

No. 18 of 1994.

***Permanent Parliamentary Committees Act 1994.***

Certified on: / /20 .



INDEPENDENT STATE OF PAPUA NEW GUINEA.



No. 18 of 1994.

*Permanent Parliamentary Committees Act 1994.*

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INDEPENDENT STATE OF PAPUA NEW GUINEA.



AN ACT

entitled

*Permanent Parliamentary Committees Act 1994,*

Being an Act to provide for the Permanent Parliamentary Committees of the Parliament, as provided under Section 118(1)(b) of the *Constitution*, and for related purposes.

**PART I. – PRELIMINARY.**

**1. COMPLIANCE WITH CONSTITUTIONAL REQUIREMENTS.**

This Act, to the extent that it regulates or restricts a right or freedom referred to in Subdivision III.3C (*Qualified rights*) of the *Constitution* namely–

- (a) the right to freedom from arbitrary search and entry conferred by Section 44 of the *Constitution*; and
- (b) the right to privacy conferred by Section 49 of the *Constitution*; and
- (c) the right to freedom of information conferred by Section 51 of the *Constitution*,

is a law that is made for the purpose of giving effect to the public interest in public order.

**2. INTERPRETATION.**

In this Act, unless the contrary intention appears–

“**the Alternate Chairman**” means the Alternate Chairman of a Committee;

“**the Chairman**” means the Chairman of a Committee;

“**a Committee**” means a Permanent Parliamentary Committee;

“**Committee member**” means a member of a Committee;

“**the Deputy Chairman**” means the Deputy Chairman of a Committee;

**“Government member”** means a member recognised by the Parliament as being generally committed to support the Government;

**“Member”** means a member of Parliament;

**“Minister”** means a Minister having responsibilities relevant to the jurisdiction and functions of a Committee;

**“Opposition Member”** means a member of the principal party or group, or coalition of parties or groups, as is recognised by the Parliament as being generally not supporting the Government;

**“referral Committee”** means a Committee established in accordance with Section 3(2);

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

**PART II. – ADMINISTRATION OF PARLIAMENTARY COMMITTEES.**

**3. ESTABLISHMENT OF COMMITTEES.**

(1) The Parliament may, by resolution, from time to time as required, establish a Committee as provided under Section 118(1)(b) of the *Constitution*.

(2) Where a Committee has jurisdiction and functions relevant to a Minister or group of Ministers, as provided under Section 120(1) of the *Constitution*, it shall be known as a Permanent Parliamentary Referral Committee.

(3) Nothing in this Act prevents the Parliament from establishing Sessional or Select Committees for any purpose, or prevents the Parliament from sitting as a Committee of the Whole.

**4. CONSTITUTION OF COMMITTEES.**

(1) Subject to Subsection (2), a Committee shall comprise, unless otherwise provided for–

- (a) a Chairman; and
- (b) a Deputy Chairman; and
- (c) an Alternate Chairman; and
- (d) four members.

(2) Only Members may be appointed to a Committee.

(3) As provided under Section 118(3) of the *Constitution* no Minister may be a Committee member.

(4) Committee members have and may exercise such powers and authorities, may perform such duties, and are liable to such obligations as are conferred or imposed on the Committee by this Act or by the Parliament.

**5. APPOINTMENT OF MEMBERS.**

(1) In principle, as provided under Section 119(2) of the *Constitution*, the following Committee members shall be appointed by resolution of the Parliament from–

- (a) Government members–
  - (i) the Chairman; and
  - (ii) the Alternate Chairman; and
  - (iii) two members; and
- (b) Opposition members–
  - (i) the Deputy Chairman; and
  - (ii) two members.

(2) Each Committee member holds office during the pleasure of the Parliament.

(3) Except as may be provided by the Parliament each Committee member ceases to hold office when the Parliament expires.

(4) Except as may be provided by the Parliament the Chairman and Deputy Chairman of a referral Committee shall not be members of another referral Committee.

(5) In principle, each Member should be appointed to two referral Committees but no Member may be appointed to more than three referral Committees.

**6. POWERS OF THE CHAIRMAN AND ALTERNATE CHAIRMAN.**

The Chairman, or in his absence the Alternate Chairman, shall preside at all meetings of a Committee.

**7. DECLARATION TO BE MADE BY MEMBERS.**

Before entering on the duties of his office or sitting at a meeting of a Committee, every member of the Committee shall make and subscribe a declaration in the form specified in Schedule 1.

**8. ATTENDANCE AND RESIGNATION.**

(1) A Committee member may resign his seat on a Committee by written notification to the Speaker.

(2) Except as otherwise provided by an Act of the Parliament the seat of a Committee member becomes vacant if he ceases to be a Member of the Parliament.

(3) The Committee may grant leave of absence to a Committee member who shows reasonable cause.

(4) A Committee member shall be referred by the Committee to the Parliament if he fails to attend six consecutive meetings of the Committee without reasonable cause.

**9. VACANCIES.**

Where a vacancy occurs in a Committee, it shall be filled by a resolution of the Parliament in accordance with Section 5, at the next meeting of the Parliament.

**10. QUORUM.**

A quorum of Committee shall be four members one of whom shall be the Chairman or the Alternate Chairman.



**11. VOTING.**

(1) All questions that arise in a Committee shall be decided by a majority of votes of the Committee members present, and when the votes are equal the member presiding has a deliberative and a casting vote.

(2) In all cases of divisions, the names of the persons voting shall be stated in the minutes and in the report.

**PART III. – PROCEEDINGS OF COMMITTEES.****12. POWER TO SIT, ETC.**

A Committee may–

- (a) sit and transact business during a meeting of the Parliament; and
- (b) sit at such times and in such places, and conduct its proceedings in such manner, as it thinks proper; and
- (c) make its deliberations in public unless the Committee otherwise determines.

**13. MINUTES.**

A Committee shall keep full minutes of its proceedings.

**14. EVIDENCE TAKEN BEFORE PREVIOUS COMMITTEE.**

Where a matter is referred to a Committee, and the Committee lapses or ceases to have legal existence before it reports on the matter, the evidence taken before the Committee may be considered by any subsequent Committee to which the same matter is referred for report as if it has been given before it.

**15. REFERRAL OF A MATTER BY PARLIAMENT.**

A matter may be referred to a Committee–

- (a) as provided for by Standing Orders; or
- (b) by the Parliament on the motion by any member of the Parliament who may move that any proposed matter be referred by the Parliament to a Committee for report; or
- (c) subject to Section 16, by a Minister.

**16. REFERRAL BY A MINISTER.**

A Minister may, at any time, whether or not the Parliament is in session, refer to a Committee for inquiry and report to the Parliament any proposed matter within its jurisdiction and functions, and, on receipt of the report, the Parliament shall deal with the matter in accordance with this Act.

**17. COMMITTEE MAY CONSIDER A MATTER ON ITS OWN INITIATIVE.**

A Committee may, on its own initiative, consider any matter of National importance within its jurisdiction and functions and report thereon to the Parliament.

**18. DUTIES OF COMMITTEES ON REFERRAL.**

A Committee shall—

- (a) in the case of a referral under Section 15(a)—within seven sitting days; and
- (b) in the case of any other referral, as soon as practicable,

inquire into the subject matter of the referral and report to the Parliament the result of its inquiries.

**19. PROCEDURE ON RECEIPT OF REPORT.**

After the receipt of the report of a Committee by the Parliament, the Parliament shall resolve that the report—

- (a) be adopted; or
- (b) be noted; or
- (c) be remitted to the Committee, for reasons stated in the resolution, for further consideration and report; or
- (d) be rejected.

**20. MATTERS NOT TO BE PROCEEDED WITH IN CERTAIN CIRCUMSTANCES.**

(1) Subject to Subsection (2), the Parliament shall not proceed with a matter referred to a Committee under this Act until—

- (a) a report has been made to the Parliament by the Committee under Section 18; and
- (b) the Parliament has made a resolution on the report under Section 19.

(2) The provisions of Subsection (1) do not apply where, in a matter referred under Section 15(a), a suspension of the Standing Orders by the Parliament permits the matter to be dealt with forthwith or the referral allows otherwise.

**21. REVIEW OF REPORTS.**

(1) Subject to Subsection (2), where a Committee has made a report concerning a referral, the Committee (including a subsequent Committee), may, of its own motion, review the report and make a further report to the Parliament concerning the referral.

(2) A Committee shall not undertake the review of a report after the matter referred to has been proceeded with.

**22. TAKING OF EVIDENCE IN PRIVATE.**

(1) Where a witness appearing before a Committee so requests, any evidence given by him relating to a professional or trade secret, or to the profits or financial

position, of himself or of any other person may be taken by the Committee in private and shall not be disclosed or published without the consent of the person entitled to the non-disclosure.

(2) A person, who discloses or publishes evidence in contravention of this section, commits an offence.

Penalty: A fine not exceeding K1,000.00 or imprisonment for a term not exceeding three months.

### **23. POWER TO SUMMON WITNESSES.**

(1) A Committee may—

- (a) by summons under the hand of the Chairman, or in his absence the Alternate Chairman, require the attendance of any witness; and
- (b) by notice, in writing, signed by the Chairman, or in his absence the Alternate Chairman, require the production of any book, paper or document relevant to the matter before a Committee; and
- (c) inspect any book, paper or document produced before a Committee and make copies of or extracts from those books, papers or documents that are relevant to the matter before a Committee.

(2) A summons to a witness, shall be—

- (a) in the form specified in Schedule 2; and
- (b) served on the witness either personally or by being left at or sent by post to his usual place of business or abode.

(3) A person who—

- (a) having been personally served with a summons referred to in Subsection (1)(a), fails to attend before a Committee without lawful excuse to attend in obedience to that summons; or
- (b) being called or examined as a witness before a Committee—
  - (i) refuses to be sworn or make an affirmation; or
  - (ii) fails to answer any questions relevant to a matter before a Committee; or
  - (iii) without lawful excuse fails to produce any book, paper or document mentioned in a notice in Subsection (1)(b) and personally served on him,

commits an offence.

Penalty: A fine not exceeding K1,000.00 or a term of imprisonment not exceeding one year.

(4) It is a defence to a prosecution for an offence against this section of failing to produce a book, paper or document that the book, paper or document was not relevant to the matter before a Committee.

(5) A statement made by a person in an answer to a question put to him in respect of a matter before a Committee, is not admissible in evidence in any proceedings against the person in court, other than proceedings for an offence arising out of the falsity of the answer.

**24. IMMUNITY.**

An action or proceeding, civil or criminal, does not lie against a Committee member for or in respect of an act or thing done in good faith by the Committee member in his capacity as a member of a Committee.

**25. DISOBEDIENCE OF SUMMONS.**

A person on whom a summons under Section 23 has been served who refuses or fails, without reasonable excuse (proof of which is on him), to appear or to continue in attendance in obedience to the summons commits an offence.

Penalty: A fine not exceeding K1,000.00 or a term of imprisonment not exceeding one year.

**26. PREVENTING WITNESSES FROM GIVING EVIDENCE.**

A person who, by an act or an omission, knowingly dissuades or prevents a person from obeying a summons under this Act commits an offence.

Penalty: A fine not exceeding K1,000.00 or a term of imprisonment not exceeding one year.

**27. POWER TO TAKE EVIDENCE ON OATH OR AFFIRMATION.**

(1) A Committee may take evidence on oath or affirmation, and the Chairman may administer oaths or affirmations to witnesses appearing before a Committee.

(2) The oath or affirmation administered to a witness shall be in the form specified in Schedule 3.

(3) A witness who objects to taking an oath shall not be compelled to take an oath, but may be compelled to make an affirmation.

**28. LEGAL REPRESENTATION.**

(1) A person, other than a witness, who appears before a Committee may be represented in a matter before a Committee by a lawyer.

(2) A Committee shall give a person or his lawyer such opportunity of making representation as is relevant to a matter to a Committee.

(3) A lawyer representing a person in a matter before a Committee under this Act has the same protection and immunity as a lawyer has in appearing for a party in proceedings in the National Court.

(4) A Committee shall determine, before any representations are made, whether the matter before it warrants the appearance of a lawyer.

(5) A person who engages the service of a lawyer to represent him before a Committee shall be personally responsible for any legal fees involved for any legal services rendered.

**29. PRIVILEGES OF WITNESSES.**

A witness summoned to appear or appearing before a Committee has the same protection and privileges as a witness in a case tried in the National Court.

**30. PROTECTION TO WITNESSES.**

A person who uses, causes, inflicts or procures any violence, punishment, damage, loss or disadvantage to or on any person for or on account of evidence lawfully given by him before a Committee commits an offence.

Penalty: A fine not exceeding K1,000.00 or imprisonment for a term not exceeding one year.

**31. FALSE EVIDENCE.**

A person who wilfully gives false evidence on oath or affirmation before a Committee commits an offence.

Penalty: Imprisonment for a term not exceeding 14 years.

**32. WITNESSES' EXPENSES.**

A witness appearing before a Committee to give evidence may, with the approval of the Committee, be paid such witness fees and travelling expenses as the Committee determines, in accordance with a prescribed scale.

**33. PROCEEDINGS TO BE INSTITUTED BY PUBLIC PROSECUTOR.**

Proceedings for offences against this Act shall be instituted only by the Public Prosecutor or by his direction.

**34. POWER TO ENTER ON LAND, ETC.**

A Committee may, by itself or by any person appointed by it to prosecute any inquiry, enter and inspect any land, building, place or material, the entry or inspection of which appears to it requisite, on the prescribed notice being given to the owners or occupiers of the land, building, place or material.

**PART IV. – MISCELLANEOUS.**

**35. CONFIDENTIALITY.**

(1) Any information disclosed under this Act to a Minister, to a Committee member or to a member of the staff of a Committee or to a member of the staff of a Committee member, shall not be disclosed to any person who is not a Committee member or a member of the staff of a Committee or to a member of the staff of a Committee member without the prior written approval of the person who provided that information, except—

- (a) to the extent that disclosure is authorized or required under this Act or any other law; or
- (b) to the extent that the person providing the information authorized its disclosure at the time of providing the information; or
- (c) to the extent necessary to enable a member of the staff of a Committee to publish information pertaining to the function of a Committee; or
- (d) to the extent necessary to enable a Committee to give advice to the Minister.

(2) A Committee member or a member of the staff of a Committee or of the staff of a Committee member who fails to comply with Subsection (1) or who uses, for the purposes of his personal gain, any information that comes to his knowledge in the course of or by reason of his membership of a Committee or his employment as a member of the staff of a Committee member, commits an offence.

Penalty: A fine not exceeding K5,000.00 or a term of imprisonment not exceeding two years, or both.

**36. ACCESS TO MINISTER.**

(1) As provided under Section 120(1) of the *Constitution* the Chairman, or in his absence the Alternate Chairman, and the Deputy Chairman shall be granted full access to each Minister having responsibilities relevant to the jurisdiction and functions of his Committee and, by arrangement with the Minister, to the Departmental Head of the Department relative to the Minister's portfolio and are entitled to be briefed and consulted on major policy issues.

(2) The Chairman, Alternate Chairman or Deputy Chairman may brief the Committee on matters arising under Subsection (1).

**37. REGULATIONS.**

The Head of State, acting on advice, may make regulations, 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**

***PAPUA NEW GUINEA.***

***Permanent Parliamentary Committees Act 1994.***

***Form 1 – Declaration by a Member.***

I, . . . do solemnly and sincerely promise and declare that, according to the best of my skill and ability, I will faithfully, impartially and truly execute the office and perform the duties of a member of the . . . .



**SCHEDULE 2**

***PAPUA NEW GUINEA.***

***Permanent Parliamentary Committees Act 1994.***

***Form 2 – Summons to a witness.***

TO: . . .

YOU are summoned to appear before the (*name of Permanent Parliamentary Committee*) on . . . 20 . . ., at . . . a.m./p.m. at . . . (*insert place*), then and there to give evidence and then and there to produce (*specify the documents required*) and you are required to continue in attendance as directed by the Committee or the Chairman of the Committee until your attendance is no longer required.

Dated:

CHAIRMAN.

**SCHEDULE 3**

***PAPUA NEW GUINEA.***

***Permanent Parliamentary Committees Act 1994.***

***Form 1 – Oath by witness.***

The evidence I shall give on this examination shall be the truth, the whole truth, and nothing but the truth.  
So help me God!

***PAPUA NEW GUINEA.***

***Permanent Parliamentary Committees Act 1994.***

***Form 2 – Affirmation by witness.***

I do solemnly and sincerely affirm and declare that the evidence I shall give on this examination shall be the truth, the whole truth and nothing but the truth.  
MADE this ... day of ..., 20...

GOVERNOR-GENERAL.

Office of Legislative Counsel, PNG