Papua New Guinea (Staffing Assistance) Act 1973
No. 70, 1973 as amended

Compilation start date: 1 July 2014
Includes amendments up to: Act No. 62, 2014

Prepared by the Office of Parliamentary Counsel, Canberra
About this compilation

This compilation

This is a compilation of the *Papua New Guinea (Staffing Assistance) Act 1973* as in force on 1 July 2014. It includes any commenced amendment affecting the legislation to that date.

This compilation was prepared on 6 August 2014.

The notes at the end of this compilation (the *endnotes*) include information about amending laws and the amendment history of each amended provision.

Uncommenced amendments

The effect of uncommenced amendments is not reflected in the text of the compiled law but the text of the amendments is included in the endnotes.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Modifications

If a provision of the compiled law is affected by a modification that is in force, details are included in the endnotes.

Provisions ceasing to have effect

If a provision of the compiled law has expired or otherwise ceased to have effect in accordance with a provision of the law, details are included in the endnotes.
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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

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

2 Commencement

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.


Part I Preliminary

Section 3

Reconsideration Advisory Committee means a Committee established under section 55.

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.

2 Papua New Guinea (Staffing Assistance) Act 1973
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 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

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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.

62B Recoverable death payments

(1) If, apart from this subsection, the Commonwealth does not have power under this Act or the regulations to pay an amount (the relevant amount) in any of the following circumstances:

(a) the relevant amount is deposited to an account kept in the name of a deceased person;
(b) the relevant amount is deposited to an account kept in the names of a deceased person and another person;
(c) the relevant amount is paid by way of a cheque made out to a deceased person;

the Commonwealth may pay the relevant amount in the circumstances mentioned in paragraph (a), (b) or (c), so long as:

(d) on the last day on which changes could reasonably be made to the payment of the relevant amount, the Chief Executive Officer of ComSuper did not know that the deceased person had died; and
(e) apart from this subsection, the relevant amount would have been payable as a benefit to the deceased person if the deceased person had not died.

(2) If a payment is made under subsection (1), the relevant amount is taken to have been paid to the deceased person’s estate.

Recovery

(3) If a payment is made under subsection (1), the relevant amount:
   (a) is a debt due to the Commonwealth by the legal personal representative of the deceased person; and
   (b) may be recovered by the Chief Executive Officer of ComSuper, on behalf of the Commonwealth, in a court of competent jurisdiction.

62C Reports about recoverable death payments

(1) During the applicable publication period for a reporting period, the Chief Executive Officer of ComSuper must cause to be published, in such manner as the Chief Executive Officer thinks fit, a report that sets out both:
   (a) the number of payments made under subsection 62B(1) during the reporting period; and
   (b) the total amount of those payments.

(2) However, a report is not required if the number mentioned in paragraph (1)(a) is zero.

Deferred reporting

(3) Subsection (1) does not require a report to deal with a payment unless, before the preparation of the report, a ComSuper official was aware the payment was made under subsection 62B(1).

(4) For the purposes of this section, if:
   (a) a payment was made under subsection 62B(1) in a reporting period and because of subsection (3) of this section, subsection (1) of this section did not require a report to deal with the payment; and
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(b) during a later reporting period, a ComSuper official becomes aware that the payment was made under subsection 62B(1); the payment is subject to a deferred reporting obligation in relation to the later reporting period.

(5) If one or more payments made under subsection 62B(1) during a reporting period are subject to a deferred reporting obligation in relation to a later reporting period, the Chief Executive Officer of ComSuper must, during the applicable publication period for the later reporting period:

(a) prepare a report that sets out:
   (i) the number of those payments; and
   (ii) the total amount of those payments; and
   (iii) the reporting period during which the payments were made; and

(b) if a report is required under subsection (1) in relation to the later reporting period—include the paragraph (a) report in the subsection (1) report; and

(c) if paragraph (b) does not apply—publish, in such manner as the Chief Executive Officer thinks fit, the paragraph (a) report.

Reporting period

(6) For the purposes of this section, a reporting period is:

(a) a financial year; or

(b) if a shorter recurring period is prescribed in an instrument under subsection (7)—that period.

(7) The Minister may, by legislative instrument, prescribe a recurring period for the purposes of paragraph (6)(b).

Applicable publication period

(8) For the purposes of this section, the applicable publication period for a reporting period is the period of:

(a) 4 months; or
(b) if a lesser number of months is prescribed, in relation to the reporting period, in an instrument under subsection (9)—that number of months; beginning immediately after the end of the reporting period.

(9) The Minister may, by legislative instrument, prescribe a number of months, in relation to a reporting period, for the purposes of paragraph (8)(b).

**ComSuper official**

(10) For the purposes of this section, ComSuper official means an official (within the meaning of the Public Governance, Performance and Accountability Act 2013) of ComSuper.

### 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:
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(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.
Endnotes

Endnote 1—About the endnotes

The endnotes provide details of the history of this legislation and its provisions. The following endnotes are included in each compilation:

Endnote 1—About the endnotes
Endnote 2—Abbreviation key
Endnote 3—Legislation history
Endnote 4—Amendment history
Endnote 5—Uncommenced amendments
Endnote 6—Modifications
Endnote 7—Misdescribed amendments
Endnote 8—Miscellaneous

If there is no information under a particular endnote, the word “none” will appear in square brackets after the endnote heading.

Abbreviation key—Endnote 2
The abbreviation key in this endnote sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4
Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended the compiled law. The information includes commencement information for amending laws and details of application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision level. It also includes information about any provisions that have expired or otherwise ceased to have effect in accordance with a provision of the compiled law.

Uncommenced amendments—Endnote 5
The effect of uncommenced amendments is not reflected in the text of the compiled law but the text of the amendments is included in endnote 5.
Endnotes

Endnote 1—About the endnotes

Modifications—Endnote 6
If the compiled law is affected by a modification that is in force, details of the modification are included in endnote 6.

Misdescribed amendments—Endnote 7
An amendment is a misdescribed amendment if the effect of the amendment cannot be incorporated into the text of the compilation. Any misdescribed amendment is included in endnote 7.

Miscellaneous—Endnote 8
Endnote 8 includes any additional information that may be helpful for a reader of the compilation.

18 Papua New Guinea (Staffing Assistance) Act 1973
Endnote 2—Abbreviation key

ad = added or inserted  
am = amended  
c = clause(s)  
Ch = Chapter(s)  
def = definition(s)  
Dict = Dictionary  
disallowed = disallowed by Parliament  
Div = Division(s)  
exp = expired or ceased to have effect  
hdg = heading(s)  
LI = Legislative Instrument  
LIA = Legislative Instruments Act 2003  
mod = modified/modification  
No = Number(s)  
o = order(s)  
Ord = Ordinance  
orig = original  
par = paragraph(s)/subparagraph(s)  
/re/sub-subparagraph(s)  
pres = present  
prev = previous  
(prev) = previously  
Pt = Part(s)  
r = regulation(s)/rule(s)  
reloc = relocated  
renum = renumbered  
rep = repealed  
rs = repealed and substituted  
s = section(s)  
Sdiv = Subdivision(s)  
SLI = Select Legislative Instrument  
SR = Statutory Rules  
Sub-Ch = Sub-Chapter(s)  
SubPt = Subpart(s)
### Endnotes

#### Endnote 3—Legislation history

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© 2014 ComLaw Authoritative Act C2014C00621
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:

(a) The following provisions:

(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.

   (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.
### Amendment History

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_Papua New Guinea (Staffing Assistance) Act 1973_
## Endnote 4—Amendment history

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### Endnotes

#### Endnote 4—Amendment history

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Endnotes

Endnote 5—Uncommenced amendments [none]

Endnote 6—Modifications [none]

Endnote 7—Misdescribed amendments [none]

Endnote 8—Miscellaneous [none]