

No. 1 of 1988.

***Salaries and Remuneration Commission Act 1988.***

Certified on: / /20 .



INDEPENDENT STATE OF PAPUA NEW GUINEA.



No. 1 of 1988.

*Salaries and Remuneration Commission Act 1988.*

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AN ACT

entitled

*Salaries and Remuneration Commission Act 1988,*

Being an Act to implement Section 216A(4) (*the Salaries and Remuneration Commission*) of the *Constitution* by providing for the powers and procedures of the Salaries and Remuneration Commission, and for certain other matters in relation to it.

**PART I. – PRELIMINARY.**

**1. INTERPRETATION.**

In this Act, unless the contrary intention appears–

“**the Commission**” means the Salaries and Remuneration Commission established under Section 216A of the *Constitution*.

“**Judge of the National Court**” includes the Chief Justice and the Deputy Chief Justice;

“**other Constitutional Office-holders**” does not include a Judge of the National Court;

<sup>1</sup>“**Parliamentary Secretaries**” means Parliamentary Secretaries appointed under the Parliamentary Secretaries Act 2004;

<sup>2</sup>“**Provincial Assembly**” means the provincial legislature, by whatever name known, of a province as required by Section 187C(2)(a) (*constitution, functions, etc., of Provincial Governments*) of the *Constitution*;

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<sup>1</sup> Section 1 Amended by No. 11 of 2005, Sched. 1.

<sup>2</sup> Section 1 (definition of “Parliamentary Secretaries”) inserted by *Parliamentary Secretaries (Consequential Amendments) Act* 1990 (No. 28 of 1990), s3; Section 1 (definition of “Parliamentary Secretaries”) repealed by *Vice-Ministers (Consequential Amendments) Act* 1994 (No. 20 of 1994), s3(a); Section 1 (definition of “Vice-Ministers”) inserted by *Vice-Ministers (Consequential Amendments) Act* 1994 (No. 20 of 1994), s3(b); Section 1 Amended by No. 11 of 2005, Sched. 1.

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**“Provincial Executive”** means the provincial executive, by whatever name known, of a province as required by Section 187C(2)(b) of the *Constitution*;

**“the Secretariat”** means the secretariat established under Section 4;

**PART II. – TERMS AND CONDITIONS OF EMPLOYMENT.**

**2. TERM OF OFFICE.**

The members of the Commission hold office while they hold the offices in respect of which they are appointed as members of the Commission.

**3. DECLARATION OF OFFICE.**

Before entering on the duties of his office, a member of the Commission shall make the Declaration of Office before the Head of State.

**PART III. – ADMINISTRATION.**

**4. SECRETARIAT.**

(1) There is established, within the Parliamentary Service, a Secretariat for the Commission.

(2) The Secretariat shall be administered, *ex officio*, by the Clerk of the Parliament under the directions of the Speaker.

(3) The Clerk of the Parliament may employ such numbers and classification of persons and provide such facilities as he thinks are necessary or sufficient for the proper carrying out of the functions of the Secretariat.

**5. FUNCTIONS OF THE SECRETARIAT.**

The Functions of the Secretariat are to—

- (a) supervise and monitor the determinations of the salaries, allowances and benefits (financial and otherwise) made in accordance with Division VIII.1A (*Salaries and Remuneration Commission*) of the *Constitution* and this Act by the Parliament; and
- (b) carry out research for and provide information and advice to the Commission; and
- (c) keep the records and documents of the Commission; and
- (d) carry out general administrative and secretarial duties appertaining to the Commission and as directed by the Speaker.



**PART IV. – PROCEDURES, ETC., OF THE COMMISSION.**

**6. MEETINGS AND PROCEDURES OF THE COMMISSION.**

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

(2) At a meeting, four members constitute a quorum but at least one of them shall not be a nominee.

(3) At all meetings of the Commission—

(a) the Speaker as Chairman; or

(b) in the absence of the Speaker, a member who is not a nominee appointed by the members present,

shall preside.

(4) All matters before a meeting of the Commission shall be decided in accordance with the majority of votes.

(5) The Commission shall cause minutes of its meetings to be kept.

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

**7. PROCEEDINGS OF THE COMMISSION.**

(1) An inquiry by the Commission under this Act may, if the Commission so decides, be conducted in private.

(2) The Commission may—

(a) hear, or obtain information from, any person who the Commission considers can assist; and

(b) make whatever inquiries it thinks proper.

(3) This Act does not compel the Commission to hold hearings, and no person is entitled as of right to be heard by the Commission.

**8. INQUIRIES BY MEMBERS OF COMMISSION.**

(1) The Commission may authorize any of its members to make such inquiries into such matters relevant to the subject of the Commission's inquiry as it thinks proper.

(2) A member of the Commission authorized under Subsection (1) has, for the purposes of his inquiries, all of the powers, functions and privileges of the Commission.

(3) This Act, with any necessary modifications, applies to and in relation to a member authorized under Subsection (1) and to his inquiries as it does to and in relation to the commission and its inquiries, and for that purpose references in this

Act to the Commission shall be read as including references to the member of the Commission.

## **9. EVIDENCE.**

(1) Subject to this section and to Section 20, the Commission may require any person who in its opinion is able to give any information relating to any matter that is being inquired into by the Commission to furnish the information to it, and to produce any documents, papers and things that, in the opinion of the Commission, relate to any matter being inquired into by it and that may be in his possession or control.

(2) Subsection (1) applies—

- (a) whether or not the person is an officer, employee or member of any State Service, Provincial Government, Local-level Government, Local-level Government Special Purposes Authority or statutory body; and
- (b) whether or not the documents, papers or things referred to in that subsection are in the custody or under the control of any State Service, Provincial Government, Local-level Government, Local-level Government Special Purposes Authority or statutory body.

(3) The Commission may, by instrument, summon any person who in its opinion is able to give any information relating to any matter that is being inquired into by the Commission to attend the Commission, at a time and place specified in the summons, for examination by it on oath.

(4) The Commission may—

- (a) administer an oath to a person appearing as a witness before the Commission, whether the witness has been summoned or appears without being summoned; and
- (b) examine the witness on oath or affirmation.

(5) Except on the trial of any person for perjury in respect of his sworn testimony, no statement made or answer given by that or any other person in the course of any inquiry by or any proceedings before the Commission is admissible in evidence against any person in any court or at any inquiry or any other proceedings, and no evidence in respect of proceedings before the Commission shall be given against any person.

(6) A witness attending before the Commission has the same privileges, and is subject to the same penalties, in relation to the giving of information, the answering of questions and the production of documents, papers and things as a witness before the National Court.

(7) Where a person is required by the Commission to attend before it for the purposes of this section, the person is entitled to the same fees, allowances and expenses as if he were a witness in the National Court.

**PART V. – FIXING OF SALARIES, ETC.**

**10. SALARIES, ETC., OF MEMBERS OF PARLIAMENT AND PROVINCIAL ASSEMBLIES.**

(1) Members of–

- (a) the Parliament; and
- (b) Provincial Assemblies,

shall be paid respectively such salaries, allowances and other benefits (financial and otherwise) as are fixed from time to time by the Parliament in accordance with recommendations received from the Commission.

(2) Salaries, allowances and other benefits (financial and otherwise) shall–

- (a) in the case of an elected member of the Parliament or of a Provincial Assembly–be reckoned from and including the day fixed for the return of the writ at his election; and
- (b) in the case of a nominated member of the Parliament or an appointed member of a Provincial Assembly–be reckoned from and including the day of his appointment.

(3) The salaries, allowances and other benefits (financial and otherwise) under this section for a member of the Parliament or of a Provincial Assembly are payable while the member holds office.

**11. ALLOWANCES FOR PRIME MINISTER, ETC.**

(1) Notwithstanding Section 10–

- (a) the Speaker; and
- (b) the Deputy Speaker; and
- (c) the Prime Minister; and
- (d) the Deputy Prime Minister; and
- (e) the Leader of the Opposition; and
- (f) the Deputy Leader of the Opposition; and
- (g) the Ministers; and
- (ga)<sup>3</sup> Parliamentary Secretaries; and
- (h) the Leader of a Minority Party (being a Party with at least 12 members in Parliament) recognized as such by the Speaker; and
- (i) the Chairmen and members of Permanent Parliamentary Committees; and

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<sup>3</sup> Section 11(1)(ga) inserted by *Parliamentary Secretaries (Consequential Amendments) Act* 1990 (No. 28 of 1990), s4; Section 11(1)(ga) amended by *Vice-Ministers (Consequential Amendments) Act* 1994 (No. 20 of 1994), s4; Section 11 Subsection (1) amended by No. 11 of 2005, Sched. 1.

- (j) a former Prime Minister; and
- (k) the Speaker of a Provincial Assembly; and
- (l) the Head of a Provincial Executive; and
- (m) the members of a Provincial Executive; and
- (n) such other office-holders as are recommended by the Commission,

may be paid such additional salaries, allowances and other benefits (financial and otherwise) as are fixed from time to time by the Parliament in accordance with recommendations received from the Commission.

(2) Additional salaries, allowances and other benefits (financial or otherwise) fixed in relation to an office specified in Subsection (1) shall be reckoned from and including the day the respective member of the Parliament or of a Provincial Assembly was appointed to that office and are payable while he holds that office.

## **12. SALARIES, ETC. OF JUDGES.**

(1) Judges of the National Court shall be paid such salaries, allowances and other benefits (financial and otherwise) as are fixed from time to time by the Parliament in accordance with recommendations of the Commission.

(2) The Chief Justice and the Deputy Chief Justice may be paid such additional salaries, allowances and benefits (financial or otherwise) as are fixed by the Parliament from time to time in accordance with recommendations received from the Commission.

## **13. SALARIES, ETC., OF OTHER CONSTITUTIONAL OFFICE-HOLDERS.**

Other Constitutional Office-holders shall be paid such salaries, allowances and benefits (financial and otherwise) as are fixed by the Parliament from time to time in accordance with recommendations of the Commission.

## **14. GUIDELINES IN FIXING SALARIES, ETC.**

(1) In fixing the salaries, allowances, pensions and other benefits (financial and otherwise) for all or any members of the Parliament, the Parliament shall give full and proper consideration to—

- (a) the National Goals and Directive Principles; and
- (b) the general state of the economy; and
- (c) changes in the cost of living in the country; and
- (d) the general level of salaries and wages in the country; and
- (e) the relative responsibility and functions of Ministers and other parliamentary office-holders and other members of the Parliament.

(2) In fixing the salaries, allowances and other benefits (financial and otherwise) for all or any members of a Provincial Assembly, the Parliament shall give full and proper consideration to—

- (a) the factors set out in Subsection (1)(a) to (d); and
- (b) the relative responsibilities of members of the Provincial Assembly and of the Parliament; and
- (c) any other considerations affecting the province in question.

(3) In fixing the salaries, allowances and other benefits (financial and otherwise) for all the Judges of the National Court and other Constitutional Office-holders, the Parliament shall give full and proper consideration to—

- (a) the factors set out in Subsection (1)(a) to (d); and
- (b) the relative responsibility and functions of each of the offices they occupy; and
- (c) any other considerations affecting the respective Constitutional institutions.

**15. PENSIONS OR RETIREMENT BENEFITS.**

This Part does not authorize the Parliament to grant pensions or retirement benefits to members of the Parliament or of a Provincial Assembly or Judges of the National Court, or other Constitutional Office-holders.

**PART VI. – OFFENCES GENERALLY.**

**16. FAILURE TO ATTEND OR PRODUCE DOCUMENTS.**

A person who, having been summoned to attend the Commission fails, without reasonable excuse (proof of which is on him)–

- (a) to attend the Commission; or
- (b) to produce any documents, books or writings in his custody or control that he is required by the summons to produce,

is guilty of an offence.

Penalty: A fine not exceeding K500.00 or imprisonment for a term not exceeding three months.

**17. REFUSING TO BE SWORN OR GIVE EVIDENCE.**

A person appearing as a witness before the Commission who–

- (a) refuses–
  - (i) to be sworn or to make an affirmation; or
  - (ii) to answer any questions relevant to the inquiry put to him by a member of the Commission; or
- (b) having attended leaves the Commission without the permission of the Commission,

is guilty of an offence.

Penalty: A fine not exceeding K500.00 or imprisonment for a term not exceeding three months.

**18. CONTEMPT OF THE COMMISSION.**

A person who–

- (a) wilfully insults a member of the Commission; or
- (b) wilfully interrupts the proceedings of the Commission; or
- (c) is in any manner guilty of wilful contempt of the Commission,

is guilty of an offence.

Penalty: A fine not exceeding K500.00 or imprisonment for a term not exceeding three months.

**19. GIVING FALSE EVIDENCE.**

A person appearing as a witness before the Commission who wilfully gives false evidence is guilty of perjury and is liable to prosecution and punishment accordingly.

**PART VII. – MISCELLANEOUS.**

**20. PRIVILEGE.**

(1) A member of the Commission or an officer or employee of the Secretariat is not liable for an act or omission done or made *bona fide* and without negligence under or for the purpose of this Act or under the authority of the Commission or the Speaker.

(2) A member of the Commission or an officer or employee of the Secretariat shall not be called to give evidence in any court, or in any proceedings of a judicial nature, in respect of anything coming to his knowledge in the exercise of his functions.

(3) Anything said or any information supplied or any document, paper or thing produced by any person in the course of any inquiry by or proceedings before the Commission under this Act are privileged in the same manner as if the inquiry or proceedings were proceedings in a court.

**21. PRESERVATION OF SECRECY.**

(1) The Commission may direct that any evidence given before it, or a document, book or writing produced to it, be not published.

(2) A person who publishes or discloses to any person—

- (a) any evidence given before the Commission in private; or
- (b) any evidence that the Commission has directed not to be published; or
- (c) any of the contents of any document, book or writing that the Commission has directed not to be published,

without the consent of the Commission, is guilty of an offence.

Penalty: A fine not exceeding K1,000.00 or imprisonment for a term not exceeding 12 months, or both.

**22. REPEAL.**

The *Parliamentary Salaries Tribunal Act* (Chapter 25) is repealed.

**23. SAVING.**

Salaries, allowances and other benefits (financial and otherwise) determined or fixed for—

- (a) members of the National Parliament and Provincial Assemblies under the *Parliamentary Salaries Tribunal Act* (Chapter 25); and
- (b) the Judges of the National Court under the *Organic Law on Terms and Conditions of Employment of Judges*; and

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- (c) the Public Prosecutor and Public Solicitor, the Chief Magistrate, the Clerk of the National Parliament and Auditor-General under the *Organic Law on Certain Constitutional Office-holders*; and
- (d) the Ombudsmen under the *Organic Law on the Ombudsman Commission*; and
- (e) the *Public Service (Management) Act* (Chapter 28); and
- (f) the Electoral Commissioner under the *Organic Law on National Elections*,

shall, for the time being, be deemed to have been determined under this Act.

Office of Legislative Counsel, PNG