

No. 9 of 1997.

Parliamentary Members' Retirement Benefits Act 1997.

Certified on: / /20 .

INDEPENDENT STATE OF PAPUA NEW GUINEA.



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Parliamentary Members' Retirement Benefits Act 1997.

ARRANGEMENT OF SECTIONS.

PART I – PRELIMINARY.

1. Interpretation.
 - “the Board”
 - “Committee”
 - “contributor”
 - “contributor benefit”
 - “contributor’s final benefit”
 - “entitlement”
 - “former Act”
 - “former contributor”
 - “former Fund”
 - “former Member”
 - “the Fund”
 - “his salary”
 - “juvenile dependent”
 - “life pensioner”
 - “Members’ salary”
 - “non-contributory Member”
 - “pensioner”
 - “Prime Minister’s Salary”
 - “Section 16 Member”
 - “spouse”
 - “State contributors benefit”
 - “term”
 - “term”
 - “this Act”

**PART II – PARLIAMENTARY MEMBERS’ RETIREMENT
BENEFITS BOARD.**

2. The Board.
3. Constitution of the Board.
4. Validity of proceedings.
5. Meetings of the Board.
6. Delegation.
7. Cost of administration.
8. Reports.

**PART III – PARLIAMENTARY MEMBERS’ RETIREMENT
BENEFITS FUND.**

9. Establishment of the Fund.
10. Investment of the Fund.
11. Signing of cheques.
12. Accounts and records to be kept.
13. Audit.

PART IV – CONTRIBUTORS’ CONTRIBUTION.

14. Members to contribute.
15. Amount of contributions.
- [16. *Repealed*]
17. Deduction of contributions.

PART V – STATE CONTRIBUTIONS.

18. Pensions.
19. State contributor’s benefits.

PART VI – PENSIONS AND BENEFITS.

Division 1 – Benefits in respect of non-contributory service.

20. Eligibility for a benefit.
21. Calculation of rates of benefit.
22. Benefits under Division 1.

Division 2 – Benefits for former contributors.

23. Benefits under Division 2.
- 23A. Contributors failing to complete a term of office.
24. Calculation of Division 2 pension and entitlements.

***Division 3 – Benefits for Former Members or Contributors who
completed terms as contributory and non-contributory
Members.***

25. Benefits under Division 3.

Division 4 – Benefit for former Prime Minister.

26. Benefits under Division 4.
27. Calculation of rates of pension or entitlement.

**PART VII – PAYMENTS UPON THE DEATH OF A PENSIONER
OR OF A CONTRIBUTOR.**

28. Benefits payable upon the death of a contributor.
29. Death of a pensioner.

PART VIII – MISCELLANEOUS.

30. Re-election of a pensioner to Parliament.
31. Assignment of benefits.

32. Settlement of disputes.
33. Contributors' accounts.
34. By-elections following Court of Disputed Returns.
35. Regulations.

PART IX – REPEAL.

36. Repeal.

INDEPENDENT STATE OF PAPUA NEW GUINEA.



AN ACT

entitled

Parliamentary Members' Retirement Benefits Act 1997,

Being an Act to establish a Fund to provide pensions and retirement benefits for Members and former Members of the Parliament and the former House of Assembly and to provide benefits to certain of their dependent spouses and juvenile dependents and to repeal the *Parliamentary Members' Retirement Benefits Act* (Chapter 380) and for related purposes.

PART I. – PRELIMINARY.

1. INTERPRETATION.

In this Act, unless the contrary intention appears:–

“**the Board**” means the Parliamentary Members' Retirement Benefits Board established under Section 2;

“**Committee**” means the appropriate Permanent Parliamentary Committee designated by the Parliament to be responsible for this Act;

“**contributor**” means a Member of the Parliament required by Section 14 to contribute to the Fund;

“**contributor benefit**” is an amount consisting of the contributors' contributions plus accumulated interest held in his account in the Fund when he ceases to be a contributor;

“**contributor's final benefit**” is an amount equal to the sum of the contributor benefit plus the State contributor benefit;

“**entitlement**” means the payment made in lieu of a pension to–

- (a) contributors under Section 20(2)(b) or Section 16 Members;
- (b) Section 16 Member under Section 23(2)(b); or
- (c) former Prime Minister under Section 26(2),

which shall be paid in the same manner as a pension into an account in the Members' name in the fund and which shall be paid, with accumulated interest, when he ceases to be a Member;

“former Act” means the *Parliamentary Members' Retirement Benefits Act* (Chapter 380);

“former contributor” means—

- (a) a former Member of Parliament who contributed to the Fund; or
- (b) a Member who has opted to cease to contribute under Section 16;

“former Fund” means the Fund established under Section 12 of the former Act;

“former Member” means a person who was—

- (a) a Member of the former House of Assembly after 18 June 1964; or
- (b) a Member of the Parliament at any time who ceased to be a Member before the date of coming into operation of this Act;

“the Fund” means the Parliamentary Members' Retirement Benefits Fund continued in establishment by Section 9;

“his salary” means the amount of salary paid to an individual Member of Parliament in respect of his duties from time to time but does not include allowances;

“juvenile dependent” means a natural child, or natural children, under the age of 18 years, of a contributor or pensioner or of a deceased contributor or pensioner;

“life pensioner” means a—

- (a) former Member in receipt of a pension under Section 21(1)(a) and (1)(b) or Section 24(2)(a) and (2)(b); or
- (b) former Prime Minister in receipt of a pension under Section 27(1)(a) and (1)(b), which ceases upon his death;

“Members' salary” means the base salary of a Member of Parliament who has no additional salary entitlements in respect of other duties as a Member of Parliament but does not include allowances;

“non-contributory Member” means a former Member of the Parliament who completed one or more terms prior to the 1982 general election;

“pensioner” means a—

- (a)¹ former Member in receipt of a pension under Section 20, 21, 23 or 26; or

¹ Section 1 Amended by No. 21 of 2002, s. 2.

- (b) spouse or relative of a deceased pensioner under Section 21(1)(c), 24(2)(c) or 27(1)(c) who has determined under Section 28 to receive a pension; or
- (c) former Member or spouse of a former Member in receipt of a pension at the date of this Act coming into operation;

“Prime Minister’s Salary” means the amount of salary paid to a Prime Minister in respect of his duties from time to time but does not include allowances;

“Section 16 Member” means a Member who has ceased to contribute to the Fund under Section 16;

²³**“spouse”** means the legal or customary wife or husband, as the case may be, of a contributor or pensioner or of a deceased contributor or pensioner;

“State contributors benefit” is the pension;

“term” of the Parliament, in relation to a Member of the Parliament, means—

- (a) the period commencing on the day immediately following the date fixed for the return of the writs for the general election of Members to the Parliament to which he was elected, and ending on the date fixed for the return of the writs for the next general election of Members after that first mentioned election; or
- (b) any period or periods of service as a non-contributory Member which equals or exceeds four years; or
- (c)⁴ any period or periods of service as a contributory Member which equals or exceeds four years; or
- (d)⁵ the period commencing on the day immediately following the date fixed for the return of the writ for a by-election of the Member to the Parliament to which he was elected and ending on the date fixed for the return of the writ for the next general election.

“term” of the Parliament in relation to the number of terms served by a Member means the number of non-contributory terms plus the number of contributory terms served and the rate of pension paid shall relate to the sum of the two terms;

“this Act” includes the regulations.

² Section 1 Amended by No. 21 of 2002, s. 2.

³ Section 1 Amended by No. 21 of 2002, s. 2.

⁴ Section 1 Amended by No. 21 of 2002, s. 2.

⁵ Section 1 Amended by No. 21 of 2002, s. 2.

**PART II. – PARLIAMENTARY MEMBERS' RETIREMENT BENEFITS
BOARD.**

2. THE BOARD.

(1) The Parliamentary Members' Retirement Benefits Board established by the *Parliamentary Members' Retirement Benefits Act* (Chapter 380) (repealed by this Act) is continued in establishment by this Act.

(2) The Board–

- (a) is a corporation; and
- (b) has perpetual succession; and
- (c) shall have a common seal.

(3) The seal of the Board shall not be attached to any documents except by resolution of the Board, and shall be authenticated by the signatures of–

- (a) the Chairman or the Deputy Chairman; and
- (b) the Secretary; and
- (c) any member,

of the Board.

3. CONSTITUTION OF THE BOARD.

(1) The Board shall consist of–

- (a) the Members of the Committee who shall occupy the same positions on the Board as they occupy on the Committee; and
- (b) an officer of the Parliamentary Service, as defined in the *Parliamentary Service Act 1997*, who shall be appointed by the Speaker and shall be Secretary to the Board.

(2) Subject to Subsection (3), a member of the Board holds office–

- (a) while he retains the qualification in respect of which he was appointed; and
- (b) in the case of the officer appointed under Subsection (1)(b), during the pleasure of the Speaker.

(3) The Chairman of the Board holding office by virtue of being Chairman of the Committee immediately before the day fixed for the return of the writs for a general election shall continue to hold office until the appointment of a new Chairman of the Committee notwithstanding that he ceases to be a Member of the Parliament.

(4) The officer appointed under Subsection (1)(b) may resign his office by notice, in writing, to the Speaker.

4. VALIDITY OF PROCEEDINGS.

An act or proceeding of the Board is not invalidated by reason only of a vacancy in the membership of the Board at the time that the act was performed or the proceeding taken.

5. MEETINGS OF THE BOARD.

(1) Notice of a meeting of the Board shall be given by the Chairman personally or by post to all of the members.

(2) At a meeting of the Board—

- (a) the Chairman or the Deputy Chairman, the Secretary and any two members shall form a quorum; and
- (b) all matters shall be decided by a majority of the votes of the members present and voting; and
- (c) the Chairman has a deliberative and, in the event of an equality of votes on a matter, a casting vote.

6. DELEGATION.

The Board may, by writing under its seal, delegate to any person all or any of its powers and function under this Act (except this power of delegation).

7. COST OF ADMINISTRATION.

The cost of the administration of this Act shall be paid out of Consolidated Revenue, which is, to the necessary extent, appropriated accordingly.

8. REPORTS.

The Board shall, in each year, submit to the Committee, to be tabled before the Parliament, a report dealing with the general administration and working of this Act.

PART III. – PARLIAMENTARY MEMBERS' RETIREMENT BENEFITS FUND.

9. ESTABLISHMENT OF THE FUND.

(1) The Parliamentary Members' Retirement Benefits Fund, established under the *Parliamentary Members' Retirement Benefits Act* (Chapter 380) (repealed by this Act) is continued in establishment by this Act.

(2) There shall be paid into the Fund–

- (a) the contributors' contributions; and
- (b) income earned by the Fund; and
- (c) payments by the State,

and there shall be paid from the Fund–

- (d) the benefits provided for in this Act.

10. INVESTMENT OF THE FUND.

The moneys of the Fund shall, as far as practicable, be invested by the Board–

- (a) in any securities of, or guaranteed by, the State; or
- (b) on fixed deposit with the Bank of Papua New Guinea or any other prescribed Bank.

11. SIGNING OF CHEQUES.

Cheques drawn on a bank account of the Board shall be signed as prescribed.

12. ACCOUNTS AND RECORDS TO BE KEPT.

The Board shall cause to be kept proper accounts and records of its transactions and affairs, and shall do all things necessary to ensure that all payments out of its money are properly made and properly authorized, and that adequate control is maintained over its assets or assets in its custody and over the incurring of liabilities by it.

13. AUDIT.

(1) The Auditor-General shall inspect and audit the accounts and records of financial transactions of the Board and records relating to its asset or assets in its custody, and shall immediately draw the attention of the Parliamentary Committee to any irregularity disclosed by the inspection and audit that is, in the opinion of the Auditor-General, of sufficient importance to justify his so doing.

(2) The Auditor-General may, at his discretion, dispense with all or any part of the detailed inspection and audit of any accounts or records referred to in Subsection (1).

(3) The Auditor-General shall, at least once in each year, report to the Parliamentary Committee the results of the inspection and audit carried out under Subsection (1).

(4) The Auditor-General, or a person authorized by him, is entitled at all reasonable times to full and free access to all accounts, records, documents and papers of the Board relating directly or indirectly to the receipt or payment of moneys by it or to the acquisition, receipt, custody or disposal of assets by it.

(5) The Auditor-General, or a person authorized by him, may take copies of, or extracts from any accounts, records, documents and papers referred to in Subsection (4).

(6) The Auditor-General, or a person authorized by him, may require any person to furnish him with such information in the possession of that person or to which that person has access as the Auditor-General or authorized person considers necessary for the purposes of the functions of the Auditor-General under this Act, and the person shall comply with that requirement.

Penalty: A fine not exceeding K200.00

(7) This section does not derogate the powers of the Auditor-General under any other Act relating to the public moneys and accounts of the State in respect of accounts and records of the Board.

PART IV. – CONTRIBUTORS' CONTRIBUTION.

14. MEMBERS TO CONTRIBUTE.

(1) Subject to Section 16, each Member shall contribute to the Fund in accordance with this Part while he remains a Member.

(2) Upon entering the Fund each Member shall complete instructions to the Board detailing, under Section 28(2), how his benefits in the Fund shall be distributed in the event of his death.

(3) The instruction under Subsection (2) shall be held in a sealed envelope by the Secretary and may be varied from time to time by the Member.

15. AMOUNT OF CONTRIBUTIONS.

(1)⁶ ⁷Subject to Section 16, a contributor shall contribute to the Fund at the rate of 15% of his salary.

16⁸. [REPEALED.]

17. DEDUCTION OF CONTRIBUTIONS.

(1) Subject to Subsection (2), contributions payable by a contributor shall be deducted from his salary at the time of each payment of salary.

(2) Where for any reason the whole or any part of a contribution is not deducted from the salary of a contributor in accordance with Subsection (1), the amount or amounts which should have been deducted may be paid by the contributor, or shall be deducted from any amount subsequently payable to the contributor, in such amounts and during such periods as the Board determines.

⁶ Section 15 Subsection (1) amended by No. 21 of 2002, s. 3.

⁷ Section 15 Subsection (1) amended by No. 21 of 2002, s. 3.

⁸ Section 16 Repealed by No. 21 of 2002, s. 4.

PART V. – STATE CONTRIBUTIONS.

18. PENSIONS.

The State shall remit to the Fund the cost of pensions and entitlements payable from the Fund on an annual basis.

19. STATE CONTRIBUTOR'S BENEFITS.

The State shall remit to the Fund, on an emerging cost basis, amounts payable under Section 23(2) and Section 26(2).

PART VI. – PENSIONS AND BENEFITS.

Division 1.

Benefits in respect of non-contributory service.

20. ELIGIBILITY FOR A BENEFIT.

- (1) A former Member, a contributor or a Section 16 Member who—
- (a) completed one or more terms as a non-contributory Member; and
 - (b) is a citizen; and
 - (c) is not in receipt of a pension in respect of non-contributory service,

shall be entitled to a benefit in respect of non-contributory service under this Division.

- (2) The benefit referred to in Subsection (1) shall be in the form of—

- (a) a pension for former Members; and
- (b) an entitlement for contributors or Section 16 Members,

in respect of non-contributory service.

21. CALCULATION OF RATES OF BENEFIT.

(1)⁹ ¹⁰The rate at which the pension or entitlement provided under Section 20 shall be paid is the rate of 5% of a Member's salary for each year of completed service.

(2)¹¹ ¹²A pension paid under Subsection (1) ceases upon the death of the former Member.

22. BENEFITS UNDER DIVISION 1.

(1) Subject to Subsection (2), pensions and benefits under this Division shall be payable from 16 July 1997.

(2) A person in receipt of a pension at the date of certification of this Act, shall notwithstanding any other provisions of this Act, be entitled to retain that pension.

(3) Amounts held in the former fund as lump sum amounts in respect of Members' non-contributory service shall revert to the State account within the fund.

⁹ Section 21 Subsection (1) substituted by No. 21 of 2002, s. 5.

¹⁰ Section 21 Subsection (1) substituted by No. 21 of 2002, s. 5.

¹¹ Section 21 Subsection (2) amended by No. 21 of 2002, s. 5.

¹² Section 21 Subsection (2) amended by No. 21 of 2002, s. 5.

Division 2.

Benefits for former contributors.

23. BENEFITS UNDER DIVISION 2.

(1) A former contributor or a Section 16 Member, other than a former Prime Minister, who has—

- (a) completed one or more terms as a contributory Member; and
- (b) is not in receipt of a pension,

shall be entitled to a benefit in respect of contributory service under this Division.

(2) The benefit under Subsection (1) shall consist of a contributor's final benefit which shall be taken as—

- (a) a pension for former contributors; or
- (b) an entitlement for Section 16 Members,

plus an amount equal to the contributor's contributions plus accumulated interest.

(3) The pension provided for by Subsection (2) shall be separate from any pension provided by Division 1.

(4) Subject to Subsection (5) a former contributor who received payment from the Fund in respect of service before the coming into operation of this Act shall receive a pension under this Division.

(5) Where a former contributor received a payment in respect of his contributory services such payment shall be considered as an advance payment against pension and he shall repay the cost of the pension by applying pension payments against the advance until it is repaid in full.

(6) Notwithstanding any other provisions of this Act, a person who was a contributor to the former fund on the 14 July 1997 shall retain the option of receiving his contributor's final benefits under the terms of the former Act for a period of 12 months after coming into operation of this Act.

23A. CONTRIBUTORS FAILING TO COMPLETE A TERM OF OFFICE.

¹³(1) A former contributor who fails to complete one term of contributory service shall be entitled to a benefit in respect of contributory service under this Division.

(2) The benefit under Subsection (1) shall consist of a contributor's benefit plus a State contribution calculated as follows: —

- (a) in the case of a contributor completing less than one year contributory service — a sum equal to 30% of the contributor's benefit;

¹³ Section 23A Inserted by No. 21 of 2002, s. 6.

- (b) in the case of a contributor completing one but less than two years contributory service – a sum equal to 34% of the contributor's benefit;
- (c) in the case of a contributor completing two but less than three years contributory service – a sum equal to 38% of the contributor's benefit;
- (d) in the case of a contributor completing three but less than four years contributory service – a sum equal to 42% of the contributor's benefit.

24. CALCULATION OF DIVISION 2 PENSION AND ENTITLEMENTS.

(1) The cost of the pension or entitlement referred to in Section 23(2) shall be the amount of the State contributors benefit calculated as 140% of the contributor benefit for an ordinary Member's salary for an equivalent period of service.

(2)^{14 15}The rate at which the pension or entitlement provided under Section 23(2) shall be paid is the rate of 5% of a Member's salary for each year of completed service.

(3)^{16 17}A pension paid under Subsection (2) ceases upon the death of the former Member.

Division 3.

Benefits for Former Members or Contributors who completed terms as contributory and non-contributory Members.

25. BENEFITS UNDER DIVISION 3.

(1) A former contributor who also completed one or more terms as a non-contributory member shall have an entitlement consisting of–

- (a) the pension entitlement provided under Division 1; and
- (b) the contributor's final entitlement provided under Division 2.

(2) In calculating the cost of a pension the cost of a benefit in respect of non-contributory service shall be zero.

Division 4.

Benefit for former Prime Minister.

26. BENEFITS UNDER DIVISION 4.

(1) A former contributor who has served as Prime Minister for a period in excess of twelve months shall be entitled to a benefit in respect of contributory service.

¹⁴ Section 24 Subsection (2) substituted by No. 21 of 2002, s. 7.

¹⁵ Section 24 Subsection (2) substituted by No. 21 of 2002, s. 7.

¹⁶ Section 24 Subsection (3) amended by No. 21 of 2002, s. 7.

¹⁷ Section 24 Subsection (3) amended by No. 21 of 2002, s. 7.

(2) The benefit under Subsection (1) shall consist of a contributor's final benefit which shall be taken as a pension or entitlement plus an amount consisting of the former contributors' contributions plus accumulated interest.

(3) The pension provided by Subsection (2) shall be separate from any pension provided by Division 1 but in calculating the rate at which the pension shall be paid, terms of contributory and non contributory service shall be calculated together.

27. CALCULATION OF RATES OF PENSION OR ENTITLEMENT.

(1)¹⁸ ¹⁹The rate at which the pension or entitlement provided under Section 26(2) shall be paid is the rate of 5% of a Prime Minister's salary for each year of completed service.

(2)²⁰ ²¹A pension paid under Subsection (1) ceases on the death of a former Prime Minister.

¹⁸ Section 27 Subsection (1) substituted by No. 21 of 2002, s. 8.

¹⁹ Section 27 Subsection (1) substituted by No. 21 of 2002, s. 8.

²⁰ Section 27 Subsection (2) amended by No. 21 of 2002, s. 8.

²¹ Section 27 Subsection (2) amended by No. 21 of 2002, s. 8.

PART VII. – PAYMENTS UPON THE DEATH OF A PENSIONER OR OF A CONTRIBUTOR.

28. BENEFITS PAYABLE UPON THE DEATH OF A CONTRIBUTOR.

(1) Where a contributor or Section 16 Member dies he shall be deemed to have completed the term during which he died and shall be paid State benefits to which he was entitled, or would have been entitled, had he survived until the end of the term during which he died.

(2) Contributor benefits or entitlements and Section 16 Member entitlements held in the deceased Members name within the Fund shall be paid in accordance with his instructions under Section 14(2) or, in the absence of such instructions in a manner determined by the Board.

(3) Where the deceased Member would have been entitled to receive a pension under Section 21(1)(c), 24(2)(c), 25 or 27(1)(c) the Board shall, in its discretion, determine to which relative the pension shall be paid.

(4) Where the Board has made a determination under Subsection (3), the pension shall be paid in the following proportions–

- (a) a spouse of the deceased at a rate of five-eighths; or
- (b) a juvenile dependent–
 - (i) where there are five or less juvenile dependents at a rate of one-eighth each; or
 - (ii) where there are more than five juvenile dependents–an amount divided equally amongst the juvenile dependents of five-eighths,

of the amount of the pension to which the deceased Member would have been entitled had he completed the term during which he died.

(5) Where the spouse referred to in Subsection (4)(a) dies whilst in receipt of a pension the provisions of Subsection (4)(b) shall apply.

29. DEATH OF A PENSIONER.

(1) Subject to Subsection (2), where a pensioner dies and the Board has made a determination in favour of spouse or juvenile dependent the pension shall continue to be paid in accordance with Section 28.

(2) Where a deceased pensioner had pension advances outstanding at the time of his death, pension payments provided under Subsection (1) shall be applied to repay the advance.

PART VIII. – MISCELLANEOUS.

30. RE-ELECTION OF A PENSIONER TO PARLIAMENT.

Where a pensioner is re-elected to Parliament, his pension, other than the pension for non-contributory service, shall cease and he shall resume contributions to the Fund.

31. ASSIGNMENT OF BENEFITS.

(1) Subject to Subsection (2) pensions and benefits under this Act are not capable of being assigned or charged, or of passing by operation of law, and monies payable on the death of a contributor or beneficiary are not liable to be applied or made available in payment of his debts or liabilities.

(2) This section does not prevent the making of an order in the nature of a garnishee order or attachment of earnings order against a pension.

32. SETTLEMENT OF DISPUTES.

(1) A dispute as to any matter under this Act shall be determined in the first instance by the Board.

(2) A person aggrieved by a decision of the Board on a dispute may appeal to the National Court.

33. CONTRIBUTORS' ACCOUNTS.

There shall be established for each contributor a contributor's account in which shall be recorded—

- (a) all contributions made to the Fund by that contributor; and
- (b) the proportion of interest applicable to that account.

34. BY-ELECTIONS FOLLOWING COURT OF DISPUTED RETURNS.

Where a Member, who contested the National Election, has been elected following a by-election ordered by a Court of Disputed Returns, after a National Election, he shall be considered as having completed the full term to which he was elected.

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

s. 36.

Parliamentary Members' Retirement Benefits 1997

PART IX. – REPEAL.

36. REPEAL.

The *Parliamentary Members' Retirement Benefits Act* (Chapter 380) is hereby repealed.

Office of Legislative Counsel, PNG