

No. 19 of 2008.

Inclusive Education for National Development for Community Education Act 2008.

Certified on : 24.04.09



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ARRANGEMENT OF SECTIONS.

PART I. – PRELIMINARY.

1. Interpretation -
"the Trust Area"
"member"
"the trust".

PART II. – OBJECTS AND ESTABLISHMENT OF THE TRUST.

2. Objects.
3. Establishment of the Trust.
4. Terms and conditions of office.
5. Remuneration of members.
6. The Chairman.
7. Quorum, etc.,
8. Validity of Acts of the Trust and immunity of its members.
9. Disclosure of interest.
10. Due execution of documents by the Trust.
11. Officers of the Trust.
12. Governing body of the college.

PART III. – POWERS AND FUNCTIONS OF THE TRUST.

13. Power of trust.
14. Functions of the trust.
15. Delegation by the trust.
16. Structure of community college.
17. Community college establishment.

PART IV. – FINANCIAL PROVISIONS.

18. Funds of the trust.
19. Application of Part VIII of the *Public Finances (Management) Act 1995*.
20. Accounts.

PART V. – MISCELLANEOUS.

21. Annual report.
22. Regulations.
23. By-Laws.
24. By-Law to be sealed, etc.,



No. of 2008

AN ACT

entitled

Inclusive Education for National Development for Community Education Act 2008,

Being an Act to establish a Inclusive Community Education Trust for National Development for Papua New Guinea that works with Government, the private sector and international agencies and education institution to improve the quality of education and to provide complementary educational skills appropriate, and for related purposes incidental thereto,

MADE by the National Parliament to come into operation in accordance with a notice in the National Gazette by the Head of State, acting with, and in accordance with, the advice of the Minister.

PART I. – PRELIMINARY.

1. INTERPRETATION.

In this Act, unless the contrary intention appears –

"the Trust Area" means the whole of the trust area in the province;

"member" means the member of trust;

"the trust" means the Inclusive Education for National Development for Community Education Trust ("IENDCET") established under this Act.

PART II. – OBJECTS AND ESTABLISHMENT OF THE TRUST.

2. OBJECTS.

(1) The object of the Trust –

(a) is to establish under the Department of Education guidelines, the Trust and its Secretariat; and

Inclusive Education for National Development for Community Education

- (b) is to work toward creating a vibrant, efficient and responsive education and training that is accessible, affordable and relevant to the locality in which the Community College is situated, driven by the needs of the community to meet their economic needs and social advancement needs and aspirations; and
- (c) is working towards a future in which will ensure that the residents of the Trust Area enjoy equitable access to basic education and training, and are not duly disadvantaged by location or remoteness of the area; and
- (d) to take ownership and control of planning their own initiatives, priorities in particular the Community College system for the community economic and social needs and demands; and
- (e) is to achieve a variety of competency based on enterprising technical and vocational skills and education and training programs tailored for the community, industry, provinces and the national government; and
- (f) is to endorse Community College Education system similar to that of Chennai India and North America.

3. ESTABLISHMENT OF THE TRUST.

(1) There shall be a Trust to be called the "Inclusive Education for National Development for Community Education Trust ("IENDCET")".

(2) The Trust –

- (a) shall be a body corporate with perpetual succession and a common seal; and
- (b) shall be capable of suing and being sued; and
- (c) shall be capable of acquiring, holding, dealing with and disposing of real; and
personnel property; and
- (d) shall have the power, duties, functions and authorities conferred, imposed or prescribed by or under this Act.

(3) The Trust is the governing body of all the community colleges education system in Papua New Guinea.

(4) The Trust will work with the National Education guidelines to govern community education system and its secretariat.

4. TERMS AND CONDITIONS OF OFFICE.

(1) The Trust shall consist of not less than three and not more than five members.

(2) A member of the Trust shall be appointed for such term of office, not exceeding three years, and upon the expiration of his term of office, shall be eligible for re-appointment.

Inclusive Education for National Development for Community Education

(3) The Trust may appoint a person to be the deputy of a member of the Trust and that person, while acting in the absence of that member, shall be deemed to be a member of the Trust and shall have all the powers, authorities, duties and obligations of the member of whom he has been appointed the deputy.

- (4) The Trust may remove a member of the Trust from office for –
- (a) any breach of, or non-compliance with, the conditions of his appointment; or
 - (b) mental or physical incapacity; or
 - (c) neglect of duty; or
 - (d) dishonourable conduct.

- (5) The office of a member of the Trust shall become vacant if –
- (a) he dies; or
 - (b) his term of office expires; or
 - (c) he resigns by written notice to the Minister; or
 - (d) he is removed from office by the Head of State pursuant to Subsection (4) of this section.

(6) Upon the office of a member of the Trust becoming vacant, a person shall be appointed in accordance with this Act to the vacant office, but where the office of a member becomes vacant before the expiration of the term for which he was appointed, the person appointed in his place shall be appointed only for the balance of the term of his predecessor.

5. REMUNERATION OF MEMBERS.

The members of the Trust shall be entitled to receive such fees and allowances as may be determined under the *Boards (Fees and Allowances) Act 1955*.

6. THE CHAIRMAN.

(1) The Trust may from time to time appoint one of the members of the Trust to be the Chairman of the Trust.

(2) The Chairman shall, subject to this Act, hold office as such for a term not exceeding three years, and shall, at the expiration of that term, be eligible for re-appointment.

(3) If at any time the Chairman ceases to be a member of the Trust he shall cease to be Chairman of the Trust.

7. QUORUM, ETC.,

- (1) Three members of the Trust shall constitute a quorum of the Trust.

Inclusive Education for National Development for Community Education

(2) The Chairman of the Trust shall preside at a meeting of the Trust at which he is present and, in the absence of the Chairman from a meeting, the members present shall decide who is to preside at the meeting.

(3) A decision carried by a majority of the votes of the members of the Trust present at a meeting shall be a decision of the Trust.

(4) Each member of the Trust shall be entitled to one vote on a matter arising for determination by the Trust and the person presiding at the meeting of the Trust shall, in the event of an equality of votes, have a second or casting vote.

(5) The Trust shall cause accurate minutes to be kept of the business conducted at meetings of the Trust.

(6) Subject to this Act, the business of the Trust shall be conducted in a manner determined by the Trust.

8. VALIDITY OF ACTS OF THE TRUST AND IMMUNITY OF ITS MEMBERS.

(1) An act or proceeding of the Trust shall not be invalid by reason only of a vacancy in its membership and, notwithstanding the subsequent discovery of a defect in the appointment of a member, an act or proceeding of the Trust shall be as valid and effectual as if the member had been duly appointed.

(2) No personal liability shall attach to a member of the Trust for an act or omission by him, or by the Trust, in good faith and in the exercise or purported exercise of his or its powers or functions, or in the discharge or purported discharge of his or its duties under this Act.

9. DISCLOSURE OF INTEREST.

(1) A member of the Trust who is in any way directly or indirectly interested in a contract, or proposed contract, made by, or in the contemplation of, the Trust –

- (a) shall as soon as he becomes aware of the contract or proposed contract, disclose the nature of his interest to the Trust; and
- (b) shall not take part in any deliberations or decision of the Trust with respect to that contract.

Penalty: A fine of not exceeding five hundred kina (K500.00).

(2) Any disclosure made in compliance with Subsection (1) of this section shall be recorded in the minutes of the Trust.

Inclusive Education for National Development for Community Education

(3) Where a member makes a disclosure of interest in respect of a contract or proposed contract in accordance with this section –

- (a) the contract is not liable to be avoided by the Trust on any ground arising from the fiduciary relationship between a member and the Trust; and
- (b) the member is not liable to account to the Trust for profits derived from the contract.

10. DUE EXECUTION OF DOCUMENTS BY THE TRUST.

(1) A document is duly executed by the Trust if it is sealed with the common seal of the Trust and signed by two members of the Trust.

(2) An apparently genuine document purporting to have been executed by the Trust in accordance with Subsection (1) of this section shall be presumed in any legal proceedings, in the absence of proof to the contrary, to have been duly executed by the Trust.

11. OFFICERS OF THE TRUST.

(1) There shall be such officers of the Trust appointed by the Trust as are necessary for the purpose or administration of this Act.

(2) Any such officers appointed are officers within the Public Service and are deemed to be public servants, and shall hold office, under the *Public Services (Management) Act 1995*.

12. GOVERNING BODY OF THE COLLEGE.

(1) There shall be a governing body of the Inclusive Community College Education system which shall consist of the following members:

- (a) member of Parliament of the respective electorate who shall be the "patron"; and
- (b) the head of the Education Agency that runs the College who shall be appointed the Chairman; and
- (c) the Principal, or Director, of the college who shall be Secretary of the college; and
- (d) not more than seven members of whom –
 - (i) one shall be an educationist; and
 - (ii) two teachers representatives, of whom one shall be a life skill teacher and another work skill teacher; and
 - (iii) two industrial partners; and
 - (iv) two community leaders, one of whom shall be a woman; and
 - (v) the departmental head of the Department of Education (*ex-officio*).

Inclusive Education for National Development for Community Education

(2) Every appointed member of the Council shall hold office for a term of 5 years or such period as may be specified in his term of appointment and shall be eligible for reappointment.

(3) In the absence of the Chairman the Trust shall elect a chairman of the Trust from among its members.

PART III. – POWERS AND FUNCTIONS OF THE TRUST.

13. POWER OF TRUST.

(1) The Trust shall in consultation with the National Education Board and Community Education Secretariat be the Executive Body of the inclusive community education system and may exercise all the powers conferred on the College except those powers which are by this Act, statutes, By-laws and regulations conferred on some other body or on some officer person.

(2) The Trust may, in consultation with the National Education Board and Community Education Secretariat by resolution, appoint such committees as it thinks fit to assist and advise the Trust in carrying out its functions and the exercise of its powers.

(3) A committee appointed under this section shall have, and may exercise and discharge, such powers, authorities, duties and functions as the Trust may determine.

14. FUNCTIONS OF THE TRUST.

(1) Subject to this Act, the powers and functions of the Trust are as follows:

- (a) to carry out complementary and inclusive education system and training that is accessible, affordable and relevant to the locality of the trust area; and
- (b) to establish, maintain, run and administer educational institutions of all kinds to meet the economic needs and social advancement needs and aspirations; and
- (c) to create a vibrant, efficient and responsive education system and training relevant to the locality, driven by the community to meet their economic and social needs and aspirations, and in particular achieve a variety of competency and ensure that training programs tailored for the community, industries, provinces and the national government; and
- (d) to own, print, publish, bring out in English, Pidgin and Motu, and distribute information based periodicals, newsletters, magazines, books and to utilize electronic cyber media to take up journalistic pursuits in public interest and in the interest of the Community College Education system; and

Inclusive Education for National Development for Community Education

- (e) to institute awards of Excellence and scholarships for study, research and apprenticeship and for the propagation of highest standards in all or any of approved subjects or fields; and
- (f) to carry out works to improve, or otherwise to promote or facilitate the improvement of Community Education system within or outside the Trust Area; and
- (g) to exercise such powers, and carry out such functions of a local governing body in relation to its area or any part thereof as may be conferred upon, or assigned to, the Trust, under this Act.

(2) A regulation made for the purposes of Subsection (1) of this section shall come into force -

- (a) upon the day next following the day on which the time for disallowance of the regulation expires; or
- (b) upon the day fixed in the regulation as the day on which it will come into force,

whichever is the later.

15. DELEGATION BY THE TRUST.

(1) The Trust may delegate to any member, or officer of the Trust any of its powers or functions under this Act.

(2) Any delegation by the Trust shall be revocable at will and shall not derogate from the power of the Trust to act itself in any matter.

16. STRUCTURE OF COMMUNITY COLLEGE.

(1) Subject to this Section, there shall be a holistic human resource development structured community college system, established to provide a complementary and inclusive education and training for communities in Papua New Guinea.

(2) There shall be established a structure for all levels of Community Colleges by the Teaching Service Commission and the Department of Education.

(3) The establishment structure referred to in Sub-section (1) shall be established at base level 03 to 12.

(4) There shall be a manpower structure for Community College Secretariat established by the Department of Education for the establishment of the following positions:-

- (a) a position of Director at not less than Grade 17; and
- (b) two Deputy Directors positions at not less than Grade 15; and
- (c) one research and development officer position at not less than Grade 13; and

Inclusive Education for National Development for Community Education

- (d) one curriculum, education and standards officer at not less than Grade 13; and
- (e) support staff not exceeding four.

17. COMMUNITY COLLEGE ESTABLISHMENT.

There shall be a government established community colleges, funded and maintained by the national Government through its agencies.

PART IV. – FINANCIAL PROVISIONS.

18. FUNDS OF THE TRUST.

- (1) The funds of the Trust shall consist of –
 - (a) monies received from government and local authorities; and
 - (b) funds or donation from non-governmental organization and charitable organization; and
 - (c) funds received from the Member of Parliament representing the area.

(2) All moneys received by the Trust shall be paid into a fund and applied by the Trust to the performance of its functions.

(3) Such moneys of the Trust as are not immediately required by the Trust may be lodged on deposit with the Treasurer or invested in any other manner approved of by the Treasurer.

(4) As soon as practicable after the commencement of this Act the Trust shall present to the Minister a budget showing its estimates of receipts and payments over the balance of the financial year within which the budget is presented and thereafter the Trust shall, before the commencement of each succeeding financial year, present to the Minister a budget showing its estimates of its receipts and payments for that succeeding financial year.

19. APPLICATION OF PART VIII OF *PUBLIC FINANCES (MANAGEMENT) ACT 1995.*

Part VIII of the *Public Finances (Management) Act 1995* applies to and in relation to the Trust.

20. ACCOUNTS.

- (1) The Trust shall cause proper accounts to be kept of its financial affairs.

Inclusive Education for National Development for Community Education

(2) The Auditor-General may at any time, and shall at least once in each year, audit the accounts of the Trust, and shall have and may exercise in respect of the moneys and accounts of the Trust and the persons dealing therewith the powers that are vested in the Auditor-General by the *Audit Act, 1921-1975*, in respect of public accounts and accounting officers.

PART V. – MISCELLANEOUS.

21. ANNUAL REPORT.

(1) The Trust shall, as soon as practicable after the end of each financial year, submit to the Minister a report on the conduct of the affairs of the Trust during that financial year, together with the audited statement of accounts of the Trust for that financial year.

(2) The Minister shall cause the report and audited statement of accounts of the Trust to be laid before the National Parliament as soon as practicable after his receipt of the report.

22. REGULATIONS.

(1) The Head of State, acting on advice of the Trust, 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, and in particular, and without limiting the generality of the provisions -

- (a) prescribing courses of study or syllabuses for examinations; and
- (b) the number, stipend, manner of appointment, and dismissal for the teaching and other staff and employees of the community college; and
- (c) the manner and time of convening, holding and adjourning a meeting of the Trust, the voting at meetings (including postal and proxy voting), the conduct and record of business, the appointment of committees of the Trust and the quorum, powers and duties of those committees.

23. BY-LAWS.

(1) The Trust may, from time to time, make by-laws with respect to all or any of the following matters:

- (a) the management, good government and discipline of the community college; and
- (b) the use and custody of the common seal; and
- (c) the subjects to be taught and courses of study to be undertaken at the colleges; and
- (d) the admission or expulsion and attendance of students; and
- (e) the times, places and manner of holding lectures, classes and examinations, and the number and character of such lectures, classes and examinations; and

Inclusive Education for National Development for Community Education

- (f) the admission of students to the colleges; and
- (g) the fees to be paid to the college the exemption of a person or of a class of persons from payment of the fees; and
- (h) the recognition, instead of or for the purpose of, an examination or course of study, of a course of study completed or examination passed in a school, college or high school or secondary school or in a correspondence course or tutorial class; and
- (i) all other matters authorised by this Act or necessary or convenient for the purpose of carrying out or giving effect to this Act.

(2) The by-laws may provide for empowering an authority (including the Trust) or officer of the Trust to make rules or orders (not inconsistent with this Act or with any by-law) for regulating, or providing for the regulation of, a specified matter (being a matter with respect to which a by-laws may be made) or for carrying out or giving effect to the by-laws, and that rule or order shall have the same force and effect as a by-law.

24. BY-LAW TO BE SEALED, ETC.

(1) Every by-law made by the Trust shall be sealed with the common seal, and shall take effect when approved by the Head of State, acting on advice, and notified in the National Gazette.

(2) The by-law shall be published annually in book form and copies thereof shall be made available for purchase at a reasonable price by members of the public.

(3) Without limiting the generality of this provision, the Trust may make by-laws providing for –

- (a) courses or course structures for all levels of education; and
- (b) roles and functions of governing bodies; and
- (c) all teaching and learning materials; and
- (d) all curriculum structures and standards for community based education and training programs, or industry based education and training programs; and
- (e) standard qualifications for programs offered at the community college.

Inclusive Education for National Development for Community Education

I hereby certify that the above is a fair print of ***Inclusive Education for National Development for Community Education Act 2008*** which has been made by the National Parliament.

Clerk of the National Parliament.

I hereby certify that the ***Inclusive Education for National Development for Community Education Act 2008*** was made by the National Parliament on 26 November 2008.

Speaker of the National Parliament.