

No. 10 of 1988.

Salaries and Conditions Monitoring Committee Act 1988.

Certified on: / /20 .

INDEPENDENT STATE OF PAPUA NEW GUINEA.



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ARRANGEMENT OF SECTIONS.

PART I – PRELIMINARY.

1. Compliance with constitutional requirements.
2. Interpretation.
 - “the Committee”
 - “employee”
 - “former Committee”
 - “member”
 - “public authority”
 - “repealed Act”
 - “this Act”
3. Application of other laws.

PART II – SALARIES AND CONDITIONS MONITORING COMMITTEE.

4. Establishment of Committee.
5. Meetings of the Committee.
6. Functions of the Committee.
7. Powers of the Committee.
8. Secretariat.

PART III – CONTROL ON VARIATION OF SALARIES, ETC., BY PUBLIC AUTHORITIES.

9. Public authority to appoint person to be responsible for ensuring compliance with this Act.
10. Public authority not to determine or vary salaries, etc.
11. Submissions by public authorities for determinations and variation to salaries, etc.
12. Power of the Committee to determine variations to salaries, etc.
13. Review of decision of the Committee.

PART IV – MISCELLANEOUS.

14. Offences.
15. Unauthorized variation to be reported to National Executive Council.
16. Unauthorized variations amount to misconduct.
17. Regulations.

PART V – REPEAL AND SAVINGS.

18. Repeal.
19. Savings.

INDEPENDENT STATE OF PAPUA NEW GUINEA.



AN ACT

entitled

Salaries and Conditions Monitoring Committee Act 1988,

Being an Act to assist in the implementation of the Government's wages policy by—

- (a) giving statutory authority to the Salaries and Conditions Monitoring Committee; and
- (b) specifying the functions and powers of the Salaries and Conditions Monitoring Committee,

and for related purposes.

PART I. – PRELIMINARY.

1. COMPLIANCE WITH CONSTITUTIONAL REQUIREMENTS.

This Act, to the extent that it regulates or restricts a right or freedom referred to in Subdivision III.3.C (*qualified rights*) of the *Constitution*, namely—

- (a) the right to privacy conferred by Section 49 of the *Constitution*; and
- (b) the right to freedom of information conferred by Section 51 of the *Constitution*,

is a law that is made for the purposes of giving effect to the public interest in public welfare.

2. INTERPRETATION.

In this Act, unless the contrary intention appears—

“**the Committee**” means the Salaries and Conditions Monitoring Committee established under Section 4;

“**employee**” means a person who has entered into or works under a contract of employment with a public authority whether the contract is express

or implied, oral or in writing and whether or not the contract is a contract of service;

“former Committee” means the Salaries and Conditions Monitoring Committee established under the repealed Act;

“member” means a member of the Committee;

“public authority” means any—

- (a) government body; or
- (b) State Service; or
- (c) authority or instrumentality or other body (corporate or unincorporate),

established by or under a Constitutional Law or an Act of the Parliament and declared by the Minister, by notice in the National Gazette, to be a public authority for the purposes of this Act;

“repealed Act” means the *Salaries and Conditions Monitoring Committee Act* (Chapter 384) repealed by this Act.

“this Act” includes the Regulations.

3. APPLICATION OF OTHER LAWS.

(1) The provisions of this Act apply notwithstanding anything in any other law relating to the determination of salaries and conditions or employment of employees of a public authority.

(2) Where by or under any law, power is given to a public authority, to determine or vary the salaries and conditions of employment of employees of the public authority, that power shall be exercised subject to this Act.

PART II. – SALARIES AND CONDITIONS MONITORING COMMITTEE.

4. ESTABLISHMENT OF COMMITTEE.

(1) The Salaries and Conditions Monitoring Committee is hereby established.

(2) The Committee shall consist of the following members:–

- (a) the Departmental Head of the Department responsible for personnel management matters, who is the Chairman;
- (b) the Departmental Head of the Department of the Prime Minister and National Executive Council, or his nominee;
- (c) the Departmental Head of the Department responsible for finance and planning matters, or his nominee;
- (d) the Departmental Head of the Department responsible for labour and employment matters, or his nominee.

(3) The Committee may co-opt a representative of a public authority to be a member of the Committee for a period determined by the Committee and for such purposes as are determined by the Committee.

5. MEETINGS OF THE COMMITTEE.

(1) The Committee may meet and transact business at such times and in such places as are determined by the Chairman.

(2) At a meeting of the Committee–

- (a) three members are a quorum; and
- (b) the Chairman shall preside; and
- (c) in the absence of the Chairman, the members present shall elect one of their number, who shall be a full member, to preside; and
- (d) matters arising shall be determined by a majority of the members present and voting; and
- (e) the person presiding has a deliberative and, in the event of an equality of votes, also a casting vote.

(3) The Committee shall cause full minutes of its meetings to be kept in such manner as is determined by it.

6. FUNCTIONS OF THE COMMITTEE.

The functions of the Committee are–

- (a) to co-ordinate and monitor the wages policy of the National Executive Council; and
- (b) to ensure that the wages policy of the National Executive Council is implemented in all its conditions; and

- (c) to recommend to and advise the National Executive Council on measures that may be taken to further the wages policy; and
- (d) generally to do such supplementary, incidental or consequential acts and things as are necessary or convenient for carrying out its functions.

7. POWERS OF THE COMMITTEE.

¹The Committee has power to do all things necessary or convenient to be done for or in connection with the performance of its functions under this Act and in particular may require a public authority to provide to it such particulars relating to salary costs, employees, persons providing services or other matters as the Committee shall determine and may, in compliance with directives of the National Executive Council, require a public authority to employ specified categories of employees on written fixed period contracts of employment on such terms and conditions as are determined by a public authority subject to this Act.

8. SECRETARIAT.

(1) A Secretariat, located within the Department responsible for personnel management matters is hereby established, consisting of—

- (a) one representative of each of the following:—
 - (i) the Department responsible for finance and planning matters;
 - (ii) the Department responsible for labour and employment matters;
 - (iii) the Department responsible for the Prime Minister and National Executive Council;
 - (iv) the Department responsible for personnel management matters; and
- (b) such other staff as is determined by the Committee.

(2) The function of the Secretariat is to analyse and comment upon all submissions to the Committee.

(3) The Department responsible for personnel management matters shall provide secretarial services to the Committee.

¹ Section 7 amended by the *Salaries and Conditions Monitoring Committee (Amendment) Act 1993* (No. 7 of 1993).

PART III. – CONTROL ON VARIATION OF SALARIES, ETC., BY PUBLIC AUTHORITIES.

9. PUBLIC AUTHORITY TO APPOINT PERSON TO BE RESPONSIBLE FOR ENSURING COMPLIANCE WITH THIS ACT.

(1) For the purpose of ensuring compliance with the provisions of this Act, a public authority shall appoint a person employed by it for the purposes of this section.

(2) A person appointed under Subsection (1) is responsible for ensuring that, within the public authority by whom he is employed, each employee is employed in accordance with salaries and conditions—

- (a) in existence before 4 December 1981; or
- (b) approved by the former Committee; or
- (c) approved by the Committee,

in relation to that employee.

(3) The responsibility conferred by this section on the person appointed under Subsection (1) does not in any way lessen or extinguish the responsibility of any head, director or member of the governing body of the public authority from ensuring compliance with the provisions of this Act.

(4) A public authority shall give notification to the Committee of the name and designation of the person appointed under Subsection (1).

10. PUBLIC AUTHORITY NOT TO DETERMINE OR VARY SALARIES, ETC.

(1) A public authority shall not determine or vary the salaries and conditions of employment of any employee except in accordance with this Act.

(2) A determination or variation of the salaries and conditions of employment of an employee made otherwise than in accordance with this Act is void, and any agreement, written or oral, intended to give effect to such determination or variation shall be unenforceable at law.

(3) A payment or benefit given to an employee under a determination or variation of his salary and conditions of employment made other than in accordance with this Act may be recovered by the State as a debt from the members of the governing body of the public authority who shall be jointly and severally liable to repay the payment or benefit.

(4) For the purposes of Subsection (3) a benefit may be valued by the Minister and such value shall be that claimed in any proceedings brought by the State.

11. SUBMISSIONS BY PUBLIC AUTHORITIES FOR DETERMINATIONS AND VARIATION TO SALARIES, ETC.

(1) Where a public authority proposes to determine or vary the salaries or other conditions of employment of its employees, the proposal shall be submitted to the Committee for its consideration and decision.

(2) A submission for the purposes of Subsection (1) shall be accompanied by a statement of—

- (a) salary and wages rates; and
- (b) terms and conditions of employment; and
- (c) other benefits,

of employees of the public authority, and shall take into account the wages policy of the National Executive Council and in particular shall apply the principles of job evaluation and work value.

(3) In addition to the particulars referred to in Subsection (2), where the submission is made by—

- (a) a public authority which is wholly funded from the National Budget, the submission shall be accompanied with a certificate from the Departmental Head of the Department responsible for finance and planning matters certifying that funds are available for that purpose; and
- (b) a public authority which is self-funded, the submission shall be accompanied by a statement, signed by the chief executive of the public authority, setting out the budgetary implications of the proposal with particular reference to the effect on the profitability of the public authority.

12. POWER OF THE COMMITTEE TO DETERMINE VARIATIONS TO SALARIES, ETC.

(1) Where the Committee has received a submission under Section 11, it shall carry out its functions under this Act in relation to that submission within 90 days of the date of receipt by the Committee of that submission.

(2) Where the Committee has received a submission in accordance with Section 11, the Committee may, if it considers it necessary, require or permit employees of a public authority to appear before it.

(3) The Committee may, where it considers it necessary, obtain or take extracts of any information, document, book or paper.

(4) After considering the submission and any information obtained in accordance with Subsections (2) and (3) and after making such inquiries or investigations as it considers necessary, the Committee may approve, reject or amend the proposed determination or variation.

(5) A decision of the Committee shall be notified to the public authority in writing and, subject to Section 13, shall bind the public authority.

13. REVIEW OF DECISION OF THE COMMITTEE.

(1) If a public authority is not satisfied with the decision of the Committee given under Section 12(4), it may, by written submission signed by the Minister responsible for it, request that the decision of the Committee be reviewed by the National Executive Council.

(2) The National Executive Council may, if it considers it necessary, request or permit employees of the public authority to appear before it and may require production of such further information as it considers necessary.

(3) After considering the submission and information obtained or submitted to it in accordance with this section, the National Executive Council shall either confirm, amend or reject the decision of the Committee and may give such directives in relation to the matter as it considers appropriate.

(4) The decision of the National Executive Council to confirm, amend or reject shall be final and shall bind the public authority.

PART IV. – MISCELLANEOUS.

14. OFFENCES.

A person who—

- (a) when required by the Committee, fails to appear before it; or
- (b) hinders or obstructs the Committee or a member of the Committee from the lawful exercise of its or his powers and functions under this Act,

is guilty of an offence.

Penalty: A fine not exceeding K100.00.

15. UNAUTHORIZED VARIATION TO BE REPORTED TO NATIONAL EXECUTIVE COUNCIL.

(1) Where the Committee is satisfied that a public authority has not acted in accordance with this Act, the Committee shall immediately report the matter to the National Executive Council.

(2) The National Executive Council shall determine whether any payments or benefits given otherwise than in accordance with this Act shall be recovered under Section 10.

16. UNAUTHORIZED VARIATIONS AMOUNT TO MISCONDUCT.

Where a public authority has made a determination or variation of salaries or to the conditions of employment of its employees without authorization under this Act, every person who, at the date of the making of the determination or variation, was a head, director or member of the governing body of the public authority or was concerned with the management of the public authority or was a person appointed by the public authority for the purposes of Section 9, is, for the purposes of any law where misconduct or misbehaviour is a ground for removal from office, considered to have been guilty of misconduct or misbehaviour and shall be liable to removal from office accordingly.

17. 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 for carrying out or giving effect to this Act.

PART V. – REPEAL AND SAVINGS.

18. REPEAL.

The *Salaries and Conditions Monitoring Committee Act* (Chapter 384) is repealed.

19. SAVINGS.

(1) A decision by the former Committee under the repealed Act approving, rejecting or amending a proposed variation of salaries and conditions of a public authority (as that term is defined in the repealed Act), so far as in force at the date of coming into operation of this Act, shall continue in force in relation to that public authority as if it were a decision of the Committee under Section 12, until rejected or amended in accordance with the provisions of this Act.

(2) A submission made by a public authority (as that term is defined in the repealed Act) under—

- (a) Section 10 of the repealed Act for variation of the salaries or other conditions of service of its officers or employees; or
- (b) Section 12 of the repealed Act for a review of a decision by the former Committee,

and not finalized at the date of coming into operation of this Act, shall, in so far as not finalized, be dealt with in accordance with the corresponding provisions of this Act.

Office of Legislative Counsel, PNG