

Chapter 1040.
Independence Fellowship Trust Act 1978.

Certified on: / /20 .

INDEPENDENT STATE OF PAPUA NEW GUINEA.



Chapter 1040.

Independence Fellowship Trust Act 1978.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.



AN ACT

entitled

Independence Fellowship Trust Act 1978,

Being an Act to establish the Independence Fellowship Trust for providing fellowship awards to selected citizens for the purpose of broadening their knowledge and experience for the benefit of village development, and for related purposes.

PART I. – PRELIMINARY.

1. INTERPRETATION.

In this Act, unless the contrary intention appears—

“**the Chairman**” means the Chairman of the Trust appointed under Section 5(2);

“**the Deputy Chairman**” means the Deputy Chairman elected under Section 5(3);

“**this Act**” includes any regulations made under this Act;

“**the Trust**” means the Independence Fellowship Trust established under Section 2;

“**the trustees**” means the members of the Trust appointed under Section 5(1).

PART II. – THE INDEPENDENCE FELLOWSHIP TRUST.

2. OBJECT OF THE TRUST.

The object of the Trust is to benefit village development by making annual awards to selected citizens for the purpose of broadening their knowledge and experience for the purpose of implementing and encouraging that development.

3. ESTABLISHMENT OF THE TRUST.

(1) The Independence Fellowship Trust is hereby established.

(2) The Trust–

- (a) is a corporation with perpetual succession; and
- (b) shall have a seal; and
- (c) may acquire, hold and dispose of property; and
- (d) may sue or be sued in its corporate name.

(3) All courts, Judges and persons acting judicially shall take notice of the seal of the Trust affixed to a document and shall presume that it was duly affixed.

4. GENERAL PRINCIPLES TO BE APPLIED IN MAKING APPOINTMENTS.

(1) The provisions of this section apply “in principle” within the meaning of Section 8 (*principles of interpretation*) and Schedule 1.6 (*statements of general principle*) of the *Constitution*, that is to say that–

- (a) an appointment that is inconsistent with any of those provisions is not, by reason of that inconsistency alone, invalid or ineffectual; and
- (b) if an appointment is reasonably capable of being understood or given effect to in such a way as not to be inconsistent with those provisions it shall be so given effect to.

(2) Members of the Trust should be appointed on the basis of their stature in the community, their experience and their knowledge of requirements concerning village development.

(3) Where practicable membership should include a cross-section of the community to reflect at least the following interests in the community–

- (a) village and rural interests; and
- (b) educational and research interests.

5. CONSTITUTION OF THE TRUST.

(1) The Trust shall consist of five trustees, who shall be appointed by the Minister by notice in the National Gazette, and who shall be–

- (a) appointed for a period not exceeding three years; and
- (b) eligible for re-appointment.

(2) The Minister shall appoint a trustee to be the Chairman of the Trust.

(3) Where for any reason the Chairman is unable to act, the trustees shall from among their own number, elect a Deputy Chairman who may—

- (a) exercise all or any of the powers; and
- (b) perform all or any of the functions,

of the Chairman.

(4) Subject to this Act, the terms and conditions of office of the Chairman and trustees are as determined by the Minister from time to time.

6. DECLARATION OF OFFICE.

(1) Before entering on the duties of his office, a trustee shall make the Declaration of Office provided for by the *Constitution*.

(2) The Declaration of Office may be made by a trustee before the Minister or a person appointed by the Minister for the purpose.

7. LEAVE OF ABSENCE OF TRUSTEES.

The Chairman may grant leave of absence to a trustee on such terms and conditions as he determines.

8. VACATION OF OFFICE OF TRUSTEE.

(1) If a trustee—

- (a) dies; or
- (b) becomes permanently incapable of performing his duties; or
- (c) resigns his office by writing under his hand addressed to the Minister; or
- (d) absents himself from three consecutive meetings of the Trust without the written consent of the Chairman; or
- (e) fails to comply with the provisions of Section 11; or
- (f) has been adjudged insolvent, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit; or
- (g) becomes of unsound mind as that expression is used in the *Public Health Act 1973*; or
- (h) is convicted of an offence punishable under a law by death or imprisonment for one year or longer, and as a result of the conviction is subject to be sentenced to death or imprisonment, is under sentence of

death or is undergoing imprisonment, or is under bond to appear for sentence if called on,

the Minister shall terminate his appointment.

(2) The Minister may, at any time, terminate the appointment of a trustee for inability, inefficiency, incapacity or misbehaviour.

(3) Where the appointment of a trustee is terminated under this section, the Minister shall, by notice in the National Gazette, declare his office vacant.

(4) Where an office is declared vacant under Subsection (3), the vacancy shall be filled in accordance with Section 5.

9. VACANCY NOT TO AFFECT POWERS OR FUNCTIONS.

The exercise or performance of a power or function of the Trust is not invalidated by reason only of a vacancy in the membership of the Trust.

10. MEETINGS OF THE TRUST.

(1) Subject to Subsection (3), the Trust shall meet at such times and places as the Chairman considers necessary for the efficient conduct of its affairs, but in any case not less frequently than once in every three months.

(2) Subject to Subsection (3), the Chairman shall, if requested to do so by not less than three trustees, call a meeting of the Trust as soon as practicable after receiving the request.

(3) The Chairman shall give to each trustee at least seven day's notice of a meeting of the Trust.

(4) At a meeting of the Trust—

(a) three trustees are a quorum; and

(b) the Chairman or in his absence, the trustee elected under Section 5(3), shall preside; and

(c) questions arising shall be decided by a majority of the votes of the trustees present and voting; and

(d) the trustee presiding has a deliberative and, in the event of an equality of votes on a question, also a casting vote.

(5) The Trust shall cause minutes of its meetings to be recorded and kept.

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

11. DISCLOSURE OF INTEREST BY TRUSTEE.

(1) A trustee who is directly or indirectly interested in a contract or investment made or proposed to be made by the Trust or under consideration by the Trust otherwise than as a member in common with the other members of an incorporated

company of not less than 25 persons, shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest at a meeting of the Trust.

(2) A disclosure under Subsection (1) shall be recorded in the minutes of the Trust and the trustee—

- (a) shall not take part after the disclosure in any deliberation or decision of the Trust with respect to that contract; and
- (b) shall be disregarded for the purpose of constituting a quorum of the Trust for any such deliberation or decision.

PART III. – POWERS AND FUNCTIONS OF THE TRUST.

12. FUNCTIONS OF THE TRUST.

(1) The functions of the Trust are–

- (a) to make selections of candidates to receive the awards of fellowships; and
- (b) to determine the number and value of awards; and
- (c) to invest the funds of the Trust.

(2) In making the awards under Subsection (1)(a) the trustees shall have regard to the facilities available both in the country and overseas where study and research into village development is available and where experience in its practical application may be obtained.

13. POWERS OF THE TRUST.

(1) Subject to this Act, the Trust has such powers as are necessary or convenient for, or incidental to, the performance of its functions.

(2) Without limiting the powers of the Trust under Subsection (1), the Trust may, in the performance of its functions–

- (a) co-operate with other persons and organizations in relation to the functions of the Trust; and
- (b) solicit gifts, subscriptions and donations; and
- (c) after consultation with the Secretary for Finance, invest the funds of the Trust.

14. INDEMNITY OF TRUSTEES.

A trustee is not personally liable for any act of the Trust or of a trustee acting as such, done in good faith.

15. DELEGATION.

The Trust may, by instrument under its seal, delegate to any person all or any of its powers or functions under this Act (except this power of delegation).

PART IV. – FINANCE, ETC.

16. FUNDS OF THE TRUST, ETC.

The funds of the Trust shall consist of–

- (a) the amount set aside to form a perpetual endowment for the Independence Fellowship Scheme in the sum of K41,894.00; and
- (b) the allocation of a grant of K58,106.00 which is appropriated accordingly; and
- (c) such other sums of money as are received whether by way of gift or otherwise by the Trust in the course of the exercise or performance of its powers and functions under this Act.

17. APPLICATION OF THE PUBLIC FINANCES (MANAGEMENT) ACT 1995.

The *Public Finances (Management) Act 1995* applies to and in relation to the Trust subject to the exceptions and modifications specified in Schedule 1.

PART V. – MISCELLANEOUS.

18. PURPOSES OF THE TRUST TO BE PUBLIC PURPOSE.

The purposes of the Trust are a public purpose for the purposes of any law in force in the country.

19. REPORTS, ETC.

(1) The Trust shall, as soon as practicable at the end of each fiscal year, prepare and furnish to the Minister a report of the operation and activities of the Trust during the year ending on that date.

(2) The report shall contain any comments and recommendations that the Trust considers desirable to make concerning the operation of the Trust.

20. 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.

SCHEDULE 1 – EXCEPTIONS AND MODIFICATIONS TO THE PUBLIC BODIES (FINANCIAL ADMINISTRATION) ACT.

Sec. 17.

Provision.	Modification, etc.
Section 51	Not applicable.
Section 55	Applies as if the reference to the Minister were a reference to the Minister responsible for financial matters.
Section 56	Not applicable.
Section 57	Applies as if the reference to the Minister were a reference to the Minister responsible for financial matters.
Section 59	Not applicable.
Provision.	Modification, etc.
Section 51	Not applicable.
Section 55	Applies as if the reference to the Minister were a reference to the Minister responsible for financial matters.
Section 56	Not applicable.
Section 57	Applies as if the reference to the Minister were a reference to the Minister responsible for financial matters.
Section 59	Not applicable.