



Papua New Guinea (Staffing Assistance) Act 1973

Act No. 70 of 1973 as amended

This compilation was prepared on 11 July 2011
taking into account amendments up to Act No. 58 of 2011

The text of any of those amendments not in force
on that date is appended in the Notes section

The operation of amendments that have been incorporated may be
affected by application provisions that are set out in the Notes section

Prepared by the Office of Legislative Drafting and Publishing,
Attorney-General's Department, Canberra

Contents

Part I—Preliminary	1
1 Short title [see Note 1].....	1
2 Commencement [see Note 1].....	1
3 Interpretation	1
Part III—Compensation on termination of employment	3
19 Benefits under Part III	3
Part V—Superannuation	4
38 Regulations relating to superannuation.....	4
Part IX—Miscellaneous	5
Division 1—Review of decisions by CSC	5
54 Review of decisions of CSC.....	5
Division 2—Reconsideration Advisory Committees	6
55 Establishment of Committee.....	6
55A Member of Committee.....	6
55B Functions of Committee	6
55C Proceedings of Committee.....	6
55D Indemnification of members of a Committee	7
55E Remuneration and allowances	7
55F Recommendations by Committee to CSC	7
Division 3—Review of decisions by the Administrative Appeals Tribunal	8
55G Review by the Administrative Appeals Tribunal.....	8
Division 4—Miscellaneous	9
55H Minister may request the supply of information relating to superannuation.....	9
56 Desertion by pensioner of wife or children.....	9
58 Arrangements for reimbursement of Commonwealth by certain authorities	9
60 No assignment of benefits	10
61 Attachment of benefits.....	10
62A Payments may be made by Papua New Guinea.....	12
64 Delegations.....	12
65 Regulations.....	12
Notes	15

An Act relating to the Provision by Australia of Staffing Assistance for Papua New Guinea and Preservation of Rights of certain Persons presently employed in Papua New Guinea

Part I—Preliminary

1 Short title [see Note 1]

This Act may be cited as the *Papua New Guinea (Staffing Assistance) Act 1973*.

2 Commencement [see Note 1]

This Act shall come into operation on a date to be fixed by Proclamation.

3 Interpretation

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

Board means the Superannuation Board.

CSC (short for Commonwealth Superannuation Corporation) has the same meaning as in the *Governance of Australian Government Superannuation Schemes Act 2011*.

decision has the same meaning as in the *Administrative Appeals Tribunal Act 1975*.

decision of CSC means a decision of CSC, or a delegate of CSC, under this Act or the regulations.

prescribed date means the date of commencement of this Act.

Provident Account means the Papua New Guinea Provident Account that was continued in existence by section 36.

Reconsideration Advisory Committee means a Committee established under section 55.

Section 3

Reserve Units of Pension Account means the Reserve Units of Pension Account that was continued in existence by section 37.

Superannuation Board means the Papua New Guinea Superannuation Board that was continued in existence by section 20.

Superannuation Fund means the Papua New Guinea Superannuation Fund that was continued in existence by section 34.

- (2) In this Act, unless the contrary intention appears:
- (b) where an expression is given a particular meaning, other parts of speech and grammatical forms of the same expression have corresponding meanings.
- (3) In this Act, a reference to Papua New Guinea, in relation to a time after Papua New Guinea becomes an independent sovereign state, is a reference to the Independent State of Papua New Guinea.

Part III—Compensation on termination of employment

19 Benefits under Part III

- (1) Where a person has made an election under section 13 of this Act as in force before 1 July 1976 or the employment of a person has been terminated under section 14 of this Act as so in force, the person is entitled to the prescribed benefits.
- (2) Regulations under subsection (1) shall be made with a view to giving effect to such recommendations of the Simpson Report as have been accepted by the Commonwealth and the Government of Papua New Guinea, but nothing in this subsection prevents the regulations from providing for greater benefits than those recommended in that Report.
- (2A) Regulations under subsection (1) may include provision for deferred benefits in specified circumstances.
- (3) The regulations may make different provision in relation to elections made, and employment terminated, under different provisions of this Part.
- (4) In this section, *the Simpson Report* means the report relating to employment security for overseas officers of the Public Service of Papua New Guinea made by Mr. A. M. Simpson, C.M.G., to the Minister for External Territories and the Chief Minister of Papua New Guinea and dated 23rd October, 1972.

Part V—Superannuation

38 Regulations relating to superannuation

- (1) The regulations may make provision for and in relation to:
 - (a) contributions to be paid to the Commonwealth by persons (including persons who have ceased to be employed under Part II in specified circumstances) who, immediately before the prescribed date, were required or permitted to contribute to the Papua New Guinea Superannuation Fund or the Papua New Guinea Provident Account under the Superannuation Ordinance;
 - (b) payments to be made by the Commonwealth to and in relation to:
 - (i) persons referred to in paragraph (a); and
 - (ii) persons who, immediately before the prescribed date, were entitled to pension in accordance with the Superannuation Ordinance or in accordance with the *Superannuation Ordinance 1917-1955* of the Territory of Papua or the *Superannuation Ordinance 1928-1955* of the Territory of New Guinea, as the case may be; and
 - (c) matters incidental to or connected with matters referred to in paragraphs (a) and (b).

Part IX—Miscellaneous

Division 1—Review of decisions by CSC

54 Review of decisions of CSC

- (2) A person who is affected by a decision of CSC and is dissatisfied with the decision may, by notice in writing given to CSC within a period of 30 days after the date on which the decision first comes to the notice of the person, or within such further period as CSC allows, request CSC to reconsider the decision.
- (3) There shall be set out in the request the ground on which the request is made.
- (4) After receiving a request for reconsideration of a decision, CSC must:
 - (a) refer the decision to a Reconsideration Advisory Committee for the Committee to make recommendations to CSC in relation to the decision; or
 - (b) refer the decision to a Reconsideration Advisory Committee for the Committee to reconsider the decision; or
 - (c) reconsider the decision itself.
- (4A) If CSC reconsiders a decision, it may:
 - (a) confirm the decision; or
 - (b) vary the decision; or
 - (c) set aside the decision and substitute a new decision.
- (5) CSC shall, by notice in writing sent or delivered to the person who made the request, inform the person of the result of its reconsideration of the decision.

Division 2—Reconsideration Advisory Committees

55 Establishment of Committee

CSC may establish such Reconsideration Advisory Committees as CSC considers necessary.

55A Member of Committee

A Committee comprises such persons as CSC determines.

55B Functions of Committee

- (1) The functions of a Committee are to review any decision referred to it under this Act and:
 - (a) if CSC has delegated its powers to reconsider the decision to the Committee—to confirm, vary, substitute or set aside the decision; or
 - (b) if CSC has delegated to the Committee any of CSC’s powers in relation to the decision (other than the power to reconsider the decision)—to exercise those powers; or
 - (c) in any other case—to make recommendations to CSC in relation to the decision.

Note: Paragraph (c)—see section 55F.

- (2) When reviewing a decision, a Committee:
 - (a) must take into account any evidence relevant to the decision that is submitted to it; and
 - (b) may also take steps to obtain any other evidence that it considers necessary for a proper review of the decision.

55C Proceedings of Committee

- (1) Subject to any directions given by CSC, the Committee may regulate its proceedings as the Committee thinks fit.
- (2) If a direction is given in writing, the direction is not a legislative instrument.

55D Indemnification of members of a Committee

Any matter or thing done, or omitted to be done, in good faith by a member of a Committee in the performance of functions under this Act does not subject him or her to any action, liability, claim or demand.

Note: See also section 35 of the *Governance of Australian Government Superannuation Schemes Act 2011*.

55E Remuneration and allowances

- (1) A member of a Committee is to be paid such remuneration as is determined by the Remuneration Tribunal. If no determination of that remuneration by the Tribunal is in operation, the member is to be paid such remuneration as is prescribed.
- (2) A member of a Committee is to be paid such allowances (if any) as are prescribed.
- (3) This section has effect subject to the *Remuneration Tribunal Act 1973*.

55F Recommendations by Committee to CSC

- (1) If a Committee makes recommendations to CSC in relation to a decision referred to it, then, after CSC takes into account:
 - (a) the recommendations of the Committee; and
 - (b) any other matter that CSC considers relevant;CSC must make a decision in writing:
 - (c) confirming the decision under review; or
 - (d) varying the decision under review; or
 - (e) setting aside the decision under review and substituting a new decision.
- (2) CSC's written decision must include the reasons for its decision.
- (3) CSC must make a copy of its written decision available to the applicant.

Division 3—Review of decisions by the Administrative Appeals Tribunal

55G Review by the Administrative Appeals Tribunal

Applications may be made to the Administrative Appeals Tribunal for:

- (a) review of a decision of CSC that has been confirmed or varied by CSC under paragraph 54(4A)(a) or (b); and
- (b) review of a decision of CSC that has been confirmed or varied by a Reconsideration Advisory Committee under paragraph 55B(1)(a); and
- (c) review of a decision of CSC that has been confirmed or varied by CSC under paragraph 55F(1)(c) or (d).

Division 4—Miscellaneous

55H Minister may request the supply of information relating to superannuation

CSC must give the Minister such information relating to the general administration and operation of this Act to the extent that it deals with superannuation, as the Minister may from time to time require.

56 Desertion by pensioner of wife or children

- (1) Where a pensioner deserts his wife or leaves her without means of support, the wife may, from time to time, apply to a court of summary jurisdiction and, on proof that the wife has been deserted or left without means of support, the court may order the payment to the wife, during such period as it thinks fit, of the whole or part of the pension which otherwise would be payable to the pensioner.
- (2) Where a pensioner whose wife is dead or divorced deserts any of his children who are dependent on him, or leaves them without means of support, the guardian of the children, or CSC, may, from time to time, apply to a court of summary jurisdiction and, on proof that any child of the pensioner who is dependent on him has been deserted or left without means of support, the court may order the payment to the guardian of the child, during such period as it thinks fit, of the whole or part of the pension which otherwise would be payable to the pensioner.
- (3) CSC shall comply with any order made under this section and the amount of the pension payable to the pensioner shall be reduced by the amount payable in pursuance of the order.
- (4) In this section, *pension* means a pension payable under this Act.

58 Arrangements for reimbursement of Commonwealth by certain authorities

Where benefits have been, are or may become payable under Part V to or in relation to a person who was or is required or permitted to contribute to the Superannuation Fund or the

Section 60

Provident Account or to the Commonwealth and, while being so required or permitted, was or is receiving a salary from an authority of Papua New Guinea, the Minister may enter into an arrangement with that authority providing for the reimbursement of the Commonwealth in respect of payments made by the Commonwealth in respect of those benefits.

60 No assignment of benefits

Subject to section 61, a benefit under Part V is not capable of being assigned or charged or of passing by operation of law, and any moneys paid or payable out of the Superannuation Fund, the Provident Account or the Reserve Units of Pension Account or by the Commonwealth on the death of a person are not liable to be applied or made available in payment of his debts or liabilities.

61 Attachment of benefits

- (1) Where a judgment given by a court for the payment of a sum of money has not been fully satisfied by the judgment debtor and the judgment debtor is entitled to benefit under Part V, the judgment creditor may serve on CSC, in the manner prescribed, a copy of the judgment, certified under the hand of the registrar or other proper officer of the court by which the judgment was given, and a statutory declaration by the judgment creditor stating that the judgment has not been fully satisfied by the judgment debtor and specifying the amount due by the judgment debtor under the judgment.
- (2) Where a copy of a judgment and a statutory declaration are served on CSC in accordance with subsection (1), CSC shall, as soon as practicable, by notice in writing given to the judgment debtor, inform him of the service of those documents and require him to notify CSC within the period, and in the manner, specified in the notice, whether the amount specified in the declaration is still due under the judgment and, if no amount or a lesser amount is due under the judgment, to furnish to CSC, in the manner specified in the notice, evidence in support of that fact.
- (3) A person to whom a notice is given under subsection (2) shall comply with the requirements contained in the notice.

Penalty: Forty dollars.

- (4) If, at the expiration of the period specified in the notice, CSC is satisfied that an amount is due under the judgment, CSC may, in his discretion, deduct from the benefit, and pay to the judgment creditor, such sums as do not exceed that amount.
- (5) A deduction shall not be made from:
- (a) an instalment of pension payable in respect of a child; or
 - (b) an instalment of any other pension if the deduction will reduce the amount of the instalment payable to less than one-half of the amount that would, but for this section, be payable.
- (6) If, after a copy of a judgment given against a beneficiary, being a judgment in respect of which CSC is satisfied that an amount is due, has been served in accordance with subsection (1), a copy of another judgment given (whether before or after the first-mentioned judgment) against the same beneficiary in favour of the person in whose favour the first-mentioned judgment was given or in favour of another person is served under that subsection, CSC shall not make a payment in accordance with this section to the judgment creditor under the other judgment in respect of the amount due under that judgment until the amount due under the first-mentioned judgment has been paid.
- (7) A payment made to a judgment creditor in accordance with this section shall, as between CSC and the beneficiary, be deemed to be a payment under Part V to the beneficiary.
- (8) A judgment creditor who serves a copy of a judgment on CSC under subsection (1) shall notify CSC, in the manner prescribed, immediately the judgment debt is satisfied.
- Penalty: One hundred dollars or imprisonment for three months.
- (9) If the amounts paid in accordance with this section to a judgment creditor in respect of a judgment exceed, in the aggregate, the amount due under the judgment, the excess is repayable by the judgment creditor to the judgment debtor and, in default of payment, may be recovered by the judgment debtor from the judgment creditor in a court of competent jurisdiction.

62A Payments may be made by Papua New Guinea

Where the whole or part of any benefit payable to a person under this Act is paid to that person by the Government of Papua New Guinea out of the moneys of that Government, the amount of that benefit that would, but for this section, be payable under this Act by Australia to that person shall be reduced by the amount so paid.

64 Delegations

- (1) The Minister may, by instrument in writing, delegate to a person, either generally or otherwise as provided by the instrument of delegation, all or any of his powers and functions under this Act (except this power of delegation).
- (2) A power or function so delegated may be exercised or performed by the delegate in accordance with the instrument of delegation and, when so exercised or performed, shall, for the purposes of this Act, be deemed to have been exercised or performed by the Minister.
- (3) A delegation under this section is revocable at will and does not prevent the exercise of a power or the performance of a function by the Minister.

65 Regulations

- (1) The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters that by this Act are required or permitted to be prescribed or to be provided for by regulation, or that are necessary or convenient to be prescribed for giving effect to this Act, and, in particular:
 - (a) for enabling a specified officer of the Public Service of the Commonwealth to delegate his powers and functions under regulations made for the purposes of Part II; and
 - (b) for prescribing penalties not exceeding a fine of One hundred dollars for offences against the regulations.
- (2) The power to make regulations conferred by this Act shall not be taken, by implication, not to include the power to make provision for or in relation to a matter by reason only of the fact that:
 - (a) provision is made by this Act in relation to that matter or another matter; or

- (b) power is expressly conferred by this Act to make provision by regulation for or in relation to another matter.
- (3) The power to make regulations conferred by this Act may be exercised:
 - (a) in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of case; and
 - (b) so as to make, as respects the cases in relation to which it is exercised, the same provision for all those cases or a different provision for different cases or classes of case.
- (4) The power conferred by this Act to make modifications by regulation includes the power to omit any matter or add any new matter.
- (5) The limitation imposed by subsection (1) on the penalties that may be prescribed by regulation does not prevent the regulations from requiring a person to make a statutory declaration.

Table of Acts**Notes to the *Papua New Guinea (Staffing Assistance) Act 1973*****Note 1**

The *Papua New Guinea (Staffing Assistance) Act 1973* as shown in this compilation comprises Act No. 70, 1973 amended as indicated in the Tables below.

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Papua New Guinea (Staffing Assistance) Act 1973</i>	70, 1973	18 June 1973	1 Dec 1973 (see <i>Gazette</i> 1973, No. 178A)	
<i>Papua New Guinea (Staffing Assistance) Act 1975</i>	100, 1975	9 Sept 1975	9 Sept 1975	Ss. 11 and 12
<i>Papua New Guinea (Staffing Assistance) Termination Act 1976</i>	69, 1976	9 June 1976	Ss. 3(a), (c), (f), 4–7, 13–16, 20, 22, 24, 25 and 31–33: 1 July 1976 Remainder: Royal Assent	S. 23 (am. by 36, 1978, s. 3) Ss. 24–34
as amended by				
<i>Administrative Changes (Consequential Provisions) Act 1978</i>	36, 1978	12 June 1978	12 June 1978	S. 8
<i>Administrative Changes (Consequential Provisions) Act 1978</i>	36, 1978	12 June 1978	12 June 1978	S. 8
<i>Superannuation Legislation Amendment Act 1990</i>	40, 1990	7 June 1990	Part 5 (ss. 107–113): Royal Assent (a)	—
<i>Superannuation Legislation (Consequential Amendments and Transitional Provisions) Act 2011</i>	58, 2011	28 June 2011	Schedule 1 (items 125–147): (b)	—

Act Notes

- (a) The *Papua New Guinea (Staffing Assistance) Act 1973* was amended by Part 5 (sections 107–113) only of the *Superannuation Legislation Amendment Act 1990*, subsection 2(1) of which provides as follows:
- (1) The following provisions:
- (a) Parts 1 and 2, sections 6, 69, 70, 71, 94 and 98 and Part 5, of this Act; commence on the day on which this Act receives the Royal Assent.
- (b) Subsection 2(1) (item 2) of the *Superannuation Legislation (Consequential Amendments and Transitional Provisions) Act 2011* provides as follows:
- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
2. Schedules 1 and 2	Immediately after the commencement of section 2 of the <i>Governance of Australian Government Superannuation Schemes Act 2011</i> .	1 July 2011

Table of Amendments**Table of Amendments**

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Part I	
S. 3	am. No. 100, 1975; No. 69, 1976; No. 40, 1990; No. 58, 2011
Part II	rep. No. 69, 1976
Ss. 4–11	rep. No. 69, 1976
Part III	
Ss. 12, 13	rep. No. 69, 1976
S. 14	am. No. 100, 1975 rep. No. 69, 1976
Ss. 15–18	rep. No. 69, 1976
S. 19	am. No. 100, 1975; No. 69, 1976
Part IV	rs. No. 69, 1976 rep. No. 58, 2011
S. 20	rs. No. 69, 1976 am. No. 40, 1990 rep. No. 58, 2011
S. 21	am. No. 100, 1975 rs. No. 69, 1976 am. No. 36, 1978; No. 40, 1990 rep. No. 58, 2011
Ss. 22, 23	rep. No. 69, 1976
S. 24	am. No. 100, 1975 rep. No. 69, 1976
Ss. 25–28	rep. No. 69, 1976
S. 28A	ad. No. 100, 1975 rep. No. 69, 1976
Ss. 29–33	rep. No. 69, 1976
Part V	
Ss. 34–37	rep. No. 69, 1976
S. 38	am. No. 100, 1975; No. 69, 1976
Part VI	rep. No. 40, 1990
S. 39	rep. No. 69, 1976
S. 40	rs. No. 69, 1976 rep. No. 40, 1990
Part VII	rep. No. 69, 1976
Ss. 41–47	rep. No. 69, 1976
Part VIII	rep. No. 69, 1976
Ss. 48–53	rep. No. 69, 1976

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
--------------------	--------------

Part IX

Division 1

Heading to Div. 1 of..... ad. No. 58, 2011
Part IX

Heading to s. 54 am. No. 58, 2011

S. 54 rs. No. 69, 1976
am. No. 58, 2011

Division 2

Div. 2 of Part IX ad. No. 58, 2011

S. 55 rep. No. 69, 1976
ad. No. 58, 2011

Ss. 55A–55F ad. No. 58, 2011

Division 3

Div. 3 of Part IX ad. No. 58, 2011

S. 55G ad. No. 58, 2011

Division 4

Heading to Div. 4 of..... ad. No. 58, 2011
Part IX

S. 55H ad. No. 58, 2011

S. 56 am. No. 69, 1976; No. 58, 2011

S. 57 am. No. 69, 1976
rep. No. 58, 2011

S. 58 am No. 69, 1976; No. 40, 1990

S. 59 rep. No. 69, 1976

S. 60 am. No. 69, 1976; No. 40, 1990

S. 61 am. No. 69, 1976; No. 58, 2011

S. 62 rep. No. 69, 1976

S. 62A ad. No. 100, 1975

S. 63 rep. No. 69, 1976

S. 64 am. No. 69, 1976; No. 58, 2011