

No. 12 of 1991.

National Training Council Act 1991.

Certified on: / /20 .

INDEPENDENT STATE OF PAPUA NEW GUINEA.



No. 12 of 1991.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.



AN ACT

entitled

National Training Council Act 1991,

Being an Act to establish a National Training Council and for related purposes,
MADE by the National Parliament to come into operation in accordance with a notice
in the National Gazette by the Head of State, acting with and in accordance
with, the advice of the Minister.

PART I. – PRELIMINARY.

1. COMPLIANCE WITH CONSTITUTIONAL REQUIREMENTS.

(1) This Act to the extent that it regulates or restricts a right or freedom referred to in Subdivision III.3.C (*qualified rights*) of the *Constitution*, namely the right to privacy conferred by Section 49 of the *Constitution*, is a law that is made for the purpose of giving effect to the public interest in public welfare.

(2) For the purposes of Section 41 of the *Organic Law on Provincial Governments and Local-level Governments*, it is hereby declared that this law relates to a matter of national interest.

2. INTERPRETATION.

In this Act, unless the contrary intention appears—

“**Chairman**” means the Chairman of the Council appointed under Section 8(1)(a);

“**Committee**” means a Committee established under Section 16;

“**Council**” means the National Training Council established by Section 3;

“**Deputy Chairman**” means the Deputy Chairman of the Council appointed under Section 8(4);

“**Director**” means the Director of the Secretariat appointed under Section 22;

“Governing Council” means the body, by whatever name known, responsible for the administration of a training institution;

“in-service training” means a skill-building activity subsequent to employment and specifically job-related;

“member” means a member of the Council;

“National Training Plan” means the National Training Plan determined under Section 25, and in relation to any year means the National Training Plan determined for that year;

“Overseas Training Priorities Committee” means the Overseas Training Priorities Committee established under Section 16(a);

“Screening and Accreditation Committee” means the Screening and Accreditation Committee established under Section 16(b);

“Secretariat” means the National Training Council Secretariat established by Section 22;

“this Act” includes the Regulations;

“training” means a planned activity aimed at raising the productivity of workers through upgrading their motivation, practical skills and understanding.

“training institution” means an institution offering a course of training, and includes a corporation offering a course of training.

PART II. – THE NATIONAL TRAINING COUNCIL.

3. ESTABLISHMENT OF THE COUNCIL.

The National Training Council is hereby established.

4. INCORPORATION OF THE COUNCIL.

(1) The Council–

- (a) is a body corporate with perpetual succession; and
- (b) shall have a common seal; and
- (c) may acquire, hold and dispose of property; and
- (d) may sue and be sued in its corporate name.

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

5. OBJECTIVES OF THE COUNCIL.

(1) The objectives of the Council are–

- (a) to foster the comprehensive development of training with regard to the needs and resources of the country; and
- (b) to foster the co-ordination of training institutions so that the most effective use can be made of resources available for training and related purposes; and
- (c) to foster the type of training which ensures increased productivity and capacity building in the work force; and
- (d) to plan and encourage the development of a system of training fitted to the requirements of the country and its peoples; and
- (e) to establish, preserve and improve standards of training throughout the country; and
- (f) to make the benefits of training available as widely as possible; and
- (g) to make the most effective use of resources available for training and related purposes in so far as this can be done by legislative and administrative measures; and
- (h) generally, to augment and support the role and functions of the Commission for Higher Education as specified in the *Higher Education Act 1983*.

(2) In pursuing its objectives the Council shall endeavour to ensure that–

- (a) due allowance is made for reasonable diversity of training methods, provided that the standards of training achievement are not sacrificed; and
- (b) training in training institutions is based on both noble traditions and Christian principles; and
- (c) the role and functions of the Commission for Higher Education are not duplicated; and
- (d) the role of other agencies involved in training is recognized.

6. FUNCTIONS OF THE COUNCIL.

(1) The functions of the Council are—

- (a) to be responsible for supervising and managing the implementation of the National Training Policy and for monitoring, reviewing and revising the National Training Policy when necessary; and
- (b) to make recommendations on any issue related to training to the National Executive Council and, where appropriate, to Provincial Governments; and
- (c) to provide guidelines to the National Executive Council, Provincial Governments and the Inservice Training Institutions' Governing Councils on any issue related to training; and
- (d) to propose to all parties involved in the management of training ways of making training processes more efficient, the dissemination of information more effective and decision making more relevant to the national interest; and
- (e) to set out priorities for the guidance of the State Services and statutory authorities in relation to the provision of people, finance and other resources for training; and
- (f) to make comment on any proposals to be submitted to the National Executive Council on the allocation and sharing of public funds, aid monies and other training resources between national and provincial levels, the public and private sectors and unemployed persons; and
- (g) to formulate and publish guidelines on human resource requirements, localisation and indigenisation issues, training policies and priorities for all sectors of the economy; and
- (h) such other functions as are given to it under this Act or any other law.

(2) In carrying out its functions, the Council shall work within national plans, the framework of programmes of the National Government and its budgets and shall have regard for the resources of the country.

7. POWERS OF THE COUNCIL.

The Council has full powers to do all things necessary to be done to enable it to perform its functions under this Act including power to consult with interested bodies affected by, or likely to be affected by, the carrying out of its functions by the Council.

8. CONSTITUTION OF THE COUNCIL.

(1) The Council shall consist of the following members appointed for their professional input into policy development in training areas:–

- (a) the Departmental Head of the Department responsible for labour and employment matters or his nominee, who shall be Chairman;
- (b) the Departmental Head of the Department responsible for personnel management matters or his nominee;
- (c) the Director of the Papua New Guinea Institute of Public Administration or his nominee;
- (d) the Departmental Head of the Department responsible for finance and planning matters or his nominee;
- (e) the Chairman of the Commission for Higher Education or his nominee;
- (f) the Departmental Head of the Department responsible for education matters or his nominee;
- (g) the President of the Trade Union Congress of Papua New Guinea or his nominee;
- (h) the President of the Public Employees Association or his nominee;
- (i) the President of the Employers Federation of Papua New Guinea or his nominee;
- (j) a senior executive of the Papua New Guinea Chamber of Commerce;
- (k) a person to represent the Papua New Guinea Training and Development Society, nominated by the Society;
- (l) one person to represent church and voluntary organizations;
- (m) one person to represent the interests of women;
- (n) the Director.

(2) The persons referred to in Subsection (1)(j), (k), (l) and (m)–

- (a)¹ shall be appointed in accordance with the *Regulatory Statutory Authorities (Appointment to Certain Offices) Act 2004*; and
- (b) shall be appointed for a term of three years; and
- (c) are eligible for re-appointment.

¹ Section 8 Subsection (2) amended by No. 97 of 2006, Sched. 1.

(3) Where, under Subsection (1)(a), (b), (d), (e) or (f) a nominee is nominated, the nominee shall be an officer of not less than Assistant Secretary level or the equivalent.

(4) The members shall appoint one of their number to be the Deputy Chairman of the Council.

9. ALTERNATE MEMBERS.

(1) For each of the members appointed under Section 8(1)(j), (k), (l) and (m), an alternate member shall be appointed in the same way and subject to the same conditions as the member for whom he is the alternate.

(2) In the event of the inability to act of a member, the alternate member has and may exercise all his powers, functions, duties and responsibilities (including membership of a Committee) and this Act applies accordingly.

(3) An alternate member may, unless the Council otherwise directs, attend all meetings of the Council but shall not, except where he is attending in the absence of the member for whom he is the alternate, take part in debate, vote on any matter or be counted towards a quorum.

10. VACATION OF OFFICE.

(1) A member, other than an *ex officio* member, may resign his office by writing signed by him and delivered to the Minister.

(2) If a member—

- (a) becomes permanently incapable of performing his duties; or
- (b) resigns his office in accordance with Subsection (1); or
- (c) is absent, except with the written consent of the Minister, from three consecutive meetings of the Council; or
- (d) fails to comply with Section 13; or
- (e) becomes bankrupt, or applies to take the benefit of any law for the benefit of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit; or
- (f) is convicted of an offence punishable under a law by a term of imprisonment for one year or longer, or by death, and as a result of the conviction is sentenced to imprisonment or death,

the Minister shall terminate his appointment.

(3) The Minister, may, at any time, by written notice, advise a member that he intends to terminate his appointment on the grounds of inefficiency, incapacity or misbehaviour.

(4) Within 14 days of the receipt of a notice under Subsection (3), the member may reply in writing to the Minister, who shall consider the reply, and, where appropriate, terminate the appointment.

(5) Where the member referred to in Subsection (3) does not reply in accordance with Subsection (4), his appointment is terminated.

11. VACANCY NOT TO AFFECT POWERS OR FUNCTIONS.

The exercise of a power or the performance of a function of the Council is not invalidated by reason of a vacancy in the membership of the Council.

12. MEETINGS OF THE COUNCIL.

(1) The Council shall meet as often as the business of the Council requires, and at such times and places as the Chairman directs, but in any event not less frequently than once in every quarter.

(2) At a meeting of the Council—

- (a) seven members constitute a quorum; and
- (b) the Chairman, or in his absence the Deputy Chairman, shall preside, and if both the Chairman and Deputy Chairman are absent, the members present shall appoint, from among their own number, a Chairman for that meeting; and
- (c) matters arising shall be decided by a majority of the votes of the members present and voting; and
- (d) the person presiding has a deliberative, and in the event of an equality of votes on any matter, also a casting vote.

(3) The Council shall cause minutes of its meetings to be recorded and kept.

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

13. DISCLOSURE OF INTEREST BY MEMBERS.

(1) A member who has a direct or indirect interest in a matter being considered or about to be considered by the Council, otherwise than as a member of, and in common with the other members of, an incorporated company consisting of not less than 25 persons, shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest at a meeting of the Council.

(2) A disclosure under Subsection (1), shall be recorded in the minutes of the Council, and the member—

- (a) shall not take part, after the disclosure, in any deliberation or decision of the Council in relation to the matter; and

- (b) shall be disregarded for the purpose of constituting a quorum of the Council for any such deliberation or decision.

14. DELEGATION.

The Council may, by instrument, delegate to any person or persons, all or any of its powers and functions under this Act (except this power of delegation).

15. REPORTS.

(1) The Council shall, as soon as practicable after 1 January in each year, furnish to the Minister a report on the progress and the performance of the Council in relation to its functions for the year preceding ending 31 December.

(2) As soon as practicable after he has received the report referred to in Subsection (1), the Minister shall forward the report to the Speaker for presentation to the Parliament.

PART III. – COMMITTEES OF THE COUNCIL.

16. POWER TO ESTABLISH COMMITTEES, ETC.

(1) The Council–

- (a) shall establish an Overseas Training Priorities Committee; and
- (b) shall establish a Screening and Accreditation Committee; and
- (c) may, from time to time, establish such other Committees as it considers necessary in relation to its functions,

in accordance with this Part.

(2) Subject to this Part, the Council shall appoint members (who may or may not be members of the Council) of a Committee and shall specify its functions and powers.

(3) Where a Committee is established under this section for the purpose of co-ordinating with another body or organization, notification of the establishment of the Committee shall be published in the National Gazette.

17. VACANCY NOT TO AFFECT POWERS OR FUNCTIONS.

The exercise of a power or the performance of a function of a Committee established under this Part is not invalidated by reason of a vacancy in the membership of the Committee.

18. CALLING OF MEETINGS OF COMMITTEES.

(1) A Committee established under this Part shall meet as often as the business of the Committee requires, and at such times and places as the Chairman of the Committee directs, but in any event in the case of–

- (a) the Overseas Training Priorities Committees; and
- (b) the Screening and Accreditation Committee,

shall meet at least once in every two months.

(2) Where he receives a request to do so by the Minister or by not less than two members of the Committee, the Chairman of a Committee shall convene a meeting of the Committee within 14 days.

19. PROCEDURES OF A COMMITTEE.

The procedures of a Committee are as determined by the Committee Chairman or the Committee.

20. OVERSEAS TRAINING PRIORITIES COMMITTEE.

(1) The Overseas Training Priorities Committee shall consist of at least six members of the Council and shall include—

- (a) the member appointed under Section 8(1)(a); and
- (b) the member appointed under Section 8(1)(b); and
- (c) the member appointed under Section 8(1)(d); and
- (d) at least three members appointed under Section 8(1)(g) to (m) inclusive.

(2) The members of the Overseas Training Priorities Committee shall be appointed by the Council.

(3) The Council shall appoint one of the members of the Overseas Training Priorities Committee to be the Chairman of that Committee and another member to be the Deputy Chairman.

(4) The functions of the Overseas Training Priorities Committee are—

- (a) to determine the distribution of places on donor-funded overseas courses between sectors and subsectors in accordance with national priorities; and
- (b) to ensure that, where overseas technical assistance is required, its training component is submitted to and monitored by the Council; and
- (c) otherwise to carry out the directions of the Council.

(5) For the purposes of Subsection (4)(a), “sectors and subsectors” means sectors and subsectors as referred to in the budgetary and planning documents of the Department responsible for finance and planning matters.

21. SCREENING AND ACCREDITATION COMMITTEE.

(1) The Screening and Accreditation Committee shall consist of at least six members of the Council and shall include—

- (a) the member appointed under Section 8(1)(a); and
- (b) the member appointed under Section 8(1)(b); and
- (c) the member appointed under Section 8(1)(e); and
- (d) the member appointed under Section 8(1)(f); and
- (e) the member appointed under Section 8(1)(k); and
- (f) at least two other members appointed under Section 8(1)(g) to (m) inclusive.

(2) The members of the Screening and Accreditation Committee shall be appointed by the Council.

(3) The Council shall appoint one of the members of the Screening and Accreditation Committee to be the Chairman of that Committee and another member to be the Deputy Chairman.

(4) The functions of the Screening and Accreditation are—

- (a) to consider and review the programmes of private training institutions in relation to standards, relevance, costs, self-sufficiency and duplication of locally-available publicly-funded courses; and
- (b) to certify, in the prescribed manner, private training institutions as training institutions whose services may or may not be utilized by Government-funded agencies; and
- (c) otherwise to carry out the directions of the Council.

(5) For the purposes of Subsection (4), “private training institutions” means training institutions which do not receive direct Government grants towards the cost of their operations.

PART IV. – NATIONAL TRAINING COUNCIL SECRETARIAT, ETC.**22. NATIONAL TRAINING COUNCIL SECRETARIAT.**

(1) There is established a National Training Council Secretariat consisting of–

(a)² a Director, whose manner of appointment, suspension and dismissal is as specified in the *Regulatory Statutory Authorities (Appointment to Certain Offices) Act 2004*; and

(b) such other officers appointed by the Director as the Council considers necessary for the efficient administration of its functions and powers.

(2) Subject to the provisions of the *Salaries and Conditions Monitoring Committee Act 1988*, the Council shall determine the terms and conditions of employment of the officers of the Secretariat.

(3) The service in the Secretariat of an officer of the Public Service shall for all purposes be counted as service in the Public Service.

(4) The Director shall manage and be the Chief Executive of the Secretariat and in relation to policy shall act in accordance with the policy and directions of the Council.

(5) The function of the Secretariat is to provide services to the Council and to carry out such other functions as are directed by the Council.

23. CONSULTANTS.

The Council may, from time to time–

(a) after consultation with the Minister and the Director; and

(b) within the limits of funds lawfully available for the purpose; and

(c) on such terms and conditions as are fixed by the Council,

employ such consultants as, in the opinion of the Council, are necessary for the purposes of the Council.

² Section 22 Subsection (1) amended by No. 97 of 2006, Sched. 1.

PART V. – FINANCE.

24. APPLICATION OF PUBLIC FINANCES (MANAGEMENT) ACT 1986.

Part VIII of the *Public Finances (Management) Act 1995* applies to and in relation to the Council.

PART VI. – NATIONAL TRAINING PLAN.

25. NATIONAL TRAINING PLAN.

The National Executive Council shall, for each year, after considering a report and recommendations from the Council, determine a National Training Plan consistent with and based upon resources available for the purpose.

PART VII. – MISCELLANEOUS.

26. COUNCIL MAY OBTAIN INFORMATION RELATING TO TRAINING.

(1) The Council may, by notice in writing under the hand of the Chairman, require persons engaged in training in training institutions, to supply to the Council, or to an officer of the Secretariat, information, as specified in the notice, relating to training.

(2) A person who—

- (a) fails to supply information; or
- (b) supplies false or misleading information,

when required to supply information in accordance with a notice under Subsection (1), is guilty of an offence.

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

27. PROTECTION OF MEMBERS OF THE COUNCIL.

No action is maintainable against a member of the Council for anything which is done by the member in good faith while acting as a member.

28. REVIEW OF NATIONAL TRAINING COUNCIL.

(1) The Minister shall, as soon as possible after the expiry of a period of three years from the date of coming into operation of this Act appoint a Review Committee of three persons, who have such experience as the Minister considers relevant, for the purpose of reviewing and evaluating the work of the Council.

(2) The Review Committee shall examine the work of the Council and its effects from its establishment and shall furnish to the Minister, for presentation to the National Executive Council within a period of nine months after the date of the appointment of the Review Committee, a report containing a review and evaluation of the work of the Council and its effects.

(3) The Council shall supply all information required by the Review Committee and shall otherwise assist the Review Committee in its functions.

29. DEVELOPMENT, ETC., PLANS OF IN-SERVICE TRAINING INSTITUTIONS TO BE SUBMITTED TO THE COUNCIL.

(1) Where, in accordance with any other law, a plan for the development of, or for a training programme in, an in-service training institution is required to be submitted to a Department, that Department shall ensure that a copy of such plan is sent to the Council.

(2) On receipt of a plan under Subsection (1), the Council shall ensure that the plan accords with national priorities in training, and where a plan does not so accord,

the Council shall advise the person or body formulating or responsible for the plan of any discrepancies.

30. 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 the purpose of carrying out or giving effect to this Act including the imposition of penalties of fines not exceeding K200.00 for offences against any Regulation.

Office of Legislative Counsel, PNG