

Chapter 28.
Public Works Committee Act 1964.

Certified on: / /20 .

INDEPENDENT STATE OF PAPUA NEW GUINEA.



Chapter 28.

Public Works Committee Act 1964.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.



AN ACT

entitled

Public Works Committee Act 1964,

Being an Act to provide for the establishment of a Standing Committee of the Parliament on Public Works and for other purposes.

PART I. – PRELIMINARY.

1. INTERPRETATION.

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

“the Chairman” means the Chairman of the Committee;

“the Committee” means the Standing Committee of the Parliament on Public Works established by this Act;

“public work” includes any work that is a continuation, completion, repair, reconstruction or extension of a public work;

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

“the Vice-chairman” means the Vice-chairman of the Committee.

(2) For the purposes of this Act, a proposed work shall be deemed to have commenced if a tender for the carrying out of the whole or part of the work has been accepted.

PART II. – STANDING COMMITTEE ON PUBLIC WORKS.

2. CONSTITUTION OF COMMITTEE.

(1)¹ ²At the commencement of the first session of every Parliament, a Committee of 14 members of Parliament, to be called the Standing Committee of the Parliament on Public Works, shall be appointed, according to the practice of the Parliament, but subject to this Act, with reference to the appointment of members to serve on Standing Committees.

(2 - 3)³ [*Repealed.*]

(4) The Speaker and the Chairman of Committees of the Parliament may be members of the Committee.

(5) The members of the Committee have and may exercise such powers and authorities, may perform such duties, and are liable to such obligations as are conferred or imposed on the Committee by this Act.

(6) Each member holds office during the pleasure of the Parliament.

(7) Each member ceases to hold office when the Parliament expires.

3. DECLARATION TO BE MADE BY THE MEMBERS.

⁴Before entering on the duties of his office or sitting at a meeting of the Committee, every member of the Committee shall make and subscribe a declaration in the prescribed form.

4. RESIGNATION.

⁵(1) A member of the Committee may resign his seat on the Committee by writing under his hand addressed to the Speaker.

(2) The seat of a member of the Committee becomes vacant if he ceases to be a member of the Parliament.

5. VACANCIES.

⁶Where a vacancy occurs in the Committee, it shall be filled at the next meeting of the Parliament.

¹ Section 2(1) amended by *Public Works Committee (Amendment) Act 1991* (No. 16 of 1991), s1(a).

² Section 2(1) amended by *Public Works Committee (Amendment) Act 1991* (No. 16 of 1991), s1(a).

³ Section 2(1) amended by *Public Works Committee (Amendment) Act 1991* (No. 16 of 1991), s1(a).

⁴ Section 3 repealed and replaced by *Public Works Committee (Amendment) Act 1991* (No. 16 of 1991), s2.

⁵ Section 4 amended by *Public Works Committee (Amendment) Act 1991* (No. 16 of 1991), s3.

⁶ Section 5 amended by *Public Works Committee (Amendment) Act 1991* (No. 16 of 1991), s4.

6. QUORUM.

Five members of the Committee are a quorum competent to exercise all powers and authorities and to incur all obligations conferred or imposed by this Act on the Committee.

7. CHAIRMAN AND VICE-CHAIRMAN.

(1) There shall be a Chairman and Vice-chairman of the Committee, each of whom shall be appointed by the Parliament.

(2) Subject to Subsection (3), the Chairman, or in case of his absence or other disability the Vice-chairman, shall preside at all meetings of the Committee.

(3) At a meeting of the Committee at which a quorum is present, the members in attendance may, in the absence of the Chairman and the Vice-chairman, appoint one of their number then present to be the temporary chairman, and the temporary chairman has, during the absence of the Chairman and Vice-chairman, all the powers given by this Act to the Chairman or Vice-chairman.

8. VOTING.

(1) All questions that arise in the Committee shall be decided by a majority of votes of the members present, and when the votes are equal the member presiding has a second or casting vote.

(2) In all cases of divisions, the names of the persons voting shall be stated on the minutes and in the report.

9. POWER TO SIT DURING RECESS, ETC.

The Committee may—

- (a) sit and transact business during any adjournment or recess, as well as during a meeting, of the Parliament; and
- (b) sit at such times and in such places, and conduct its proceedings in such manner, as it thinks proper,

and shall sit in open court.

10. REPORTS.

(1) The Committee shall, before the commencement of each meeting of the Parliament, make a report to the Minister of their proceedings under this Act.

(2) The report referred to in Subsection (1) shall be laid before the Parliament within 14 days after it is made, if the Parliament is then sitting, and, if not, then within 14 days after the commencement of the next meeting.

11. MINUTES.

The Committee shall keep full minutes of its proceedings in such manner as the Minister directs.

12. EVIDENCE TAKEN BEFORE PREVIOUS COMMITTEES.

Where a public work is referred to the Committee, and the Committee lapses or ceases to have legal existence before it reports the public work, the evidence taken before the Committee shall be considered by any subsequent Committee to which the same public work is referred for report as if it had been given before it.

PART III. – POWERS OF THE COMMITTEE.

13. FUNCTIONS OF COMMITTEE.

(1) Subject to this Act, the Committee shall consider and report on any public work that is referred to it in accordance with this Act.

(2) In considering and reporting on a work, the Committee shall have regard to—

- (a) the stated purpose of the work; and
- (b) the necessity or advisability of carrying it out; and
- (c) where the work purports to be of a productive or revenue-producing character, the amount of revenue that it may reasonably be expected to produce; and
- (d) the present and prospective public value of the work,

and generally the Committee shall in all cases take such measures and procure such information as may enable it to inform or satisfy the Parliament as to the expediency of carrying out the work.

14. NOTIFICATION OF CERTAIN PROPOSED WORKS.

(1)⁷ ⁸When, subject to any other action to be taken, or that may be taken, under this Act, the Government has decided to proceed with a public work the estimated cost of which exceeds K200,000.00, the Minister shall, as soon as practicable, and whether or not the Parliament is in session, notify the Committee of the decision, for the information of its members.

(2) A public work notified to the Committee under Subsection (1) shall not be deemed to have been referred to the Committee within the meaning of this Act.

(3) The provisions of this section do not apply to a public work as to which action has been, or is proposed to be, taken under any of Sections 15 to 21(inclusive).

15. REFERENCE OF PUBLIC WORKS BY PARLIAMENT.

(1) A member of the Parliament may move that any proposed public work be referred by the Parliament to the Committee for report.

(2) On the moving of the motion, a Minister shall furnish to the Parliament an explanation of the proposed work, authenticated or verified in the prescribed manner.

(3) The explanation shall comprise an estimate of the cost of the work when completed, together with such plans and specifications or other descriptions as the Minister thinks proper, and the prescribed reports of the probable cost of

⁷ Section 14(1) amended by *Public Works Committee (Amendment) Act* 1986 (No. 14 of 1986), s1.

⁸ Section 14(1) amended by *Public Works Committee (Amendment) Act* 1986 (No. 14 of 1986), s1.

construction and maintenance, and estimates of the probable revenue (if any) to be derived from it.

(4) If the motion for the reference is agreed to, the proposed work shall be referred to the Committee for report.

16. REFERENCES BY MINISTER.

(1) The Minister may, at any time, whether or not the Parliament is in session, refer to the Committee for inquiry and report to the Parliament any proposed public work and, on receipt of the report, the Parliament shall deal with the matter in accordance with this Act.

(2) Where a public work is to be considered by the Committee under this section, the Minister shall furnish or cause to be furnished an explanation in accordance with Section 15.

17⁹. [REPEALED.]

18. COMMITTEE TO DEAL WITH MATTER.

The Committee shall, with all convenient despatch, deal with a matter referred to it by or under this Act, and shall, as soon as conveniently practicable (regard being had to the nature and importance of the proposed work), report to the Parliament the result of its inquiries.

19. PROCEDURE ON RECEIPT OF REPORT.

(1) Subject to Subsection (2), after the receipt of the report of the Committee the Parliament shall by resolution declare—

- (a) that it is expedient to carry out the proposed public work; or
- (b) that it is not expedient to carry it out.

(2) Notwithstanding Subsection (1), the Parliament may, instead of declaring affirmatively or negatively in accordance with that subsection, resolve that, for reasons or purposes stated in the resolution, the report of the Committee be remitted to the Committee for its further consideration and report, in which case the Committee shall consider the matter of the new reference and report accordingly.

20. REFERRED WORK NOT TO BE PROCEEDED WITH PENDING RESOLUTION.

A proposed public work that is referred to the Committee by or under this Act shall not be commenced until the Parliament, by resolution, declares that it is expedient to carry out the proposed work.

⁹ Section 17 amended by *Public Works Committee (Amendment) Act* 1986 (No. 14 of 1986), s2; repealed by *Public Works Committee (Amendment) Act* 1995 (No. 10 of 1995).

21. REVIEW OF REPORTS.

(1) Subject to Subsection (2), where the Committee has made a report concerning a proposed public work the Committee (including a subsequent Committee), may, of its own motion, review the report and make a further report to the Parliament concerning the work.

(2) The Committee shall not undertake the review of a report after the proposed work has been commenced.

(3) Without prejudice to the operation of Section 20, if the Chairman or Vice-chairman notifies the Minister in writing that the Committee has decided to review a report in accordance with this section, the proposed work shall not be commenced unless—

- (a) the Committee has resolved that it does not desire the commencement of the work to be deferred; or
- (b) the further report of the Committee has been made; or
- (c) the Parliament has resolved that it is expedient that the work be commenced without awaiting the further report of the Committee; or
- (d) the further report of the Committee has not been made before the Parliament expires.

(4) When the Committee makes a further report under this section in relation to a proposed work—

- (a) if the Parliament has previously by resolution declared that it is expedient to carry out the proposed work—the Parliament may, before the proposed work has been commenced, rescind the resolution, and thereupon the resolution ceases to have effect for the purposes of Section 20; or
- (b) if the Parliament has previously by resolution declared that it is not expedient to carry out the proposed work—the Parliament may rescind the resolution and, if it does so, may by resolution declare that it is expedient to carry out the proposed work.

22. SOME NEGATIVED PROPOSALS MAY BE RESUBMITTED.

If the resolution of the Parliament declares that it is not expedient to carry out a proposed public work, no proposal for a public work in substance identical with the work shall be submitted to the Parliament or commenced until after the expiration of one year from the date of the resolution unless the Minister, by instrument under his hand addressed to the Committee, declares that in his opinion, and in view of the public interest, it is desirable that the proposal should be resubmitted to the Parliament.

23. TAKING OF EVIDENCE IN PRIVATE.

(1) Where a witness appearing before the Committee so requests, any evidence given by him relating to a professional or trade secret, or to the profits or financial position, of himself or of any other person shall be taken by the Committee in private and shall not be disclosed or published without the consent of the person entitled to the non-disclosure.

(2) A person who discloses or publishes evidence in contravention of this section is guilty of an offence.

Penalty: A fine not exceeding K1,000.00 or imprisonment for a term not exceeding three months.

24. POWER TO SUMMON WITNESSES.

(1) The Committee may summon witnesses to appear before it to give evidence and produce documents.

(2) A summons to a witness—

- (a) may be in the prescribed form; and
- (b) shall be in writing and signed by the Chairman or Vice-chairman; and
- (c) may be served on the witness either personally or by being left at or sent by post to his usual place of business or of abode.

25. WARRANT IN CASE OF DISOBEDIENCE OF SUMMONS.

(1) If a person on whom a summons under Section 24 has been served refuses or fails, after the tender of the prescribed expenses, to appear or to continue in attendance in obedience to the summons, the Chairman or Vice-chairman may issue a warrant for his arrest.

(2) The warrant may be in the prescribed form, and authorizes—

- (a) the arrest of the person to whom it relates; and
- (b) his being brought before the Committee to give evidence; and
- (c) his detention in custody for the purpose until he is released by order of the Chairman or Vice-chairman.

(3) The warrant may be executed by the person to whom it is addressed or by any person whom he appoints to assist him in its execution, and the person executing the warrant has power, with or without assistants, to break and enter any building, place or ship for the purpose of executing the warrant.

26. DISOBEDIENCE OF SUMMONS.

A person on whom a summons under Section 24 has been served who refuses or fails, without reasonable excuse (proof of which is on him), to appear or to continue in attendance in obedience to the summons is guilty of an offence.

Penalty: A fine not exceeding K400.00 or imprisonment for a term not exceeding one year.

27. PREVENTING WITNESSES FROM GIVING EVIDENCE.

A person who, by act or omission, knowingly dissuades or prevents a person from obeying a summons under this Act is guilty of an offence.

Penalty: A fine not exceeding K400.00 or imprisonment for a term not exceeding one year.

28. POWER TO TAKE EVIDENCE ON OATH OR AFFIRMATION.

(1) The Committee may take evidence on oath or affirmation, and the Chairman or Vice-chairman may administer oaths or affirmations to witnesses appearing before the Committee.

(2) The oath or affirmation administered to a witness may be in the prescribed form.

(3) A witness who objects to taking an oath shall not be compelled to take an oath, but may be compelled to make an affirmation.

29. REFUSING TO BE SWORN, ETC.

A person who, without just cause (proof of which is on him), refuses—

- (a) to be sworn or make an affirmation; or
- (b) to answer a question put to him by the Committee or by a member of the Committee; or
- (c) to produce a document that he is required by the Committee to produce,

is guilty of an offence.

Penalty: A fine not exceeding K400.00 or imprisonment for a term not exceeding one year.

30. PRIVILEGES OF WITNESSES.

A witness summoned to appear or appearing before the Committee has the same protection and privileges as a witness in a case tried in the National Court.

31. PROTECTION TO WITNESSES.

A person who uses, causes, inflicts or procures any violence, punishment, damage, loss or disadvantage to or on any person for or on account of evidence lawfully given by him before the Committee is guilty of an offence.

Penalty: A fine not exceeding K400.00 or imprisonment for a term not exceeding one year.

32. FALSE EVIDENCE.

A person who wilfully gives false evidence on oath or affirmation before the Committee is guilty of an offence.

Penalty: Imprisonment for a term not exceeding five years.

33. WITNESSES' EXPENSES.

A witness appearing before the Committee to give evidence shall be paid such witness fees and travelling expenses as the Chairman or Vice-chairman thinks fit to allow, in accordance with the prescribed scale.

34. PROCEEDINGS TO BE INSTITUTED BY PUBLIC PROSECUTOR.

Proceedings for offences against this Act shall be instituted only by the Public Prosecutor or by his direction.

35. POWER TO ENTER ON LAND, ETC.

The Committee may, by itself or by any person appointed by it to prosecute an inquiry, enter and inspect any land, building, place or material, the entry or inspection of which appears to it requisite, on the prescribed notice being given to the owners or occupiers of the land, building, place or material.

36. ASSESSORS.

(1) In the exercise of any power conferred on it by this Act, the Committee may call in the aid, as assessors, of one or more persons of engineering or other technical knowledge or possessing special local knowledge or experience.

(2) There shall be paid to assessors such remuneration as the Chairman or Vice-chairman thinks fit to allow, in accordance with the prescribed scale.

PART IV. – MISCELLANEOUS.

37. ALLOWANCES.

(1) The Chairman and other members of the Committee shall be paid allowances in accordance with the scale provided for members of the Parliament, or with such other scale as is prescribed.

(2)^{10 11}The allowances are payable on the certificate of the Chairman or the Vice-Chairman.

38. LIMITATION OF ANNUAL EXPENDITURE.

(1)^{12 13}The total amount paid in respect of allowances payable under Section 37 may not exceed K4,000.00 in any financial year.

(2) Where, in a financial year, the amount of K4,000.00 would, but for Subsection (1), be exceeded, a proportionate abatement, to be determined by the Minister, shall be made in the sums payable, so as to reduce the amount so payable to the sum of K4,000.00.

39. GAZETTAL OF COMMITTEE.

The names of the members of the Committee and of the deputies shall be published in the National Gazette.

40. 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.

Office of Legislative Counsel, PNG

¹⁰ Section 37(2) repealed and replaced by *Constitutional Changes (Consequential Amendments) Act 1988* (No. 17 of 1988), s2(a).

¹¹ Section 37(2) repealed and replaced by *Constitutional Changes (Consequential Amendments) Act 1988* (No. 17 of 1988), s2(a).

¹² Section 38(1) amended by *Constitutional Changes (Consequential Amendments) Act 1988* (No. 17 of 1988), s2(b).

¹³ Section 38(1) amended by *Constitutional Changes (Consequential Amendments) Act 1988* (No. 17 of 1988), s2(b).