

No. 27 of 2017.

*Pacific Institute of Leadership and Governance Act 2017.*

Certified on : 27 MAR 2018



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No. 27 of 2017.

AN ACT

entitled

***Pacific Institute of Leadership and Governance Act 2017,***

Being an Act to establish the Pacific Institute of Leadership and Governance and for related purposes,  
MADE by the National Parliament to come into operation in accordance with a notice in the National Gazette by the Head of State, acting with, and in accordance with, the advice of the Minister.

**PART I. - PRELIMINARY.**

**1. COMPLIANCE WITH CONSTITUTIONAL REQUIREMENTS.**

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

- (a) freedom of expression conferred by Section 46; and
- (b) freedom of assembly and association conferred by Section 47; and
- (c) freedom of employment conferred by Section 48; and
- (d) the right to privacy conferred by Section 49; and
- (e) the right to vote and stand for public office conferred by Section 50; and
- (f) the right to freedom of information conferred by Section 51; and
- (g) the right to equality of treatment in employment conferred by Section 55,

is a law that is made taking account of the National Goals and Directive Principles of the *Constitution* and the Basic Social Obligations of the *Constitution*, for the purpose of giving effect to the public interest in public order and public welfare.

**2. INTERPRETATION.**

In this Act, unless the contrary intention appears -

- “Act” means the *Pacific Institute of Leadership and Governance Act 2017* and includes the Regulations and Administrative Orders made under this Act;
- “Administrative Orders” means the instructions determined by the Board in accordance with Section 32;
- “Board” means the Board of Management established under Section 10;
- “Chief Executive Officer” means the Chief Executive Officer of the Institute appointed under Section 20, and includes the Interim Chief Executive Officer;
- “Executive Management Committee” comprises members of management appointed by the Chief Executive Officer for the purposes of advising on the application of the Administrative Orders and transitional provisions for staff;

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- “fit and proper person criteria” means the compulsory requirements stipulated in Section 14 which must be met by non *ex-officio* Board members;
- “General Orders” means the National Public Service General Orders;
- “Institute” or “PILAG” means the *Pacific Institute of Leadership and Governance* established under Section 5;
- “Interim Chief Executive Officer” means the person holding office as Chief Executive Officer under Section 35;
- “member” means a Member of the Board;
- “National Training Council” means the Council established by the *National Training Council Act*;
- “Pacific Island region” includes all countries in the Pacific area other than Australia and New Zealand;
- “PNGIPA” means the Papua New Guinea Institute of Public Administration established under the *Papua New Guinea Institute of Public Administration Act 1993*;
- “policy direction” means a direction from the National Executive Council communicated to the Chairman of the Board and the Chief Executive Officer by the Minister;
- “regulation” means the Pacific Institute of Leadership and Governance Regulation as determined by the Head of State on advice from time to time;
- “resolution of the Board” means a decision made by the Board with not less than the quorum present for purposes of promoting the business of the Institute;
- “Rules” mean the specific requirements governing the standards for the award of training qualifications;
- “short term contract staff” means a person employed for temporary periods of time of 12 months and not more than two years, in a position in the staff structure on such terms and conditions determined by the Board subject to the *Salaries and Conditions Monitoring Committee Act 1988*;
- “staff” means the public employees of the Institute appointed under Section 23 but does not include the Chief Executive Officer;
- “temporary employees” means a person employed on a contract for a temporary period of time who does not occupy a position in the staff structure of the Institute on such terms and conditions determined by the Board;
- “training facilities” means the offices and training arrangements in Waigani and in the regional centres and such other locations as determined and established by the Board.

### **3. ACT BINDS THE STATE.**

(1) This Act binds the State.

(2) Where, by or under any other Act, the Head of State, acting on advice, or a Minister, may give directions as to policy, any directions as to policy given to the Board shall not be inconsistent with the provisions of this Act.

## **PART II. - ROLE OF THE MINISTER.**

### **4. RESPONSIBILITIES OF THE MINISTER.**

(1) The principal responsibilities of the Minister under this Act include the following:

- (a) to ensure the proper fulfilment of the responsibilities of the State regarding the up-skilling and development of the public sector workforce to meet the service delivery demands of a growing population; and

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- (b) to advise the National Executive Council regarding training policy and training needs based upon evidence derived from research with other public sector research organisations; and
- (c) to give directions to the Board of Management on matters of training policy on the advice of the departmental head with responsibility for personnel management matters, to the extent permitted by law, and in so doing, shall be the sole authority responsible for giving such directions; and
- (d) to perform such other functions as are set out in this Act or other laws, and any other function incidental to the above functions.

(2) Pursuant to Section 148 of the *Constitution*, the Minister has no powers of direction and control over the Board of Management and the Chief Executive Officer in regard to administration of the Institute.

**PART III. - ESTABLISHMENT AND FUNCTIONS, ETC., OF THE INSTITUTE.**

**5. ESTABLISHMENT OF THE INSTITUTE.**

(1) The Pacific Institute of Leadership and Governance is established.

(2) The Institute -

- (a) is a body corporate with perpetual succession; and
- (b) has a common seal; and
- (c) may acquire, hold and dispose of real and personal property; and
- (d) may sue and be sued in its corporate name; and
- (e) has all such powers to do all such things as are lawful and necessary for purposes of performing its functions.

(3) All courts, judges and persons acting in a judicial capacity shall take judicial notice of the seal of the Institute duly affixed to a document by resolution of the Board.

(4) The Institute is not a department of the National Public Service and is not subject to the application of the *Public Services (Management) Act 2014*.

**6. OBJECTS OF THE INSTITUTE.**

The objects of the Institute are -

- (a) to achieve excellence in providing organisational needs based training focused on ethical leadership, strategic planning, corporate services and related management processes to enhance public sector performance; and
- (b) to establish the Institute as the premiere provider of ethical needs based training products and programs of choice for the Pacific Island Nations through training based partnerships; and
- (c) to develop, maintain and promote the recognised training standards and qualifications regime for public sector organisations in collaboration with the department responsible for personnel management and the National Training Council; and
- (d) to operate as a business concern and raise revenue for the Institute to minimise budgetary support from the National Government through partnerships established with public and private training research and delivery organisations within Papua New Guinea and in the Pacific region.

**7. FUNCTIONS OF THE INSTITUTE.**

The functions of the Institute are -

- (a) to promote excellence in training standards and service delivery to meet the aspirations of integrated human development and inclusiveness as required by the *Constitution*; and
- (b) to conduct applied research, engage consultancies and collaborate with public and private sector training organisations and professional bodies, including the Papua New Guinea National Research Institute and the National Training Council, in order to design an up to date training standards and qualifications framework; and
- (c) to collaborate with the Department of Higher Education, Research, Science and Technology in order to establish bridging arrangements for suitably qualified diploma students to upgrade their qualifications to recognised degree level at selected higher education institutions; and
- (d) to assist the provincial and district administrations to conduct training needs analysis and develop training programs to address the need for financial, human resource, planning and project management skills; and
- (e) to explore, promote and deliver training opportunities for students from Pacific Island nations; and
- (f) to promote business processes to charge out the administrative and overhead costs of delivering training products and services to enable the Institute to operate as a going concern to meet recurrent expenses and with Government funding provided to support research and development; and
- (g) to engage with “development partners” from within and outside of Papua New Guinea to secure financial, technical support and physical assistance to the mutual advantage of the development partners; and
- (h) to create, develop and maintain an organisation structure to provide for effective management of the Institute’s human, financial and physical resources, and to cater for staff and student welfare and interests; and
- (i) to attract, retain and motivate a cadre of professional training and administrative staff by providing competitive performance based remuneration designed through work value comparisons with the state universities; and
- (j) to develop and implement the Institute’s Administrative Orders for human resource management governing staff conduct and work performance to promote ethical and responsible service delivery; and
- (k) to provide a learning resource centre with facilities for the collection, storage and interactive dissemination of training and development information covering public sector governance, leadership, management and administration; and
- (l) to plan organise and deliver a range of leadership and skills upgrading programs to meet the staff capacity development needs of the public sector organisations through public private partnerships within and outside of the country; and
- (m) to promote such regulations to be made by the Head of State on advice which may be necessary from time to time to establish training standards and qualifications in public sector organisations; and
- (n) to do all things necessary, incidental and convenient to be done, in order to fulfil the Institute’s business objectives and its service delivery functions.

**8. POWERS OF THE INSTITUTE.**

The Institute has, in addition to the powers otherwise conferred on it by this Act and any other law, power to do all things necessary or convenient to be done for or in connection with the performance of its functions.



**9. NON-DISCRIMINATION IN ACADEMIC ADMINISTRATION.**

A person shall not be denied -

- (a) accreditation to the Institute; or
- (b) admission as a student or course participant of the Institute; or
- (c) appointment to an office of the Institute; or
- (d) any benefit or privilege of the Institution, on grounds of religious belief, gender, ethnicity or place of origin.

**PART IV. - THE BOARD.**

**10. ESTABLISHMENT OF THE BOARD.**

The Board of Management of the Institute is established.

**11. MEMBERSHIP OF THE BOARD.**

(1) The Board shall consist of -

- (a) the Chairperson, non *ex-officio*;
- (b) the departmental head of the department responsible for personnel management matters, *ex-officio*, or the departmental head's nominee; and
- (c) the departmental head of the department responsible for finance matters, *ex-officio*, or the departmental head's nominee; and
- (d) the departmental head of the department responsible for provincial and local level government affairs, *ex-officio*, or the departmental head's nominee; and
- (e) the departmental head of the department responsible for higher education, *ex-officio*, or the departmental head's nominee; and
- (f) the head of the National Training Council, *ex-officio*, or the head's nominee; and
- (g) the nominated representative of the Papua New Guinea Chamber of Commerce; and
- (h) the nominated representative of the Papua New Guinea Council of Churches; and
- (i) the nominated representative of the Papua New Guinea National Council for Women; and
- (j) the Chief Executive Officer as a non-voting member.

(2) Members under Paragraphs (a), (g), (h) and (i) -

- (a) shall be appointed in accordance with the *Regulatory Statutory Authorities (Appointment of Certain Offices) Act 2004* taking into account the fit and proper person criteria under Section 14; and
- (b) shall be appointed for a term of three years; and
- (c) hold office on such terms and conditions as are determined under the *Boards (Fees and Allowances) Act* (Chapter 299); and
- (d) are eligible for re-appointment.

(3) The nominees referred to in Subsections (1)(b) and (g) shall be a person holding an office in the National Public Service not less than that of a First Assistant Secretary or the equivalent office.

**12. CHAIRPERSON AND DEPUTY CHAIRPERSON.**

(1) The Chairperson shall be a person of standing in the training field with extensive business experience in management and shall be able to demonstrate the ability to apply second business judgement to the management of the Institute.

(2) The departmental head responsible for personnel management matters in the National Public Service shall be the Deputy Chairperson of the Board and shall chair the Board in the absence of the Chairperson and shall be responsible for advising the Board on government policy on training and staff development priorities in public sector organisations.

### **13. FUNCTIONS AND POWERS OF THE BOARD.**

(1) The Board shall perform the functions, exercise the powers, and manage and direct the finance and human resources affairs of the Institute as required by this Act and any other law.

(2) The Board shall ensure that the Chief Executive Officer -

- (a) provides regular reports to the Minister and the National Parliament on the identification of training needs across the public sector organisations, delivery of training programs and annual output of graduates; and
- (b) provides rules for admission to the Institute and accreditation of qualifications which do not discriminate against any person on grounds of ethnicity, place of origin, gender, or religious belief, and in compliance with Section 55 of the *Constitution*; and
- (c) implements a performance based culture that promotes an ethical, disciplined and productive Institute which delivers training products and services in a cost effective manner; and
- (d) engages with private sector training providers to form joint venture business partnerships and market products and services to enable the Institute to become a self-funding entity; and
- (e) complies with the *Public Finances (Management) Act 1995* and this Act in respect to the management of financial resources and assets; and
- (f) does all such things as necessary and convenient to be done to enable the Institute to meet its objectives and perform its functions in accordance with the Act and other laws.

(3) The functions and powers of the Board of Management shall not extend to the formulation of public sector training policies formulated in General Orders made from time to time under the *Public Services (Management) Act 2014* which are the responsibility of the Minister acting on the advice of the departmental head with responsibility for personnel management matters.

### **14. QUALIFICATIONS OF NON EX-OFFICIO AND ALTERNATE MEMBERS.**

(1) A person shall not be appointed as a non *ex-officio* member of the Board unless he satisfies, at all times, the requirements as a fit and proper person, as follows:

- (a) be a person of good repute in the community and recognised as a person qualified, experienced and competent to represent the persons or groups as defined by the Act; and
- (b) be of sound mind and judgment and able to contribute to the business of the Board in the management of the Institute and not be over the age of 72 years; and
- (c) not have a criminal record or be charged by the police for an offence which is likely to derogate their standing as a Board member; and
- (d) not have personal interests outside of the Institute which are judged to be in conflict with the interests and objectives of the Institute; and
- (e) ordinarily resident in the country.

(2) An alternate member nominated by the non *ex-officio* member shall also comply with Subsection (1).

**15. LEAVE OF ABSENCE.**

(1) The Chairman may grant leave of absence to a member on such terms and conditions as the Board determines subject to the *Salaries and Conditions Monitoring Committee Act 1988*.

(2) The Minister may grant leave of absence to the Chairman on such terms and conditions as the Board determines subject to the *Salaries and Conditions Monitoring Committee Act 1988*.

**16. VACATION OF OFFICE.**

(1) A non *ex-officio* member may resign from office by signed letter delivered to the Minister.

(2) If a non *ex-officio* member dies, resigns from office or is otherwise terminated in accordance with this section, his office becomes vacant.

(3) If a non *ex-officio* member -

(a) is absent, except with the written consent of the Minister or Chairman in accordance with Section 15, from three consecutive meetings of the Board; or

(b) becomes a person who is not eligible under Section 14 to be a member of the Board; or

(c) otherwise becomes incapable of performing the duties of office,

appointment as a member of the Board terminates with immediate effect, and he shall cease to be a member of the Board accordingly.

(4) The Minister shall determine as grounds for removal of a non *ex-officio* member of the Board under the provisions of the *Regulatory Statutory Authorities (Appointments to Certain Offices) Act 2004* if he -

(a) ceases at any time to comply with the fit and proper person requirements; or

(b) becomes bankrupt or impecunious; or

(c) suffers from ill health and is unable to attend meetings of the Board or discharge their duties; or

(d) is charged with, is standing trial for or has been convicted of any offence punishable by imprisonment; or

(e) is continuously absent from the scheduled Board meetings for three consecutive occasions; or

(f) on other grounds, give cause for concern by the National Executive Council on the advice of the Minister.

(5) The Minister, acting on the advice and recommendation of the Board, may at any time, by written notice, advise a member that the Minister intends to recommend the termination of the member's appointment on the grounds of inefficiency, incapacity, misbehaviour or misconduct in office, and that notice shall specify the grounds for termination, including but not limited to any of the grounds listed in Subsection (4).

**17. MEETINGS OF THE BOARD.**

(1) The Board shall meet as often as the business of the Institute requires, and at such times and places as the Chairman directs, but in any event shall meet not less frequently than once in every two months.

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- (2) At a meeting of the Board -
- (a) a quorum consists of five members, at least three of whom are *ex-officio* members, provided that the Chief Executive Officer is always present to advise the Board as a non-voting member; and
  - (b) the Chairman, or in his absence the Deputy Chairman, shall preside; and
  - (c) subject to Paragraph (e), each member of the Board has one vote; and
  - (d) matters arising are decided by a majority of the votes of the members present and voting; and
  - (e) the person presiding has a deliberative, and if there is an equality of votes on a matter, also a casting vote.

(3) The Administrative Orders may make further provision for the calling of meetings and special meetings of the Board and the procedures to be followed at those meetings.

(4) Subject to this Act and the Administrative Orders, the procedures of the Board are as determined by the Board.

**18. DISCLOSURE OF INTEREST.**

(1) A member of the Board who has a direct or indirect interest in a matter being considered or about to be considered by the Board shall, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of interest at a meeting of the Board.

(2) A disclosure under Subsection (1) shall be recorded in the minutes of the relevant meeting of the Board, and the member making the disclosure -

- (a) after the disclosure, may not participate in any debate, deliberation, decision or vote of the Board in relation to the matter during the meeting at which the disclosure is made or at any other meeting of the Board; and
- (b) shall be disregarded for the purpose of determining whether a quorum is present for the meeting of the Board at which the disclosure is made or at any other meeting of the Board for any such debate, deliberation or resolution in relation to the matter.

**19. ANNUAL REPORT.**

(1) Within three months after 31 December in each year, the Chief Executive Officer shall furnish to the Board a report on the progress, performance and finances of the Institute in relation to its functions during the previous 12 months, including but not limited to the following matters:

- (a) the audited financial statements for that year, together with the report of the Auditor-General on those statements; and
- (b) a disclosure of all funding received by source and expended by the Authority by type of expenditure; and
- (c) any policy directions issued by the Minister under Section 6; and
- (d) any administrative orders made by the Board during the year ending 31 December previously; and
- (e) any appointment, termination or vacation of office of a member of the Board occurring during the year ending 31 December previously.

(2) Upon receiving the report referred to in Subsection (1), the Board shall forward the report to the Minister who shall forward the report to the Speaker for presentation to the National Parliament.

(3) The administrative orders may make further provision for matters to be included in a report under this section.

**PART V. - THE STAFF.**

**20. APPOINTMENT OF THE CHIEF EXECUTIVE OFFICER.**

(1) There shall be a Chief Executive Officer whose manner of appointment, suspension or dismissal is in accordance with the *Regulatory Statutory Authorities (Appointment to Certain Offices) Act 2004*.

(2) The Chief Executive Officer shall be appointed for a term of four years and, subject to the *Salaries and Remuneration Commission Act 1988*, whereby tenure of appointment is subject to his performance in accordance with the contractual provisions.

**21. FUNCTIONS OF THE CHIEF EXECUTIVE OFFICER.**

(1) The Chief Executive Officer is responsible to the Chairman of the Board for developing and implementing the policies, plans and operations of the Institute including but not limited to the following:

- (a) Board affairs and advisory services; and
- (b) strategic vision for successful business; and
- (c) research into work place training and course design; and
- (d) delivery of training programs and courses; and
- (e) performance management systems; and
- (f) gender equity and social inclusion; and
- (g) marketing and promotion of training products; and
- (h) stakeholder relations and business promotion; and
- (i) business and financial planning; and
- (j) creation of joint venture business partnerships; and
- (k) legal and contracts support services; and
- (l) public relations and media promotions; and
- (m) pacific wide marketing of products and services; and
- (n) donor partnerships and leadership precinct; and
- (o) staff and student affairs; and
- (p) statutory reporting; and
- (q) such other policies, plans and operations to meet the Board's directives in accordance with the Institute's objects and functions.

**22. QUALIFICATION OF THE CHIEF EXECUTIVE OFFICER.**

(1) The Chief Executive Officer shall at all times satisfy the minimum person specification in the *Regulatory Statutory Authorities (Appointment to Certain Offices) Act 2004* and regulations and in addition, the qualifications and experience related to the portfolio requirements are -

- (a) possess extensive experience at a senior executive level of managing and delivering training in the public and private sectors; and
- (b) possess specialist knowledge of setting up and managing a going concern; and
- (c) demonstrate expert knowledge in the field of research and development of training needs assessment and curriculum development in the public and private sectors; and
- (d) demonstrate experience of developing, promoting and managing a training products and services operation along business lines.

**23. STAFF OF THE INSTITUTE.**

(1) Staff of the Institute include the staff of the PNGIPA who were transferred to the Institute under Section 38 together with the staff appointed by the Chief Executive Officer or the Interim Chief Executive Officer after the coming into operation of this Act.

(2) The Chief Executive Officer shall appoint staff to the organisational establishment determined by the Board on terms and conditions of employment determined by the Board subject to the *Salaries and Conditions Monitoring Committee Act 1988*.

(3) The terms and conditions of the staff determined by the Board shall be published in the administrative orders and made available to all staff members.

(4) The Chief Executive Officer may, from time to time, employ persons as members of staff on short term contracts not exceeding two years in duration to meet temporary needs of the Institute.

**24. CONTRACTS OF EMPLOYMENT FOR SENIOR OFFICERS.**

(1) The Board shall determine the categories of staff classified as senior officers who shall be employed on contracts of fixed duration for the purpose of relating their tenure of employment and their remuneration to their individual performance.

(2) The contract categories and contract terms and conditions determined by the Board shall be published in Administrative Orders and made available to all staff members.

**25. TEMPORARY EMPLOYEES OF THE INSTITUTE.**

(1) The Chief Executive Officer may, within the limit of funds available for the purpose, appoint employees of the Institute for a maximum period of three months in any 12 month period, such persons as the Board considers necessary for the purposes of delivering services to the Institute.

(2) Employees appointed under Subsection (1) shall be appointed on such terms and conditions as determined by the Board, subject to the *Salaries and Conditions Monitoring Committee Act 1988*.

**26. CONSULTANTS AND ADVISORS AS CONTRACTORS.**

The Chief Executive Officer may, within the limit of funds available, appoint as contractors to the Institute such technical advisors and consultants on any matter in relation to its functions on such terms and conditions which are determined by the Board, subject to the *Salaries and Conditions Monitoring Committee Act 1988*.

**PART VI. - FINANCES.**

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

(1) The *Public Finances (Management) Act 1995* applies to the Institute.

(2) The Institute is a statutory body pursuant to the *Public Finances (Management) Act 1995*.

**28. FUNDS OF THE INSTITUTE.**

The funds of the Institute consist of -

(a) monies appropriated by law for the purposes of carrying out or giving effect to this Act; and

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- (b) grants, donations, subscriptions, credits or other contributions, whether from within or outside Papua New Guinea, including contributions from international organisations or from a government, government department, government instrumentality or statutory entity of a country other than Papua New Guinea; and
- (c) borrowings by the Institute pursuant to the *Public Finances (Management) Act 1995*; and
- (d) monies received by the Institute in respect of sale of real or personal property owned by the Institute or monies received through trading activities or investments of the Institute.

**29. AUDIT OF ACCOUNTS.**

The Institute shall cause its accounts to be audited in accordance with the requirements of Part III of the *Audit Act 1989*.

**30. LIABILITY TO TAXATION.**

For the purposes of Section 24(1) of the *Income Tax Act 1959*, the Institute is a public institute constituted by this Act.

**31. ACCOUNTS, RECORDS AND REPORTS.**

The Institute shall keep proper accounts and records of its transactions and affairs as required by the *Public Finances (Management) Act 1995*.

**PART VII. - ADMINISTRATIVE ORDERS.**

**32. BOARD TO MAKE ADMINISTRATIVE ORDERS.**

(1) The Board may make Administrative Orders as to any matter required or permitted by this Act to be made, or that are necessary or desirable to be made -

- (a) for carrying out or giving effect to this Act for the good governance of the Institute; and
- (b) for the conduct and discipline of the staff and employees of the Institute; and
- (c) for the better management and control of the finances and assets of the Institute.

(2) The Board shall make Administrative Orders in particular for the following but not limited to -

- (a) the use and custody of the seal of the Institute; and
- (b) procedures of the Board; and
- (c) rules for student admission to the Institute and the fees to be charged; and
- (d) rules of conduct of students in the Institute's teaching and living premises; and
- (e) the organisation and establishment of the staff of the Institute, including positions to be occupied by non-citizens from time to time; and
- (f) the persons who are to be regarded, for the purposes of this Act, as employees of the Institute; and
- (g) the terms and conditions of employment of staff and employees and categories of staff employed on contract; and
- (h) criteria and procedures for the regular appraisal by the Board of the performance of the Chief Executive Officer pursuant to provisions of the *Regulatory Statutory Authorities (Appointment to Certain Offices) Act 2004* and regulations; and
- (i) criteria and procedures for the regular appraisal by the Chief Executive Officer of the performance of the staff of the Institute; and
- (j) criteria and procedures for the disciplining of staff of the Institute; and
- (k) codes of ethics and conduct for staff of the Institute, including codes relating to the specialised function of any employee or category or group of staff of the Institute; and

- (l) the management, protection and control of property, including intellectual property of the Institute; and
- (m) tender and procurement procedures of the Institute; and
- (n) application of public-private partnerships for business operations; and
- (o) the terms and conditions of investment and borrowing by the Institute; and
- (p) other matters of management and administration of the Institute that are authorised by this Act, or that are necessary or convenient for giving effect to this Act.

(3) It is sufficient proof of the making of an Administrative Order if made by a Resolution of the Board, witnessed by the Chairman, the Chief Executive Officer and the Secretary to the Board over the seal of the Institute.

#### **PART VIII. - REPEAL, SAVINGS AND TRANSITIONAL.**

##### **33. REPEAL.**

(1) The *Papua New Guinea Institute of Public Administration Act 1993* is repealed.

(2) All forms and instruments made, issued or approved under the *Papua New Guinea Institute of Public Administration Act 1993* continue in force as if made under this Act, in so far as they are not inconsistent with this Act, until varied, repealed or replaced by the Board in accordance with this Act.

##### **34. INTERIM BOARD.**

(1) On the coming into force of the Act, the Interim Board is established comprising the *ex-officio* members with the Deputy Chairperson presiding as the Chairperson, subject to the transitional provisions.

- (2) The Interim Board has the immediate task to arrange for -
  - (a) the confirmation of the Interim acting Chief Executive Officer under Section 35; and
  - (b) the advertisement and substantive appointment of the Chief Executive Officer pursuant to the *Regulatory Statutory Authorities (Appointment to Certain Offices) Act 2004* and regulations; and
  - (c) ratifying the transfer and interim arrangements for the staff of the Institute in the transitional organisation structure of the Institute; and
  - (d) approving the staff terms and conditions for ratification by the Salaries and Conditions Monitoring Committee.

(3) The *ex-officio* members shall expedite processes to appoint the CEO and other *non ex-officio* members and shall expedite the implementation of the transitional provisions.

(4) In a meeting of the Interim Board, three *ex-officio* members form a quorum.

##### **35. INTERIM CHIEF EXECUTIVE OFFICER.**

(1) On the coming into force of the Act, the person who was at that date the acting or substantive head of the Papua New Guinea Institute of Public Administration shall become the Interim Chief Executive Officer of the Institute, subject to the time limit imposed in Subsection (3).

(2) The Interim Chief Executive Officer shall exercise all of the powers and functions bestowed upon the Chief Executive Officer by the Act during the period of appointment under this section.



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(3) The period of appointment of the Interim Chief Executive Officer shall cease on the substantive appointment of a Chief Executive Officer made at the earliest opportunity following the procedures in Section 20.

(4) The Interim Chief Executive Officer's service and entitlements in the National Public Service and the PNGIPA accrued prior to creation of the Institute shall become service and entitlements accrued in the Institute.

**36. TRANSITIONAL PROVISIONS FOR THE STAFF.**

(1) Subject to Subsection (8), all staff of the PNGIPA shall not be made redundant and shall continue to occupy positions in the transitional PILAG establishment in whatever capacity that they occupied positions in the PNGIPA, acting or substantive, until the Chief Executive Officer makes a decision concerning their future appointment in the Board approved PILAG organisation structure.

(2) All PNGIPA terms and conditions made by the PNGIPA Council, including the application of the Public Service General Orders, shall continue to apply to the transferred staff during the transitional period, until such time that the Chief Executive Officer implements the Board approved PILAG terms and conditions.

(3) All continuous service with the PNGIPA shall be deemed to be continuous service with the PILAG and all entitlements accrued with the PNGIPA on the basis of that service shall be deemed to be entitlements accrued in the PILAG which become a liability of the PILAG.

(4) The Chief Executive Officer shall appoint all staff to positions in the PILAG organisation, or to advertise for applicants from within or outside of the PILAG at the sole discretion of the Chief Executive Officer based upon the advice of a properly constituted Executive Management Committee established within the PILAG.

(5) The Chief Executive Officer may, with approval of the Board, engage a professional recruitment advisor from outside of the PILAG to sit as a member of the Executive Management Committee.

(6) Staff shall continue to contribute to the Nambawan Super Fund or any superannuation fund and shall retain their superannuation rights unchanged and shall not be entitled to have their contributions or the State's contributions paid out unless and until their services are terminated from the PILAG.

(7) Staff of the PNGIPA appointed in the PILAG post transitional structure shall be appointed on such terms and conditions as determined by the Board subject to the *Salaries and Conditions Monitoring Committee Act 1988*, shall retain their service and shall not have their terms and conditions or their rights and interests reduced in any way.

(8) Staff who are not selected to take up appointments in the post transitional PILAG organisation shall be declared redundant by the Board on the advice of the Chief Executive Officer in accordance with the provisions of the Public Service General Orders, and shall be retrenched with termination benefits calculated in accordance with their continuous service and salary at termination, subject to availability of funds.

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(9) There shall be no voluntary retrenchment and staff of the PNGIPA are to be retrenched only if they are determined to be redundant by the Chief Executive Officer and provisions of the Public Service General Orders shall be applied to the retrenchment process.

(10) All unresolved disciplinary cases in the PNGIPA shall become unresolved disciplinary cases in the PILAG for resolution under the Public Service General Orders as they are applied in the PILAG.

(11) All outstanding matters under the PNGIPA Act which were in the hands of the Director shall become matters in the hands of the Chief Executive Officer of the PILAG.

(12) Businesses being conducted by the PNGIPA shall continue as business of the PILAG until reviewed by the Interim Board or the Board.

(13) All employment contracts existing with the PNGIPA shall continue to exist as contracts made with the PILAG until such time as expired, terminated or as varied with the Board approved contract terms and conditions, whichever comes first.

(14) The Administrative Orders shall be made for the purpose of good governance and regulation of the PILAG terms and conditions and the appointment and performance of the staff of the Institute, ensuring that human resource matters are determined on merit in accordance with the laws of natural justice.

(15) There shall be a PILAG Code of Business Ethics and Conduct approved by the Board, applicable to all staff of the PILAG.

**37. PRIOR STAFF SERVICE.**

The service and entitlements of staff and employees in the National Public Service and the PNGIPA accrued prior to creation of the Institute shall become service and entitlements accrued in the Institute.

**38. APPLICATION OF ACTS AND OTHER DOCUMENTS, ETC.**

Where -

- (a) any Act or subordinate enactment other than this Act; or
- (b) any document or instrument wherever made or executed, contains a reference, express or implied, to the former PNGIPA,

that reference shall, on the coming into operation of this Act, unless the contrary intention appears, be read and construed and have effect as a reference to the Institute.

**39. REFERENCES TO DIRECTOR OF PNGIPA.**

Where -

- (a) any Act or subordinate enactment other than this Act; or
- (b) any document or instrument wherever made or executed, contains a reference, express or implied, to the Director of PNGIPA under the repealed Act, or any similar reference,

that reference shall, on the coming into operation of this Act, unless the contrary intention appears, be read and construed and have effect as a reference under this Act.

**40. CONTINUATION OF CONTRACTS, ETC.**

(1) All contracts, agreements, deeds, bonds or other instruments entered into, made with or addressed to the State through the PNGIPA, insofar as they relate to the functions of the Institute under this Act, are, to the extent that they were, immediately before the coming into operation of this Act, binding on and of full force and effect against or in favour of the State are, on that coming into operation, binding on and of full force and effect against or in favour of the Institute as fully and effectually as if, instead of the State, the Institute were a party to them or bound by them or entitled to the benefit of them.

(2) Where a contract, agreement, deed, bond or other instrument of the kind referred to in Subsection (1) is substantially at variance with this Act, it shall nevertheless continue in full force and effect until the earliest possible date of its renegotiation or renewal according to its terms, at which time it shall be renegotiated or renewed so as to ensure substantial compliance with this Act.

**41. TRANSFER OF ACCOUNTS TO THE INSTITUTE.**

All monies immediately before the coming into operation of this Act standing to the credit of, and in accounts opened by or on behalf of, the PNGIPA, including any trust account opened under the *Public Finance (Management) Act 1995* are, on that coming into operation, transferred to and stand to the credit of the Institute.

**42. TRANSFER OF ASSETS TO THE INSTITUTE.**

All the estate, rights, title and interest, both in and to any property which, immediately before the coming into operation of this Act, was vested in the State on behalf of the PNGIPA or otherwise reserved or set aside for use by the PNGIPA or for any purpose connected with the business of the PNGIPA is, by virtue of this section and without the necessity of any formal deed of assurance, vested in the Institute for the purposes of this Act.

**43. RIGHTS AND LIABILITIES.**

All rights, obligations and liabilities of the State in respect of the PNGIPA immediately before the coming into operation of the Act continue unabated subject to the Act.

**44. ACTIONS NOT TO ABATE.**

Where, immediately before the coming into operation of this Act, any action, arbitration or proceeding was pending or existing by, against or in favour of the State, insofar as it relates to functions of the Institute under this Act, it does not, on that coming into operation, abate or discontinue or be in any way affected by anything in this Act, but it may be prosecuted, continued or enforced by, against or in favour of the State as if this Act had not been made.

**PART IX. - MISCELLANEOUS.**

**45. PROTECTION FROM LIABILITY.**

A member of the Board or a staff member of the Institute is not personally liable for anything done or omitted to be done in good faith in the course of the activities or operations of the Institute or for the purposes of the Institute.

**46. PROOF OF CERTAIN MATTERS.**

(1) Except as otherwise provided under any other law, in any proceedings by or against the Institute, proof is not required, unless evidence is given to the contrary, of -

(a) a resolution of the Board; or

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- (b) the appointment of a member of the Board; or
- (c) the appointment of the Chief Executive Officer; or
- (d) the presence of a quorum at a meeting of the Board at which a determination is made or an act is done.

(2) No action or proceeding taken under this Act or any other law shall be questioned on the ground of -


- (a) the existence of any vacancy in the membership or defect in the appointment of any member of the Institute; or
- (b) any omission, defect or irregularity not affecting the merits of the case.

**47. REGULATIONS.**

The Head of State, acting on advice, may make regulations not inconsistent with this Act, prescribing all matters that by this Act are permitted or required to be prescribed, or that are necessary or convenient to be prescribed, for carrying out or giving effect to this Act and in particular for -

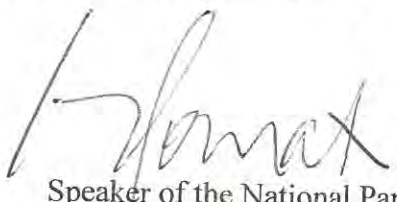
- (a) the management and good governance of the Institute; and
- (b) the prescription of training accreditation and qualification criteria and standards by prescription of the National Training Council and or the national department with responsibility for higher education; and
- (c) any fees or charges, payable in respect of any matter under this Act; and
- (d) protecting intellectual property and patent rights resulting from the Institute's research and development efforts and the right to publish and protect the results of research; and
- (e) receiving, securing, accessing and divulging confidential information; and
- (f) giving full effect to the transitional provisions of this Act.

I hereby certify that the above is a fair print of the *Public Institute of Leadership and Governance Act 2017* which has been made by the National Parliament.

  
Acting Clerk of the National Parliament.

27 MAR 2018

I hereby certify that the *Public Institute of Leadership and Governance Act 2017* was made by the National Parliament on 5 December 2017 by an absolute majority in accordance with the *Constitution*.

  
Speaker of the National Parliament.

27 MAR 2018