

Chapter 168.
Post-graduate Legal Training Act 1972.

Certified on: / /20 .

INDEPENDENT STATE OF PAPUA NEW GUINEA.



Chapter 168.

Post-graduate Legal Training Act 1972.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.



AN ACT

entitled

Post-graduate Legal Training Act 1972,

Being an Act to establish a Legal Training Institute to provide practical training in the practice of the law for persons who want to be admitted as lawyers of the National Court, and for related purposes.

PART I. – PRELIMINARY.

1. INTERPRETATION.

¹In this Act, unless the contrary intention appears—

“**the Admission Rules**” means the Rules of Court of the National Court regulating the admission to practice of lawyers;

“**candidate for admission**” means a person who—

- (a) has graduated in law at the University of Papua New Guinea; or
- (b) is enrolled as a student in the Faculty of Law of the University of Papua New Guinea and has completed so much of his course of study towards a degree in law that, in the opinion of the Dean of the Faculty, he is capable of completing the degree requirements within a period of not more than 12 months and, at the discretion of the Director, is capable of completing simultaneously the course of training provided by the Institute for trainees; or
- (c) has other legal qualifications such as to qualify him, subject to completing the Institute’s course of training, or part of it, for admission as a legal practitioner under the Admission Rules;

“**citizen**” means a citizen of Papua New Guinea other than a naturalized citizen;

¹ Section 1 amended by No. 82 of 1976, s1.

s. 1.

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“the Council” means the Council of the Institute established by Section 5;

“the Director” means the Director of the Institute appointed under Section 8;

“the Institute” means the Legal Training Institute established by Section 2;

“the Law Student’s Society” means the Law Student’s Society of the University of Papua New Guinea;

“this Act” includes the regulations;

“trainee” means a candidate for admission who has been admitted to the Institute as a trainee.

PART II. – THE INSTITUTE.

2. ESTABLISHMENT OF THE INSTITUTE.

(1) A Legal Training Institute is hereby established.

(2) Subject to this Act, the Director is responsible for the management of the Institute and for its affairs.

3. INCORPORATION OF THE INSTITUTE.

(1) The Institute—

(a) is a corporation; and

(b) has perpetual succession; and

(c) shall have a seal; and

(d) may acquire, hold and dispose of property; and

(e) may sue and be sued in its corporate name.

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

4. FUNCTIONS OF THE INSTITUTE.

The functions of the Institute are to provide practical training in law, the conduct and management of legal offices, trust accounts and related subjects for candidates for admission, to a standard sufficient to qualify them for admission to practice as lawyers under the Admission Rules.

PART III. – ADMINISTRATION.

Division 1.

The Council.

5. THE COUNCIL.

²(1) There shall be a Council of the Institute.

(2) The Council shall consist of–

- (a) the Chief Justice or his nominee, who shall be Chairman; and
- (b) a Judge appointed by the Chief Justice; and
- (c) the Secretary for Justice or his nominee; and
- (d) the Dean of the Faculty of Law of the University of Papua New Guinea or his nominee; and
- (e) the President of the Law Society of Papua New Guinea or his nominee; and
- (f) a Papua New Guinean lawyer, who is a citizen, appointed by the Minister; and
- (g) a Papua New Guinean lawyer, who is a citizen, appointed by the Minister on the recommendation of the Law Student’s Society; and
- (h) the Director.

5A. TERM OF OFFICE OF CERTAIN MEMBERS.

³The members appointed under Section 5(2)(f) and (g) shall hold office for a period of two years and are eligible for re-appointment.

6. MEETINGS OF THE COUNCIL.

(1) The Council shall meet at such times and places as are determined by the Chairman.

(2) At a meeting of the Council–

- (a) four members of the Council are a quorum; and
- (b) the Chairman shall preside at all meetings of the Council at which he is present, and in his absence a member elected by the members present shall preside; and
- (c) all matters before a meeting of the Council shall be decided by the majority of the votes of the members present and voting; and

² Section 5 amended by No. 82 of 1976, s2.

³ Section 5A added by No. 82 of 1976, s3.

- (d) in the event of an equality of votes on a matter, the member presiding has a casting, and also a deliberative vote.
- (3) The Council shall cause minutes of its proceedings to be kept.
- (4) Subject to this Act, the Council shall regulate its own proceedings.

6A. EMERGENCY RESOLUTIONS.

⁴Where, in the opinion of the Chairman, it is not practicable to hold a meeting and there is a matter before the Council that requires its urgent resolution, a written resolution of that matter, whether embodied in one document or more than one document in like form, signed by not less than five members of the Council shall be as valid and effectual for all purposes as if it were a resolution of the Council made at a duly constituted meeting of the Council.

7. FUNCTIONS OF THE COUNCIL.

The Council is responsible for determining the courses to be provided by the Institute and has the general superintendence of the training provided by the Institute, and the Director shall give effect to any general directions of the Council in regard to such training.

Division 2.

The Director.

8. THE DIRECTOR.

⁵There shall be a Director of the Institute whose manner of appointment, suspension and dismissal is as specified in the *Regulatory Statutory Authorities (Appointment to Certain Offices) Act 2004*.

9. TENURE OF OFFICE AND CONDITIONS OF SERVICE.

(1) Subject to this Act, the Director holds office for such period as is specified in the instrument of his appointment, on such terms and conditions as the Minister, after considering a report from the Council, determines, and is eligible for re-appointment.

(2) A person who has attained the age of 65 years shall not be appointed or re-appointed as the Director, and a person shall not be appointed or re-appointed for a period that extends beyond the date on which he will attain the age of 65 years.

10. SALARY AND ALLOWANCES.

⁶The Director shall be paid salary and allowances at such rates, or in accordance with such scales of rates, as are determined by the Minister after

⁴ Section 6A added by No. 82 of 1976, s3.

⁵ Section 8 Substituted by No. 97 of 2006, Sched. 1.

⁶ Section 10 amended by *Public Service (Management) (Consequential Amendments) Act 1986* (No. 29 of 1986), s46.

consultation with the Council and the Departmental Head of the Department of Personnel Management.

11. LEAVE OF ABSENCE.

The Minister may grant leave of absence to the Director on such terms and conditions as to remuneration or otherwise as are determined by the Minister.

12. RESIGNATION.

The Director may resign his office by writing under his hand addressed to the Minister.

13. TERMINATION OF APPOINTMENT.

(1) The Minister may terminate the appointment of the Director for misbehaviour or physical or mental incapacity.

(2) The appointment of the Director shall be terminated if he absents himself from duty for 14 consecutive days, or for 28 days in any period of 12 months, without leave granted by the Minister.

Division 3.

Teaching and other Staff.

14. APPOINTMENT OF STAFF.

(1) Subject to any directions of the Council, the Director may appoint such teaching and other staff of the Institute as he thinks necessary.

(2)⁷ ⁸The tenure of office and the terms and conditions of appointment of members of the staff of the Institute are as determined by the Minister after consultation with the Council and the Departmental Head of the Department of Personnel Management.

Division 4.

Miscellaneous.

15. PUBLIC SERVICE RIGHTS OF DIRECTOR AND STAFF TO CONTINUE.

(1) If an officer of the Public Service is appointed to be the Director or a member of the staff of the Institute, his period as Director or as such a member shall be counted as service in the Public Service for the purpose of determining his rights (if any) in respect of—

⁷ Section 14(2) amended by *Public Service (Management) (Consequential Amendments) Act 1986* (No. 29 of 1986), s47.

⁸ Section 14(2) amended by *Public Service (Management) (Consequential Amendments) Act 1986* (No. 29 of 1986), s47.

- (a) leave of absence on the ground of illness; and
- (b) long leave and furlough, or pay in lieu (including pay to dependents or personal representatives on the death of the officer).

(2)⁹ ¹⁰The offices of Director and members of the staff of the Institute are offices to which apply the provisions of the *Public Services (Management) Act 1995* relating to leave to serve under another Act.

⁹ Section 15(2) repealed and replaced by *Public Service (Management) (Consequential Amendments) Act 1986* (No. 29 of 1986), s48.

¹⁰ Section 15(2) repealed and replaced by *Public Service (Management) (Consequential Amendments) Act 1986* (No. 29 of 1986), s48.

PART IV. – LEGAL TRAINING.**16. ADMISSION TO THE INSTITUTE.**

¹¹(1) Subject to Subsection (2), candidates for admission may be admitted to the Institute as trainees, and may be suspended or dismissed, in such manner and on such conditions as are determined by the Council.

(2)¹² ¹³A candidate for admission shall not be admitted to the Institute as a trainee unless–

- (a) he is, in the opinion of the Council, a fit and proper person; and
- (b) he has spent a period of, or periods totalling, not less than 12 months in the field–
 - (i) studying customary laws and practices; or
 - (ii) carrying out work involving customary laws and practices; or
 - (iii) carrying out community work of a legal nature,

under the supervision of the Dean of the Faculty of Law of the University of Papua New Guinea or a person appointed by him for the purposes.

(3) The Council may, in its discretion, in the interests of maintaining a sufficient number of citizens qualified for admission to practice as legal practitioners under the Admission Rules, dispense with the requirements of Subsection (2) and admit candidates for admission to the institute as trainees who, but for that subsection, would be qualified for admission.

(4) This subsection and Subsection (3) expire on a date to be fixed by the Minister by notice in the National Gazette.

17. CERTIFICATE AS TO SUCCESSFUL COMPLETION OF TRAINING.

When a trainee has completed, to the satisfaction of the Council, the course of training provided by the Institute for trainees, the Council shall certify to the National Court accordingly.

18. LIVING ALLOWANCES.

(1) The regulations may prescribe rates of living allowances and other allowances to be paid to trainees, for such periods and on such conditions as are prescribed.

(2) Allowances referred to in Subsection (1) are payable by the State.

¹¹ Section 16 replaced by No. 82 of 1976, s4.

¹² Section 16(2) repealed and replaced by *Post-Graduate Legal Training (Amendment) Act 1992* (No. 17 of 1992).

¹³ Section 16(2) repealed and replaced by *Post-Graduate Legal Training (Amendment) Act 1992* (No. 17 of 1992).

19. PROVISION OF LEGAL SERVICES.

(1) Subject to Subsection (4), where it is convenient for the purpose of giving trainees practical experience of live legal matters the Institute may provide, through the Director, legal and associated services to the Government and to lawyers and other persons.

(2) The Director is professionally responsible for any such service.

(3) Charges may be made for any such service at such rates, or according to such scales, as are approved by the Council.

(4) After consultation with the Council, the Minister may give general directions to the Director restricting the provision of services by the Institute to persons other than the Government.

PART V.¹⁴ – FINANCE.

20. APPLICATION OF PUBLIC FINANCES (MANAGEMENT) ACT 1995.

¹⁵The *Public Finances (Management) Act 1995* applies to and in relation to the Institute subject to the exceptions and modifications specified in Schedule 1.

21 - 21A¹⁶. [REPEALED.]

¹⁴ Part V replaced by No. 20 of 1984.

¹⁵ Section 20 replaced by No. 20 of 1984.

¹⁶ Section 20 replaced by No. 20 of 1984.

PART VI. – MISCELLANEOUS.

22. REPORTS BY THE INSTITUTE.

As soon as practicable after 31 December in each year, the Director shall forward to the Council a report on the operations of the Institute during the period of 12 months ending on that date, and in particular–

- (a) on the working of this Act and of any other law or arrangement affecting the Institute; and
- (b) as to any amendments to this Act or any such law or arrangement that he thinks necessary or desirable; and
- (c) as to any other matters related to the Institute on which the Director thinks it desirable to report.

23. REPORTS BY THE COUNCIL.

(1) As soon as practicable after the receipt by it of a report by the Director under Section 22, the Council shall forward the report to the Minister together with its comments and any other comments on matters relating to legal education that the Council thinks it desirable to make.

(2) As soon as practicable after the receipt by him of the report and comments, the Minister shall present them to the Parliament.

24. 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.

SCHEDULE 1 – ¹⁷EXCEPTIONS AND MODIFICATIONS TO THE *PUBLIC FINANCES (MANAGEMENT) ACT 1995.*

Sec. 20

Former Provision	Current Provision	Modification, etc.
8	57	Not applicable.
9	56	Not applicable.
11	51	Not applicable.
15	63	Applies only to financial statements.
Former Provision	Current Provision	Modification, etc.
8	57	Not applicable.
9	56	Not applicable.
11	51	Not applicable.
15	63	Applies only to financial statements.

¹⁷ Schedule 1 added by No. 20 of 1984.