

CHAPTER 10

ACT NO. 15 OF 1992

SIGNED BY THE PRESIDENT

IN WITNESS WHEREOF

I HAVE SIGNED THIS ACT

AT PORT MORAES

THIS 15TH DAY OF APRIL

1992

BY THE PRESIDENT OF PAPUA NEW GUINEA

No. 15 of 1992.

Papua New Guinea Sports Commission Act 1992.

Certified on : 15.4.92

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INDEPENDENT STATE OF PAPUA NEW GUINEA.

No. of 1992.

Papua New Guinea Sports Commission Act 1992.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.

No. of 1992.

AN ACT

entitled

Papua New Guinea Sports Commission Act 1992.

Being an Act to establish the Papua New Guinea Sports Commission and to provide for its objects, functions and powers, 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. INTERPRETATION.

In this Act, unless the contrary intention appears -

"Chairman" means the Chairman of the Commission appointed under Section 11;

"Commission" means the Papua New Guinea Sports Commission established by Section 2;

"Commissioner" means a person appointed as a Commissioner under Section 9;

"Deputy Chairman" means the Deputy Chairman of the Commission appointed under Section 11;

"sport" means any physical activity which involves organized competition and rules and includes

(a) sport in Papua New Guinea; and

(b) the participation by Papua New Guineas in international sport.

PART II. - ESTABLISHMENT, FUNCTIONS AND POWERS OF THE COMMISSION.

2. ESTABLISHMENT OF COMMISSION.

(1) There is established a Commission to be known as the Papua New Guinea Sports Commission.

(2) The Commission -

(a) is a body corporate; and

(b) shall have a seal; and

(c) may sue and be sued.

(3) All courts, judges and persons acting judicially shall take judicial notice of the imprint of the seal of the Commission appearing on a document and shall presume that the document was duly sealed.

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3. OBJECTS AND FUNCTIONS OF COMMISSION.

(1) The objects of the Commission are -

- (a) to encourage the private sector to contribute to the funding of sport to supplement assistance by the Government of Papua New Guinea; and
- (b) to provide leadership in the development of Papua New Guinea's performance in sport; and
- (c) to encourage increased participation and 'Sport for All' by Papua New Guineas in sport.

(2) The functions of the Commission are -

- (a) to advise the Minister in relation to the development of sport; and
- (b) to raise money through the Commission for the purposes of the Commission; and
- (c) to administer and expend money appropriated by the Parliament, or raised by the Commission, for the purposes of the Commission; and
- (d) to co-ordinate activities in Papua New Guinea for the development of sport; and
- (e) to consult and co-operate with appropriate authorities and sports organisation in Papua New Guinea and with other organisations, associations and persons, on matters related to its activities; and
- (f) to maintain and manage the Sir John Guise Sports Complex in Port Moresby, the Sir Ignatius Kilage Sports Complex in Lae and such other Sports Complexes as the Commission agrees to maintain and manage; and
- (g) to initiate, encourage and facilitate research and development in relation to sport; and
- (h) to collect and distribute information, and provide advice, on matters related to its activities.

(3) The functions of the Commission may be performed within or outside Papua New Guinea.

(4) The Commission may perform any of its functions in co-operation with a provincial government or with any body established by a provincial government for the purposes of encouraging sporting activities in the province (or in respect of the National Capital District, with the National Capital District Commission or with any body established by the National Capital District Commission), or with any person, association or organisation.

(5) The Commission may perform its functions to the extent only that they are not in excess of the functions that may be conferred on it by virtue of any of the legislative powers of the Parliament, and, in particular, may perform its functions -

- (a) by way of expenditure of money that is available for the purposes of the Commission in accordance with an appropriation made by the Parliament; and
- (b) for purposes related to the collection of statistics; and
- (c) for purposes in relation to a Province, in co-operation with the provincial government; and
- (d) for purposes in relation to the National Capital District, in co-operation with the National Capital District Commission.

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4. POWERS OF THE COMMISSION.

(1) The Commission has power to do all things necessary or convenient to be done for or in connection with the performance of its functions and, in particular, may

- (a) enter into contracts; and
- (b) acquire, hold and dispose of real or personal property; and
- (c) occupy, use and control any land or building owned or held under lease by the Government of Papua New Guinea and made available for the purpose of the Commission; and
- (d) with the written approval of the Minister, make grants or lend money, and provide scholarships or like benefits; and
- (e) appoint agents and attorneys, and act as an agent for other persons; and
- (f) engage persons to perform services for the Commission; and
- (g) accept gifts, bequests and devises made to the Commission (whether on trust or otherwise) and act as trustee of money or other property vested in the Commission on trust; and
- (h) do anything incidental to any of its powers.

(2) The powers of the Commission may be exercised within or outside Papua New Guinea.

5. FORMATION OF FUND-RAISING CORPORATE BODY.

(1) The Commission may incorporate a corporate body under the *Companies Act* (Chapter 146) for the purpose of raising money for the development of sport.

(2) Except to the extent necessary for the performance of its functions in relation to the Commission, a corporate body referred to in Subsection (1) is not empowered to do anything that the Commission is not empowered to do.

6. DIRECTIONS TO COMMISSION.

(1) The Minister may, by written notice, give directions to the Commission with respect to the policies and practices to be followed by the Commission.

(2) The Commission shall comply with any direction given to it under Subsection (1).

7. STRATEGIC PLAN.

(1) The Commission shall

- (a) formulate a strategic plan setting out the manner in which the Commission proposes to perform its functions on a continuing basis; and
- (b) from time to time, review and revise the strategic plan.

(2) A strategic plan, or a revision of a strategic plan, has no effect until approved by the Minister.

(3) The first strategic plan shall be submitted to the Minister within six months after the coming into operation of this Act.

(4) At any time when a strategic plan is in effect, the Commission shall not perform its functions otherwise than in accordance with that plan.

Papua New Guinea Sports Commission

8. DELEGATION.

(1) The Commission may, either generally or as otherwise provided by the instrument of delegation, by writing under its seal, delegate to a person, or to a Committee established under Section 17(1), any of its powers under this Act, other than this power of delegation.

(2) A power delegated under Subsection (1), when exercised by the delegate, shall, for the purposes of this Act, be deemed to have been exercised by the Commission.

(3) A delegation of a power under this section does not prevent the exercise of the power by the Commission.

9. CONSTITUTION OF THE COMMISSION.

(1) The Commission shall consist of not more than 10 Commissioners comprising -

- (a) the Departmental Head of the Department responsible for sports matters, or his nominees; and
- (b) the Departmental Head of the Department responsible for finance and planning matters, or his nominee; and
- (c) the President of the Papua New Guinea Sports Federation; and
- (d) one person who shall be a representative from a national sports body; and
- (e) at least four and not more than six other persons generally to represent the community.

(2) The Commissioners referred to in Subsection (1)(d) and (e) -

- (a) shall be appointed, by notice in the National Gazette, by the Head of State, acting on advice; and
- (b) shall be appointed for such period, not exceeding three years, as is specified in the instrument of appointment; and
- (c) are eligible for re-appointment; and
- (d) shall hold office on such terms and conditions as are determined under the *Boards (Fees and Allowances) Act* (Chapter 299).

(3) A nominee referred to in Subsection (1)(a) and (b) shall be an officer at least of the level of assistant secretary or the equivalent.

10. ALTERNATE MEMBERS.

(1) For each of the Commissioners appointed under Section 9(1)(d) and (e), an alternate Commissioner shall be appointed in the same way and subject to the same conditions as the person for whom he is the alternate.

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

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

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11. CHAIRMAN AND DEPUTY CHAIRMAN.

(1) The Head of State, acting on advice, shall appoint one of the Commissioners to be the Chairman of the Commission and another of the Commissioners to be the Deputy Chairman of the Commission.

(2) The Chairman and Deputy Chairman of the Commission shall hold office for a period not exceeding three years and on such terms and conditions as are fixed by the Head of State, acting on advice.

12. LEAVE OF ABSENCE OF COMMISSIONERS.

The Minister may grant leave of absence to a member on such terms and conditions as the Minister determines.

13. VACATION OF OFFICE.

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

(2) If a Commissioner -

- (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 Commission; or
- (d) fails to comply with Section 15; 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 Commissioner 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 Commissioner may reply in writing to the Minister, who shall consider the reply, and, where appropriate, terminate the appointment.

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

14. VACANCY NOT TO AFFECT POWERS OR FUNCTIONS.

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

15. DISCLOSURE OF INTERESTS.

(1) A Commissioner who has a direct or indirect pecuniary interest in a matter being considered or about to be considered by the Commission shall, as soon as possible after the relevant facts have come to the Commissioner's knowledge, disclose the nature of the interest at a meeting of the Commission.

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(2) A disclosure under Subsection (1) shall be recorded in the minutes of the meeting of the Commission and, unless the Minister or the Commission otherwise determines, the Commissioner shall not -

- (a) be present during any deliberation of the Commission with respect to that matter; or
- (b) take part in any decision of the Commission with respect to that matter.

16. MEETINGS OF COMMISSION.

(1) The Commission shall hold such meetings as are necessary for the efficient performance of its functions.

(2) The Chairman -

- (a) may, at any time, convene a meeting of the Commission; and
- (b) shall, on receipt of a written request signed by not less than three other Commissioners, convene a meeting of the Commission.

(3) The Minister may, at any time, convene a meeting of the Commission.

(4) The Chairman shall preside at all meetings of the Commission at which he is present.

(5) Where the Chairman is not present at a meeting of the Commission, the Deputy Chairman shall preside, and where both the Chairman and the Deputy Chairman are not present, the Commissioners present shall elect one of their number to preside.

(6) At a meeting of the Commission, a quorum is constituted by -

- (a) six Commissioners; or
- (b) a number of Commissioners that is not less than one-third of the number of Commissioners for the time being holding office,

whichever is the greater number of Commissioners.

(7) Where, by reason of Section 15, a Commissioner is not present at a meeting of the Commission during a deliberation of the Commission with respect to a matter, but, if that Commissioner were present, there would be a quorum present, the remaining Commissioners present constitute a quorum for the purpose of any deliberation or decision of the Commission at that meeting with respect to that matter.

(8) Questions arising at a meeting of the Commission shall be determined by a majority of the votes of the Commissioners present and voting.

(9) The person presiding at a meeting of the Commission has a deliberative vote and, in the event of an equality of votes on any matter, also has a casting vote.

17. COMMITTEES.

(1) The Commission may establish such committees of its members as it thinks fit, and a committee shall perform such functions as are directed by the Commission.

(2) A committee may co-opt a person (other than a Commissioner) to be an additional member of that committee for the purposes of consideration of a particular matter.

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(3) A person who is co-opted under Subsection (2) shall act in an advisory capacity only and is not entitled to remuneration or allowances.

(4) The number of members of a committee required to constitute a quorum at a meeting of that committee shall be as specified by the Commission.

(5) Section 15 applies to a member of a committee (including a member co-opted under Subsection (2)) as if -

(a) a reference in that section to the Commission were a reference to the committee; and

(b) a reference in that section to a Commissioner were a reference to that member (whether or not that member is a Commissioner).

PART IV. - EXECUTIVE DIRECTOR AND STAFF.

18. EXECUTIVE DIRECTOR.

There shall be an Executive Director of the Commission, who shall be the chief executive officer of the Commission.

19. APPOINTMENT AND TERM OF OFFICE.

(1) The Executive Director shall be appointed by notice in the National Gazette by the Head of State, acting on advice.

(2) Subject to Subsection (3), the Executive Director -

(a) shall hold office for such period, not exceeding five years, as is determined by the Head of State, acting on advice; and

(b) is eligible for re-appointment.

(3) A person who has attained the age of 60 years shall not be appointed or re-appointed as Executive Director and a person shall not be appointed or re-appointed as Executive Director for a period that extends beyond the date on which the person will attain the age of 60 years.

(4) The Executive Director holds office on such terms and conditions (if any) in respect of matters not provided for by this Act as are determined by the Head of State, acting on advice.

20. EXECUTIVE DIRECTOR NOT TO ENGAGE IN OTHER WORK.

The Executive Director shall not engage in paid employment outside the duties of his office except with the written approval of the Minister.

21. REMUNERATION AND ALLOWANCES.

(1) The Executive Director shall be paid such remuneration as is determined by the Commission.

(2) The Executive Director shall be paid such allowances as are determined by the Commission.

(3) Subsections (1) and (2) have effect subject to the *Salaries and Conditions Monitoring Committee Act 1988*.

22. LEAVE OF ABSENCE.

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

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23. DISCLOSURE OF INTEREST.

The Executive Director shall give written notice to the Minister of all direct or indirect pecuniary interests that the Executive Director has or acquires in any business.

24. ACTING EXECUTIVE DIRECTOR.

(1) The Minister may appoint a person (not being a Commissioner) to act as Executive Director -

(a) during a vacancy in the office of Executive Director (whether or not an appointment has previously been made to the office); or

(b) during any period, or during all periods, when the Executive Director is absent from duty or from Papua New Guinea or is, for any other reason, unable to perform the functions of the office of Executive Director,

but a person appointed to act during a vacancy shall not continue so to act for more than 12 months.

(2) An appointment of a person under Subsection (1) may be expressed to have effect only in such circumstances as are specified in the instrument of appointment.

(3) The Minister may -

(a) determine the terms and conditions of appointment, including remuneration and allowances, of a person acting as Executive Director; and

(b) terminate such an appointment at any time.

(4) Where a person is acting under Subsection (1)(b) and the office of Executive Director becomes vacant while the person is so acting, then, subject to Subsection (2), the person may continue so to act until -

(a) the Minister otherwise directs; or

(b) the vacancy is filled; or

(c) the expiry of a period of 12 months from the date on which the vacancy occurred,

whichever first happens.

(5) The appointment of a person under this section ceases to have effect if the person resigns the appointment by written instrument delivered to the Minister.

(6) While a person is acting under this section, the person has and may exercise all the powers, and shall perform all the functions, of the Executive Director.

(7) The validity of anything done by or in relation to a person purporting to act under this section shall not be called in question on the ground that the occasion for the appointment had not arisen, that there was a defect or irregularity in or in connection with the appointment, that the appointment had ceased to have effect or that the occasion for the person to act had not arisen or had ceased.

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25. STAFF OF THE COMMISSION.

(1) The staff required to assist the Commission shall be persons appointed or employed by the Executive Director on such terms and conditions as the Commission determines.

(2) The Executive Director of the Commission has, in relation to the staff of the Commission, all the powers of, or exercisable by, a Departmental Head under the *Public Service (Management) Act 1986* in relation to officers or employees of his Department.

26. PUBLIC SERVICE RIGHTS.

Where -

(a) the Executive Director; or

(b) a member of the staff of the Commission,

was, immediately before the date of his appointment under this Act, an officer of the Public Service; his service as the Executive Director or as a member of the staff, as the case may be, shall, for the purpose of determining his existing and accruing rights, be counted as service in the Public Service.

PART V. - FINANCE.

27. APPROPRIATION OF MONEY.

(1) There is payable to the Commission such moneys as are appropriated by the Parliament for the purposes of the Commission.

(2) The Minister responsible for financial matters may give directions as to the amounts in which, and the times at which, money referred to in Subsection (1) is to be paid to the Commission.

28. ESTIMATES.

(1) The Commission shall prepare estimates, in such form as the Minister directs, of the receipts and expenditure of the Commission for each financial year and, if the Minister so directs, for any other period specified by the Minister; and the Commission shall submit estimates so prepared to the Minister not later than such date as the Minister directs.

(2) The moneys of the Commission shall not be expended otherwise than in accordance with estimates of expenditure approved by the Minister.

29. APPLICATION OF MONEY.

The moneys of the Commission shall be applied only -

(a) in payment or discharge of the expenses, charges, obligations and liabilities incurred or undertaken by the Commission in the performance of its functions and the exercise of its powers; and

(b) in payment of remuneration and allowances payable under this Act.

30. BORROWING FROM THE GOVERNMENT OF PAPUA NEW GUINEA.

(1) The Minister responsible for finance matters may, on behalf of the Government, out of moneys appropriated by the Parliament for the purpose, lend money to the Commission at such rates of interest and on such other terms and conditions as that Minister determines.

(2) The Commission shall not borrow money except in accordance with Subsection (1).

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(3) The Commission may give security over the whole or part of its assets for the repayment of amounts borrowed under Subsection (1) and the payment of interest on amounts so borrowed.

31. LEASES OF LAND.

The Commission shall not, except with the written approval of the Minister, enter into a lease of land for a period of 10 years or more.

32. APPLICATION OF *PUBLIC FINANCES (MANAGEMENT) ACT 1986.*

(1) It is hereby declared that the Commission is a public authority to which Part VIII *Public Finances (Management) Act 1986* applies.

(2) The Commission is a trading enterprise of Section 61 of the *Public Finances (Management) Act 1986*.

(3) For the purposes of Section 58 of the *Public Finances (Management) Act 1986* tenders shall be publicly invited and contracts taken by the Commission for all works, supplies and services the estimated cost of which exceeds K20,000.00 or such other figure declared by the Minister responsible for finance matters.

33. TRUST MONEY.

(1) The Commission shall ensure that any money received or held by the Commission on trust is paid into an account opened and maintained pursuant to the *Public Finances (Management) Act 1986* that does not, or accounts referred to in that section that do not, contain any money of the Commission not held on trust.

(2) Money or other property held by the Commission on trust shall be applied or dealt with only in accordance with the powers and duties of the Commission as trustee.

(3) Money held by the Commission on trust may be invested

- (a) in any manner in which the Commission is authorised to invest that money by the terms of the trust; or
- (b) in any manner in which trust money may, for the time being, be invested under law,

but not otherwise.

PART VI. - MISCELLANEOUS.

34. REPORTS TO MINISTER.

The Commission shall

- (a) from time to time inform the Minister concerning the general conduct of its activities; and
- (b) furnish to the Minister such information in relation to its activities as the Minister from time to time requires.

35. BY-LAWS.

(1) The Commission may make by-laws, not inconsistent with this Act, for the control, regulation and management of any sports complexes, land or building under its control.

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- (2) Notwithstanding anything in this Act or in any other law, a by-law made under Subsection (1) may -
- (a) authorize the making of charges for the admission of persons and vehicles to any sports complex, land or building under the control of the Commission; and
 - (b) impose penalties of fines not exceeding K2,000.00 for offences against the by-laws.
- (3) A by-law made under Subsection (1) is of no force or effect until -
- (a) approved by the Head of State, acting on advice; and
 - (b) published in the National Gazette.

36. REGULATIONS.

The Head of State, acting on advice, may make regulations, not inconsistent with this Act, prescribing matters -

- (a) required or permitted by this Act to be prescribed by regulations; or
- (b) necessary or convenient to be prescribed by regulations for carrying out or giving effect to this Act.

I hereby certify that the above is a fair print of the *Papua New Guinea Sports Commission Act 1992* which has been made by the National Parliament.

Clerk of the National Parliament.

I hereby certify that the *Papua New Guinea Sports Commission Act 1992* was made by the National Parliament on 3 March 1992.

Speaker of the National Parliament.