the Executive from two consecutive meetings of the Executive without leave of absence first obtained; or
- (g) ceases to be a member of the church or organization which he represents.

#### **15. CASUAL VACANCIES.**

In the event of a casual vacancy in the office of an elected member of the Executive, a new member shall be elected by the next Annual General Meeting and the person so elected shall hold office, subject to this Act, for two years.

#### **16. DELEGATION.**

The Executive may delegate any of its powers and functions (except this power of delegation) to any member of the Executive or to a committee consisting of members of the Executive with or without other persons.

#### **17. FUNCTIONS OF THE EXECUTIVE.**

Subject to this Act, the Executive in addition to its other powers, functions, duties and responsibilities under this Act –

- (a) controls and manages the affairs and concerns of the Service; and
- (b) shall act in all matters concerning the Service to promote the objects and purposes of the Health Service.

#### **18. FUNCTIONS OF THE EXECUTIVE OFFICER.**

There shall be an Executive Officer of the Service Secretariat who shall –

- (a) be Chief Executive of the Secretariat; and
- (b) perform such duties as the Service may assign his office in fulfilment of the objects of the Service; and
- (c) implement the Service's policies; and

- (d) keep records of all Service Members and Associate Members, the General Assembly, the Executive, and attendance at meetings; and
- (e) appoint staff subordinate to him as needed to perform functions of the Service; and
- (f) write duty statements of employed and volunteer staff; and
- (g) determine wages and salaries of employees by agreement of the Executive; and
- (h) prepare a budget and control funds; and
- (i) appoint auditors for the accounts of the Service; and
- (j) at the end of each financial year submit to the General Meeting a Written annual report on activities and financial performance of the Service; and
- (k) represent and be the spokesperson of the Service.

**19. REGIONAL AND PROVINCIAL CHRISTIAN HEALTH SERVICE GROUPS.**

Regional, provincial or district Christian Health Service (in this Act referred to as local Services) shall relate to the Service in the following way: –

- (a) membership of local Service is open only to Members of the Service; and
- (b) election of representatives of all members of local Service; and
- (c) decisions made by local Service shall be compatible with decisions made by the Service; and
- (d) copies of minutes of all meeting of each local Service shall be forwarded to the Chairman of the Executive; and
- (e) local Service may liaise with Provincial Governments and Administration, District Administrations and Local-level Governments; and
- (f) a local Services contracts or dealing with the National Government, Provincial Government, Local-level Government or District Authority shall only have effect after endorsement by the Executive.

**20. SEAL OF THE SERVICE.**

The Executive shall provide for safe custody of the seal of the Service and every instrument to which the seal is affixed shall be signed by at least two members of the Executive.

**PART III. – FUNDING AND ACCOUNTABILITY OF RECIPIENTS.****21. APPLICATION.**

This Part applies to a Member who is recipient of a grant through the Service for operation of health facilities or health services or health programs.

**22. DUTY OF THE RECIPIENT.**

(1) A recipient shall be accountable to the Service for its spending of taxpayers' money and the recipient's stewardship over public assets.

(2) A recipient's stewardship concern itself not only with spending of sums appropriated and budget excess, but also deals with extravagance, waste, abuse and ineffective implementation of government programs.

**23. RECIPIENT BUDGET AND PERFORMANCE AND MANAGEMENT PLAN.**

(1) A recipient shall submit as a single document an annual budget, and annual performance and management plan.

(2) The budget, referred to in Subsection (1), shall comprise estimates of: –

- (a) government funding proposed to be received; and
- (b) expenditure proposed for the recipient, administration; and
- (c) expenditure proposed for the health facilities, services or programs.

(3) If, at the beginning of a fiscal year, a recipient has not submitted its budget for its services for that year, the Executive, may, without authorization other than this Section, release funding to the recipient not exceeding one-third of its government funding during the preceding fiscal year.

(4) The recipient shall operate the facility or provide services or programs, referred to in Subsection (1), consistently with the National Health Plan, National Health Standards, and Provincial Implementation Plan and Operational Directives.

(5) Each recipient shall each year submit to the Service, its performance and management plan for meeting the requirements of Subsection (4).

(6) A performance and management plan under Subsection (1) shall –

- (a) provide reports and other information concerning the health of the population and concerning the operating the health of the provision of services and programs; and
- (b) be in such form, and shall contain other information, specified in the Rules of the health service.

**24. FINANCIAL CONTROLS.**

(1) Each recipient shall ensure that –

- (a) financial control mechanisms are in place; and
- (b) proper records are kept for receipts and payments of government funding entitled but not received, and of all expenditure incurred but unpaid; and
- (c) all expenditure is properly authorized and applied to purposes for which it is appropriate; and
- (d) all expenditure including unpaid commitments do not exceed budgetary allocations during the fiscal year; and

- (e) all accounts and records relating to functions and operations of the agency are properly maintained; and
- (f) all expenditure is incurred with regard to economy, efficiency and effectiveness and avoidance of waste; and
- (g) all necessary precautions are taken to safeguard stores and other property of the State; and
- (h) any fee imposed by the recipients is collected promptly and to the fullest extent; and
- (i) proper estimates in respect of collection and expenditure of public moneys are prepared; and
- (j) information required by the Service is submitted to the Service accurately and promptly; and
- (k) as soon as practicable after the end of each quarter of each fiscal Year the recipient submits to the Executive a report on financial management in a form specified in the Rules of the Health Service.

(2) The recipient shall submit its annual audited financial reports for each fiscal year to the Executive no later than 30 March in the year succeeding, jointly with its report on implementation of the management and performance plan for the immediately preceding year.

(3) A rule of the Service shall provide for accounting procedures, financial reports and financial management of agencies.

(4) A recipient's failure to submit a report as required by this section is a ground for withholding of finances as provided by Section 26.

## **25. PERFORMANCE AND MANAGEMENT REPORTS.**

(1) Each recipient shall submit to the Executive a Performance and Management Report on its activities jointly with the Financial Report required under Section 25(2).

(2) The Service shall specify the content and structure of the Performance and Management Report.

(3) A recipient's failure to submit a report as required by this section is a ground for withholding of finances as provided by Section 26.

## **26. WITHHOLDING OF FINANCES.**

(1) Where the Executive finds that –

- (a) there has been a breakdown in the administration of a recipient; or
- (b) there has been deliberate and persistent frustration of or failure to comply with lawful requirements of Service; or
- (c) a recipient has deliberately and persistently disobeyed applicable laws, including laws related to performance and financial budgeting reporting; and
- (d) there has been a failure to carry out functions in accordance with the policies and standards of the National Department of Health or the Service, the Executive shall direct the recipient to rectify the matter and such direction shall specify the manner and time of rectification.

(2) Where a recipient refuses or fails to comply with a direction issued under Subsection (1), the Executive may withdraw and withhold all or any finances to the recipient.

**27. RECOVERY OF GRANTS.**

(1) Subject to the terms on which the grant is made, where the recipient does not use the whole or any part of the grant in accordance with the grant conditions, the amount of the grant is repayable in demand to the Service and the amount may be recovered as a debt.

(2) The Service may deduct any money recoverable under Subsection (1) from the grant, which is subsequently made to the recipient.

(3) The Service shall make a demand for repayment under Subsection (1) by a notice in writing addressed to the recipient stating the conditions of grant which the recipient is alleged to have breached.

**28. RESPONSIBILITY OF THE SERVICE.**

(1) The principal functions of the Service are –

- (a) to co-ordinate and monitor implementation of national and provincial policies by each recipient; and
- (b) to establish minimum service standards; and
- (c) to monitor maintenance of those standards in the overall provision of health services by each recipient; and
- (d) to ensure performance audit of the recipient; and
- (e) to assess the effectiveness and efficiency of the recipient; and
- (f) to recommend to the Service on strengthening the agency.

(2) The Executive may take such action as it thinks necessary to ensure that government-funded health functions and operations carried out by each recipient are being carried out in an efficient and effective manner.

(3) The Chairman of the Executive shall table the recipients' annual audit financial and management and performance reports at the Annual General Assembly at its meeting immediately following the receipt by him of the report.

(4) The Service shall hold each agency accountable for its spending of taxpayers' money and its stewardship over public assets.

(5) The Service shall assure the public that the government is receiving the value for money and that public monies and assets are properly managed.

**29. POWERS OF INSPECTION OF THE EXECUTIVE.**

(1) The Executive may, where it has reason to believe an agency has or may have failed to implement the budget, or management and performance plan submitted under Section 23(2) or has been or may have been in breach of this Act, authorize the Chairman of the Executive to investigate or inspect records of that agency.

(2) A Rule of the Service may provide for the rights and powers of the Executive to inspect and report on accounts and records of a recipient.

(3) While an investigation or inspection of a recipient is being carried out, the Executive may obtain full and free access at all reasonable times to all accounts and records of that agency that related, directly or indirectly to: –

- (a) collection, receipt, and expenditure and issue of moneys of the agency; and
- (b) receipt, custody, disposal, issue or use of stores or other property of the agency; and



- (c) implementation of management and performance plans.

**PART IV. – FINAL.****30. SAVING OF CONTRACTS.**

All Contracts, agreements, conveyances, deeds, leases, licences and other instruments or undertakings entered into by or addressed to the Churches Medical Council before commencement of the Act, to the extent that they were binding on and enforceable against or in favour of the Churches Medical Council, shall be binding on and of full force and effect in favour of the Service.

**31. ACTION ETC., NOT TO ABATE.**

Where immediately before the date of commencement of this Act an action, arbitration or proceeding or any cause of action, arbitration or proceeding was pending or existing by, against or in favour of the Churches Medical Council shall be prosecuted, continued and enforced by against or in favour of the Service as if the Service had been the original party.

**32. FIRST RULES.**

Until the Service adopts Rules, the Constitution of the Churches Medical Council, as amended at the Churches Medical Council Conference in May 2002 shall be, subject to this Act, the Rules of the Health Service.

**33. FIRST EXECUTIVE.**

Each person who, immediately before commencement, held office as a elected member of the Churches Medical Council, shall, be deemed to have been elected to the Executive for the unexpired portion of his term of office.

Office of Legislative Counsel, PNG