

No. 2 of 1997.

The University of Vudal Act 1997.

Certified on: / /20 .

INDEPENDENT STATE OF PAPUA NEW GUINEA.



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INDEPENDENT STATE OF PAPUA NEW GUINEA.



AN ACT

entitled

The University of Vudal Act 1997,

Being an Act to provide for the establishment and incorporation of a university to be known as the University of Vudal, and for related purposes.

PART I. – PRELIMINARY.

1. COMPLIANCE WITH CONSTITUTIONAL REQUIREMENTS.

(1) This Act, to the extent that it regulates or restricts the right to freedom of information conferred by Section 51 of the *Constitution*, is a law that is made for the purpose of giving effect to the public interest in public order and public welfare.

(2) For the purposes of Section 53 (*protection from unjust deprivation of property*) of the *Constitution* and of this Act and of any other law, the purposes of the University are public purposes.

2. INTERPRETATION.

In this Act, unless the contrary intention appears–

“**Academic Board**” means the Academic Board established by Section 11;

“**academic posts**” includes Principalships, Directorships, Professorships, Lectureships and any other category determined by the Council from time to time;

“**affiliated institution**” means an institution affiliated with the University in accordance with Section 6(a);

“**authority**” means an authority of the University as specified in Section 8;

“**by-laws**” means the by-laws of the University as approved by the Council;

“**Commission for Higher Education**” means the Commission for Higher Education established by the *Higher Education Act 1983*;

“Council” means the Council of the University established by Section 9;

“graduate” means a person whose name is inscribed on a roll to be kept by the Council of holders of academic awards degrees conferred by the University;

“Rules” means Rules made by an appropriate authority or officer of the University;

“Statute” means a Statute of the University in force under Part V;

“this Act” includes the Statutes, By-Laws and Rules;

“the University” means the University of Vudal established by this Act.

PART II. – THE UNIVERSITY.

3. ESTABLISHMENT AND INCORPORATION OF THE UNIVERSITY.

(1) The University of Vudal is hereby established.

(2) The University is a body corporate by the name of “The University of Vudal” with perpetual succession and common seal and shall be capable by that name of–

- (a) suing and being sued; and
- (b) taking, purchasing and holding real and personal property (including property devised, bequeathed or given to the university); and
- (c) granting, selling, alienating, assigning and demising real or personal property; and
- (d) doing all other matters and things incidental or appertaining to a body corporate.

(3) The Council may establish or maintain as part of the University such other college or institution as it deems necessary from time to time.

4. CUSTODY AND USE OF THE SEAL.

(1) The seal of the University 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 Statutes.

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

5. OBJECTS OF THE UNIVERSITY.

(1) The University shall be dedicated to the pursuit, advancement and dissemination of knowledge, understanding and wisdom.

(2) In pursuing the objects specified in Subsection (1), the University shall pay particular attention to the human resource development and other development needs of Papua New Guinea and shall endeavour to achieve academic and professional excellence to meet those needs through teaching, research and community service.

6. POWERS OF THE UNIVERSITY.

The University shall have the power–

- (a) to grant such degrees as are authorized by the Statutes and such diplomas, certificates or other academic awards as it determines; and

- (b) to provide instruction and facilities for study, education and research to persons registered as preparing for degrees, diplomas, certificates or other awards of the University; and
- (c) to provide facilities for extramural study and continuing education to persons, whether members of the University or not, in such fields and in such manner as the University may from time to time determine; and
- (d) to co-operate in pursuance of any of the objects of the University with any other bodies or persons to enter into agreements authorized by Statute with institutions for their affiliation with or incorporation into the University; and
- (e) subject to the *Salaries and Conditions Monitoring Committee Act 1988*, to appoint academic, administrative and other staff on such terms and conditions of service as the University may determine; and
- (f) to provide for promoting the health and general welfare of the students of the University, including the establishment and supervision of residences; and
- (g) to regulate and enforce discipline among the employees and students of the University by such measures as the University may determine; and
- (h) to cancel, annul or revoke any act done in the exercise of these powers; and
- (i) to do all such other acts or things as may be done under the provisions of this Act or these powers or as may be conducive to the exercise of the attainment of any of the objects of the University.

7. NO DISCRIMINATION ON GROUNDS OF RELIGION, SEX, RACE OR ORIGIN.

A person shall not be denied—

- (a) admission as a student to the University; or
- (b) appointment to an office or post of the University; or
- (c) graduation; or
- (d) any benefit or privilege of the University,

on the grounds of religious or political beliefs, sex or ethnic origin.

PART III. – ADMINISTRATION.

8. AUTHORITIES OF THE UNIVERSITY.

The authorities of the University consist of–

- (a) the Council, which is the principal executive authority of the University; and
- (b) the Academic Board, which is the principal academic body of the University; and
- (c) such other authorities as may be established and declared by Statute to be authorities of the University.

9. THE COUNCIL.

(1) There is established a Council which consists of–

- (a) the Chancellor, who shall be the Chairman; and
- (b) the Pro Chancellor; and
- (c) the Vice-Chancellor; and
- (d) the Pro Vice-Chancellors; and
- (e) two Vice-Chancellors of other universities appointed by Council; and
- (f) the Chairman of the Commission for Higher Education or his nominee,

who shall be *ex officio* members; and

- (g) two members of the Parliament nominated by the Speaker of the Parliament; and
- (h) one member of the full-time academic staff of the University elected by such staff; and
- (i) not more than two Deans elected by the Academic Board; and
- (j) not more than two Principals of Colleges elected by the Academic Board; and
- (k) two graduates, one of whom shall be a female, not being employees or currently registered students of the University appointed by the Council; and
- (l) two currently enrolled full-time students of the University, one of whom shall be a female, elected by the whole body of the students; and
- (m) one member of the non-academic staff of the University elected by such staff; and
- (n) six persons, three of whom shall be females, and of whom three shall be nominated by the Minister, appointed by the Council.

10. FUNCTIONS OF THE COUNCIL.

(1) Subject to Subsection (2), the functions of the Council are—

- (a) to promote and ensure attainment of the objects of the University; and
- (b) to determine University mission and monitor the performance of the University in terms of its mission; and
- (c) to formulate university policies and planning guidelines for University management; and
- (d) to appoint University officers and academic, administrative and other staff of the University; and
- (e) to have the charge of the management and administration of the revenue, property and personnel of the University, and the conduct of all matters relating to the University not otherwise provided for in or under subordinate legislation made in accordance with this Act; and
- (f) to approve the Annual Report, Annual Accounts, Audit Report thereon and the budget of the University for the next financial year; and
- (g) to exercise such other powers and perform such other duties as may be conferred on it by this Act; and
- (h) generally, to take such action as appears to it best calculated to promote the interest of the University.

(2) In determining any matter which directly affects the academic policy of the University, the Council shall consult with the Academic Board.

11. ACADEMIC BOARD.

(1) There is established an Academic Board which shall consist of—

- (a) the Vice-Chancellor who shall be Chairman; and
- (b) such other persons as the Council may, in accordance with the Statutes, determine.

(2) Subject to Subsection (1), the constitution of the Academic Board is as prescribed by the Statutes.

12. FUNCTIONS OF THE ACADEMIC BOARD.

The functions of the Academic Board are—

- (a) to have the control and general regulation, and be responsible for the maintenance of standards of admission, instruction, education, research and examination; and
- (b) to decide matters relating to the award or conferment of degrees, diplomas, certificates and other academic distinctions; and

- (c) to exercise such other powers and perform such other duties as may be conferred on it by this Act.

13. OTHER AUTHORITIES.

The composition, chairmanship, powers and functions of such other authorities as may be declared by Statute to be authorities of the University, shall be as prescribed by the Statutes under which they are established.

14. MEMBERSHIP OF AUTHORITIES GENERALLY.

A person other than a student appointed or elected to an authority holds office for a period of three years and is eligible for re-appointment or re-election.

15. DISQUALIFICATIONS.

A person who—

- (a) is not of the full age of 18 years, unless he is a student of the University; 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 been granted free pardon or undergone the sentence; or
- (d) is a person of unsound mind within the meaning of the laws relating to insanity or unsoundness of mind; or
- (e) is barred from membership under the provisions of a Statute governing staff or student discipline,

is not qualified to be elected or appointed as, or to remain as, a member of an authority.

16. VACATION OF OFFICE.

(1) If a member of an authority—

- (a) dies; or
- (b) declines to act; or
- (c) resigns his seat; or
- (d) is absent without leave from three consecutive meetings of the authority; or
- (e) in the case of a member of Parliament ceases to be a member of the Parliament; or
- (f) in the case of a student—ceases to be a student or to reside permanently in the country; or

- (g) not being a person referred to in Paragraph (e) or (f) ceases to have the qualification by virtue of which he was elected; or
- (h) becomes a person referred to in Section 15, his seat becomes vacant and shall be filled as a casual vacancy in accordance with Section 17.

(2) For the purposes of Subsection (1)(e), a member of the Parliament shall be deemed not to have ceased to be a member of the Parliament while he continues to be paid an allowance under the *Salaries and Remuneration Commission Act 1988*.

17. FILLING OF VACANCIES.

Where a person ceases to be a member of an authority—

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

the election or appointment to fill the vacancy shall, subject to Section 19(2), be held or made as soon as is practicable, and in any case not later than two months after the date on which the vacancy occurs.

18. CASUAL VACANCIES.

(1) In the event of a casual vacancy in an authority, a member shall be elected or appointed in accordance with the appropriate provisions relating to the election or appointment of that member to that authority, and shall hold 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, the vacancy shall not be filled for the remainder of the term.

19. QUORUM AT A MEETING.

(1) Subject to Subsection (2), at a meeting of an authority, unless a Statute otherwise provides, not less than half of the total number of members for the time being is a quorum.

(2) Where—

- (a) at any meeting of an authority no quorum is present; and
- (b) alternative arrangements are made for reconvening the meeting after an interval of not less than 24 hours; and
- (c) members of the authority are advised of those arrangements telegraphically or by equally fast means,

there shall be no requirement of quorum at that reconvened meeting.

20. VOTING AT A MEETING.

(1) All questions to be decided at a meeting of an authority shall be decided by a majority of the members present.

(2) The member presiding at a meeting of an authority shall have a deliberative and, in the case of an equality of votes on any question, also a casting vote.

(3) A member of an authority shall not be entitled to vote either in the authority or in any Committee thereof on any subject in which he has a direct pecuniary interest.

21. LIMITATIONS ON STUDENT MEMBERS OF AUTHORITIES.

(1) Student members of—

(a) the Council; and

(b) the Academic Board; and

(c) such other authorities or committees as the Council or the Academic Board may from time to time determine,

shall not—

(d) participate in the consideration of; or

(e) receive or be entitled to receive papers relating to,

reserved business.

(2) For the purpose of Subsection (1), “reserved business” includes business relating to—

(a) appointments, promotions and other matters affecting the personal affairs of staff; and

(b) admission and assessment of individual students.

(3) In any case where there is doubt as to whether business is reserved business under Subsection (2), the Chairman of the meeting of the authority at which it is to be discussed or decided shall, in his own absolute judgement, decide whether or not it is reserved business.

22. CHAIRMANSHIP.

In the absence of the Chairman of an authority at a meeting of the authority, a member elected by the members present from amongst their own number shall preside.

23. COMMITTEES.

(1) An authority may by resolution constitute and appoint such committees as it thinks fit.

(2) A committee constituted in accordance with Subsection (1) shall exercise, subject to the jurisdiction of the various authorities, such powers as are conferred on it by the committee.

24. DELEGATION.

An authority may by resolution delegate any of its powers and functions (other than the power of delegation and, in the case of the Council, its power to make Statutes) to—

- (a) any member of the authority; or
- (b) a committee consisting of members of the authority with or without another persons; or
- (c) an officer of the University.

PART IV. – OFFICERS.

25. OFFICERS OF THE UNIVERSITY.

The Officers of the University shall be–

- (a) the Chancellor; and
- (b) the Pro Chancellor; and
- (c) the Vice-Chancellor; and
- (d) the Pro Vice-Chancellor; and
- (e) such other persons in the service of the University as may be declared by Statutes to be officers of the University.

26. THE CHANCELLOR.

(1) There shall be a Chancellor who shall be appointed in the manner and for the period prescribed by the Statutes.

(2) The Chancellor shall be the ceremonial head of the University and, if present, shall preside at Convocations of the University for conferring degrees and meetings of the Council.

(3) The Chancellor shall perform such other functions and duties as may be prescribed by this Act.

27. THE PRO CHANCELLOR.

(1) There shall be a Pro Chancellor who shall be appointed in the manner and for the period prescribed by the Statutes.

(2) The Pro Chancellor shall, in the absence of the Chancellor, perform the functions of the Chancellor.

28. THE VICE-CHANCELLOR.

(1) There shall be a Vice-Chancellor who shall be appointed in the manner and for the period prescribed by the Statutes.

(2) The Vice-Chancellor shall be a full-time salaried officer of the University and subject to the *Salaries and Conditions Monitoring Committee Act 1988*, matters relating to his emoluments and other terms and conditions of employment shall be prescribed by the Statutes.

29. POWERS AND FUNCTIONS OF THE VICE-CHANCELLOR.

The Vice-Chancellor shall–

- (a) be the academic and administrative head of the University and shall exercise general supervision and control over the affairs of the University; and

- (b) give effect to the decisions of the authorities of the University and shall ensure that the provisions of this Act are duly observed; and
- (c) where in his opinion, there has arisen an emergency which requires that immediate action be taken, take such actions as he deems necessary and report the same to the next meeting of the authority which, in the ordinary course, would have dealt with the matter; and
- (d) be the *ex officio* Chairman of the Academic Board and of such authorities as the Council shall determine and shall, in the absence of the Chancellor and the Pro-Chancellor, preside at any Convocation of the University for conferring degrees; and
- (e) be a member *ex officio* of all authorities, boards or committees of the University and be entitled to be present at and address any meeting of any staff or student bodies recognised by the University; and
- (f) have the power to convene meetings of the Council, Academic Board and all other authorities, committees, sub-committees and boards of the University and staff and student bodies recognised by the University; and
- (g) exercise such other powers and perform such other functions as may be prescribed by this Act.

30. THE PRO VICE-CHANCELLOR.

(1) There shall be one or more Pro Vice-Chancellors who shall be appointed in the manner and for the term prescribed by the Statutes.

(2) The Pro Vice-Chancellors shall, in the absence of the Vice-Chancellor, exercise the powers, perform the functions and discharge the duties of the Vice-Chancellor.

(3) The Pro Vice-Chancellors shall exercise such powers, perform such functions and discharge such duties as the Vice-Chancellor may, from time to time delegate to them, or as may be imposed or conferred on them by this Act.

31. OTHER OFFICERS.

The powers, duties and functions of other Officers shall be prescribed by the Statutes.

PART V. – STATUTES.

32. STATUTES.

(1) The Council may make Statutes in respect of–

- (a) any matter for which this Act specifically so provides; and
- (b) the attainment of any of the objects of the University; and
- (c) the powers and duties of the Council, Academic Board, any authority or other body or any Officer of the University; and
- (d) generally, the management and government of the University.

(2) The Statutes may provide for empowering any authority or Officer of the University to make by-laws, rules or orders, not inconsistent with this Act, for–

- (a) regulating any specified matter; or
- (b) carrying out or giving effect to the Statutes, and any such by-law, rule or order has the same force and effect as a Statute.

(3) No Statute affecting the constitution, powers or functions of any existing authority shall be made until such authority has been afforded the opportunity to submit a written report thereon to the Council.

33. APPROVAL AND PUBLICATION.

(1) Every Statute once established shall be–

- (a) sealed with the Common Seal of the University; and
- (b) transmitted by the Chancellor to the Minister for approval by the Head of State, acting on advice, and when so approved shall be published in the National Gazette.

(2) The publication of a Statute in the National Gazette shall specify the place at which copies of the Statute may be purchased.

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

- (a) the rights of a person (other than the University) existing at the date of publication would be affected in a manner prejudicial to him; or
- (b) liabilities would be imposed on a person (other than the University) in respect of anything done or omitted to be done before the date of publication.

(4) A copy of each Statute shall be laid before the Parliament within six sitting days of the Parliament after publication of the Statute in the National Gazette.

(5) The production of–

- (a) a copy of a Statute under the common seal of the University; or

- (b) a document purporting to be a copy of a Statute and to have been printed by the Government Printer or on behalf of the University,

is, in all proceedings, sufficient evidence of the Statute.

(6) The Statutes made in each secular year shall be numbered in regular arithmetical series, beginning with the number 1, in the order in which they are published in the National Gazette.

PART VI. – FINANCE, PROPERTY, ETC.

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

Part VIII. of the *Public Finances (Management) Act 1995* applies to and in relation to the University, subject to the exceptions, limitations, conditions, additions and modifications set out in this Part.

35. BASIC FINANCE.

(1) The State shall each year pay to the University a sum of money, which sum shall be determined by the National Executive Council on the advice and recommendation of the Commission for Higher Education, through the Minister.

(2) The amounts payable to the University under this Section shall be paid out of the Consolidated Revenue Fund.

36. ACQUISITION, CONTROL AND MANAGEMENT OF PROPERTY.

(1) The University may acquire any property by gift, bequest or demise and agree to carry out the conditions of the gift, bequest or demise and create and administer such trust funds as are necessary or expedient for carrying out the condition.

(2) Subject to this section, the Council has the control and management of all property vested in or acquired by the University, and may dispose of property in the name of and on behalf of the University.

(3) The Council shall not, except with the approval of the Minister, alienate, mortgage, charge or demise any lands, tenements or hereditaments of the University, except by way of lease for a term not exceeding 21 years from the time the lease is made.

37. INVESTMENT FUNDS.

The Council may–

- (a) establish one or more investment funds for the collective investment of trust funds held by or in the custody of the University; and
- (b) without liability for breach of trust, bring into or withdraw from any such investment fund the whole or any part of any such trust fund.

38. BORROWING.

(1) Subject to this Act, the Council may borrow money at interest by way of mortgage, bank overdraft or otherwise–

- (a) for the purpose of carrying out or performing any of its powers, functions, duties and responsibilities; or

(b) for the repayment or partial repayment of any sum previously borrowed, within such limits and on such conditions as to security or otherwise as the Minister approves.

(2) Subsection (1) does not apply to or in relation to—

(a) money to which Section 37(1) or 38 applies; or

(b) loans to members of the staff or students, or the remission or postponement of fees.

39. LENDING.

(1) Subject to Subsection (2), the University shall not advance or lend money to any person without the prior consent of the Minister.

(2) Subsection (1) does not apply to or in relation to

(a) money to which Section 37(1) or 38 applies; or

(b) loans to members of the staff or students, or the remission or postponement of fees.

PART VII. – MISCELLANEOUS.

40. VALIDITY OF PROCEEDINGS.

No Act or proceedings of any authority or committee or by any person acting as a member thereof or as an officer of the University shall be invalidated by reason of–

- (a) a defect in the appointment of such a person; or
- (b) a disqualification of such a person; or
- (c) a defect in the convening of a meeting; or
- (d) a vacancy in the number of members of an authority.

PART VIII. – TRANSITIONAL.

41. INTERIM COUNCIL.

(1) Until the Council is established, there shall be an Interim Council established to govern and administer the affairs of the University.

(2) The Interim Council shall consist of–

- (a) a Chairman; and
- (b) two members from the Papua New Guinea University of Technology Council; and
- (c) the Vice-Chancellor of the Papua New Guinea University of Technology or his nominee; and
- (d) the Chairman of the Commission for Higher Education or his nominee; and
- (e) the Governor of East New Britain Province or his nominee.

42. POWERS OF INTERIM COUNCIL.

The Interim Council shall, have all the powers, authorities, functions and duties of the Council under Part II of this Act, except those relating to the election of a Chancellor of the University.

43. DUTY OF INTERIM COUNCIL.

The Interim Council shall take steps as may be necessary in order that the Council of the University may be duly constituted by the earliest practical date.

44. CHAIRMAN OF INTERIM COUNCIL.

(1) The Chairman of the Interim Council shall preside at all meetings of the Council.

(2) In the absence of the Chairman a member elected by the members present at the meeting of the Interim Council shall preside.

(3) The Chairman shall have in respect of the Interim Council and of the University the same powers, authorities, functions, duties and obligations in all respects as the Chancellor has under the Part II of this Act.

45. QUORUM.

At a meeting of the Interim Council four members present shall constitute the quorum.

46. APPLICATION OF PART II.

The provision of Part II apply so far as applicable and with necessary modifications and adaptations in respect to the Interim Council and of committees constituted and appointed thereby.

47. TERM OF OFFICE OF MEMBERS.

(1) Members of the Interim Council shall hold office until the Council is constituted under this Act.

(2) The University shall be deemed to be the same body corporate before and after the dissolution of the Interim Council and no act or thing done or commenced by the Interim Council shall be affected by dissolution of that Interim Council.

48. TRANSFER OF VUDAL UNIVERSITY COLLEGE CAMPUS.

(1) The Vudal University College Campus of the Papua New Guinea University of Technology is transferred to the University of Vudal.

(2) Without prejudicing the generality of Subsection (1), such transfer shall include—

- (a) staff and students; and
- (b) buildings and grounds; and
- (c) equipment; and
- (d) teaching and research facilities; and
- (e) other assets and liabilities both within and outside the college campus.

49. OFFICERS APPOINTED ETC., UNDER THE *PAPUA NEW GUINEA UNIVERSITY OF TECHNOLOGY ACT*.

All officers of the Papua New Guinea University of Technology comprising the staff transferred by Section 48(2)(a) elected, appointed or nominated under the *Papua New Guinea University of Technology Act 1986* shall, on and from the date of coming into operation of this Act, hold equivalent offices in the University of Vudal on the same terms and conditions as determined under the *Papua New Guinea University of Technology Act 1986* until—

- (a) the expiry of the period for which they were elected, appointed or nominated; or
- (b) the termination of their employment otherwise according to law; or
- (c) elections, appointments or nominations to such offices are made under this Act,

whichever first happens.

50. SAVINGS OF CONTRACTS.

All contracts, agreements, conveyances, leases, deeds, licences and other instruments and undertakings (so far as relating to any person or thing transferred by Section 48) entered into by, made with or addressed to the Papua New Guinea University of Technology whether alone or with any other person, before, and in effect immediately before, the coming into operation of this Act, continue on that coming into operation, to the extent that they were previously binding on and enforceable against the Papua New Guinea University of Technology to be binding and of full force and effect in every respect against or in favour of the University as if entered into, made with or addressed to the University after the coming into operation of this Act.

51. ACTIONS, ETC., NOT TO ABATE.

Where, immediately before the coming into operation of this Act, any action, arbitration or proceeding, or any cause of action, arbitration or proceeding (so far as relating to any person or thing transferred by Section 48) was pending or existing by against or in favour of the Papua New Guinea University of Technology it does not, on that coming into operation, abate or discontinue or be in any way affected by any provision of this Act, but it may be prosecuted, continued and enforced by, against or in favour of the University as if this Act had not been made.

Office of Legislative Counsel, PNG