

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 28.

Public Works Committee.

GENERAL ANNOTATIONS.

ADMINISTRATION.

As At 13 February 1976 (the date of gazettal of the most comprehensive allocation of responsibilities to Ministers and Departments at about the effective date), the administration of this Chapter was divided between the Minister for Finance and the Minister for Defence.

Accordingly, unless some other intention is clearly indicated, by note or in the text, as at that date references in or in relation to this Chapter (except as noted below) to—

“the Minister”—should be read as references to the Minister for Finance;

“the Departmental Head”—should be read as references to the Secretary for Finance;

“the Department”—should be read as references to the Department of Finance.

In the case of Section 17(c) of the Act, similar references should be read as references to—

the Minister for Defence;

the Secretary for Defence;

the Department of Defence,

as the case requires.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 28.

Public Works Committee Act.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 28.

Public Works Committee Act.

Being an Act to provide for the establishment of a Standing Committee of the Parliament on Public Works and for other purposes.

PART I.—PRELIMINARY.

1. Interpretation.

(1) In this Act, unless the contrary intention appears—

“the Chairman” means the Chairman of the Committee;

“the Committee” means the Standing Committee of the Parliament on Public Works established by this Act;

“public work” includes any work that is a continuation, completion, repair, reconstruction or extension of a public work;

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

“the Vice-chairman” means the Vice-chairman of the Committee.

(2) For the purposes of this Act, a proposed work shall be deemed to have commenced if a tender for the carrying out of the whole or part of the work has been accepted.

PART II.—STANDING COMMITTEE ON PUBLIC WORKS.

2. Constitution of Committee.

(1) At the commencement of the first session of every Parliament, a Committee of nine members of the Parliament, to be called the Standing Committee of the Parliament on Public Works, shall be appointed, according to the practice of the Parliament, but subject to this Act, with reference to the appointment of members to serve on Standing Committees.

(2) In addition to the members of the Committee referred to in Subsection (1), the Parliament shall, at the same time and in the same manner, appoint a member of the Parliament to be a deputy of each of the members of the Committee.

(3) In the event of the absence of a member of the Committee from a meeting of the Committee, his deputy has all the powers of a member.

(4) The Speaker and the Chairman of Committees of the Parliament may be members of the Committee.

(5) The members of the Committee 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.

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

(7) Each member ceases to hold office when the Parliament expires.

3. Declaration to be made by members and deputies.

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

4. Resignation.

(1) A member of the Committee or a deputy may resign his seat on the Committee by writing under his hand addressed to the Speaker.

(2) The seat of a member of the Committee or a deputy becomes vacant if he ceases to be a member of the Parliament.

5. Vacancies.

Where a vacancy occurs in the Committee or in the office of a deputy, it shall be filled at the next meeting of the Parliament.

6. Quorum.

Five members of the Committee are a quorum competent to exercise all powers and authorities and to incur all obligations conferred or imposed by this Act on the Committee.

7. Chairman and Vice-chairman.

(1) There shall be a Chairman and Vice-chairman of the Committee, each of whom shall be appointed by the Parliament.

(2) Subject to Subsection (3), the Chairman, or in case of his absence or other disability the Vice-chairman, shall preside at all meetings of the Committee.

(3) At a meeting of the Committee at which a quorum is present, the members in attendance may, in the absence of the Chairman and the Vice-chairman, appoint one of their number then present to be the temporary chairman, and the temporary chairman has, during the absence of the Chairman and Vice-chairman, all the powers given by this Act to the Chairman or Vice-chairman.

8. Voting.

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

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

9. Power to sit during recess, etc.

The Committee may—

(a) sit and transact business during any adjournment or recess, as well as 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 shall sit in open court.

10. Reports.

(1) The Committee shall, before the commencement of each meeting of the Parliament, make a report to the Minister of their proceedings under this Act.

(2) The report referred to in Subsection (1) shall be laid before the Parliament within 14 days after it is made, if the Parliament is then sitting, and, if not, then within 14 days after the commencement of the next meeting.

11. Minutes.

The Committee shall keep full minutes of its proceedings in such manner as the Minister directs.

12. Evidence taken before previous Committees.

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

PART III.—POWERS OF THE COMMITTEE.

13. Functions of Committee.

(1) Subject to this Act, the Committee shall consider and report on any public work that is referred to it in accordance with this Act.

(2) In considering and reporting on a work, the Committee shall have regard to—

(a) the stated purpose of the work; and

(b) the necessity or advisability of carrying it out; and

(c) where the work purports to be of a productive or revenue-producing character, the amount of revenue that it may reasonably be expected to produce; and

(d) the present and prospective public value of the work,

and generally the Committee shall in all cases take such measures and procure such information as may enable it to inform or satisfy the Parliament as to the expediency of carrying out the work.

14. Notification of certain proposed works.

(1) When, subject to any other action to be taken, or that may be taken, under this Act, the Government has decided to proceed with a public work the estimated cost of which exceeds K100 000.00, the Minister shall, as soon as practicable, and whether or not the Parliament is in session, notify the Committee of the decision, for the information of its members.

(2) A public work notified to the Committee under Subsection (1) shall not be deemed to have been referred to the Committee within the meaning of this Act.

(3) The provisions of this section do not apply to a public work as to which action has been, or is proposed to be, taken under any of Sections 15 to 21 (inclusive).

15. Reference of public works by Parliament.

(1) A member of the Parliament may move that any proposed public work be referred by the Parliament to the Committee for report.

(2) On the moving of the motion, a Minister shall furnish to the Parliament an explanation of the proposed work, authenticated or verified in the prescribed manner.

(3) The explanation shall comprise an estimate of the cost of the work when completed, together with such plans and specifications or other descriptions as the Minister

thinks proper, and the prescribed reports of the probable cost of construction and maintenance, and estimates of the probable revenue (if any) to be derived from it.

(4) If the motion for the reference is agreed to, the proposed work shall be referred to the Committee for report.

16. References by Minister.

(1) The Minister may, at any time, whether or not the Parliament is in session, refer to the Committee for inquiry and report to the Parliament any proposed public work and, on receipt of the report, the Parliament shall deal with the matter in accordance with this Act.

(2) Where a public work is to be considered by the Committee under this section, the Minister shall furnish or cause to be furnished an explanation in accordance with Section 15.

17. Conditions precedent to commencement of certain public works.

A proposed public work the estimated cost of which exceeds K200 000.00 shall not be commenced unless—

- (a) the proposed work has been referred to the Committee in accordance with this Act; or
- (b) the Parliament has resolved that it is expedient that the proposed work should be carried out without being referred to the Committee; or
- (c) the Minister¹ has, by order, declared that the proposed work is for defence purposes and that reference of the proposed work to the Committee would be contrary to the public interest.

18. Committee to deal with matter.

The Committee shall, with all convenient despatch, deal with a matter referred to it by or under this Act, and shall, as soon as conveniently practicable (regard being had to the nature and importance of the proposed work), report to the Parliament the result of its inquiries.

19. Procedure on receipt of report.

(1) Subject to Subsection (2), after the receipt of the report of the Committee the Parliament shall by resolution declare—

- (a) that it is expedient to carry out the proposed public work; or
- (b) that it is not expedient to carry it out.

(2) Notwithstanding Subsection (1), the Parliament may, instead of declaring affirmatively or negatively in accordance with that subsection, resolve that, for reasons or purposes stated in the resolution, the report of the Committee be remitted to the Committee for its further consideration and report, in which case the Committee shall consider the matter of the new reference and report accordingly.

20. Referred work not to be proceeded with pending resolution.

A proposed public work that is referred to the Committee by or under this Act shall not be commenced until the Parliament, by resolution, declares that it is expedient to carry out the proposed work.

¹ As at the effective date the reference was to the Minister for Defence.

21. Review of reports.

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

(2) The Committee shall not undertake the review of a report after the proposed work has been commenced.

(3) Without prejudice to the operation of Section 20, if the Chairman or Vice-chairman notifies the Minister in writing that the Committee has decided to review a report in accordance with this section, the proposed work shall not be commenced unless—

- (a) the Committee has resolved that it does not desire the commencement of the work to be deferred; or
- (b) the further report of the Committee has been made; or
- (c) the Parliament has resolved that it is expedient that the work be commenced without awaiting the further report of the Committee; or
- (d) the further report of the Committee has not been made before the Parliament expires.

(4) When the Committee makes a further report under this section in relation to a proposed work—

- (a) if the Parliament has previously by resolution declared that it is expedient to carry out the proposed work—the Parliament may, before the proposed work has been commenced, rescind the resolution, and thereupon the resolution ceases to have effect for the purposes of Section 20; or
- (b) if the Parliament has previously by resolution declared that it is not expedient to carry out the proposed work—the Parliament may rescind the resolution and, if it does so, may by resolution declare that it is expedient to carry out the proposed work.

22. Some negated proposals may be resubmitted.

If the resolution of the Parliament declares that it is not expedient to carry out a proposed public work, no proposal for a public work in substance identical with the work shall be submitted to the Parliament or commenced until after the expiration of one year from the date of the resolution unless the Minister, by instrument under his hand addressed to the Committee, declares that in his opinion, and in view of the public interest, it is desirable that the proposal should be resubmitted to the Parliament.

23. Taking of evidence in private.

(1) Where a witness appearing before the 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 shall 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 is guilty of an offence.

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

24. Power to summon witnesses.

(1) The Committee may summon witnesses to appear before it to give evidence and produce documents.

(2) A summons to a witness—

- (a) may be in the prescribed form; and
- (b) shall be in writing and signed by the Chairman or Vice-chairman; and
- (c) may be served on the witness either personally or by being left at or sent by post to his usual place of business or of abode.

25. Warrant in case of disobedience of summons.¹

(1) If a person on whom a summons under Section 24 has been served refuses or fails, after the tender of the prescribed expenses, to appear or to continue in attendance in obedience to the summons, the Chairman or Vice-chairman may issue a warrant for his arrest.

(2) The warrant may be in the prescribed form, and authorizes—

- (a) the arrest of the person to whom it relates; and
- (b) his being brought before the Committee to give evidence; and
- (c) his detention in custody for the purpose until he is released by order of the Chairman or Vice-chairman.

(3) The warrant may be executed by the person to whom it is addressed or by any person whom he appoints to assist him in its execution, and the person executing the warrant has power, with or without assistants, to break and enter any building, place or ship for the purpose of executing the warrant.

26. Disobedience of summons.

A person on whom a summons under Section 24 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 is guilty of an offence.

Penalty: A fine not exceeding K400.00 or imprisonment for a term not exceeding one year.

27. Preventing witnesses from giving evidence.

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

Penalty: A fine not exceeding K400.00 or imprisonment for a term not exceeding one year.

28. Power to take evidence on oath or affirmation.

(1) The Committee may take evidence on oath or affirmation, and the Chairman or Vice-chairman may administer oaths or affirmations to witnesses appearing before the Committee.

(2) The oath or affirmation administered to a witness may be in the prescribed form.

(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.

¹ But see Constitution, Section 42.

29. Refusing to be sworn, etc.

A person who, without just cause (proof of which is on him), refuses—

- (a) to be sworn or make an affirmation; or
- (b) to answer a question put to him by the Committee or by a member of the Committee; or
- (c) to produce a document that he is required by the Committee to produce,

is guilty of an offence.

Penalty: A fine not exceeding K400.00 or imprisonment for a term not exceeding one year.

30. Privileges of witnesses.

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

31. 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 the Committee is guilty of an offence.

Penalty: A fine not exceeding K400.00 or imprisonment for a term not exceeding one year.

32. False evidence.

A person who wilfully gives false evidence on oath or affirmation before the Committee is guilty of an offence.

Penalty: Imprisonment for a term not exceeding five years.

33. Witnesses' expenses.

A witness appearing before the Committee to give evidence shall be paid such witness fees and travelling expenses as the Chairman or Vice-chairman thinks fit to allow, in accordance with the prescribed scale.

34. 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.

35. Power to enter on land, etc.

The Committee may, by itself or by any person appointed by it to prosecute an 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.

36. Assessors.

(1) In the exercise of any power conferred on it by this Act, the Committee may call in the aid, as assessors, of one or more persons of engineering or other technical knowledge or possessing special local knowledge or experience.

(2) There shall be paid to assessors such remuneration as the Chairman or Vice-chairman thinks fit to allow, in accordance with the prescribed scale.

PART IV.—MISCELLANEOUS.

37. Allowances.

(1) The Chairman and other members of the Committee shall be paid allowances in accordance with the scale provided for members of the Parliament, or with such other scale as is prescribed.

(2) The allowances are payable, on the certificate of the Chairman or the Vice-chairman, out of the Consolidated Revenue Fund which is to the necessary extent appropriated accordingly.

38. Limitation of annual expenditure.

(1) The total amount paid out of the Consolidated Revenue Fund in respect of allowances payable under Section 37 may not exceed K4 000.00 in any financial year.

(2) Where, in a financial year, the amount of K4 000.00 would, but for Subsection (1), be exceeded, a proportionate abatement, to be determined by the Minister, shall be made in the sums payable, so as to reduce the amount so payable to the sum of K4 000.00.

39. Gazettal of Committee.

The names of the members of the Committee and of the deputies shall be published in the National Gazette.

40. 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.

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 28.

Public Works Committee Regulation.

ARRANGEMENT OF SECTIONS.

1. Forms.
2. Witnesses' expenses and assessors' fees.

SCHEDULES.

SCHEDULE 1.

FORM 1.—Declaration by Member of Deputy.

FORM 2.—Summons to a Witness.

FORM 3.—Warrant for the Apprehension of a Witness who has
Disobeyed a Summons.

FORM 4.—Oath by Witness.

FORM 5.—Affirmation by Witness.

SCHEDULE 2.—Scale of Fees and Travelling Allowances Payable to
Witnesses and Scale of Remuneration Payable to
Assessors.

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 28.

Public Works Committee Regulation.

MADE under the *Public Works Committee Act.*

1. Forms.

The forms set out in Schedule 1 are prescribed for the various purposes specified in them respectively.

2. Witnesses' expenses and assessors' fees.

The scale in Schedule 2 is the prescribed scale for the purposes of Sections 33 and 36 of the Act.

SCHEDULES.

SCHEDULE 1.

PAPUA NEW GUINEA.
Public Works Committee Act.

Act, Sec. 3.

Form 1.

DECLARATION BY MEMBER OR DEPUTY.

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 Standing Committee of the Parliament on Public Works.

PAPUA NEW GUINEA.
Public Works Committee Act.

Act, Sec. 24.

Form 2.

SUMMONS TO A WITNESS.

To (*insert name, address and occupation of witness*)

YOU are summoned to appear before the Standing Committee of the Parliament on Public Works on _____ 19____, 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 _____ 19____

(Chairman or Vice-chairman of the Committee.)

Ch. No. 28

Public Works Committee

PAPUA NEW GUINEA.

Public Works Committee Act.

Act, Sec. 25.

Form 3.

**WARRANT FOR THE APPREHENSION OF A WITNESS WHO HAS DISOBEYED A
SUMMONS.**

Whereas (*insert name, address and occupation of witness*) has been summoned to appear before the Standing Committee of the Parliament on Public Works, but has failed to appear in obedience to the summons:

These are to command and authorize you to immediately apprehend (*insert name of witness*) and to bring him before the Committee to give evidence and to detain him in custody for the purpose until he is released by order of the Chairman.

Dated 19 .

(Chairman.)

To (*insert description of persons to whom it is addressed*).

PAPUA NEW GUINEA.

Public Works Committee Act.

Act, Sec. 28.

Form 4.

OATH BY WITNESS.

The evidence you shall give on this examination shall be the truth, the whole truth, and nothing but the truth.

So help you God!

PAPUA NEW GUINEA.

Public Works Committee Act.

Act, Sec. 28.

Form 5.

AFFIRMATION BY WITNESS.

You do solemnly and sincerely affirm and declare that the evidence you shall give on this examination shall be the truth, the whole truth, and nothing but the truth.

SCHEDULE 2.

Act, Secs., 33, 36.

Reg., Sec. 2.

SCALE OF FEES AND TRAVELLING ALLOWANCES PAYABLE TO WITNESSES AND SCALE
OF REMUNERATION PAYABLE TO ASSESSORS.

Fees and Remuneration.

Such amount, not exceeding—

Assessors: K14.70

Witnesses: K10.50

per day or part of a day, as is fixed by the Chairman or Vice-chairman.

Travelling Allowances.

1. Where an Assessor or Witness travels more than 8 km from his place of residence for the purposes of the Committee, the costs of transport, as assessed by the Chairman or Vice-chairman.
 2. K10.50 per day for each whole day which an Assessor or Witness remains away from his place of residence for the purposes of the Committee, with half rates for a part of a day.
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INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 28.

Public Works Committee.

APPENDIXES.

APPENDIX 1.

SOURCE OF THE PUBLIC WORKS COMMITTEE ACT.

Part A.—Previous Legislation.

Public Works Committee (Papua and New Guinea) Act 1964 (No. 21 of 1964)

as amended by—

Public Works Committee (Papua and New Guinea) Act 1965 (No. 10 of 1965).

Part B.—Cross References.

Section, etc., in Revised Edition.	Previous Reference ¹ .	Section, etc., in Revised Edition.	Previous Reference ¹ .
1	5	21	25
2	6	22	26
3	7	23	33
4	8	24	27
5	9	25	28
6	10	26	29
7	11	27	30
8	12	28	31
9	13	29	32
10	14	30	34
11	15	31	36
12	16	32	35
13	17	33	37
14	18	34	38
15	19	35	40
16	20	36	41
17	21	37	42
18	22	38	43
19	23	39	44
20	24	40	45

¹ Unless otherwise indicated, references are to the Act set out in Part A.

APPENDIX 2.

SOURCE OF THE PUBLIC WORKS COMMITTEE REGULATION.

Part A.—Previous Legislation.

Public Works Committee (Papua and New Guinea) Regulations 1966 (Statutory Instrument No. 5 of 1966)

as amended by—

Statute Law Revision (Metric Conversion) Act 1974 (No. 49 of 1974).

Part B.—Cross References.

Section, etc., in Revised Edition.	Previous Reference ¹ .	Section, etc., in Revised Edition.	Previous Reference ¹ .
1	—	Form 2	Act, Form 2
2	3	Form 3	Act, Form 3
Schedules—		Form 4	Act, Form 4
Schedule 1—	Act, Schedule—	Form 5	Act, Form 5
Form 1	Act, Form 1	Schedule 2	Schedule

¹ Unless otherwise indicated, references are to the regulations set out in Part A.