

Chapter 58.
Local Government Service Act 1971.

Certified on: / /20 .

INDEPENDENT STATE OF PAPUA NEW GUINEA.



Chapter 58.

Local Government Service Act 1971.

ARRANGEMENT OF SECTIONS.

PART I – PRELIMINARY.

1. Interpretation.
 - “appointed member of the Commission”
 - “the Chairman”
 - “the Commission”
 - “designated position”
 - “determination”
 - “the determinations”
 - “the Local Government Association”
 - “member of the Commission”
 - “member of the Service”
 - “the regulations”
 - “the Service”
 - “this Act”
2. Application.

PART II – THE LOCAL GOVERNMENT SERVICE COMMISSION.

Division 1 – Establishment, etc.

3. Establishment of the Commission.
4. Constitution of the Commission.
5. Deputies of members of the Commission.
6. Tenure of office.
7. Disqualifications.
8. Fees and allowances.

Division 2 – Powers and Functions.

9. Functions of the Commission.
10. Powers of the Commission.
11. Meetings of the Commission.
12. Delegation.

Division 3 – General.

13. Communications between the Commission and the Service.
14. Staff of the Commission.
15. Annual report.

PART III – THE LOCAL GOVERNMENT SERVICE.

Division 1 – Preliminary.

16. Establishment of the Service.
17. General directions by the Minister.
18. Consultation with Departmental Head of Department of Personnel Management.

Division 2 – Appointments, etc.

19. Appointments to the Service.
20. Conditions of employment.
21. Sick leave and long leave funds.
22. Superannuation schemes.

Division 3 – Married Women.

23. Special provisions relating to married women.

Division 4 – Designated Positions.

24. Designated positions.
25. Employment of members of the Service in designated positions.
26. Classification of designated positions.
27. Implied conditions of employment contracts.
28. Application of Public Services (Management) Act 1995.

Division 5 – General.

29. Directions by Commission.
30. Additional powers of Commission.

PART IV – MISCELLANEOUS.

31. Supernumerary employment.
32. Regulations.

SCHEDULE 1 – Code of Ethics for Members of the Local Government Service.

INDEPENDENT STATE OF PAPUA NEW GUINEA.



AN ACT

entitled

Local Government Service Act 1971,

Being an Act to establish and regulate a Local Government Service, and for related purposes.

PART I. – PRELIMINARY.

Note *Provincial Governments and Local-level Governments (Consequential Amendments) Act 1995*, s2 provides:

“The provisions of the *Local Government Service Act* (Chapter 58) and Regulations made thereunder, other than provisions relating to, and necessary to the operation of, the Local Government Service Benefits Fund, are hereby suspended from operation.”

1. INTERPRETATION.

(1) In this Act, unless the contrary intention appears—

“**appointed member of the Commission**” means a member of the Commission referred to in Section 4(1)(b) or (c);

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

“**the Commission**” means the Local Government Service Commission established by Section 3;

“**designated position**” means a position on the staff of a Council or Local Government Authority referred to in Section 24(1);

“**determination**” means a determination published in the *Local Government Gazette*;

“**the determinations**” means the determinations made under this Act;

“**the Local Government Association**” means the Local Government Association of Papua and New Guinea incorporated;

“member of the Commission”, in relation to a meeting of the Commission or a matter for the purposes of which or in relation to which the deputy of a member acts under Section 5(3), includes the deputy;

“member of the Service” means a person appointed to the Service under Section 19;

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

“the Service” means the Local Government Service established by Section 16;

“this Act” includes the regulations and the determinations.

(2) Unless the contrary intention appears, expressions that are used in this Act and are also used in the *Local Government Act* have the same meanings in this Act as they have in that Act.

2. APPLICATION.

This Act does not affect the operation of Part VIII. of the *Local Government Act* in relation to persons who are not members of the Service.

PART II. – THE LOCAL GOVERNMENT SERVICE COMMISSION.

Division 1.

Establishment, etc.

3. ESTABLISHMENT OF THE COMMISSION.

A Local Government Service Commission is hereby established.

4. CONSTITUTION OF THE COMMISSION.

¹(1) The Commission shall consist of–

- (a) the Commissioner for Local Government, who shall be the Chairman; and
- (b) a second member, appointed by the Minister, by notice in the *Local Government Gazette*, from a panel of names submitted by the Local Government Association; and
- (c) a third member, appointed by the Minister, by notice in the *Local Government Gazette*.

(2) If the Minister is not satisfied that there is on a panel of names submitted in accordance with Subsection (1)(b) the name or names of a person or persons suitable for appointment under that paragraph, he may request the Local Government Association to submit a further name or further names.

(3) If after being requested by the Minister, the Local Government Association fails to submit a panel of names in accordance with Subsection (1)(b), or a further name or names under Subsection (2), within what, in the opinion of the Minister, is a reasonable period, the Minister may appoint the second member of the Committee without such a submission.

5. DEPUTIES OF MEMBERS OF THE COMMISSION.

(1)² ³The Minister shall, by notice in the *Local Government Gazette*, appoint a deputy for each member of the Commission.

(2) In the case of the deputy of the member referred to in Section 4(1)(b), the appointment shall be made in the same manner as the appointment of the member referred to in that paragraph.

(3) In the event of the absence of a member of the Commission from a meeting of the Commission or his inability for any reason to act in relation to a matter, his deputy has and may exercise and perform all his powers and functions for the purposes of that meeting or in relation to that matter.

¹ Section 4 amended by No. 25 of 1976, Schedule 18.

² Section 5(1) amended by No. 25 of 1976, Schedule 18.

³ Section 5(1) amended by No. 25 of 1976, Schedule 18.

6. TENURE OF OFFICE.

(1)⁴ ⁵An appointment to the Commission shall be for such period (not exceeding three years) as the Minister fixes.

(2) The periods of appointment of any one appointed member of the Commission and of his deputy shall end on a date different from the date on which the period of appointment of the other appointed member ends.

7. DISQUALIFICATIONS.

(1) The following persons are not qualified for appointment to the Commission:—

- (a) a member of the Parliament; and
- (b) a person who holds any office in a political organization; and
- (c) an employee of a Council or Local Government Authority; and
- (d) a person who is an undischarged bankrupt or insolvent; and
- (e) a person who has been convicted of an offence punishable under a law of Papua New Guinea, or of Australia or a State or Territory of Australia, by death or imprisonment for one year or longer and, as a result of the conviction, is subject to be sentenced to death or imprisonment, is under sentence of death or is undergoing imprisonment, or is under bond to appear for sentence if called on.

(2) A member of the Commission shall be deemed to have vacated his office if—

- (a) he becomes a person of unsound mind as that expression is used in the *Public Health Act 1973*; or
- (b) he becomes a person referred to in Subsection (1); or
- (c) except on leave granted by the Commission, he absents himself from three consecutive meetings of the Commission; or
- (d) he becomes permanently incapable of performing his duties.

(3) An appointed member of the Commission may at any time resign his appointment by written notice to the Minister.

8. FEES AND ALLOWANCES.

The Commission shall be deemed to be a Board approved under Section 2 of the *Boards (Fees and Allowances) Act 1955*.

⁴ Section 6(1) amended by No. 25 of 1976, Schedule 18.

⁵ Section 6(1) amended by No. 25 of 1976, Schedule 18.

Division 2.

Powers and Functions.

9. FUNCTIONS OF THE COMMISSION.

(1) In addition to its other powers, functions, duties and responsibilities under this Act, the Commission has the following functions and duties:—

- (a) to devise means for effecting economies and promoting efficiency in the management and working of the staff of Councils and Local Government Authorities by—
 - (i) improved organization and procedure; and
 - (ii) closer supervision; and
 - (iii) the simplification of work and the abolition of unnecessary work; and
 - (iv) the co-ordination of work; and
 - (v) the limitation of staff to actual requirements and the utilization of staff to the best advantage; and
 - (vi) the avoidance of unnecessary expenditure,

and to advise Councils and Local Government Authorities on any such matter;

- (b) to ascertain whether any inefficiency or lack of economy exists in the use of staff of Councils and of Local Government Authorities, and to bring any such matter to the attention of the Council or Authority concerned;
- (c) to exercise a critical oversight of the activities, and the methods of conducting the business, of the staff of Councils and the staff of Local Government Authorities;
- (d) to maintain a comprehensive and continuous system of measuring and checking the economical and efficient working of the staff of Councils and the staff of Local Government Authorities and devise standard practices and uniform instructions for carrying out recurring work, and to advise Councils and Local Government Authorities on any such matter;
- (e) to make recommendations to the Government regarding subsidies or other assistance to low-income Councils or Local Government Authorities in order to assist in meeting the costs of adequate staff in designated positions;
- (f) to inquire into and report to the Minister on all matters relating to the employment of staff of Councils and staff of Local Government Authorities, and in particular on any such matter referred to it by the Minister;

- (g) such other duties in relation to the staff of Councils and the staff of Local Government Authorities as are prescribed by or under this or any other Act.

(2) In performing its functions under this Act, the Commission shall consult with Councils, Local Government Authorities and the Local Government Association, as appropriate.

(3) This section does not apply in respect of the exercise or performance by Councils or Local Government Authorities of their powers or functions.

10. POWERS OF THE COMMISSION.

(1) For the purpose of carrying out its functions and duties under this Act, the Commission may at any time—

- (a) enter premises occupied or used by a Council or Local Government Authority; and
- (b) summon any person whose evidence appears to be material to the determination of any matter before the Commission; and
- (c) take evidence on oath or affirmation, and for that purpose administer oaths or affirmations; and
- (d) require any person to produce a book, document or paper in his custody or control.

(2) A person who knowingly makes a false or misleading statement in any evidence before the Commission is guilty of an offence.

(3) A person who, when summoned or required under this section to give evidence or to produce a book, document or paper in his custody or control, fails without reasonable excuse (proof of which is on him)—

- (a) to attend before the Commission at the time and place appointed in the summons or requirement; or
- (b) to be sworn or make an affirmation; or
- (c) to answer any question put to him by the Commission; or
- (d) to produce the document, book or paper,

is guilty of an offence.

Penalty: A fine not exceeding K40.00.

(4) It is a defence to a charge of an offence against Subsection (3) for failing to produce a book, document or paper, or to answer a question, if the defendant proves that the book, document or paper or question was not relevant to the matter in connection with which the production or answer was required.

(5) For the purposes of this section, a summons or requirement purporting to have been issued or made by the Commission shall be deemed to have been properly issued or made if it is signed by the Chairman.

11. MEETINGS OF THE COMMISSION.

(1) The Commission shall meet at such times as are fixed by the Chairman, but in any event not less frequently than once in every two months.

(2) The Chairman shall give to the other members of the Commission not less than seven days' written notice personally or by post, of a meeting, or such lesser period of notice as agreed on by the Chairman and one other member.

(3) At a meeting of the Commission—

(a) the Chairman and one other member is a quorum; and

(b) the Chairman shall preside; and

(c) all matters shall be decided in accordance with a majority of votes of the members present and voting; and

(d) the Chairman has a deliberative and, in the event of an equality of votes on a matter, also a casting vote.

(4) The Commission shall cause minutes of its meetings to be kept.

(5) Subject to this Act, the procedures of the Commission are as determined by it.

12. DELEGATION.

The Commission may, by instrument, delegate to any person all or any of its powers and functions under this Act (except this power of delegation).

Division 3.

General.

13. COMMUNICATIONS BETWEEN THE COMMISSION AND THE SERVICE.

The Commission may communicate directly with a member of the Service at any time, and a member of the Service may communicate directly with the Commission at any time.

14. STAFF OF THE COMMISSION.

The Government shall provide for the Commission, within the office of the Commissioner for Local Government—

(a) such secretarial, clerical, typing, research and other staff and facilities; and

(b) such office accommodation, furniture and equipment,

as are reasonably required for the efficient operation of the Commission.

15. ANNUAL REPORT.

(1)⁶ ⁷The Commission shall, not later than 31 March in each year, give to the Minister, for presentation to the Parliament, a report on the condition and efficiency of the Service and on the activities of the Commission for the period of 12 months ended on 31 December in that year.

(2) In its report under Subsection (1) the Commission shall set out any changes that have been made, and any further measures that are necessary or desirable, for improving the working of the Service, and especially for ensuring efficiency and economy.

⁶ Section 15(1) amended by No. 47 of 1977, Schedule 1.

⁷ Section 15(1) amended by No. 47 of 1977, Schedule 1.

PART III. – THE LOCAL GOVERNMENT SERVICE.

Division 1.

Preliminary.

16. ESTABLISHMENT OF THE SERVICE.

- (1) A Local Government Service is hereby established.
- (2) The Service shall consist of members appointed under this Part.

17. GENERAL DIRECTIONS BY THE MINISTER.

The exercise of the powers conferred on the Commission by this Part is subject to any directions of the Minister.

18. CONSULTATION WITH DEPARTMENTAL HEAD OF DEPARTMENT OF PERSONNEL MANAGEMENT.

⁸Before exercising any powers conferred on it by Section 20, 21, 22, 24, 26 or 30, the Local Government Service Commission shall consult with the Departmental Head of the Department of Personnel Management.

Division 2.

Appointments, etc.

19. APPOINTMENTS TO THE SERVICE.

(1) Subject to this Act, the Commission may appoint persons to be members of the Service.

(2) A person shall not be appointed to be a member of the Service unless—

- (a) he is—
 - (i) a citizen of Papua New Guinea; or
 - (ii) an Australian citizen, a British subject or an Australian protected person; and
- (b) he produces evidence to the satisfaction of the Commission as to—
 - (i) his health and physical fitness; and
 - (ii) his possession of qualifications that will enable him to perform the duties of a designated position; and
 - (iii) his age; and
 - (iv) his good character; and

⁸ Section 18 repealed and replaced by *Public Service (Management) (Consequential Amendments) Act 1986* (No. 29 of 1986), s14.

- (c) he subscribes, before the Chairman or a person authorized by him for the purpose, the Code of Ethics for Members of the Local Government Service set out in Schedule 1.

20. CONDITIONS OF EMPLOYMENT.

(1) Subject to this Act, the Commission may determine all matters relating to the terms and conditions of appointment and service in the Service, and by members of the Service in designated positions.

(2) Without otherwise limiting the generality of Subsection (1), the determinations shall provide—

- (a) for disciplinary matters relating to members of the Service in relation to—
 - (i) their membership of the Service; and
 - (ii) their employment by a Council or a Local Government Authority; and
- (b) that the termination of the services of a member of the Service by or with a Council or Local Government Authority does not of itself terminate his membership of the Service; and
- (c) for the rights and welfare of members of the Service during and in relation to periods when they are necessarily not employed in designated positions.

(3) A determination under this Act shall not provide for overseas conditions of service.

21. SICK LEAVE AND LONG LEAVE FUNDS.

(1) The Commission may, by determination, provide for the establishment of funds under the control of the Commission—

- (a) into which Councils and Local Government Authorities shall pay contributions, in accordance with the determinations, in respect of accrued, accruing or contingent rights to sick leave and other leave and other rights of members of the Service employed by them; and
- (b) out of which payments shall be made, in accordance with the determinations, to members of the Service in respect of their accrued rights.

(2) The Commission may recover any arrears of contributions from the Council or Local Government Authority concerned as a debt.

(3) The determinations may prescribe the degree to which, the circumstances in which, and the conditions on which, payments may be made out of any fund established under this section.

(4) Sections 52, 57, 61, 62 and 63 of the *Public Finances (Management) Act 1995* apply to the Commission in respect of funds established under this section as though the Commission were a public body to which that Act applied.

22. SUPERANNUATION SCHEMES.

(1) The Commission may establish, or make arrangements for, contributory or non-contributory superannuation or retirement benefits schemes for or in relation to members of the Service.

(2) The determinations may require a member of the Service to join a scheme referred to in Subsection (1).

Division 3.

Married Women.

23. SPECIAL PROVISIONS RELATING TO MARRIED WOMEN.

(1) Subject to this section, a married woman may be appointed to be a member of the Service, and a female member may continue to be a member after her marriage.

(2) The rights (if any) of a married woman to and in respect of superannuation or retirement benefits are as determined by or under Act.

(3)⁹ ¹⁰Where, in the opinion of the Minister, the number of persons who are qualified for appointment to the Service is in excess of the demand, the Minister may direct that preference in appointment to the Service be given to males, unmarried females and female heads of families over other married women, and the Commission shall comply with the direction.

(4)¹¹ ¹²Where, in the opinion of the Minister, it is desirable by reason of an over-supply of persons qualified for appointment to the Service, the Minister may direct that the Commission retire from the Service such number or proportion of members who are married women, other than female heads of families, as the Minister thinks proper, and the Commission shall comply with the direction.

(5) In complying with a direction under Subsection (4), the Commission shall make the retirements progressively from the lowest-classified class of positions to the highest-classified class, and within each class shall retire members in the reverse order of their respective lengths of service in the Service.

(6) Where the Commission is satisfied that a married female member of the Service is supporting a husband or family (or both) in such circumstances that she should be regarded as being the head of the family, the Commission may declare her to be a female head of a family for the purposes of this section.

⁹ Section 23(3) amended by No. 25 of 1976, Schedule 18.

¹⁰ Section 23(3) amended by No. 25 of 1976, Schedule 18.

¹¹ Section 23(4) amended by No. 25 of 1976, Schedule 18.

¹² Section 23(4) amended by No. 25 of 1976, Schedule 18.

Division 4.

Designated Positions.

24. DESIGNATED POSITIONS.

(1) Of its own motion or at the request of the Council or Local Government Authority, the Commission may, by notice in the *Local Government Gazette*—

- (a) create positions to be known as designated positions on the establishment of the staff of a Council or Authority; and
- (b) determine the qualifications for, and the duties of, any such position.

(2) Subject to Section 31, only a member of the Service is qualified to hold a designated position, except with the consent of the Commission and for such period and subject to such conditions as it thinks proper.

(3) Except with the consent of the Commission, a member of the Service shall not be employed by a Council or a Local Government Authority otherwise than in a designated position for which he holds the necessary qualifications.

25. EMPLOYMENT OF MEMBERS OF THE SERVICE IN DESIGNATED POSITIONS.

(1) Notwithstanding anything in any other law, a Council or Local Government Authority may employ a member of the Service, in accordance with this Act, in a designated position.

(2) This Act does not affect the relationship of master and servant as between a Council or Local Government Authority and a member of the Service, or create such a relationship between the Commission and any member of the Service.

26. CLASSIFICATION OF DESIGNATED POSITIONS.

From time to time the Commission may, by determination, allot salary or a scale of salary to any designated position.

27. IMPLIED CONDITIONS OF EMPLOYMENT CONTRACTS.

(1) Notwithstanding anything in any other law, the terms and conditions prescribed by this Act are implied in all contracts of employment between a Council or Local Government Authority and a member of the Service in relation to a designated position.

(2) Subsection (1) does not apply to or in respect of a supernumerary employed under Section 31.

28. APPLICATION OF PUBLIC SERVICES (MANAGEMENT) ACT 1995.

The provisions of the *Public Services (Management) Act 1995* relating to leave to serve under other Acts do not apply to designated positions or to the Service.

Division 5.

General.

29. DIRECTIONS BY COMMISSION.

The Commission may give to members of the Service directions, not inconsistent with this Act or the *Local Government Act*, as to any matter prescribed by this Act or necessary or desirable for the efficient administration of the Service.

30. ADDITIONAL POWERS OF COMMISSION.

Where in the opinion of the Commission there is no provision, or no sufficient or appropriate provision, in respect of any matter or thing necessary or desirable to give effect to this Part or for the regulation or welfare of the Service, the Commission, with the approval of the Head of State, acting on advice, may determine—

- (a) that any appropriate provision of the *Public Services (Management) Act* 1995 or the regulations or determinations made under that Act, with the necessary modifications, shall apply; or
- (b) in what manner and form the want of provision or insufficient or inappropriate provision shall be supplied or modified,

until such time as the necessary provision can conveniently be made.

PART IV. – MISCELLANEOUS.**31. SUPERNUMERARY EMPLOYMENT.**

(1)¹³ ¹⁴Where for any special reason the Commission thinks it proper, the Commission may authorize a Council or Local Government Authority to employ persons as supernumeraries on special contracts, in such circumstances and on such terms and conditions as are approved by the Commission, generally or in a particular case, after consultation with the Departmental Head of the Department of Personnel Management.

(2) A designated position may be occupied by a supernumerary employed under Subsection (1).

32. REGULATIONS.

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

- (a) relationships between the Commission and Councils and Local Government Authorities; and
- (b) the duties and responsibilities of Councils and Local Government Authorities in relation to–
 - (i) the Commission; and
 - (ii) this Act; and
 - (iii) the administration of the Service.

¹³ Section 31(1) amended by *Public Service (Management) (Consequential Amendments) Act 1986* (No. 29 of 1986), s15.

¹⁴ Section 31(1) amended by *Public Service (Management) (Consequential Amendments) Act 1986* (No. 29 of 1986), s15.

**SCHEDULE 1 – CODE OF ETHICS FOR MEMBERS OF THE LOCAL
GOVERNMENT SERVICE.**

Sec. 19.

I understand that I hold an office of public trust and as an officer of my Council (*or* Local Government Authority) do promise–

- (a) To uphold constitutional government and the laws of my community; and
- (b) To conduct my public and private life so as to be an example to my fellow citizens; and
- (c) To conform, in the exercise of my profession, to such standards of quality and integrity that the conduct of my office will be above reproach; and
- (d) To be ever mindful of my neutrality and impartiality, giving equal service to all; and
- (e) To record what is true and preserve what is entrusted to me as if it were my own; and
- (f) To strive constantly to improve the administration of my office, consistent with applicable laws.

Office of Legislative Counsel, PNG