



No. 30 of 1993.

Constitutional Commission Act 1993.

Certified on : 18.11.93

INDEPENDENT STATE OF PAPUA NEW GUINEA.

No. of 1993.

Constitutional Commission Act 1993.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.

No. of 1993.

AN ACT

entitled

Constitutional Commission Act 1993,

Being an Act to implement Section 260 (*General Constitutional Commission*) of the Constitution by providing for the establishment of a General Constitutional Commission and its powers, duties, functions and responsibilities,

MADE by the National Parliament.

1. REPEAL.

The *Constitutional Commission Act 1978* is repealed.

2. INTERPRETATION.

In this Act, unless the contrary intention appears -

"this Act" includes the Regulations;

"Commission" means the General Constitutional Commission established by Section 3;

"establishment date" means the 17 August, 1993;

"member" means a member of the Commission;

"National Government" means the National Government as described in Section 99 (*structure of Government*) of the Constitution;

"non-governmental organisation" means a body other than a government body or institution;

"proposed Constitutional Law" means a proposed law to alter the Constitution or an Organic Law.

3. ESTABLISHMENT OF THE COMMISSION.

(1) There is established a General Constitutional Commission.

(2) The Commission shall consist of fourteen members, who shall be appointed by the Head of State, acting on advice, of the Parliament.

(3) Subject to Subsection (2), after the establishment date, the Head of State, acting on advice, after consultation with the Permanent Parliamentary Committee on Appointments, appoint members of the Commission.

(4) The members of the Commission under Subsections (2) and (3), shall comprise of -

(a) not more than nine members of Parliament; and

(b) not more than three members representing non-governmental organisations; and

(c) not more than two prominent Papua New Guineans.

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- (5) The membership of the Commission shall -
- (a) be broadly representative of the different areas of the country; and
 - (b) give balanced representation of the major political parties and groups in the National Parliament; and
 - (c) give balanced representation of non-governmental organisations.
- (6) A member of the Commission shall be a citizen and -
- (a) a member of the National Parliament; or
 - (b) a member of a provincial authority or local level government; or
 - (c) a member of a State Service established by Section 188 (*establishment of State Services*) of the Constitution; or
 - (d) has relevant expertise.

(7) The Head of State, acting on advice, after consultation with the Permanent Parliamentary Committee on Appointments, shall appoint one member to be the Chairman and one member to be Deputy Chairman of the Commission.

4. CONDITIONS OF APPOINTMENT.

(1) The Head of State, acting on advice, after consultation with the Permanent Parliamentary Committee on Appointments, shall determine the conditions of appointment of members.

(2) The terms and conditions of employment of the members referred to in Section 3(4), shall be determined by the National Executive Council -

- (a) in relation to the members of Parliament, after consultation with the Salaries and Remuneration Commission; and
- (b) in relation to members representing non-governmental organisations and the prominent Papua New Guineans, after consultation with the Department of Personnel Management.

5. 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 not qualified to be a member under Section 3(6); or
- (b) is an undischarged bankrupt or insolvent; or
- (c) is of unsound mind within the meaning of any law relating to the protection of the persons and property of persons of unsound mind; or
- (d) is under sentence of death or imprisonment of not more than nine months; or
- (e) is under disqualification under Section 31 (*disqualifications on dismissal*) of the Constitution.

6. RESIGNATION.

(1) A member, other than the Chairman or Deputy Chairman, may resign from the Commission by giving one month's written notice to the Chairman.

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

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7. 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.

8. DECLARATION OF OFFICE.

Before entering on the duties of his office, a member shall -

- (a) make the Declaration of Office; and
- (b) if he has not already made the Declaration of Loyalty, make the Declaration of Loyalty,

before the Head of State or a person appointed by the Head of State for the purpose.

9. PROCEDURES OF THE COMMISSION.

(1) The Chairman shall fix the times and places for meetings of the Commission.

(2) The Chairman shall preside at all meetings of the Commission at which he is present.

(3) If the Chairman is not present at a meeting of the Commission, the Deputy Chairman shall be the Chairman, or if the Chairman and Deputy Chairman are not present, the members present shall appoint a member to be the Chairman for that meeting.

(4) The quorum for a meeting of the Commission is seven.

(5) All matters before a meeting of the Commission shall be decided in accordance with the majority votes but nothing in this section prevents a member or members from submitting a minority report to the National Parliament.

(6) If there is an equality of votes on a matter, the member presiding has a casting vote, as well as a deliberative vote.

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

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

10. COMMITTEES.

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.

11. 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.

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12. DUTIES OF COMMISSION.

- (1) The Commission shall inquire into -
 - (a) the working of the Constitution and the Organic Laws; and
 - (b) any other matter of a constitutional nature as the Head of State, acting on advice, may direct,which directly or indirectly affect the recommendations of the Bi-Partisan Parliamentary Select Committee on Provincial Government.
- (2) The Commission shall, on completion of their inquiries in accordance with Subsection (1), prepare a final report.
- (3) The Commission shall prepare periodic reports and shall forward a copy to the Speaker, as soon as practicable after 17 August in each year, for presentation to the Parliament.
- (4) The final report prepared in accordance with Subsection (2) shall be forwarded by the Commission to the Speaker for presentation to the National Parliament.
- (5) The final report and a periodic report prepared in accordance with Subsections (2) and (3) -
 - (a) shall set out the Commission's findings on matters inquired into by the Commission; and
 - (b) may make recommendations for the amendment of the Constitution, any Organic Laws and 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.

13. FURTHER DUTIES OF COMMISSION.

- (1) A proposed Constitutional Law shall after it has been read a first time in the National Parliament be referred to the Commission.
- (2) The Commission shall consider a proposed Constitutional Law referred to it in accordance with Subsection (1).
- (3) The Commission shall, within 21 sitting days or such further time as the National Parliament, may fix -
 - (a) prepare a report; and
 - (b) forward the report to the Speaker for presentation to the National Parliament.
- (4) The Speaker, upon receiving a report referred to in Subsection (3), shall present it to the National Parliament within the time specified in Subsection (3).
- (5) Subject to Subsection (6), the National Parliament shall not deal further with a proposed Constitutional Law which has been referred to the Commission until the report of the Commission has been presented to it in accordance with Subsection (3).
- (6) If the Commission fails to forward its report on a proposed Constitutional Law to the Speaker within the time specified in Subsection (3) the National Parliament may deal with the proposed Constitutional Law in the ordinary course of its business.

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14. NATIONAL PARLIAMENT IS NOT BOUND BY REPORTS.

The National Parliament is not in any way bound by anything contained in a report presented to it under Sections 12(4) or 13(3).

15. EFFECT OF THIS ACT.

Nothing in this Act operates so as to invalidate or call in question any Act.

16. STAFF OF COMMISSION.

(1) The staff of the Commission shall include -

- (a) a Director; and
- (b) a Legal Officer; and
- (c) a Research Officer.

(2) The staff of the Commission referred to under Subsection (1), shall be appointed by the Prime Minister after consultation with -

- (a) the Chairman of the Commission; and
- (b) the Secretary of the Department of Personnel Management.

(3) The Commission shall have such other staff as may be determined by the National Executive Council after consultation with the Secretary of the Department of Personnel Management.

(4) The terms and conditions of employment of the Commission's staff shall be determined by the National Executive Council after consultation with the Department of Personnel Management.

17. OBLIGATIONS OF DEPARTMENT, ETC.,

(1) In accordance with the duty imposed on them by Section 225 (*provision of facilities, etc.*) of the Constitution, the National Government and all other government bodies, and all public office-holders and institutions shall, so far as it is within their respective legal powers, ensure that all arrangements are made, staff and facilities provided, and steps taken to enable and facilitate, the proper and convenient performance of the duties, powers and functions of the Commission.

(2) In accordance with Subsection (1), the Department of Finance, shall on behalf of the National Government, allocate to the Commission the necessary funds to enable the Commission to perform its powers, functions, duties and responsibilities.

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

18. 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, to give effect to this Act.

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19. TRANSITIONAL PROVISIONS.

(1) If immediately prior to the establishment date, the Constitutional Commission established by the Constitutional Commission Act 1993, was considering a Bill referred to it in accordance with Section 13 of that Act, that Bill shall be considered by the Commission, as if it had been a proposed Constitutional law referred to it in accordance with Section 13 on the establishment date.

(2) For the purpose of Section 3 of the Constitutional Commission Act 1993 the Commission shall be deemed to be established on the establishment date.

20. REPEAL OF THIS ACT.

This Act shall be deemed to be repealed on the presentation of the Commission's Final Report to the National Parliament under Section 12(4).

I hereby certify that the above is a fair print of the *Constitutional Commission Act 1993* which has been made by the National Parliament.

Acting Clerk of the National Parliament.

I hereby certify that the *Constitutional Commission Act 1993* was made by the National Parliament on 19 August 1993.

Speaker of the National Parliament.