



Statutory Rules

1977 No. 70

REGULATIONS UNDER THE PAPUA NEW GUINEA (STAFFING ASSISTANCE) ACT 1973.*

I, THE ADMINISTRATOR of the Government of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Regulations under the *Papua New Guinea (Staffing Assistance) Act 1973*.

Dated this second day of June, 1977.

A. R. CUTLER
Administrator.

By His Excellency's Command,

IAN SINCLAIR

Minister of State for Primary Industry for and on behalf of
the Minister of State for Foreign Affairs.

AMENDMENTS OF THE PAPUA NEW GUINEA (STAFFING ASSISTANCE) (TERMINATION OF EMPLOYMENT) REGULATIONS†

Commence-
ment.

1. These Regulations shall be deemed to have come into operation on 1 July 1976.

Interpretation.

2. Regulation 4 of the Papua New Guinea (Staffing Assistance) (Termination of Employment) Regulations is amended:—

(a) by omitting the definitions of "Chief Officer" and "salary" and substituting the following definitions:—

" 'Chief Officer' means the person for the time being holding, or performing the duties of, the office of First Assistant Secretary, Training, Services and Organisations Division, Department of Foreign Affairs;

'Part II of the Act' means Part II of the Act as in force at any time before 1 July 1976;

'prescribed contract of employment', in relation to a person, means the first contract of employment entered into by him with the Government of Papua New Guinea, being the contract in pursuance of which he commenced service as an employee of that Government immediately after he ceased to be employed under Part II of the Act;

'repealed Regulations' means the Regulations repealed by regulation 5;"

* Notified in the *Australian Government Gazette* on 7 June 1977.

† Statutory Rules 1973, No. 237 as amended by Statutory Rules 1974, No. 22; 1975, No. 92; and 1976, No. 9.

- (b) by omitting from sub-regulation (1) the definition of "the Police Force";
- (c) by inserting in sub-regulation (2), after the word "Act", the words "as in force at any time before 1 July 1976"; and
- (d) by omitting sub-regulation (3) and substituting the following sub-regulation:—

"(3) In the application of these Regulations on and after 1 July 1976, a reference to an eligible person shall be read as a reference to a person who was, on that date, an eligible person within the meaning of section 25 of the *Papua New Guinea (Staffing Assistance) Termination Act 1976*."

3. Regulations 4A and 5 of the Papua New Guinea (Staffing Assistance) (Termination of Employment) Regulations are repealed. Repeal of regulation 4A and 5.

4. Parts II and III of the Papua New Guinea (Staffing Assistance) (Termination of Employment) Regulations are repealed and the following Part is substituted:—

**"PART II—REPEAL OF THE PAPUA NEW GUINEA (STAFFING ASSISTANCE)
(TERMS AND CONDITIONS OF EMPLOYMENT) REGULATIONS**

"5. Statutory Rules 1973, No. 238 and Statutory Rules 1975, No. 91 are repealed. Repeal.

"6. (1) Notwithstanding the repeal effected by regulation 5, the provisions of the repealed Regulations continue to apply, on and after 1 July 1976, in relation to persons who were, on or before 30 June 1976, employees within the meaning of the repealed Regulations for the purposes of, and to the extent necessary for, determining, in respect of each of those persons, his rights, privileges, obligations and liabilities under the Act and the repealed Regulations as at— Transitional.

(a) 30 June 1976; or

(b) if that person ceased to be such an employee before 30 June 1976—the date on which he so ceased,

as the case may be.

"(2) In the continued application of the repealed Regulations on and after 1 July 1976 by virtue of sub-regulation (1), a reference in those Regulations to the Chief Officer shall be read as a reference to the person referred to in the definition of 'Chief Officer' in regulation 4.

"7. The Chief Officer may—

(a) in relation to any period before 1 July 1976; or

(b) for the purposes of the continued application of the repealed Regulations on and after 1 July 1976 by virtue of sub-regulation 6(1), exercise, in relation to a person who was at any time employed under Part II of the Act, any power conferred by those Regulations on the person referred to in regulation 5 of those Regulations. Powers of Chief Officer.

"8. (1) The Chief Officer may, either generally or as otherwise provided by the instrument of delegation, by writing signed by him, delegate to an officer of the Australian Public Service holding, or for the time being performing the duties of, an office in the Department of Foreign Affairs any of his powers under regulation 7. Delegation by Chief Officer.

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"(2) A power so delegated, when exercised by the delegate, shall, for the purposes of the Act and these Regulations, be deemed to have been exercised by the Chief Officer.

"(3) A delegation under this regulation does not prevent the exercise of a power by the Chief Officer.

Saving of
existing
delegations.

"9. For the purposes of these Regulations, a delegation given under sub-regulation 6 (1) of the repealed Regulations and in force on 30 June 1976 shall be deemed to have continued in force after that date, and shall continue in force, as if it had been given by the Chief Officer under regulation 8 and, for the purposes of the Act and these Regulations, that delegation shall be deemed to have been given by the Chief Officer under regulation 8."

Repeal of
Division 1 of
Part IV.

5. Division 1 of Part IV of the Papua New Guinea (Staffing Assistance) (Termination of Employment) Regulations is repealed.

Heading to
Division 1 of
Part IV.

6. The heading to Division 2 of Part IV of the Papua New Guinea (Staffing Assistance) (Termination of Employment) Regulations is repealed and the following heading substituted:—

"Division 1—Preliminary".

Compensation.

7. Regulation 16 of the Papua New Guinea (Staffing Assistance) (Termination of Employment) Regulations is repealed and the following regulation substituted:—

Definitions.

"16. In this Part, unless the contrary intention appears—

'continuing contributor' has the same meaning as in the Papua New Guinea (Staffing Assistance) (Superannuation) Regulations;

'former employee' means an eligible person whose employment under Part II of the Act—

(a) was terminated in pursuance of an election made under paragraph 13 (1) (b) of the Act as in force at any time before 1 July 1976;

(b) was terminated under section 14 of the Act as so in force; or

(c) is, by virtue of section 25 of the *Papua New Guinea (Staffing Assistance) Termination Act 1976*, to be deemed to have been terminated immediately before that date in pursuance of an election referred to in paragraph (a).

Recalculation
of compensation
on taking up
alternative
employment.

8. Regulation 17 of the Papua New Guinea (Staffing Assistance) (Termination of Employment) Regulations is amended—

(a) by inserting in sub-regulation (1), after the word "compensation" (first occurring), the words "under regulation 16 of these Regulations as in force on 30 June 1976"; and

(b) by omitting from sub-regulation (1) the words "of compensation are to be made under regulation 26," and substituting the words "or balance of compensation are to be made under regulation 22 or instalments of compensation are to be made under regulation 26,".

Repeal of
regulations 18
to 21
(inclusive).

9. Regulations 18 to 21 (inclusive) of the Papua New Guinea (Staffing Assistance) (Termination of Employment) Regulations are repealed.

10. Division 3 of Part IV of the Papua New Guinea (Staffing Assistance) (Termination of Employment) Regulations is repealed and the following Divisions are substituted:—

“ Division 2—Benefits for certain Eligible Persons who enter into Prescribed Contracts of Employment

“ 18. Notwithstanding anything contained in these Regulations, where a former employee has entered into a prescribed contract of employment, the provisions of these Regulations relating to benefits shall, in relation to that person, have effect subject to this Part. Entitlement to benefits.

“ 19. Where a former employee has entered into a prescribed contract of employment, any entitlement to recreation leave that would, but for this regulation, have been credited to him in pursuance of regulation 19 of these Regulations as in force on the date on which his employment under Part II of the Act was terminated or is, by virtue of section 25 of the *Papua New Guinea (Staffing Assistance) Termination Act 1976*, to be deemed to have been terminated, as the case may be, shall be reduced by the amount of recreation leave (if any) that is credited to him as an employee of the Government of Papua New Guinea under the terms of that contract. Payment in lieu of recreation leave.

“ 20. (1) Where a former employee enters into a prescribed contract of employment and— Deferral of certain benefits.

- (a) does not become a continuing contributor; or
- (b) becomes a continuing contributor but does not become entitled to a pension payable under the Papua New Guinea (Staffing Assistance) (Superannuation) Regulations,

benefits consisting of payments by way of—

- (c) a resettlement grant under regulation 18 of these Regulations as in force on the date on which his employment under Part II of the Act was terminated or is, by virtue of section 25 of the *Papua New Guinea (Staffing Assistance) Termination Act 1976*, to be deemed to have been terminated, as the case may be; or
- (d) fares and removal expenses under regulation 20 of these Regulations as so in force,

that would, but for this regulation, have been payable to him in accordance with Parts IV and V of these Regulations as so in force shall be deferred and, subject to sub-regulation (2), he is entitled to those benefits on the date on which he ceases to be employed by the Government of Papua New Guinea.

“ (2) The entitlement of a former employee by virtue of sub-regulation (1) to payment of benefits by way of fares and removal expenses shall be forfeited if he does not avail himself of that entitlement within 3 months after the date on which he ceases to be employed by the Government of Papua New Guinea.

“ 21. Where a former employee who has entered into a prescribed contract of employment becomes entitled to a pension payable under the Papua New Guinea (Staffing Assistance) (Superannuation) Regulations, he is not entitled to— Loss of certain benefits if pension gained.

- (a) compensation under regulation 16 of these Regulations as in force on the date on which his employment under Part II of the Act was terminated or is, by virtue of section 25 of the *Papua New Guinea (Staffing Assistance) Termination Act 1976*, to be deemed to have been terminated, as the case may be; or
- (b) the benefits referred to in regulation 20.

**Accelerated
payment of
compensation.**

" 22. (1) Notwithstanding the provisions of Division 1 of Part V, where a former employee has entered into a prescribed contract of employment and completes a period of employment with the Government of Papua New Guinea of 1 year or more, this regulation applies to him and the compensation to which he is entitled in pursuance of regulation 16 of these Regulations as in force on the date on which his employment under Part II of the Act was terminated or is, by virtue of section 25 of the *Papua New Guinea (Staffing Assistance) Termination Act 1976*, to be deemed to have been terminated, as the case may be, shall be paid in accordance with this regulation.

" (2) Subject to sub-regulation (3), payment of the balance of the compensation payable to a former employee to whom this regulation applies after the second instalment became due and payable in accordance with regulation 26 shall be made in 3 equal instalments, each plus interest calculated in accordance with regulation 27, the first of those instalments to be due and payable 12 months after that second instalment became due and payable and each of the subsequent instalments to be due and payable 12 months after the previous instalment became due and payable.

" (3) If a former employee to whom this regulation applies has completed a period of employment with the Government of Papua New Guinea of 2 years or more, the balance of the compensation payable to him after the third instalment became due and payable in accordance with sub-regulation (2), plus interest calculated in accordance with regulation 27, shall be due and payable 6 months after that third instalment became due and payable.

" Division 3—Benefits for certain Persons, other than Eligible Persons, who enter into Prescribed Contracts of Employment

**Payment for
long leave.**

" 23. Where a person—

- (a) who was not an eligible person; and
- (b) whose employment under Part II of the Act was not terminated under section 14 of the Act as in force at any time before 1 July 1976,

has entered into a prescribed contract of employment, he is entitled to be paid an amount equal to the salary that would have been payable to him in respect of the period of long leave that he would have been entitled to be granted under regulation 62 of the repealed Regulations on the date on which he ceased to be employed under that Part if—

- (c) that period of long leave had been so granted; and
- (d) the period during which he had been employed under Part II of the Act were increased by a period equal to the term of that contract.

**Payment for
furlough.**

" 24. (1) In the application of sub-regulation 64 (2) of the repealed Regulations in relation to a person—

- (a) who was not an eligible person;
- (b) whose employment under Part II of the Act was not terminated under section 14 of the Act as in force at any time before 1 July 1976; and
- (c) who has entered into a prescribed contract of employment,

for the purpose of ascertaining whether he would have been, on the date on which he ceased to be employed under that Part, eligible for furlough in accordance with regulation 64 of the repealed Regulations—

- (d) the period during which he was employed under Part II of the Act shall be deemed to have been increased by a period equal to the term of that contract; and

- (e) the reference in sub-regulation 64 (1) of the repealed Regulations to 10 years' service shall be read as a reference to 4 years' service.

" (2) Where a person receives, or is entitled to receive, an amount in pursuance of sub-regulation 65 (3) of the repealed Regulations, he is not entitled to be paid an amount that he would, but for this sub-regulation, be entitled to under sub-regulation 64 (2) of the repealed Regulations by virtue of the operation of sub-regulation (1).

" 25. Where a person—

- (a) who was not an eligible person; and
(b) whose employment under Part II of the Act was not terminated under section 14 of the Act as in force at any time before 1 July 1976,

Payment in lieu of recreation leave.

has entered into a prescribed contract of employment, any entitlement to recreation leave that would, but for this regulation, have been credited to him in pursuance of regulation 67 of the repealed Regulations shall be reduced by the amount of recreation leave (if any) that is credited to him as an employee of the Government of Papua New Guinea under the terms of that contract.

" 25A. (1) Where a person—

- (a) who was not an eligible person; and
(b) whose employment under Part II of the Act was not terminated under section 14 of the Act as in force at any time before 1 July 1976,

Deferral of certain entitlements.

has entered into a prescribed contract of employment, any entitlement to benefits by way of fares and removal expenses that he would, but for this regulation, have in accordance with regulations 92 and 93 of the repealed Regulations shall be deferred and, subject to sub-regulation (2), he is entitled to those benefits on the date on which he ceases to be employed by the Government of Papua New Guinea.

" (2) The entitlement of a person by virtue of sub-regulation (1) shall be forfeited if he does not avail himself of that entitlement within 3 months after the date on which he ceases to be employed by the Government of Papua New Guinea.

" Division 4—Benefits for Former Contract Officers

" 25B. In this Division—

Definitions

' former contract ', in relation to a person who was, immediately before the date on which he ceased to be employed under Part II of the Act, a contract officer within the meaning of the Papua New Guinea (Staffing Assistance) (Contract Officers Retirement Benefits) Regulations as in force at any time before 1 July 1976, means the contract within the meaning of those Regulations as so in force or the contract under section 8 of the Public Service Ordinance in pursuance of which he was employed under Part II of the Act;

' original retention date ', in relation to a person to whom regulation 25c or 25D applies, means the latest date (not being later than 31 December 1976) to which he was, on or before 30 June 1975, by writing under the hand of the Chief Minister of Papua New Guinea, invited to continue service in Papua New Guinea;

' revised retention date ', in relation to a person to whom regulation 25c or 25D applies, means the date to which he was, after 30 June 1975, by writing under the hands of the Chief Minister of Papua New

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Guinea and the Chairman of the Public Service Board of Papua New Guinea as existing before 16 September 1975, offered continued employment in Papua New Guinea.

Benefits
where
prescribed
contracts
taken.

“ 25C. (1) This regulation applies to a person who—

(a) was, immediately before the date on which he ceased to be employed under Part II of the Act, a contract officer within the meaning of the Papua New Guinea (Staffing Assistance) (Contract Officers Retirement Benefits) Regulations as in force at any time before 1 July 1976; and

(b) has entered into a prescribed contract of employment.

“ (2) Where the term of the former contract of a person to whom this regulation applies would have expired after 31 December 1976, he is entitled to be paid an amount equal to 10 per cent of the amount that would have been payable to him as salary under that contract in respect of each complete month in the period commencing on the date immediately following his revised retention date and ending on the date on which the term of that contract would have expired.

“ (3) Where a person to whom this regulation applies was, on the date on which he ceased to be employed under Part II of the Act, contributing to the Benefits Fund, he is, subject to this regulation, entitled to be paid an amount (if any) equal to an amount calculated in accordance with the Schedule to the Papua New Guinea (Staffing Assistance) (Contract Officers Retirement Benefits) Regulations as in force on that date less the amount that he has been paid or is entitled to be paid in pursuance of regulation 3 of Statutory Rules 1977, No. 64.

“ (4) For the purpose of calculating the amount second referred to in sub-regulation (3) in relation to a person to whom this regulation applies, his period of service within the meaning of the Papua New Guinea (Staffing Assistance) (Contract Officers Retirement Benefits) Regulations as in force on the date on which he ceased to be employed under Part II of the Act shall be deemed to have been increased by a period equal to any period of employment by that person under a prescribed contract of employment, other than a period—

- (a) after the date on which his former contract would have expired; or
- (b) during which he was on leave without pay that was not reckoned as service for the purpose of that prescribed contract of employment.

“ (5) For the purposes of sub-regulation (4), where—

- (a) the term of the former contract of a person to whom this regulation applies would have expired before 1 January 1977; and
- (b) the original retention date of that person was a date later than the date on which that former contract would have expired,

that former contract shall be deemed to be a contract the term of which would have expired on that original retention date.

“ (6) Subject to sub-regulation (7), a person to whom this regulation applies is not entitled to be paid an amount by virtue of sub-regulation (3)—

(a) until—

- (i) the date on which his entitlement to the amount second referred to in sub-regulation (3) would have accrued if his employment under the prescribed contract of employment were employment under Part II of the Act; or

(ii) 30 June 1977,

whichever is the earlier; and

- (b) unless he is, on whichever of those dates is applicable, employed under a prescribed contract of employment.

“(7) Where, before a person to whom this regulation applies has completed the term of the prescribed contract of employment entered into by him—

- (a) he dies; or
- (b) his employment in pursuance of that contract is terminated on the ground of his invalidity or his physical or mental incapacity to perform his duties (being invalidity or incapacity that is not due to his own wilful action),

this regulation applies in relation to him as if he had completed the term of that contract on the date immediately preceding the date on which he died or his employment in pursuance of that contract was so terminated, as the case may be.

“25D. (1) This regulation applies to a person who was, on 30 June 1976—

- (a) a contract officer within the meaning of the Papua New Guinea (Staffing Assistance) (Contract Officers Retirement Benefits) Regulations as in force on that date; or
- (b) employed under Part II of the Act having been engaged under sub-section 6 (2) of the Act as in force at any time before 1 July 1976,

Benefits where prescribed contracts not taken.

and who has not entered into a prescribed contract of employment.

“(2) Where—

- (a) a person to whom this regulation applies was, on 30 June 1976, a contributor within the meaning of the Papua New Guinea (Staffing Assistance) (Contract Officers Retirement Benefits) Regulations as in force on that date; and
- (b) the term of his former contract would have expired after 31 December 1976,

he is entitled to be paid an amount (if any) equal to an amount calculated in accordance with the Schedule to those Regulations as so in force less the amount that he has been paid or is entitled to be paid in pursuance of regulation 3 of Statutory Rules 1977, No. 64.

“(3) For the purpose of calculating the amount second referred to in sub-regulation (2) in relation to a person to whom this regulation applies, the period commencing on 1 July 1976 and ending on the date on which the term of his former contract would have expired shall be deemed to have been a period of service within the meaning of the Papua New Guinea (Staffing Assistance) (Contract Officers Retirement Benefits) Regulations as in force on 30 June 1976.

“(4) A person to whom this regulation applies is, subject to and in accordance with the provisions of regulation 92 or 93 of the repealed Regulations as in force on 30 June 1976, entitled to benefits by way of fares and removal expenses under that regulation 92 or 93 as if he had, on that date, completed an agreed period of employment within the meaning of that regulation 92 or the full period of employment within the meaning of that regulation 93, as the case may be.”

11. Regulation 26 of the Papua New Guinea (Staffing Assistance) (Termination of Employment) Regulations is amended—

Installments of compensation.

- (a) by inserting in sub-regulation (2), after the word “Act” (first occurring), the words “as in force at any time before 1 July 1976”; and
- (b) by inserting in sub-regulation (2), after the word “Act” (last occurring), the words “as so in force”.

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| Interest on unpaid compensation. | <p>12. Regulation 27 of the Papua New Guinea (Staffing Assistance) (Termination of Employment) Regulations is amended—</p> <p>(a) by inserting, after the word “with”, the words “an instalment or balance of compensation payable in accordance with regulation 22 or with”; and</p> <p>(b) by inserting, after the word “instalment” (wherever occurring), the words “or balance”.</p> |
| Balance of instalments in full on death or retiring age. | <p>13. Regulation 29 of the Papua New Guinea (Staffing Assistance) (Termination of Employment) Regulations is amended by omitting the words “maximum age for retirement” and substituting the words “age that is, in relation to him, the maximum age for retirement within the meaning of the Papua New Guinea (Staffing Assistance) (Superannuation) Regulations”.</p> |
| Payments on accepting alternative employment. | <p>14. Regulation 30 of the Papua New Guinea (Staffing Assistance) (Termination of Employment) Regulations is amended by inserting in sub-regulation (3), after the word “regulation” (first occurring), the figures and word “22 or”.</p> |
| Payments for leave and resettlement grants. | <p>15. Regulation 31 of the Papua New Guinea (Staffing Assistance) (Termination of Employment) Regulations is repealed.</p> |
| Repeal of Division 2 of Part V. | <p>16. Division 2 of Part V of the Papua New Guinea (Staffing Assistance) (Termination of Employment) Regulations is repealed.</p> |
| Employees may elect for invalidity retirement. | <p>17. Regulation 33 of the Papua New Guinea (Staffing Assistance) (Termination of Employment) Regulations is repealed.</p> |
| Advice of alternative employment. | <p>18. Regulation 34 of the Papua New Guinea (Staffing Assistance) (Termination of Employment) Regulations is amended—</p> <p>(a) by omitting from sub-regulation (1) the words “before the expiration of the prescribed notice or within the period during which instalments of compensation are being paid shall advise the Chief Officer in writing accordingly within fourteen days” and substituting the words “before any instalments or balance of compensation payable to him in accordance with regulation 22, or instalments of compensation payable to him in accordance with regulation 26, have been paid shall advise the Chief Officer in writing accordingly within 14 days”; and</p> <p>(b) by omitting from sub-regulation (2) the words “receiving instalments of compensation shall, within one month before the date on which each instalment is due, make a statutory declaration” and substituting the words “entitled to receive instalments or balance of compensation in accordance with regulation 22, or instalments of compensation in accordance with regulation 26, shall, within 1 month before the date on which each instalment, or that balance, is due, make a statutory declaration to the effect, or otherwise satisfy the Chief Officer,”.</p> |
| Repeal of regulations 35, 36 and 37. | <p>19. Regulations 35, 36 and 37 of the Papua New Guinea (Staffing Assistance) (Termination of Employment) Regulations are repealed.</p> |
| Repeal of Schedules 1 to 6 (inclusive). | <p>20. Schedules 1 to 6 (inclusive) to the Papua New Guinea (Staffing Assistance) (Termination of Employment) Regulations are repealed.</p> |