

No. 34 of 1997.

Pacific Adventist University Act 1997.

Certified on: / /20 .

INDEPENDENT STATE OF PAPUA NEW GUINEA.



No. 34 of 1997.

Pacific Adventist University Act 1997.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.



AN ACT

entitled

Pacific Adventist University Act 1997,

Being an Act to provide for the establishment and incorporation of the Pacific Adventist University, and for related purposes.

PART I. – PRELIMINARY.

1. INTERPRETATION.

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

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

“**Chancellor**” means the Chancellor of the University appointed under Section 13;

“**Council**” means the Council of the University established under Section 6;

“**member**” means a member of the Council;

“**Statutes**” means the Statutes made by the Council under Section 20;

“**this Act**” includes the Statutes;

“**University**” means the Pacific Adventist University established by Section 2.

(2) A reference in this Act to the holder of an office in the University shall be read as including a reference to a person for the time being performing the duties of that office.

PART II. – THE PACIFIC ADVENTIST UNIVERSITY.

Division 1.

Establishment and Functions.

2. PACIFIC ADVENTIST UNIVERSITY.

(1) The Pacific Adventist University is hereby established.

(2) The University is a body corporate to be known as the “Pacific Adventist University”, with perpetual succession and a common seal and shall be capable in that name of–

- (a) suing and being sued; and
- (b) subject to Section 3–
 - (i) taking, purchasing and holding real and personal property including property acquired under Section 22; and
 - (ii) granting, selling, alienating, assigning and demising real and personal property; and
- (c) doing all other matters and things incidental or appertaining to a body corporate.

3. ASSOCIATION TO HOLD, ETC., PROPERTY.

The management of property vested in the University or the Council under Sections 2(b) and 22 shall be conducted by the Papua New Guinea Adventist Association Ltd. as trustee for the University.

4. COMMON SEAL.

(1) The common seal of the University shall be kept in such custody as the Council directs and shall not be used except on the order of the Council.

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

5. FUNCTIONS OF THE UNIVERSITY.

The functions of the University are–

- (a) to encourage and provide facilities for study and education in all subjects and to give instruction and training in all branches of learning and skills; and
- (b) to provide for research into all branches of learning and to assist its practical application; and

- (c) subject to the *Higher Education Act 1983* and to the Statutes, to award and confer degrees, diplomas, certificates and other academic honours; and
- (d) to provide facilities for higher education throughout the country by the affiliation of educational institutions, by the establishment of tutorial classes, correspondence classes, extension classes and vacation classes and by such other means as the Council considers appropriate; and
- (e) to liaise, collaborate and reciprocate with other institutions of learning and training institutions, whether within or outside the country, in the provision of facilities, the recognition of degrees, diplomas and certificates and status and the interchange of staff, students and information, and in any other way not inconsistent with its status as a University.

Division 2.

Council of the University.

6. COUNCIL OF THE UNIVERSITY.

(1) There is established the Council of the University, which shall be the governing body of the University.

(2) The Council of the University shall consist of—

- (a) the Chancellor, who shall be the President of the South Pacific Division of the Seventh-day Adventist Church; and
- (b) the following ex officio members:—
 - (i) the Vice-Chancellor of the University who shall be the executive secretary to the Council;
 - (ii) the Secretary, South Pacific Division of the Seventh-day Adventist Church;
 - (iii) the Treasurer, South Pacific Division of the Seventh-day Adventist Church;
 - (iv) the Director-General, Commission of Higher Education;
 - (v) the Bursar of the University;
 - (vi) the Deputy Vice-Chancellor of the University;
 - (vii) the Education Director of the South Pacific Division of the Seventh-day Adventist Church;
 - (xiii) the President of the Papua New Guinea Union Mission of the Seventh-day Adventist Church;
 - (ix) the President of the Central Pacific Union Mission of the Seventh-day Adventist Church;

- (x) the President of the Western Pacific Union Mission of the Seventh-day Adventist Church;
 - (xi) the Education Director of the Central Pacific Union Mission of the Seventh-day Adventist Church;
 - (xii) the Education Director of the Papua New Guinea Union Mission of the Seventh-day Adventist Church;
 - (xiii) the Education Director of the Western Pacific Union Mission of the Seventh-day Adventist Church;
 - (xiv) the Youth Director of the Papua New Guinea Mission of the Seventh-day Adventist Church;
 - (xv) the President of the Central Papua Mission of the Seventh-day Adventist Church; and
- (c) not more than seven other persons appointed to the Council by the South Pacific Division Executive Committee.
- (3) A member referred to in Subsection (2)(c)–
- (a) shall hold office subject to this Act for a period, not exceeding five years, fixed by Council at the time of his appointment; and
 - (b) is eligible for re-appointment.
- (4) Subject to this Act, the Council–
- (a) shall have the control and management of the affairs and concerns of the University; and
 - (b) may from time to time appoint teaching staff and other staff and employees of the University as the Council considers necessary; and
 - (c) may act in all matters concerning the University in the manner that appears to it best calculated to promote higher education in Papua New Guinea and the Pacific Islands Nations; and
 - (d) shall determine and maintain objectives for the University within the framework of the educational philosophy of the Seventh-day Adventist Church as approved by the South Pacific Division Executive Committee.

7. CASUAL VACANCY.

(1) In the event of a casual vacancy in the Council a member shall be chosen or appointed in accordance with whichever paragraph of Section 6(1) is appropriate and the person so chosen or appointed holds office, subject to this Act, for the residue of his predecessor's term of office.

(2) If a vacancy occurs within three months before the expiration of the term of office of a member, the vacancy shall not be filled for the remainder of the term.

8. VACANCY.

Where a member of the Council—

- (a) dies; or
- (b) declines to act; or
- (c) resigns his seat; or
- (d) is absent without leave of the Council from three consecutive meetings of the Council,

his seat shall become vacant and shall be filled as a casual vacancy in accordance with Section 7.

9. PERSONS ELIGIBLE TO BE MEMBERS OF THE COUNCIL.

A person who—

- (a) is under 21 years; or
- (b) is an undischarged bankrupt, or has his affairs under liquidation by arrangement with his creditors; or
- (c) has been convicted of an offence and sentenced to imprisonment, unless he has received a free pardon or has undergone the sentence; or
- (d) is an insane person or a person of unsound mind within the meaning of a law in force relating to insanity or unsoundness of mind,

is not eligible to be or continue to be a member of the Council.

10. CHAIRMAN TO PRESIDE, ETC.

(1) The Chancellor shall preside at all meetings of the Council at which he is present.

(2) At any meeting of the Council at which the Chancellor is not present, the Pro-Chancellor shall preside.

(3) In the absence of both the Chancellor and the Pro-Chancellor, a member appointed by the South Pacific Division of the Seventh-day Adventist Church shall preside.

11. MEMBER WITH PECUNIARY INTEREST NOT TO VOTE.

A member shall not be entitled to vote either in the Council or in a committee thereof on a subject in which he has a direct pecuniary interest, and if such a member votes his vote shall be disallowed.

12. PROCEDURE AT MEETINGS.

(1) Subject to any other provisions of this Act, all questions to be decided at a meeting of the Council shall be decided by a majority of votes of the members present.

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

(3) At a meeting of the Council seven members constitute a quorum.

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

Division 3.

Officers of the University.

13. CHANCELLOR.

(1) There shall be a Chancellor of the University who shall be appointed by the South Pacific Division of the Seventh-day Adventist Church as proprietors of the University, in accordance with the conditions and procedures specified in the Statutes.

(2) The Chancellor holds office for such period and on such conditions as are specified in the Statutes.

14. PRO-CHANCELLOR.

(1) There shall be a Pro-Chancellor of the University who shall be elected by the South Pacific Division of the Seventh-day Adventist Church in accordance with the procedures specified in the Statutes.

(2) The Pro-Chancellor holds office for such period and on such conditions as are specified in the Statutes.

15. APPOINTMENT OF VICE-CHANCELLOR, STAFF, ETC., OF THE UNIVERSITY.

(1) There shall be a Vice-Chancellor of the University who shall be appointed by the South Pacific Division of the Seventh-day Adventist Church for such period and on such conditions as are specified in the Statutes.

(2) The Council may from time to time appoint teaching staff and other staff and employees of the University as the Council considers necessary.

16. GRANT OF DEGREES, DIPLOMAS, CERTIFICATES, ETC.

(1) Subject to the *Higher Education Act 1983* and to the Statutes, the Council may after examination confer a degree, diploma or certificate in respect of a course of study determined by the Council.

(2) All degrees, diplomas and certificates conferred by the University shall be in writing under the common seal of the University signed by the Chancellor and Vice-Chancellor.

17. APPOINTMENT OF COMMITTEES.

(1) The Council may, by resolution, constitute and appoint such committees as it thinks fit.

(2) A committee constituted under this section shall exercise the powers and perform the functions conferred on it by the Council.

18. DELEGATION.

The Council may, in relation to a matter or class of matters, or in relation to an activity or function of the University, by resolution, delegate all or any of its powers and functions under this Act (except this power of delegation and its powers in relation to the making of Statutes) to a member or a committee consisting of members with or without any other person, or to a member of the staff of the University.

19. VALIDATION.

No act or proceedings of the members or a committee of the Council, and no act done by a person acting as Chancellor or Vice-Chancellor shall be invalidated by reason of—

- (a) a defect in the appointment, or choosing of a member of the Council; or
- (b) a disqualification of a member; or
- (c) a defect in the convening of a meeting; or
- (d) a vacancy in the number of members of the Council.

Division 4.

Statutes.

20. STATUTES.

(1) The Council may, from time to time, make Statutes with respect to all or any of the following matters:—

- (a) the management, good government and discipline of the University;
- (b) the use and custody of the common seal;
- (c) the manner and time of convening, holding and adjourning a meeting of the Council, the voting at meetings (including postal and proxy voting), the conduct and record of business, the appointment of committees of the Council and the quorum, powers and duties of those committees;
- (d) the resignation of members of the Council;

- (e) the tenure of office, stipend, powers and duties of the Vice-Chancellor;
- (f) the tenure of the holder of an office or place established by or under this Act in respect of which this Act does not specify a term of office or provide for the fixing of the term of office otherwise than by the Statutes;
- (g) the number, stipend, manner of appointment and dismissal of the teaching and other staff and employees of the University;
- (h) the subjects to be taught and courses of study to be undertaken at the University;
- (i) the admission or expulsion and attendance of students;
- (j) the times, places and manner of holding lectures, classes and examinations, and the number and character of such lectures, classes and examinations;
- (k) the promotion and extension of higher education;
- (l) the granting of degrees, diplomas, certificates and honours;
- (m) the granting of scholarships, exhibitions, bursaries and prizes;
- (n) the admission of students of other universities, colleges or institutions to a corresponding degree, diploma or certificate without examination;
- (o) the fees to be paid to the University and the exemption of a person or of a class of persons from payment of the fees;
- (p) the establishment, management and control of libraries, laboratories, museums and other institutions or establishments in connection with the University;
- (q) the establishment or affiliation of residential halls within or connected with the University;
- (r) the affiliation or admission to the University of any educational or research establishment wheresoever situated;
- (s) the control and investment of the property of the University;
- (t) the provision of superannuation benefits for, and for the families of, the salaried teachers and other salaried staff teachers of the University or any class of teachers or staff;
- (u) the recognition, instead of or for the purpose of, an examination or course of study, of a course of study completed or examination passed in a university, technical institute, school or college, high school or secondary school or in a correspondence course or tutorial class;
- (v) the licensing of boarding houses intended for the accommodation of students;
- (w) all other matters authorized by this Act or necessary or convenient for giving effect to this Act.

(2) The Statutes may provide for empowering an authority (including the Council) or officer of the University to make rules or orders (not inconsistent with this Act or with any Statute) for regulating, or providing for the regulation of, a specified matter (being a matter with respect to which Statute may be made) or for carrying out or giving effect to the Statutes, and that rule or order shall have the same force and effect as a Statute.

21. STATUTE TO BE SEALED, ETC.

(1) Every Statute made by the Council shall be sealed with the common seal, and shall take effect when approved by the Head of State, acting on advice, and notified in the National Gazette.

(2) A Statute shall not be expressed to take effect from a date before the date of notification under Subsection (1) in a case where, if it so took effect—

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

and where, in a Statute, a provision is made in contravention of this subsection, that provision shall be void and of no effect.

(3) The production of a copy of a duly published Statute bearing the common seal of the University shall, in all proceedings, be sufficient evidence of the Statute.

PART III. – FINANCE, PROPERTY, ETC.

22. POWER TO ACQUIRE BY GIFT, ETC.

(1) Subject to Subsection (2), the University may acquire by gift, bequest or devise any property, and agree to and carry out the conditions of the gift, bequest or devise and the Council may create and administer such trust funds as may be necessary or expedient for carrying out the conditions of a gift, bequest or devise.

(2) A simple majority vote of the entire Council shall be required for the acceptance by the University of a gift, bequest or devise that imposes restrictions on the use by the University of the gift, bequest or devise.

(3) The Council may establish one or more investment funds for the collective investment of trust funds held by or in custody of the University.

(4) The Council may, from time to time, without liability for breach of trust, bring into or withdraw from an investment fund the whole or part of any trust fund held by or in the custody of the University.

23. ACQUISITION OF MAJOR CAPITAL ASSETS.

The acquisition by the University of major capital assets shall only be effected after a simple majority vote of the entire Council.

24. BOOKS AND ACCOUNTS TO BE KEPT.

(1) The Council shall establish and keep full and complete books and accounts of all money received and paid by the University.

(2) The books of account of the University shall be audited annually in accordance with the policy of the South Pacific Division of the Seventh-day Adventist Church.

PART IV. – MISCELLANEOUS.

25. ADMISSION TO UNIVERSITY.

A person shall not be denied admission as a student of the University solely on grounds of religious belief, sex or race.

s. 26.

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PART V. – REPEAL.

26. REPEAL.

The *Pacific Adventist College Act 1983* is repealed.

PART VI. – TRANSITIONAL.

27. INTERPRETATION.

In this Part,

“**the former College**” means the Pacific Adventist College established by the *Pacific Adventist College Act 1983*;

“**the repealed Act**” means the *Pacific Adventist College Act 1983*.

28. STAFF OF THE FORMER COLLEGE.

All staff of the former College appointed under the repealed Act shall, on and from the date of coming into operation of this Act, hold equivalent offices in the University on the same terms and conditions as determined under the repealed Act until—

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

whichever first happens.

29. TRANSFER OF ASSETS, ETC.

(1) All assets held by, and obligations and liabilities of, the former College immediately before the coming into operation of this Act are, on that coming into operation, transferred to and become assets held by, and obligations and liabilities of the University.

(2) Where any property vested in the former College to which Subsection (1) applies is land registered under the *Land Registration Act 1981*, the Registrar of Titles shall, without formal transfer and without fee, on application in that behalf by the University, enter or register the University in the register kept under that Act and, on entry and registration grant a certificate of title, lease or other instrument evidencing title to the land within that Act.

30. SAVINGS OF CONTRACTS.

All contracts, agreements, conveyances, leases, deeds, licences and other instruments and undertakings (so far as relating to any person transferred by Section 28) entered into by, made with or addressed to the former College whether alone or with any other person, before, and in effect immediately before, the coming into operation of this Act, continue on that coming into operation, to the extent that they were previously binding on and enforceable against the former College to be binding and of full force and effect in every respect against or in favour of the

University as if entered into, made with or addressed to the University after the coming into operation of this Act.

31. ACTIONS, ETC., NOT TO ABATE.

Where, immediately before the coming into operation of this Act, any action, arbitration or proceeding, or any cause of action, arbitration or proceeding (so far as relating to any person transferred by Section 28) was pending or existing by, against or in favour of the former College it does not, on that coming into operation, abate or discontinue or be in any way affected by any provision of this Act, but it may be prosecuted, continued and enforced by, against or in favour of the University as if this Act had not been made.

Office of Legislative Counsel, PNG