

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 351.

National Fiscal Commission.

GENERAL ANNOTATION.

ADMINISTRATION.

The administration of this Chapter was vested in the Minister for Finance at the date of its preparation for inclusion.

The present administration may be ascertained by reference to the most recent Determination of Titles and Responsibilities of Ministers made under Section 148(1) of the Constitution.

TABLE OF CONTENTS.

	<i>Page</i>
<i>National Fiscal Commission Act</i>	3
Regulations	—
Subsidiary Legislation	—
Appendix—	
Source of Act.	

33

34

35

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 351.

National Fiscal Commission Act.

ARRANGEMENT OF SECTIONS.

1. Interpretation—
 "the Commission"
 "the Organic Law".
2. General principles to be applied in making appointments.
3. Consultation on appointments.
4. Members of the Parliament and of Provincial Legislatures not eligible.
5. Disqualification.
6. Resignation.
7. Chairman and Deputy Chairman of the Commission.
8. Acting appointments to the Commission.
9. Conditions of employment.
10. Meetings of the Commission.
11. Procedures in relation to the allocation of unconditional grants.
12. Consultation on matters referred.
13. Staff, finances, etc.
14. Regulations.

33

33

33

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 351.

National Fiscal Commission Act.

Being an Act to implement Section 81 of the *Organic Law on Provincial Government*.

1. Interpretation.

In this Act, unless the contrary intention appears—

“the Commission” means the National Fiscal Commission provided for by Section 187H(1) (*inter-governmental relations*) of the Constitution and established by Section 75 of the Organic Law;

“the Organic Law” means the *Organic Law on Provincial Government*.

2. General principles to be applied in making appointments.

(1) The provisions of this section apply “in principle” within the meaning of Section 8 (*principles of interpretation*) and Section Sch.1.6 (*statements of general principle*) of the Constitution, that is to say that—

- (a) an appointment that is inconsistent with any of those provisions is not, by reason of that inconsistency alone, invalid or ineffectual; and
- (b) if an appointment is reasonably capable of being understood or given effect to in such a way as not to be inconsistent with those provisions it shall be so given effect to.

(2) Members of the Commission should be appointed on the basis of their stature in the community, their experience and their ability to contribute to the solution of national problems.

(3) Where practicable, membership should include a broad cross-section of the community to reflect at least the following interests in the community :—

- (a) urban and non-urban interests; and
- (b) employer and employee interests; and
- (c) governmental and non-governmental interests; and
- (d) professional and non-professional interests.

(4) A member of a State Service appointed to be a member of the Commission should not be a person who is involved (except by virtue of, or by reference to, his membership of the Commission) in governmental administration either at National Government level or at provincial government level.

3. Consultation on appointments.

For the purposes of the appointment of members of the Commission provided for in Section 76(2) of the Organic Law, consultation shall be deemed to have taken place with the persons specified in Section 76(2)(a), (b) and (c), if no objection or communication has been received from them by the Minister within 30 days of notification of proposals being sent to them by the Minister by registered post.

4. Members of the Parliament and of Provincial Legislatures not eligible.

Members of, and candidates for election to—

- (a) the Parliament; and
- (b) Provincial Legislatures,

are not eligible to be appointed members of the Commission.

5. Disqualification.

A person who—

- (a) is not of the full age of 18 years; or
- (b) has been adjudged insolvent, or has applied to take the benefit of any law for the relief of insolvent debtors, or has compounded with his creditors or has made an assignment of his remuneration for their benefit; or
- (c) has been convicted of an indictable offence or is undergoing a sentence of imprisonment; or
- (d) is an insane person or a person of unsound mind within the meaning of any law in force for the time being relating to insanity or unsoundness of mind,

is not capable of being or continuing to be a member of the Commission.

6. Resignation.

(1) A member of the Commission may resign by written notice to the Head of State.

(2) The resignation of a member takes effect on the date 14 days after the date on which it is received by the Head of State.

7. Chairman and Deputy Chairman of the Commission.

(1) There shall be a Chairman and a Deputy Chairman of the Commission.

(2) The Chairman shall be a member of the Commission appointed by the Head of State, acting on advice.

(3) The Deputy Chairman shall be appointed by the members of the Commission from amongst their own number.

(4) In the event of the absence of the Chairman from a meeting of the Commission, or his inability to act, or when the Chairman so directs, the Deputy Chairman has and may exercise and perform all his powers, functions, duties and responsibilities.

8. Acting appointments to the Commission.

(1) In the event of—

- (a) a resignation from the Commission; or
- (b) the Commission being unable to achieve a quorum,

the Head of State, acting on advice, given after consultation in accordance with Section 76(2) of the Organic Law, may appoint a person to act as a member of the Commission.

(2) Any person appointed to act as a member of the Commission under Subsection (1) shall hold office for a period not exceeding three months and is eligible for further appointment as a member of the Commission.

(3) An acting member of the Commission has and may exercise and perform all the powers, functions, duties and responsibilities of a member of the Commission.

9. Conditions of employment.

(1) Subject to this section, and to the Organic Law the terms and conditions of employment of members of the Commission are as determined by the Minister.

(2) Subject to Subsection (6), all members of the Commission shall receive a general allowance of K400.00 per annum.

(3) Subject to Subsection (6), a member of the Commission shall receive—

(a) an allowance of K14.70 for each day or part of a day—

(i) on which he attends a meeting of the Commission; or

(ii) on which he is, as certified by the Chairman of the Commission, engaged full-time in his duties as a member; and

(b) an incidental allowance of K2.00 for each day or part of a day on which he is required, in the course of his duties as a member, to be absent from his home.

(4) In addition to the allowances provided for by Subsections (2) and (3), the Chairman of the Commission shall, subject to Subsection (6), receive an allowance of K600.00 per annum.

(5) Within such reasonable limits as are determined by the Minister and notified in advance to each member or by notice in the National Gazette, the reasonable expenses of travelling and accommodation on the business of the Commission shall be met by the State.

(6) Any amount specified in Subsection (2), (3) or (4) shall be varied in accordance with any variation of allowances for boards and commissions provided for by the *Boards (Fees and Allowances) Act*.

10. Meetings of the Commission.

(1) Subject to this section, meetings of the Commission shall be held at least once in each year at a time and place fixed by the Chairman.

(2) Whenever he thinks it necessary or desirable to do so the Minister may call a meeting of the Commission.

(3) The Chairman shall call a meeting of the Commission within seven days after—

(a) receipt by him of notice of a reference under Section 62(1)(a) of the Organic Law; or

(b) publication, under Section 62(2) of the Organic Law, of notice of reference in the National Gazette,

whichever first occurs.

(4) Where practicable, meetings of the Commission should be held in different centres in the country, and may be held in public at the discretion of the Commission.

(5) At a meeting of the Commission—

(a) any three members are a quorum; and

(b) all matters shall be decided by the majority of votes; and

(c) the person presiding has a deliberative and, in the event of an equality of votes on a question, also a casting vote.

(6) The Commission shall cause minutes of its meetings to be kept, and the Chairman or member presiding at a meeting of the Commission shall cause copies of the minutes to be sent—

(a) to the Minister; and

- (b) to the Minister responsible for provincial affairs; and
- (c) to the member of each provincial government responsible for provincial finances.

(7) Subject to this Act and to the Organic Law, the procedures of the Commission are as determined by the Commission.

11. Procedures in relation to the allocation of unconditional grants.

(1) The Minister may, by written notice to the Chairman of the Commission, fix a date on or before which the recommendation of the Commission on the allocation of unconditional grants for any fiscal year shall be made, under Section 79(3) of the Organic Law, to the National Executive Council.

(2) The date fixed under Subsection (1) shall be not less than 60 days after the Chairman of the Commission has been advised by the Minister of the amount available for allocation for the fiscal year in accordance with Section 79 of the Organic Law.

12. Consultation on matters referred.

(1) Where any matter has been referred to the Commission in terms of Section 62 of the Organic Law, the Commission shall—

- (a) consult in the prescribed manner with the National Government; and
- (b) consult in the prescribed manner with the provincial government or provincial governments which have passed a provincial law which has given rise to the reference; and
- (c) advertise in a national newspaper or by other national media detailing the matter referred and invite any person desiring to make representations to do so in writing to the Commission within 14 days of the date of publication of the advertisement.

(2) Where—

- (a) the Commission is considering any matter in terms of Section 79(3) of the Organic Law; or
- (b) any matter has been referred to the Commission in terms of Section 78(1)(c) of the Organic Law,

the Commission shall—

- (c) consult in the prescribed manner with the National Government; and
- (d) consult in the prescribed manner with all provincial governments; and
- (e) advertise in a national newspaper or by other national media detailing the matter referred or under consideration and invite any person desiring to make representations to do so in writing to the Commission within 14 days of the date of publication of the advertisement.

13. Staff, finances, etc.

The Department of Finance shall, on behalf of the National Government, provide and allocate the necessary staff (including an executive secretary), funds and other facilities for the Commission, as required by Section 225 (*provision of facilities, etc.*) of the Constitution.

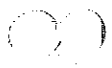
14. Regulations.

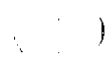
The Head of State, acting on advice, may make regulations, not inconsistent with this Act, prescribing all matters that by this Act are required or permitted to be prescribed, or

National Fiscal Commission

Ch. No. 351

that are necessary or convenient to be prescribed for carrying out or giving effect to this Act.







INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 351.

National Fiscal Commission.

APPENDIX.

SOURCE OF THE NATIONAL FISCAL COMMISSION ACT.

Part A.—Previous Legislation.

National Fiscal Commission Act 1977 (No.40 of 1977).

Part B.—Cross References.

Section, etc. in Revised Edition.	Previous References ¹ .
1	1
2	2
3	3
4	4
5	5
6	6
7	7
8	8
9	9
10	10
11	11
12	12
13	13
14	14

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

3

3

3