



No. 29 of 1993.

Constitutional Commission (No.2) Act 1993

Certified on : 11.11.93

INDEPENDENT STATE OF PAPUA NEW GUINEA.

No. of 1993.

Constitutional Commission (No.2) Act 1993.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.

No. of 1993

AN ACT

entitled

Constitutional Commission (No.2) Act 1993,

Being an Act to establish a Constitutional Commission to -

- (a) liaise with the National Government in the preparation of such legislation as is necessary to implement the recommendations of the Bi-partisan Committee insofar as adopted as National Government policy by the National Executive Council; and
- (b) in the event of the legislation referred to in Paragraph (a) being passed by the National Parliament, liaise with the National Government in monitoring its implementation; and
- (c) review the workings of the Constitution and Organic Laws; and
- (d) inquire into such other matter of a Constitutional nature as the Head of State, acting on advice, may direct, and to further provide for the functions, duties, responsibilities and powers of the Committee; and
- (e) to repeal the Constitutional Commission Act 1993 and for related purposes.

MADE by the National Parliament.

1. INTERPRETATION.

- "Bi-partisan Committee" means the former Bi-partisan Parliamentary Select Committee of the National Parliament -
on Provincial Government;
- "Chairman" means the Chairman of the Commission;
- "Commission" means the Constitutional Commission established by
Section 2;
- "member" means a member of the Commission;
- "National Government" means the National Government as described in
Section 99 (structure of Government) of the Constitution;
- "this Act" includes the Regulations.

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2. ESTABLISHMENT OF THE COMMISSION.

- (1) A Constitutional Commission is hereby established.
- (2) The Commission shall consist of 18 members as follows:-
 - (a) nine members of the Bi-partisan Committee, **ex officio** as follows:-
 - (i) the person who held the position of Chairman of the Bi-partisan Committee; and
 - (ii) the person who latterly held the position of Deputy Chairman of the Bi-partisan Committee; and
 - (iii) seven members, who held positions as members of the Bi-partisan Committee nominated by the Chairman in consultation with the Prime Minister.
 - (b) one member nominated by the Melanesian Council of Churches;
 - (c) one member nominated by the National Council of Women;
 - (d) one member nominated by the Papua New Guinea Trade Union Congress; and
 - (e) two members nominated by the Premiers' Council;
 - (f) three prominent persons nominated by the Prime Minister in consultation with the Chairman; and
 - (g) one member nominated by the Papua New Guinea Urban Authority Association.
- (3) The members referred to in Subsection (2)(b), (c), (d), (e), (f) and (g) shall -
 - (a) be citizens; and
 - (b) be appointed by the Head of State, acting on advice.
- (4) The person who held the position of -
 - (a) Chairman of the Bi-partisan Committee - shall be Chairman of Commission; and
 - (b) Deputy-Chairman of the Bi-partisan Committee - shall be Deputy Chairman of the Commission.

3. CONDITIONS OF APPOINTMENTS.

The conditions of appointment of -

- (a) the **ex officio** members referred to Section 2(1)(a) - shall be determined by the Salaries and Remuneration Commission established by Section 216(a) (**Salaries and Remuneration Commission**) of the Constitution; and
- (b) the members referred to in Section 2(1)(b), (c), (d), (e), (f) and (g) shall be determined by the Head of State, acting on advice.

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4. 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 an undischarged bankrupt or insolvent; or
- (b) is or becomes of unsound mind within the meaning of any law relating to the protection of the persons and property of unsound mind; or
- (c) is or becomes under sentence of death or imprisonment; or
- (d) is or becomes under disqualification under Section 31 (disqualifications on dismissal) of the Constitution; or
- (e) in the case of an *ex officio* member, ceases to be a member of the Parliament; or
- (f) in the case of a member referred to in Section 2(b), (c), (d), (e), (f) or (g) ceases to be a citizen.

5. 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.

6. 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) who shall 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.

7. DECLARATION OF OFFICE.

Before entering on the duties of his office, a member shall make the Declaration of Office and, if he has not already made it, the Declaration of Loyalty, before the Head of State or a person appointed by the Head of State for the purpose.

8. PROCEDURES OF THE COMMISSION.

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

- (2) At a meeting of the Commission -
- (a) nine is a quorum; and

(b) the Chairman, or in his absence the Deputy Chairman shall preside, or if the Chairman and Deputy Chairman are both absent the members present shall appoint a member to be the Chairman for that meeting; and

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- (c) all matters shall be decided by a majority of votes but this section does not prevent a member or members from submitting a minority report to the Parliament; and
- (d) in the event of an equality of votes on a matter the member presiding has a casting as well as a deliberative vote.

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

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

9. COMMITTEES.

(1) 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.

(2) The Commission may appoint to serve on a committee a person or persons other than members of the Commission.

10. 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.

11. DUTIES OF THE COMMISSION

(1) The Commission shall -

- (a) liaise with the National Government in the preparation of such legislation as is necessary to implement the recommendations of the Bi-partisan Committee insofar as adopted as National Government policy by the National Executive Council; and
- (b) in the event of the legislation referred to in Paragraph (a) being passed by the National Parliament, liaise with the National Government in monitoring its implementation; and
- (c) review the workings of the Constitution and Organic Laws; and
- (d) inquire into such other matter of a Constitutional nature as the Head of State, acting on advice, may direct.

(2) The Commission shall -

- (a) in respect of its duties under Subsection (1)(a) and (b) - prepare a Final Report before 31 December 1996; and
- (b) in respect of its duties under Subsection (1)(c) and (d) - prepare a Final Report before 31 December 1995.

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- (3) The Commission shall prepare Interim Reports -
- (a) as soon as practicable after 16 September in each year; and
 - (b) at such other times as the Commission considers appropriate.

(4) The Final Reports or an Interim Report prepared in accordance with Subsection (2) or (3) shall be forwarded by the Commission to the Speaker for presentation by him to the Parliament and -

- (a) shall set out the Commission's findings on matters monitored, reviewed or inquired into by the Commission; and
- (b) may make recommendations for the amendment of the Constitution, any Organic Law 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.

12. PARLIAMENT IS NOT BOUND BY REPORTS.

The Parliament is not in any way bound by anything contained in a report presented to it under Section 11(4).

13. EFFECT OF THIS ACT.

This Act does not operate so as to invalidate or call in question any Act.

14. STAFF OF COMMISSION.

(1) The Commission shall have facilities and staff sufficient to enable it to perform its duties under this Act.

(2) The Staff of the Commission shall be appointed by the Prime Minister after consultation with -

- (a) the Chairman of the Commission; and
- (b) the Departmental Head of the Department responsible for personnel management matters.

(3) The terms and conditions of employment of the Commission's staff shall be determined by the Prime Minister after consultation with the Salaries and Conditions Monitoring Committee established under the **Salaries and Conditions Monitoring Committee Act 1988**.

15. OBLIGATIONS OF DEPARTMENTS ETC.,

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 are provided and steps taken to enable and facilitate, as far as may reasonably be, the proper and convenient performance of the duties, powers, and functions of the Commission.

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(2) In accordance with Subsection (1) the Department responsible for finance and planning matters 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 are made available to the Commission, the period during which those services are available to the Commission shall, in respect of the person whose services are made available, be regarded for all purposes as part of that person's period of service with the National Government or other government body, public office-holder or institution which made his services available to the Commission.

16. 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.

17. REPEAL.

The Constitutional Commission Act 1993 is repealed.

I hereby certify that the above is a fair print of the *Constitutional Commission (No.2) Act 1993* which has been made by the National Parliament.

Acting Clerk of the National Parliament.

I hereby certify that the *Constitutional Commission (No.2) Act 1993* was made by the National Parliament on 23 September 1993.

Speaker of the National Parliament.