

Chapter 18.
Law Reform Commission Act 1975.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.



Chapter 18.

Law Reform Commission Act 1975.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.



AN ACT

entitled

Law Reform Commission Act 1975,

Being an Act to establish a Law Reform Commission and to define its powers, functions, duties and responsibilities, and for related purposes.

PART I. – PRELIMINARY.

1. INTERPRETATION.

In this Act, unless the contrary intention appears–

“**the Commission**” means the Law Reform Commission of Papua New Guinea established by Section 3;

“**the regulations**” means any regulations made under this Act;

“**the Secretary**” means the Secretary to the Commission appointed under Section 15;

“**this Act**” includes the regulations.

2. APPLICATION.

Nothing in this Act affects the operation of–

- (a) the *Revision of the Laws Act 1973*; or
- (b) the *Statute Law Revision Machinery Act 1972*; or
- (c) the *Legislative Drafting Service Act 1972*.

PART II. – ESTABLISHMENT, ETC., OF THE COMMISSION.

3. ESTABLISHMENT OF THE COMMISSION.

(1) A Law Reform Commission of Papua New Guinea is hereby established.

(2)¹ ²The Commission shall consist of seven citizens appointed in accordance with the *Regulatory Statutory Authorities (Appointment to Certain Offices) Act 2004*.

4. TERMS AND CONDITIONS OF APPOINTMENT.

Subject to this Act, the terms and conditions of appointment of a member (other than a holder of a judicial office) are as fixed by the Minister from time to time.

5. TENURE OF OFFICE.

(1) A member of the Commission shall hold office for such period not exceeding four years as the Minister specifies in the notice under Section 3(2) and may be re-appointed.

(2) A member may, by written notice addressed to the Minister, resign his office.

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

(4) Where a member resigns or the appointment of a member is terminated under Subsection (3), the Minister shall, by notice in the National Gazette, declare his office vacant.

6. APPOINTMENT OF HOLDERS OF JUDICIAL OFFICE.

The appointment of, or service by, a person who holds an office of a Judge or Magistrate as a member of the Commission does not affect—

- (a) his tenure of that office; or
- (b) his rank, title, status, precedence, salary or annual allowances or other rights or privileges as the holder of that office,

and, for all purposes, his services as a member of the Commission shall be taken to be service as the holder of that office.

7. PROCEDURES OF THE COMMISSION.

(1) There shall be a Chairman and Deputy Chairman of the Commission.

(2) The Chairman shall be appointed by the Minister.

¹ Section 3 Subsection (2) substituted by No. 97 of 2006, Sched. 1.

² Section 3 Subsection (2) substituted by No. 97 of 2006, Sched. 1.

(3) The Deputy Chairman shall be elected or appointed by the members of the Commission from amongst their own number.

(4) The procedures of the Commission shall be as determined, from time to time, by the Commission.

(5) The quorum for a meeting of the Commission is three.

8. ANNUAL REPORTS.

The Commission shall, as soon as practicable, after 31 March in each year, furnish to the Minister, for presentation to the Parliament, a report on the operation of the Commission during the year ending on the preceding 31 December.

PART III. – POWERS, FUNCTIONS, ETC., OF THE COMMISSION.**9. FUNCTIONS OF THE COMMISSION.**

(1) The functions of the Commission are, in accordance with references made to the Commission by the Minister, whether at the suggestion of the Commission or otherwise—

- (a) to review the law with a view to the systematic development and reform, including—
 - (i) the modernization of the law by bringing it into accord with current conditions; and
 - (ii) the elimination of defects in the law; and
 - (iii) the simplification of the law; and
 - (iv) the adoption of new and more effective methods for the administration of the law and the dispensation of justice; and
- (b) to make recommendations in relation to the making of laws; and
- (c) to make recommendations in relation to—
 - (i) the consolidation of laws; and
 - (ii) the repeal of laws that are obsolete or unnecessary; and
- (d) to make recommendations in relation to the restatement, codification, amendment or reform of customary laws; and
- (e) to make recommendations in relation to the development of new approaches to and new concepts of the law in keeping with and responsive to the changing needs of Papua New Guinea society and of individual members of that society.

(2) The Minister may—

- (a) modify the terms of any reference; and
- (b) give directions to the Commission as to the order in which it is to deal with references.

(3) For the purpose of this section, the Commission may conduct such inquiries as it thinks proper.

(4) For the purposes of any inquiry under this section, the members of the Commission have all the powers, authorities, protections and immunities conferred on a Commissioner under the *Commissions of Inquiry Act 1951*.

10. FUNDAMENTAL PRINCIPLES, ETC.

In the exercise and performance of its powers and functions, the Commission shall take into account any fundamental principles and policies laid down by the Parliament.

11. POWERS OF THE COMMISSION.

Subject to this Act, the Commission may—

- (a) consult with—
 - (i) any Government Department; and
 - (ii) any Governmental institution, authority, organization, instrumentality or body; and
 - (iii) any other institution, organization or body that, in the opinion of the Commission, would be affected by any proposed change in the law; and
 - (iv) any member of the public; and
- (b) with the approval of the Minister, provide advice and information to any Government Department or Governmental institution, authority, organization, instrumentality or body concerned with proposals for the reform or amendment of any branch of the law; and
- (c) consider any proposal for the reform of the law that is referred to it; and
- (d) hold seminars and conferences on legal problems; and
- (e) undertake research and study programs in order to provide itself with material on which to base its recommendations on law reform matters, particularly in the field of customary law; and
- (f) use any information, advice or assistance available to it from any source whether within or without the Government; and
- (g) obtain information on the laws and legal systems of other countries as a means of providing ideas for the reform and development of the law of Papua New Guinea; and
- (h) do all things necessary or convenient to be done for or in connection with the performance of its functions.

12. PRIVILEGE.

Section 7 of the *Defamation Act 1962* extends to and applies to—

- (a) an inquiry, and any report as a result of an inquiry, made by the Commission under the authority of this Act; and
- (b) the proceedings of the Commission and to reports of those proceedings as if those proceedings were an inquiry made by the Commission under this Act.

13. REPORTS.

(1) The Commission may from time to time, and shall when directed to do so by the Minister, make an interim report of its work under any reference.

(2) The Commission shall at the end of its work under any reference make a final report on its work under the reference.

(3) A report made by the Chairman and one other member of the Commission is a report of the Commission for the purposes of this Act.

(4) The Commission shall furnish each of its reports to the Minister for presentation to the Parliament.

(5) The Minister shall publish each report of the Commission unless there is, in his opinion, good and sufficient cause for not publishing the report.

14. REQUIREMENTS OF PARLIAMENT.

If the Parliament or a Committee of the Parliament requires the Commission to furnish to it any information concerning the performance of the functions or the exercise of the powers of the Commission under this Act, the Commission shall comply with the requirement.

PART IV. – STAFF.

15. APPOINTMENT OF SECRETARY.

(1) There shall be a Secretary to the Commission who–

- (a)³ shall be appointed, suspended or dismissed in the manner as is specified in the *Regulatory Statutory Authorities (Appointment to Certain Offices) Act 2004*; and
- (b) shall be appointed for such period, not exceeding four years, as the Head of State, acting on advice, fixes, and is eligible for re-appointment.

(2) The Secretary is the Executive Officer of the Commission.

(3) The terms and conditions of appointment and service of the Secretary are as fixed by the Minister.

16. VACATION OF OFFICE OF SECRETARY.

(1) If the Secretary–

- (a) becomes permanently incapable of performing his duties; or
- (b) resigns his office by writing under his hand addressed to the Head of State; or
- (c) engages, without the consent of the Head of State, acting on advice, in any paid employment outside the duties of his office; or
- (d) becomes bankrupt, 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
- (e) is convicted of an offence punishable by death or imprisonment for one year or longer and, as a result of the conviction, is under sentence of death or imprisonment,

the Head of State, acting on advice, shall terminate his appointment.

(2) The Head of State, acting on advice, may at any time terminate the appointment of the Secretary for inability, inefficiency, incapacity or misbehaviour.

17. PUBLIC SERVICE RIGHTS OF SECRETARY TO CONTINUE.

(1) If an officer of the Public Service is appointed to be the Secretary, his service as the Secretary shall be counted as service in the Public Service for the purposes of determining his rights (if any) in respect of–

- (a) leave of absence on the ground of illness; and
- (b) furlough or pay in lieu of furlough (including pay to dependants on the death of the officer).

³ Section 15 Subsection (1) amended by No. 97 of 2006, Sched. 1.

(2)⁴ ⁵The office of Secretary is an office to which apply the provisions of the *Public Services (Management) Act 1995* relating to leave to serve under another Act.

18. FUNCTIONS, ETC., OF THE SECRETARY.

(1) The Secretary shall—

- (a) manage the affairs of the Commission; and
- (b) in relation to the management of the affairs of the Commission, act in accordance with any directions of the Commission; and
- (c) advise the Commission on any matter concerning the affairs of the Commission that is referred to him by the Commission; and
- (d) when required to do so by the Commission—
 - (i) prepare or obtain legal opinions; and
 - (ii) advise the Commission on any matter relating to law reform; and
 - (iii) assist in the preparation and implementation of any law reform program,

and has such other powers, functions, duties and responsibilities as the Commission determines.

19. OTHER STAFF.

(1) Subject to Subsection (2), any staff (other than the Secretary) required for the purposes of this Act shall be officers or employees of the Public Service.

(2) Subsection (1) does not prevent any person from being employed, on contract or otherwise, under any law to perform functions in relation to the Commission.

Office of Legislative Counsel, PNG

⁴ Section 17(2) repealed and replaced by the *Public Service (Management) (Consequential Amendments) Act 1986* (No. 29 of 1986), s1.

⁵ Section 17(2) repealed and replaced by the *Public Service (Management) (Consequential Amendments) Act 1986* (No. 29 of 1986), s1.