

No. 10 of 1992.

National Narcotics Control Board Act 1992.

Certified on: / /20 .

INDEPENDENT STATE OF PAPUA NEW GUINEA.



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INDEPENDENT STATE OF PAPUA NEW GUINEA.



AN ACT

entitled

National Narcotics Control Board Act 1992,

Being an Act to provide for the establishment of a National Narcotics Control Board, and for related purposes.

PART I. – PRELIMINARY.

1. COMPLIANCE WITH CONSTITUTIONAL REQUIREMENTS.

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

- (a) the right to freedom of expression and publication conferred by Section 46 of the *Constitution*; and
- (b) the right to privacy conferred by Section 49 of the *Constitution*; and
- (c) 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 the public order and the public welfare.

(2) For the purposes of Section 41 of the *Organic Law on Provincial Governments and Local-level Governments*, it is declared that this Act relates to a matter of national interest.

2. INTERPRETATION.

In this Act, unless the contrary intention appears–

“**Board**” means the National Narcotics Control Board established by Section 3;

“**Bureau**” means the National Narcotics Bureau established under Section 12;

“**Director**” means the Director of the Bureau appointed under Section 14;

“drug” means—

- (a) a narcotic drug listed in Schedule I, II, III or IV of the *Single Convention on Narcotic Drugs* 1961; and
- (b) a drug referred to in the Protocol amending the *Single Convention on Narcotic Drugs* 1961,

and the term “drug” includes psychotropic substances, listed in Schedule I, II, III and IV of the *Convention on Narcotic Drugs* 1971;

“member” means a member of the Board appointed under Section 4;

“person” includes a corporation (corporate or unincorporated);

“terms and conditions of service” means the obligations, rights, entitlements and all other benefits specified in the *Public Services (Management) Act 1995*;

“this Act” includes the regulations.

PART II. – ESTABLISHMENT, FUNCTIONS AND PROCEDURE OF THE BOARD.

3. ESTABLISHMENT OF THE BOARD.

The National Narcotics Control Board is hereby established.

4. CONSTITUTION OF THE BOARD.

(1) The Board shall consist of the following members:–

- (a) a senior officer of the Department responsible for justice matters; and
- (b) a senior officer of the Department responsible for foreign affairs matters; and
- (c) a senior officer of the Department responsible for police matters; and
- (d) a senior officer from the Bureau of Customs; and
- (e) a senior officer of the Department responsible for health matters; and
- (f) a senior officer of the Department responsible for youth and home affairs matters; and
- (g) a senior officer of the Department responsible for education matters; and
- (h) a senior officer of the Department responsible for defence matters; and
- (i) a senior officer of the Department responsible for correctional service matters; and
- (j) the Director of the Bureau; and
- (k) a representative of the churches.

(2) The members referred to–

- (a)¹ in Subsection (1)(a) to (i) inclusive–shall be appointed in accordance with the *Regulatory Statutory Authorities (Appointment to Certain Offices) Act 2004*; and
- (b)² in Subsection (1)(k)–upon consideration of recommendations from the Melanesian Council of Churches and the Evangelical Alliance, shall be appointed in accordance with the *Regulatory Statutory Authorities (Appointment to Certain Offices) Act 2004*.

(3) The Minister may attend meetings of the Board as an observer.

5. TERM OF OFFICE OF MEMBERS.

(1) A member of the Board shall be appointed for a term of three years and is eligible for re-appointment.

¹ Section 4 Subsection (2) amended by No. 97 of 2006, Sched. 1.

² Section 4 Subsection (2) amended by No. 97 of 2006, Sched. 1.

(2) Where a member—

- (a) dies; or
- (b) is terminated in accordance with this section; or
- (c) otherwise resigns or vacates his office,

the Minister shall, as soon as possible, appoint a new member, in accordance with this Act, to fill the vacancy.

(3) The Minister, acting on the recommendation—

- (a) in the case of the members referred to in Section 4(1)(a) to (i) inclusive—of the Departmental Head of a particular member; and
- (b) in the case of the member referred to in Section 4(1)(j)—of the Board; and
- (c) in the case of the member referred to in Section 4(1)(k)—of the Melanesian Council of Churches and the Evangelical Alliance,

may by written notice advise that member that he intends to terminate his appointment as a member—

- (d) on the grounds of inefficiency or misbehaviour; or
- (e) on any of the grounds referred to in Section 11.

(4) Within 14 days of the receipt of a notice under Subsection (3), the member may reply in writing to the Minister who shall consider the reply, (if any) and, where appropriate, terminate the appointment of the member.

(5) Where the member referred to in Subsection (3) does not reply in accordance with Subsection (4), his appointment is terminated.

6. ALTERNATE MEMBERS.

(1) For each of the members appointed under Section 4, an alternate member may be appointed in the same manner and subject to the same conditions as the member for whom he is the alternate.

(2) The Deputy Director of the Bureau is the alternate member to the Director of the Bureau.

(3) In the event of the absence or inability of a member to act in relation to a matter or to exercise and perform his powers and functions under this Act, his alternate—

- (a) may act in relation to that matter; or
- (b) has and may exercise or perform all or or any of the powers and functions of the member,

and this Act applies accordingly.

(4) The alternate member may attend meetings of the Board but shall not, except where he is attending in the absence of the member for whom he is the alternate, take part in the meetings or be counted towards a quorum.

7. FUNCTIONS OF THE BOARD.

The functions of the Board are:–

- (a) to initiate and implement policies on drug abuse; and
- (b) to initiate adequate legislation covering all aspects of drug abuse; and
- (c) to advise the Government on all international aspects of drug abuse; and
- (d) to liaise, either directly or through the Bureau, on behalf of the Government with the appropriate international government and non-government agencies on matters relating to all aspects of drug abuse; and
- (e) to plan the overall strategy to ensure the necessary co-operation of the relevant Departments and non-government organizations in all aspects of drug abuse; and
- (f) to undertake, supervise and implement the country's regional and international obligations relating to all aspects of drug abuse; and
- (g) to establish sub-committees as may be considered necessary, as advisory committees, to consider specific matters relating to drugs or to consider any actions as may be assigned; and
- (h) to propose such appropriate legislative or other measures as may be necessary to ensure proper screening and recommendation of persons who may be licensed to import and export drugs; and
- (i) to issue licences to persons for the manufacture, import and export of drugs; and
- (j) subject to any other law, to approve and supervise the budget of the Board; and
- (k) after consultation with the head of the Department responsible for health matters to license and inspect, either directly or through the Bureau, those centres or institutions whose primary purpose is to provide facilities for the medical treatment, care or rehabilitation of drug addicts; and
- (l) after consultation with the head of the Department responsible for health matters, to issue a licence to a person addicted to drugs to obtain a drug prescribed in the licence while participating in a licensed and supervised detoxification or rehabilitation programme; and
- (m) to receive and administer all donations for the purpose of carrying out the objectives of this Act; and
- (n) subject to this Act, to direct the Bureau to carry out such other functions as the Board may consider necessary.

8. MEETING AND QUORUM.

(1) The Board shall meet as often as may be necessary, and at such times and places as it determines, or as the Chairman, or in his absence, the Deputy Chairman, determines, for the proper discharge of its functions under this Act, but in any event shall meet not less frequently than once in every two months.

(2) The quorum necessary at meetings of the Board shall be six members.

(3) All matters arising at meetings of the Board shall be decided by a majority of the votes of the members present and voting, and in the event of an equality of votes on a matter the person presiding has also a casting vote.

(4) The Board shall cause minutes of its meetings to be recorded and kept.

(5) Subject to this Act, the Board shall determine or adopt its rules of procedure.

9. CHAIRMAN AND DEPUTY CHAIRMAN.

(1) The Board shall elect its own Chairman and Deputy Chairman.

(2) The Chairman, or in his absence, the Deputy Chairman, shall preside at a meeting of the Board and if both the Chairman and the Deputy Chairman are absent the members present shall appoint one of their number to preside for that meeting.

10. SECRECY OF PROCEEDINGS.

Except with the written authority of the Chairman, proceedings of the Board are confidential and shall not be published or disclosed to any person other than members of the Board or members of the staff of the Bureau.

11. VACANCY OF OFFICE OF MEMBERS OF THE BOARD.

(1) Where a member—

(a) is convicted of a drug offence or drug related offence; or

(b) is convicted of any indictable offence; or

(c) is absent from three consecutive meetings of the Board without proper reasons; or

(d) breaches the confidentiality of the proceedings of the Board,

the Minister shall terminate his appointment as a member.

(2) A member may resign his office as a member by notice in writing signed by him and addressed to the Minister.

PART III. – ESTABLISHMENT, FUNCTIONS AND PROCEDURE OF THE NATIONAL NARCOTICS BUREAU.

12. THE NATIONAL NARCOTICS BUREAU.

The National Narcotics Bureau is hereby established.

13. FUNCTIONS OF THE BUREAU.

(1) The functions of the Bureau are–

- (a) to make recommendations to the Board on policies, measures, plans, matters or projects relating to abuse of drugs; and
- (b) to co-ordinate and monitor the Government and non-Government–
 - (i) drug education programme; and
 - (ii) drug awareness campaign; and
 - (iii) drug rehabilitation programme; and
- (c) to conduct surveys and gather and evaluate information, on the–
 - (i) consumption of drugs; and
 - (ii) cultivation of drugs; and
 - (iii) trafficking of drugs; and
 - (iv) manufacture of drugs; and
 - (v) convictions of persons for drug offences and drug related offences; and
- (d) to make recommendations to the Board on the licensing of persons who, and institutions which, may possess–
 - (i) drugs for the purposes of conducting scientific, clinical, social, educational, psychological, physical and biological research for training and education purposes; and
 - (ii) plants from which drugs are derived; and
- (e) to propose or initiate necessary legislative or other measures prescribing methods to be used for screening and recommending persons who may be licensed to import and export drugs; and
- (f) to ensure compliance with the terms of the licences granted for manufacturing, importing and exporting drugs; and
- (g) to receive information on the cultivation, use, manufacture and trafficking of any drug and, if the Director considers appropriate, to refer the information to the Board and the appropriate governmental bodies; and
- (h) to provide administrative and secretarial services to the Board; and

- (i) to liaise with appropriate governmental bodies on matters relating to abuse and trafficking of drugs; and
 - (j) to maintain liaison with international agencies and to provide representation in international forums as required by the Board; and
 - (k) to carry out such other functions as may be required by the Board.
- (2) The Bureau may, upon authorization from the Board require from—
- (a) a public authority; or
 - (b) a Department; or
 - (c) an instrumentality of the Government; or
 - (d) a private organization,

such data, document, record, information or thing that, in the opinion of the Board, are necessary or required for the purposes of this Act.

(3) A person granted a licence to possess any drug under this Act shall, upon demand, submit to the Board a report on the purpose and usage of the drug placed in his care, custody or control.

(4) A person who fails to comply with Subsection (3) is guilty of an offence.

Penalty: A fine not exceeding K400.00 or imprisonment for a term not exceeding six months.

14. APPOINTMENT OF DIRECTOR AND DEPUTY DIRECTOR.

(1)³ ⁴There shall be a Director of the Bureau whose manner of appointment, suspension and dismissal is as specified in the *Regulatory Statutory Authorities (Appointment to Certain Offices) Act 2004*.

(2) The Director shall be the Secretary to the Board.

(3) The Director shall appoint a member of the staff of the Bureau to be the Deputy Director.

(4) The Director shall be a person experienced in matters of drug abuse and shall have such management qualifications as are considered necessary by the Board.

15. STAFF OF THE BUREAU.

(1) Subject to this section, there shall be such other staff of the Bureau as are considered necessary by the Director for the purposes of this Act.

(2) Subject to the *Salaries and Conditions Monitoring Committee Act 1988*, the terms and conditions of employment of the Director and the staff of the Bureau are as determined by the Minister responsible for public service matters.

³ Section 14 Subsection (1) substituted by No. 97 of 2006, Sched. 1.

⁴ Section 14 Subsection (1) substituted by No. 97 of 2006, Sched. 1.

(3) The Director and the staff of the Bureau constitute the staff of the Bureau.

(4) Where an officer or employee of the Public Service is appointed to be the Director or the staff of the Bureau, his service on the staff of the Bureau shall be counted as service in the Public Service for the purpose of determining his terms and conditions of service (if any) under the *Public Services (Management) Act 1995*.

16. REMOVAL OF DIRECTOR.

The Director may be removed from office by the Minister following a recommendation by the Board—

- (a) if he becomes permanently incapable of performing his duties; or
- (b) on the grounds of inefficiency, incapacity or misbehaviour; or
- (c) on the grounds of mismanagement.

17. POWERS OF THE DIRECTOR.

The Director—

- (a) shall be responsible for the proper administration of this Act; and
- (b) shall be responsible for the general working and efficient conduct of the Bureau; and
- (c) shall be responsible for ensuring the adequate provision of facilities for the Board and the Bureau; and
- (d) may appoint, suspend or dismiss a member of the staff of the Bureau referred to in Section 15(1).

PART IV. – FINANCES.

18. ANNUAL BUDGET OF THE BOARD.

(1) The Bureau shall be responsible for submitting to the Board the annual budget of the Board.

(2) Subject to any other law, the Board shall supervise the budget of the Board and administer all donations for the purposes of the Act.

19. APPLICATION OF THE *PUBLIC FINANCE (MANAGEMENT) ACT*.

Part VIII of the *Public Finance (Management) Act 1995* shall apply to and in relation to the Board.

PART V. – MISCELLANEOUS.

20. REPORTS BY THE BUREAU.

The Bureau shall submit to the Board such reports on drug abuse as may be required by–

- (a) the Board; and
- (b) the Government; and
- (c) the United Nations Division on Narcotics; and
- (d) World Health Organization; and
- (e) other recognised organizations.

21. BUREAU TO BE INFORMED OF SEIZURE OF DRUGS.

(1) Where a body empowered to do so seizes a drug, it shall, as soon as practicable, inform the Bureau of that seizure.

(2) A drug seized under this Act shall be destroyed in the presence of an officer of the Bureau who shall, as soon as possible, make a report of the matter to the Board.

(3) The Bureau shall–

- (a) keep an inventory of all drugs that are seized (including description, quantity and place of storage); and
- (b) be responsible for the safe keeping of any drugs ordered by the court to be released to the Board; and
- (c) be responsible for recommending to the court the usage, destruction or disposal of drugs if the drugs are no longer needed for the purpose of evidence.

22. ANNUAL REPORT.

The Board shall submit by 30 April, in every year, to the National Executive Council through the Minister a report on the working and implementation of this Act for the preceding year and, in particular, the situation regarding drug abuse and drug trafficking in the country.

23. CLASSIFIED INFORMATION.

(1) Any document, report, information, matter or thing classified as “confidential” or “Top Secret” by the Bureau–

- (a) shall not be published or disclosed to any person other than the members of the Bureau or the staff of the Bureau; and
- (b) shall not be removed by any person,

unless such publication, disclosure or removal, as the case may be,—

- (c) was done in the course of his duty; and
- (d) was authorized in writing by the Director or Chairman.

(2) A person who fails to comply with Subsection (1) shall be guilty of an offence.

Penalty: A fine not exceeding K400.00 or imprisonment for a term not exceeding six months.

24. SAFE CONTROL OF DRUGS.

(1) Any person licensed to possess a drug under this Act shall ensure that the drug is kept in a safe place under proper care and control at all times.

(2) A person who fails to comply with Subsection (1) is guilty of an offence.

Penalty: A fine not exceeding K400.00 or an imprisonment for a term not exceeding six months.

25. TRAINING OF OFFICERS.

Notwithstanding the duty of Departments to provide adequate training for officers, the Bureau may nominate to the Board officers for training either within the country or abroad, in various aspects of drug abuse.

26. 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—

- (a) all matters relating to screening and recommendation of persons who may be licensed to import and export drugs; and
- (b) the control and issue of licences; and
- (c) control of certain classified documents, records and information; and
- (d) penalty for release of any confidential documents, records and information; and
- (e) fees to be paid in connection with application for and issue of licences and in connection with other matters relating to the functions of the Board; and
- (f) penalties of fines not exceeding K1,000.00 or terms of imprisonment not exceeding two years for breach of provisions of the regulations.

Office of Legislative Counsel, PNG