

Chapter 166.
Institute of Medical Research Act 1967.

Certified on: / /20 .

INDEPENDENT STATE OF PAPUA NEW GUINEA.



Chapter 166.

Institute of Medical Research Act 1967.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.



AN ACT

entitled

Institute of Medical Research Act 1967,

Being an Act to provide for the establishment and incorporation of the Papua New Guinea Institute of Medical Research, and for related purposes.

PART I. – PRELIMINARY.

1. INTERPRETATION.

In this Act, unless the contrary intention appears—

“**the by-laws**” means the by-laws of the Institute in force under Section 21;

“**the Chairman**” means the Chairman of the Council;

“**the Council**” means the Council of the Institute established by Section 6;

“**the Fund**” means the Papua New Guinea Institute of Medical Research Fund established under Section 23;

“**the Institute**” means the Papua New Guinea Institute of Medical Research established by Section 2;

“**member of the staff of the Institute**” includes the Director and the Deputy Director of the Institute;

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

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

PART II. – THE INSTITUTE.

2. ESTABLISHMENT OF THE INSTITUTE.

(1) A Papua New Guinea Institute of Medical Research is hereby established.

(2) The Institute shall be established at Goroka in association with the Goroka Hospital.

3. INCORPORATION OF THE INSTITUTE.

The Institute—

(a) is a corporation by the name of “The Papua New Guinea Institute of Medical Research”; and

(b) has perpetual succession; and

(c) shall have a seal; and

(d) is capable by that name of—

(i) suing and being sued; and

(ii) taking, purchasing and holding property (including property devised, bequeathed or given to the Institute); and

(iii) granting, selling, alienating, assigning and demising property; and

(iv) doing all other matters and things incidental or appertaining to a corporation.

4. CUSTODY AND USE OF THE SEAL.

(1) The seal of the Institute shall be kept in such custody as the Council directs, and shall not be used except by resolution of the Council or in such other manner as is authorized by the by-laws.

(2) All courts, Judges and persons acting judicially shall take judicial notice of the seal of the Institute affixed to a document, and shall presume that it was duly affixed.

5. OBJECTS OF THE INSTITUTE.

(1) The objects of the Institute are the conduct and fostering of research into—

(a) any branch of medical science or biology; and

(b) anthropological and sociological aspects of health and ill-health; and

(c) matters relating to public health generally,

of relevance to Papua New Guinea.

(2) Without limiting the generality of Subsection (1), the Institute may conduct or foster research into—

- (a) problems of morbidity and mortality in childhood; and
- (b) virus diseases, particularly those associated with arbor viruses; and
- (c) nutritional problems; and
- (d) kuru.

(3) With the approval of the Minister and on such terms and conditions, financial and otherwise, as he thinks proper, the Council may enter into and carry out arrangements, within the functions of the Institute, with universities, hospitals and medical and other scientific institutions, and with such other bodies as the Council determines.

PART III. – ADMINISTRATION.

Division 1.

The Council.

6. THE COUNCIL.

(1) There shall be a Council of the Institute.

(2)¹ ²Subject to the *National Health Administration Act 1997*, the Council is the governing body of the Institute.

7. CONSTITUTION OF THE COUNCIL.

³(1) The Council shall consist of–

- (a) the Departmental Head; and
- (b) the Director and the Deputy Director of the Institute; and
- (c) two members of Parliament chosen by the Parliament, one of those Members being the member for an open or provincial electorate which is within the province in which the Institute is located; and
- (d) two residents of Papua New Guinea appointed by the Minister; and
- (e) one person appointed by the University of Papua New Guinea; and
- (f) one person appointed by the Faculty of Medicine of the University of Papua New Guinea; and
- (g) one member of the staff of the Department resident in Goroka, appointed by the Departmental Head; and
- (h)⁴ four persons of high distinction and experience in medical science who are associated with research work of relevance to Papua New Guinea or have scientific interest in medical research in Papua New Guinea, appointed in accordance with the *Regulatory Statutory Authorities (Appointment to Certain Offices) Act 2004*.

(2) The Departmental Head or the Director or the Deputy Director of the Institute may, by instrument, appoint a person to be his delegate.

(3) A person appointed as a delegate under Subsection (2) may exercise such powers and perform such functions as are contained in the instrument of delegation.

(4) Subject to this Act, a member of the Council, other than the Departmental Head and the Director and the Deputy Director of the Institute holds office for a term of three years.

¹ Section 6(2) amended by *Institute of Medical Research (Amendment) Act 1998* (No. 20 of 1998).

² Section 6(2) amended by *Institute of Medical Research (Amendment) Act 1998* (No. 20 of 1998).

³ Section 7 replaced by No. 51 of 1979, s1; amended by No. 13 of 1985.

⁴ Section 7 Subsection (1) amended by No. 97 of 2006, Sched. 1.

8. CHAIRMAN AND DEPUTY CHAIRMAN.

(1)⁵ ⁶The Minister shall appoint a member of the Council to be the Chairman of the Council and another member to be the Deputy Chairman.

(2) In the event of the absence or the inability for any reason to act of the Chairman of the Council, the Deputy Chairman has all the powers and functions of the Chairman under this Act and the by-laws.

9. DISQUALIFICATIONS.

A person who—

- (a) is not of the full age of 21 years; or
- (b) is an undischarged bankrupt, or has his affairs under liquidation by arrangement with his creditors; or
- (c) has been convicted of an offence and sentenced to imprisonment, and who has not received a free pardon or undergone the sentence; or
- (d) is a person of unsound mind as that expression is used in the *Public Health Act 1973*,

is not qualified for election or appointment as a member of the Council.

10. VACATION OF OFFICE.

(1)⁷ ⁸If a member of the Council—

- (a) dies; or
- (b) declines to act; or
- (c) resigns his seat; or
- (d) is absent without leave of the Council from two consecutive meetings of the Council; or
- (e) in the case of a member elected by the Parliament—ceases to be a member of the Parliament; or
- (f) not being a member referred to in Paragraph (e)—ceases to have the qualification by virtue of which he was appointed; or
- (g) becomes a person referred to in Section 9,

his seat becomes vacant and shall be filled as a casual vacancy in accordance with Section 11.

(2) [*Repealed.*]

⁵ Section 8(1) amended by No. 25 of 1976, Schedule 10.

⁶ Section 8(1) amended by No. 25 of 1976, Schedule 10.

⁷ Section 10(1) amended by No. 51 of 1979, s3.

⁸ Section 10(1) amended by No. 51 of 1979, s3.

11. FILLING OF VACANCIES.

Where a person ceases to be a member of the Council—

- (a) on the expiration of his term of office; or
- (b) for some other reason or in some other circumstance,

the election or appointment to fill the vacancy shall, subject to Section 12(2), be made as soon as practicable and in any case not later than two months after the date on which the vacancy occurs.

12. CASUAL VACANCIES.

⁹(1) In the event of a casual vacancy in the Council, a member shall be elected or appointed in accordance with the appropriate provision of Section 7(1), and the person so elected or appointed holds office, subject to this Act, for the residue of his predecessor's term of office.

(2) If a casual vacancy occurs within three months before the expiration of the term of office of a member other than the Departmental Head or the Director or the Deputy Director of the Institute, the vacancy shall not be filled for the remainder of that term.

13. MEETINGS OF THE COUNCIL.

At a meeting of the Council—

- (a) not less than half of the total number of members for the time being is a quorum; and
- (b) the Chairman or in his absence the Deputy Chairman, or in the absence of the Chairman and Deputy Chairman a member elected by the members present from amongst their own number, shall preside; and
- (c) all matters shall be decided by a majority of the members present; and
- (d) the member presiding at a meeting has a deliberative and, in the case of an equality of votes on a matter, also a casting vote.

14. COMMITTEES.

(1) The Council may, by resolution, appoint such committees as it thinks proper.

(2) A committee may exercise such powers and perform such functions as are conferred on it by the Council.

⁹ Section 12 amended by No. 51 of 1979, s2.

15. DELEGATION.

The Council may, by resolution, delegate all or any of its powers and functions under this Act (except this power of delegation and its powers in relation to the making of by-laws) to—

- (a) any member of the Council; or
- (b) a committee consisting of members of the Council with or without other persons; or
- (c) any member of the staff of the Institute.

Division 2.

Director and Deputy Director.

16. APPOINTMENT OF DIRECTOR AND DEPUTY DIRECTOR.

(1)¹⁰ ¹¹The shall be a Director of the Institute whose manner of appointment, suspension or dismissal is as specified in the *Regulatory Statutory Authorities (Appointment to Certain Offices) Act 2004*.

(1A)¹² ¹³Subject this Act, the Council, may appoint a person to be the Deputy Director of the Institute.

(2)¹⁴ ¹⁵The Director and the Deputy Director of the Institute shall be appointed for such periods and on such terms and conditions as the Council, with the approval of the Minister determines.

17. FUNCTIONS, ETC., OF DIRECTOR AND DEPUTY DIRECTOR.

(1) The Director of the Institute is, subject to any directions of the Council, responsible for the control and management of the Institute.

(2) The Director of the Institute is, subject to the general direction of the Council, responsible for the research work carried out by the Institute.

(3) The Deputy Director of the Institute has such functions and duties in and in relation to the Institute as the Director of the Institute, with the approval of the Council, determines.

¹⁰ Section 16 Subsection (1) substituted by No. 97 of 2006, Sched. 1.

¹¹ Section 16 Subsection (1) substituted by No. 97 of 2006, Sched. 1.

¹² Section 16 Subsection (1A) inserted by No. 97 of 2006, Sched. 1.

¹³ Section 16 Subsection (1A) inserted by No. 97 of 2006, Sched. 1.

¹⁴ Section 16(2) amended by No. 25 of 1976, Schedule 10.

¹⁵ Section 16(2) amended by No. 25 of 1976, Schedule 10.

Division 3.***Research and Other Staff.*****18. APPOINTMENT OF STAFF.**

¹⁶(1) Subject to this Act and the by-laws, the Council may appoint such research and other staff of the Institute as it thinks necessary.

(2) The tenure of office and the terms and conditions of employment of members of the staff of the Institute are as provided in the by-laws.

(3) In making by-laws for the purposes of Subsection (2), the Council shall have regard—

- (a) in the case of members of the professional research staff of the Institute—to the terms and conditions of employment of members of the academic staff of the University of Papua New Guinea; and
- (b) in the case of members of the staff of the Institute other than members of the professional research staff—to the terms and conditions of employment of non-academic staff of the University of Papua New Guinea.

Division 4.***Miscellaneous.*****19. ELIGIBILITY FOR RE-ELECTION, ETC.**

Subject to this section, nothing in this Act prevents any person from being immediately, or at any time, re-elected or re-appointed to any office or place under this Act if he is otherwise capable of holding it.

20. VALIDITY OF PROCEEDINGS.

No act or proceeding of, or of the members of a committee of, the Council, and no act done by any person acting as Chairman or Deputy Chairman, shall be invalidated by reason of—

- (a) a defect in the election or appointment of any member of the Council or of the committee; or
- (b) a disqualification of any such member; or
- (c) a defect in the convening of a meeting; or
- (d) a vacancy or vacancies in the number of members of the Council or of the Committee.

¹⁶ Section 18 replaced by No. 51 of 1979, s4.

PART IV. – THE BY-LAWS OF THE INSTITUTE.

21. BY-LAWS.

(1) The Council may make by-laws with respect to–

- (a) the management, good government and discipline of the Institute; and
- (b) the use and custody of the seal of the Institute; and
- (c) the persons who are to be regarded for the purposes of this Act as members of the research staff of the Institute; and
- (d) the tenure of office and the conditions of employment, and the functions, powers and duties, of the Director and the Deputy Director; and
- (e) the number, stipends, manner of appointment and dismissal of members of the research and other staff of the Institute; and
- (f) the control and investment of the property of the Institute; and
- (g) generally, all other matters that are authorized by this Act, or that are necessary or convenient for giving effect to this Act.

(2) The by-laws may provide for empowering any authority (including the Council) or member of the staff of the Institute to make rules or orders (not inconsistent with this Act or with any by-law) for–

- (a) regulating, or providing for the regulation of, any specified matter or class of matters (being a matter or class of matters with respect to which by-laws may be made); or
- (b) carrying out or giving effect to the by-laws,

and such rules or orders have the same force and effect as by-laws.

22. APPROVAL AND PUBLICATION.

(1) All by-laws shall be–

- (a) sealed with the seal of the Institute; and
- (b) transmitted by the Chairman to the Minister for approval by the Head of State, acting on advice,

and when so approved shall be notified in the National Gazette.

(2) The notification of a by-law in the National Gazette shall specify the place at which copies of the by-law may be purchased.

(3) A by-law shall not be expressed to take effect from a date before the date of notification in a case where, if it so took effect–

- (a) the rights of a person (other than the Institute) existing at the date of notification would be affected in a manner prejudicial to him; or

- (b) liabilities would be imposed on a person (other than the Institute) in respect of anything done or omitted to be done before the date of notification,

and where, in a by-law, provision is made in contravention of this subsection, the provision is of no effect.

(4) Copies of all by-laws shall be laid before the Parliament within six sitting days of the Parliament after notification of the by-laws in the National Gazette.

(5) The production of—

- (a) a copy of a by-law under the seal of the Institute; or
- (b) a document purporting to be a copy of a by-law and to have been printed by the Government Printer or on behalf of the Institute,

is, in all proceedings, sufficient evidence of the by-law.

(6) The by-laws made in each secular year shall be numbered in regular arithmetical series, beginning with the number 1, in the order in which they are notified in the National Gazette, and a notice in the National Gazette of the fact that a by-law has been made, specifying the number of the by-law, is sufficient compliance with the requirement of Subsection (1) that the by-law be notified in the National Gazette.

PART V. – FINANCE, PROPERTY, ETC.

23. THE FUND.

(1) The Institute shall maintain a Fund to be known as the “Papua New Guinea Institute of Medical Research Fund.”

(2) The Fund shall consist of–

- (a) all moneys appropriated by Act for the purpose of carrying out or giving effect to this Act; and
- (b) gifts, bequests or devises given or made for the purposes of the Institute; and
- (c) all other moneys received by the Institute in the exercise or performance of its powers, functions, duties and responsibilities.

(3) The Institute shall, out of the moneys standing to the credit of the Fund, pay–

- (a) all moneys payable by the Institute in repayment of advances under this Act, and as interest on such advances; and
- (b) the costs, charges and expenses incurred by the Institute in the performance of its functions under this Act; and
- (c) the remuneration and allowances of the members of the Council and of members of the staff of the Institute; and
- (d) any other payments that the Institute is authorized or required to make under this Act.

24. FINANCIAL OPERATIONS.

(1) In this section, “**authorized short-term money market**” means the group of dealer companies authorized by the Central Bank to be approved dealers in short-term loans and towards which that Bank acts as lender of last resort.

(2) The Institute shall open and maintain an account with the Central Bank, or such other bank as the Minister approves, and shall pay all moneys received by it into that account and may, subject to this section, operate on that account as the Council sees fit.

(3) The Institute shall, in respect of moneys advanced or borrowed under this Act for the purposes of the Institute, maintain a separate account in respect of each such purpose and shall cause proper entries of–

- (a) all moneys so advanced or borrowed for a particular purpose of the Institute; and
- (b) the purposes to which those moneys are applied,

to be made in the account maintained in respect of that purpose.

(4) The Fund shall be applied only in the discharge of the functions of the Institute under this Act.

(5) Moneys in the Fund not immediately required may be—

(a) invested in such securities as are approved by the Minister; or

(b) lodged—

(i) at call; or

(ii) on fixed deposit,

with such bank as the Minister approves; or

(c) invested in the securities of any authorized short-term money market.

25. ACQUISITION, CONTROL AND MANAGEMENT OF PROPERTY.

(1) The Institute may acquire any property by transfer, purchase, gift, devise, demise or bequest or otherwise.

(2) The Institute shall deal with and apply so much of the Fund as represents a gift, bequest or devise or the income arising from the investment of a gift, bequest or devise in accordance with the conditions on which the gift, bequest or devise was made, and where no conditions are attached to a gift, bequest or devise the Institute may deal with and apply so much of the Fund as represents the gift, bequest or devise or the income arising from its investment in such manner as, subject to this Act, it thinks fit.

(3) Subject to this section and to any law relating to dealings in land and to any conditions attaching to the acquisition of any property, the Institute may—

(a) control and manage the property; or

(b) sell any of the property and apply or invest the proceeds of the sale for the purposes of this Act.

(4) The Institute shall not, except with the approval of the Minister, alienate, mortgage, charge or demise any lands, tenements or hereditaments of the Institute.

26. INVESTMENT FUNDS.

The Institute may—

(a) establish one or more investment funds for the collective investment of any trust moneys acquired by the Institute; and

(b) without liability for breach of trust, bring into or withdraw from any such investment fund the whole or part of any such trust moneys.

27. APPLICATION OF THE *PUBLIC FINANCES (MANAGEMENT) ACT 1995.*

The provisions of Sections 53, 54, 55, 57, 62 and 63 of the *Public Finances (Management) Act 1995* apply to and in relation to the Institute.

28. EXEMPTION FROM TAXATION.

The income, property and operations of the Institute are not subject to income tax under the *Income Tax Act 1959*.

PART VI. – MISCELLANEOUS.**29. PURPOSES OF INSTITUTE TO BE PUBLIC PURPOSE.**

The purposes of the Institute are a public purpose within the meaning of any law.

30. PROOF OF CERTAIN MATTERS.

In any proceedings by or against the Institute, proof is not required, unless evidence is given to the contrary, of—

- (a) the constitution of the Council; or
- (b) a decision of the Council; or
- (c) the appointment of a member of the Council, or of a member of the staff or an agent of the Institute; or
- (d) the presence of a quorum at a meeting at which a decision is made or an act done by the Council.

31. SERVICE OF PROCEEDINGS.

A notice, summons, writ or other proceeding required to be served on the Institute may be served by being left at the office of the Institute or, in the case of a notice, by post.

32. AUTHENTICATION OF DOCUMENTS.

A summons, process, demand, order, notice, statement, direction or other document requiring authentication by the Institute is sufficiently authenticated without the seal of the Institute if signed by the Chairman.

33. APPOINTMENT OF ATTORNEY.

The Institute may, by instrument under its seal, appoint a person to act as its attorney outside the country for the purpose of doing anything that the Institute itself might lawfully do, and a person so appointed may, on behalf of and in the name of the Institute, do any act, exercise any power and perform any function that he is authorized by that instrument to do, exercise or perform.

34. 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.

Office of Legislative Counsel, PNG