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**PAPUA NEW GUINEA (STAFFING**

**ASSISTANCE) TERMINATION ACT 1976**

**No. 69 of 1976**

An Act relating to the Termination of the Staffing Assistance provided by Australia for Papua New Guinea.

BE IT ENACTED by the Queen, and the Senate and House of Rep­resentatives of the Commonwealth of Australia, as follows:—

PART I—PRELIMINARY

**Short title and citation.**

**1.** (1) This Act may be cited as the *Papua New Guinea (Staffing Assistance) Termination Act* 1976.

(2) The Papua New Guinea (Staffing Assistance) Act 1973-1975 is in this Act referred to as the Principal Act.

(3) The Principal Act, as amended by this Act, may be cited as the Papua New Guinea (Staffing Assistance) Act 1973-1976.

**Commencement.**

**2.** (1) Subject to sub-section (2), this Act shall come into operation on the day on which it receives the Royal Assent.

(2) Paragraphs (3)(a), (c) and (f) and sections 4, 5, 6, 7, 13, 14, 15, 16, 20, 22, 24, 25, 31, 32 and 33 shall come into operation on 1 July 1976.

PART II—AMENDMENTS OF PRINCIPAL ACT

**Interpretation**

**3.** Section 3 of the Principal Act is amended—

(a) by inserting in the definition of “Benefits Board” in sub-section (1), before the word “constituted”, the words “that was”;

(b) by inserting in the definition of “Benefits Fund” in sub-section (1), before the word “continued”, the words “that was”;

(c) by inserting in sub-section (1), after the definition of “Board”, the following definition: —

“ ‘Commissioner’ has the same meaning as in the Superannuation Act 1976;”;

(d) by inserting in the definition of “Provident Account” in sub-section (1), before the word “continued”, the words “that was”;

(e) by inserting in the definition of “Reserve Units of Pension Account” in sub-section (1), before the word “continued”, the words “that was”;

(f) by inserting in the definition of “Superannuation Board” in sub-section (1), before the word “continued”, the words “that was”;

(g) by inserting in the definition of “Superannuation Fund” in sub-section (1), before the word “continued”, the words “that was”;

(h) by omitting from sub-section (1) the definitions of “Contract Officers Ordinance”, “Papua New Guinea Act”, “Police Force Ordinance”, “Public Service Ordinance” and “Superannuation Ordinance”; and

(i) by omitting paragraph (a) of sub-section (2).

**Repeal of Part II.**

**4.** Part II of the Principal Act is repealed.

**Repeal of ss. 12 to 18 (inclusive).**

**5.** Sections 12 to 18 (inclusive) of the Principal Act are repealed.

**Benefits under Part III.**

**6.** Section 19 of the Principal Act is amended—

(a) by inserting in sub-section (1), after the word and figures “section 13”, the words “of this Act as in force before 1 July 1976”; and

(b) by inserting in sub-section (1), after the words and figures “section 14”, the words “of this Act as so in force”.

**7.** Part IV of the Principal Act is repealed, and the following Part substituted: —

“PART IV—ADMINISTRATION OF SUPERANNUATION AND OTHER BENEFITS

**Commissioner to administer Parts V and VI.**

“20. The responsibility for the general administration of Parts V and VI is vested in the Commissioner.

**Annual reports.**

“21. (1) The Commissioner shall, as soon as practicable after each 30 June, prepare a report on the general administration and operation of Parts V, VI and IX during the year ended on that date, and furnish the report to the Treasurer.

“(2) The Treasurer shall cause a copy of the Commissioner’s report to be laid before each House of the Parliament within 15 sitting days of that House after its receipt by the Treasurer.”.

**Repeal of ss. 34 to 37 (inclusive).**

**8.** Sections 34 to 37 (inclusive) of the Principal Act are repealed.

**Regulations relating to superannuation.**

**9.** Section 38 of the Principal Act is amended—

(a) by omitting from paragraph (a) of sub-section (1) the words “to the Fund” and substituting the words “to the Commonwealth";

(b) by omitting from paragraph (b) of sub-section (1) the words “out of the Fund” and substituting the words “by the Commonwealth";

(c) by adding at the end of sub-paragraph (ii) of paragraph (b) of sub-section (1) the words “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”;

(d) by omitting paragraphs (c) and (d) of sub-section (1) and substituting the following word and paragraph:—

“and (c) matters incidental to or connected with matters referred to in paragraphs (a) and (b). ”; and

(e) by omitting sub-sections (2), (3) and (4).

**Repeal of s. 39.**

**10.** Section 39 of the Principal Act is repealed.

**Regulations relating to contract officers' benefits.**

**11.** Section 40 of the Principal Act is repealed and the following section substituted: —

“40. The regulations may make provision for and in relation to—

(a) contributions to be paid to the Commonwealth by persons who, at any time before the commencement of this section, were contributors to the Benefits Fund;

(b) payments to be made by the Commonwealth to and in relation to those persons; and

(c) matters incidental to or connected with matters referred to in paragraphs (a) and (b).”.

**Repeal of Parts VII & VIII.**

**12.** Parts VII and VIII of the Principal Act are repealed.

**13.** Section 54 of the Principal Act is repealed and the following section substituted:—

**Review of decisions of Commissioner.**

“54. (1) In this section—

‘decision’ has the same meaning as in the Administrative Appeals Tribunal Act 1975;

‘decision of the Commissioner’ means a decision of the Commissioner, or a delegate of the Commissioner, under this Act.

“(2) A person who is affected by a decision of the Commissioner and is dissatisfied with the decision may, by notice in writing given to the Commissioner 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 the Commissioner allows, request the Commissioner to reconsider the decision.

“(3) There shall be set out in the request the ground on which the request is made.

“(4) Upon receipt of the request, the Commissioner shall reconsider the decision, and may either confirm the decision or vary the decision in such manner as he thinks fit.

“(5) The Commissioner shall, by notice in writing sent or delivered to the person who made the request, inform the person of the result of his reconsideration of the decision.

“(6) Applications may be made to the Administrative Appeals Tribunal for review of decisions of the Commissioner that have been confirmed or varied under sub-section (4).”.

**Repeal of s. 55.**

**14.** Section 55 of the Principal Act is repealed.

**Desertion by pensioner of wife or children.**

**15.** Section 56 of the Principal Act is amended—

(a) by omitting from sub-section (2) the words “Superannuation Board” and substituting the word “Commissioner”; and

(b) by omitting from sub-section (3) the word “Board” and substituting the word “Commissioner”.

**Recovery of contributions, &c.**

**16.** Section 57 of the Principal Act is amended by omitting the words “appropriate Board” and substituting the word “Commissioner”.

**Arrangements for reimbursement of Commonwealth by certain authorities.**

**17.** Section 58 of the Principal Act is amended—

(a) by inserting after the words “Benefits Fund” (first occurring) the words “or to the Commonwealth”; and

(b) by omitting the words “into the Superannuation Fund, the Provident Account or the Benefits Fund, as the case may be,”.

**Repeal of s. 59.**

**18.** Section 59 of the Principal Act is repealed.

**No assignment of benefits.**

**19.** Section 60 of the Principal Act is amended—

(a) by inserting after the word “moneys” the words “paid or”; and

(b) by inserting after the words “Benefits Fund” the words “or by the Commonwealth”.

**Attachment of benefits.**

**20.** Section 61 of the Principal Act is amended—

(a) by omitting from sub-section (1) the words “Superannuation Board” and substituting the word “Commissioner”;

(b)by omitting from sub-sections (2), (4), (6), (7) and (8) the word “Board” (wherever occurring) and substituting the word “Commissioner”; and

(c) by omitting from sub-section (4) the word “its” and substitut­ing the word “his”.

**Repeal of ss. 62 and 63.**

**21.** Sections 62 and 63 of the Principal Act are repealed.

**Delegations.**

**22.** Section 64 of the Principal Act is amended—

(a) by inserting in sub-section (1), after the word “Minister”, the words “or the Commissioner”; and

(b) by adding at the end of sub-sections (2) and (3) the words “or by the Commissioner, as the case may be”.

PART III—TRANSITIONAL PROVISIONS

**Interpretation.**

**23.** (1) In this Part unless the contrary intention appears—

“assets” means property of every kind and, without limiting the gen­erality of the foregoing, includes—

(a) choses in action; and

(b) rights, interests and claims of every kind in or to property whether arising under or by virtue of the Principal Act or any instrument or otherwise, and whether liquidated or unliquidated, certain or contingent, accrued or accruing; “authorized person” means a person authorized in writing by the Treasurer for the purposes of section 28;

“commencing date” means the date of commencement of the pro­vision in which the expression appears;

“instrument to which this Part applies” means an instrument—

(a) to which a Board is a party;

(b) which was given to or in favour of a Board;

(c) in which a reference is made to a Board; or

(d) under which any money is or may become payable, or any other property is to be, or may become liable to be, transferred, conveyed or assigned to or by a Board,

being an instrument subsisting immediately before the com­mencing date;

“liabilities” means liabilities of every kind and, without limiting the generality of the foregoing, includes obligations of every kind, whether arising under or by virtue of the Principal Act or any instrument or otherwise, and whether liquidated or unliquidated, certain or contingent, accrued or accruing;

“Superannuation Regulations” means the Papua New Guinea (Staffing Assistance) (Superannuation) Regulations;

“Termination of Employment Regulations” means the Papua New Guinea (Staffing Assistance) (Termination of Employment) Regulations.

(2) For the purposes of this Part, it is hereby declared that—

(a) an asset held by a Board on behalf of a Fund shall be taken to be an asset of that Fund; and

(b) a liability incurred by a Board on behalf of a Fund shall be taken to be a liability of that Fund.

**Savings in relation to Part II.**

**24.** Notwithstanding the repeal of Part II of the Principal Act by this Act—

(a) a person who was, before 1 July 1976, employed under that Part is entitled, on and after that date, but subject to regulations and determinations made under the Principal Act as amended by this Act (including regulations and determinations referred to in paragraph (b)), to any payments or other entitlements under regulations and determinations referred to in paragraph (b) in respect of that employment to which he would have been en­titled if that Part had not been repealed; and

(b) regulations and determinations made under section 7 of the Principal Act and in force immediately before 1 July 1976 continue in force as if that section had not been repealed, but—

(i) regulations so continued in force may be amended or repealed by regulations made under the Principal Act as amended by this Act; and

(ii) determinations so continued in force may be altered or rescinded by the Minister.

**Termination of employment of eligible persons.**

**25.** (1) In this section—

“eligible person” means a person who, immediately before 1 July 1976-

(a) was a person referred to in paragraph 38(1)(a) of the Principal Act; and

(b) was employed under Part II of the Principal Act; “maximum age for retirement” has the same meaning as in the Superannuation Regulations.

(2) Where—

(a) an eligible person had made an election under paragraph 13(1)(b) of the Principal Act before 1 July 1976, whether or not the period of the prescribed notice referred to in sub-section 13 (2) of that Act had expired before that date; or

(b) an eligible person, other than a person referred to in sub-section (3), (4) or (5), had not made such an election before 1 July 1976,

the employment under Part II of that person shall be deemed to have been terminated immediately before that date in pursuance of such an election.

(3) An eligible person who, before 1 July 1976—

(a) had attained the maximum age for retirement; and

(b) had not made an election under paragraph 13(1)(b) of the Principal Act,

shall be deemed to have retired immediately before that date.

(4) An eligible person who, before 1 July 1976—

(a) was entitled to retire in pursuance of regulation 15 of the Ter­mination of Employment Regulations, but had not attained the maximum age for retirement; and

(b) had given notice that he wished to retire in pursuance of that regulation,

shall be deemed to have so retired immediately before that date.

(5) An eligible person who, before 1 July 1976—

(a) was entitled to retire in pursuance of regulation 15 of the Termination of Employment Regulations, but had not attained the maximum age for retirement; and

(b) had not given notice that he wished to retire in pursuance of that regulation,

may, before 1 August 1976, give notice that he wishes to be treated as a person who had retired immediately before 1 July 1976 and—

(c) if notice is so given, he shall be deemed to have retired immediately before that date; or

(d) if notice is not so given, his employment under Part II shall be deemed to have been terminated immediately before that date in pursuance of an election made under paragraph 13(1)(b) of the Principal Act.

**Transfer of Funds to Commonwealth.**

**26.** The assets and liabilities of the Superannuation Fund and of the Benefits Fund, being assets and liabilities subsisting immediately before the commencing date, become, by force of this section, assets and liabilities of the Commonwealth.

**Instruments.**

**27.** An instrument to which this Part applies continues, by force of this section, in full force and effect but, in its operation in relation to acts, transactions, matters or things done, entered into or occurring on or after the commencing date, has effect as if a reference in the instrument to a Board were a reference to the Commonwealth.

**Certificates.**

**28.** (1) An authorized person may, by instrument in writing, certify that an asset, liability or instrument specified or described in the certificate was, at a specified time, an asset or liability of the Superannuation Fund or the Benefits Fund or an instrument to which this Part applies, as the case may be.

(2) A document purporting to be a certificate issued under sub-section (1) is, upon mere production, admissible in all courts, and for all purposes, as prima facie evidence of the matters stated therein.

(3) An instrument or document that an authorized person certifies to have been made, executed or given by reason of, or for a purpose con­nected with or arising out of, the operation of this Part is not liable to stamp duty or other tax under a law of the Commonwealth or of a State or Territory.

**Savings in relation to Part VI.**

**29.** Notwithstanding the repeal of section 40 of the Principal Act by this Act, regulations made under that section and in force immediately before the repeal continue in force as if that section had not been repealed, but may be amended or repealed by regulations made under the Principal Act as amended by this Act.

**Transitional provision relating to audit.**

**30.** Notwithstanding the repeal of section 46 of the Principal Act by this Act, that section continues to apply in relation to the accounts and records referred to in that section to the extent that they had not, before the repeal, been audited by the Auditor-General.

**Disputes under Part V or VI.**

**31.** A decision made by a Board before the commencing date under section 54 of the Principal Act has effect, on and after that date, as if it had been made by the Commissioner and had been confirmed by him under sub-section (4) of section 54 of the Principal Act as amended by this Act, and sub-section (6) of the last-mentioned section applies accordingly.

**Acts, &c., done by Boards.**

**32.** (1) Notwithstanding the amendments of the Principal Act by this Act—

(a) a notice, document or other instrument to which this Part applies served on a Board under that Act before the commencing date has effect on and after that date as if it had been served on the Commissioner; and

(b) any thing done, step taken, or decision made, by a Board under that Act before the commencing date has effect on and after that date, but subject to the Principal Act as amended by this Act, as if it had been done, taken or made by the Commissioner.

(2) This section has effect without prejudice to the application of any other provision of this Part.

Pending proceedings.

**33.** Where, immediately before the commencing date, proceedings to which a Board was a party (being proceedings with respect to any matter arising out of, or otherwise connected with, the exercise by the Board of its powers under the Principal Act) were pending in a court, the Commonwealth is, by force of this section, substituted for the Board as a party to the proceedings.

**Making of regulations.**

**34.** (1) At any time after the commencement of this section and before the commencement of a provision of this Act amending the Principal Act (being a provision coming into operation after the commencement of this section) regulations may be made under the Principal Act as amended by this Act as if that provision had come into operation, but regulations so made shall not come into operation before the commencement of that provision.

(2) Notwithstanding sub-section 48(2) of the Acts Interpretation Act 1901-1973, the power to make regulations under the Principal Act as amended by this Act extends to the making of regulations expressed to take effect on and from a date earlier than the date on which the regula­tions are notified in the Gazette (including a date earlier than the date of commencement of this section).

(3) The power to make regulations under the Principal Act as amended by this Act extends to the making of regulations that are necessary or convenient for giving effect to this Act, including regulations making provision for or in relation to matters arising out of or connected with the amendments of the Principal Act made by this Act.