

Chapter 73.

Teaching Service Conciliation and Arbitration Act 1971.

Certified on: / /20 .

INDEPENDENT STATE OF PAPUA NEW GUINEA.



Chapter 73.

Teaching Service Conciliation and Arbitration Act 1971.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.



AN ACT

entitled

Teaching Service Conciliation and Arbitration Act 1971,

Being an Act to make interim provisions for a system of industrial conciliation and arbitration for the Teaching Service, and for related purposes.

1. **INTERPRETATION.**

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

“**public employee**” has the same meaning as in the *Public Services Conciliation and Arbitration Act 1969*;

“**the Public Services Tribunal**” means the Public Services Conciliation and Arbitration Tribunal established by Section 2 of the *Public Services Conciliation and Arbitration Act 1969*;

“**registered teachers’ association**” means a registered teachers’ association within the meaning of the *Teaching Service Act 1971*;

“**the Registrar**” means the Registrar of the Teaching Service Tribunal appointed by Section 8;

“**the Teaching Service Tribunal**” means the Teaching Service Conciliation and Arbitration Tribunal established by Section 2.

(2) Unless the contrary intention appears, any expression used in this Act that is defined in the *Education Act 1983*, the *Teaching Service Act 1971* or the *Public Services Conciliation and Arbitration Act 1969* has the same meaning as in that Act.

2. **ESTABLISHMENT OF THE TEACHING SERVICE TRIBUNAL.**

The Teaching Service Conciliation and Arbitration Tribunal is hereby established.

3. CONSTITUTION OF THE TRIBUNAL.

(1) The Teaching Service Tribunal shall consist of—

- (a) a Chairman appointed by the Head of State, acting on advice; and
- (b) one person appointed by the Head of State, acting on advice, from a panel of names submitted to the Minister by the Teaching Service Commission; and
- (c) one person appointed by the Head of State, acting on advice from a panel of names submitted to the Minister by the registered teachers' associations jointly; and
- (d) two persons appointed by the Head of State, acting on advice, as assistant members from a second panel of names submitted to the Minister by the Teaching Service Commission; and
- (e) two persons appointed by the Head of State, acting on advice, as assistant members from a second panel of names submitted to the Minister by the registered teachers' associations jointly.

(2) An assistant member of the Teaching Services Tribunal appointed under Subsection (1)(d) or (e) has deliberative but no voting power.

(3) The tenure of office and the terms and conditions of appointment of the members and assistant members of the Teaching Service Tribunal (including their respective remunerations, if any) are as determined by the Head of State, acting on advice.

(4) Notwithstanding this Act, the Head of State, acting on advice, may at any time, remove a member or assistant member of the Teaching Service Tribunal from office.

4. DISQUALIFICATIONS.

(1) The following persons are not eligible to be or to continue to be members or assistant members of the Teaching Service Tribunal:—

- (a) persons who are of unsound mind;
- (b) persons who have been convicted of an offence punishable under a law of—
 - (i) Papua New Guinea; or
 - (ii) Australia; or
 - (iii) a State or Territory of Australia,
 - by death or imprisonment for one year or longer, and as a result of the conviction, are—
 - (iv) subject to be sentenced to death or imprisonment; or
 - (v) under sentence of death or undergoing imprisonment; or

(vi) under bond to appear for sentence if called on.

(2) Subject to Subsection (2A) a person who is—

- (a) an officer, employee or member of a public service organization or of a teachers' association; or
- (b) a member of the Teaching Service; or
- (c) a member of, or of the controlling body of, a statutory institution, authority or body referred to in the definition of "public employer" in the *Public Services Conciliation and Arbitration Act 1969*,

is not eligible to be a member of the Teaching Service Tribunal or an assistant member of the Tribunal appointed under Section 21(3) of the *Public Services Conciliation and Arbitration Act 1969*, in its application to and in relation to the Teaching Service Tribunal by virtue of Section 9 to exercise the full powers of a member of the Tribunal.

(2A)¹ ²Subsection (2) does not apply to the Chairman.

5. VACATION OF OFFICE.

A member or an assistant member of the Teaching Service Tribunal shall be deemed to have vacated his office if—

- (a) he becomes a person who is ineligible to be a member or assistant member of the Tribunal under Section 4(1) or (2); or
- (b) he becomes permanently incapable of performing his duties.

6. OATH OR AFFIRMATION OF OFFICE.

Before proceeding to discharge the duties of their offices, the members and assistant members of the Teaching Service Tribunal shall take an oath or affirmation of office in the prescribed form before the Chief Justice or a person authorized for the purpose by the Chief Justice.

7. MEETINGS OF TRIBUNAL.

(1) Meetings of the Teaching Service Tribunal shall be held at such times and places as the Chairman of the Tribunal determines.

(2) At a meeting of the Teaching Service Tribunal—

- (a) the Chairman shall preside; and
- (b) all matters shall be decided by a majority of votes of the members present; and
- (c) the Chairman has a deliberative and, in the event of an equality of votes on a matter, also a casting vote.

¹ Section 4(2A) added by No. 13 of 1976.

² Section 4(2A) added by No. 13 of 1976.

(3) The Teaching Service Tribunal may continue to act notwithstanding a vacancy in the office of a member or assistant member of the Tribunal, and an act, proceeding or requirement of the Tribunal shall not be questioned or invalidated by reason only of a vacancy having occurred in the office of a member or assistant member of the Tribunal.

8. REGISTRAR.

The Registrar appointed under the *Public Services Conciliation and Arbitration Act 1969* is the Registrar of the Teaching Service Tribunal.

9. APPLICATION OF PUBLIC SERVICES CONCILIATION AND ARBITRATION ACT.

(1) Subject to this Act, the *Public Services Conciliation and Arbitration Act 1969* (except Part II. of that Act) applies to and in relation to the Teaching Service Tribunal, as though it were incorporated in this Act and as though references to—

- (a) the Public Services Tribunal were references to the Teaching Service Tribunal; and
- (b) the Chairman of the Public Services Tribunal were references to the Chairman of the Teaching Service Tribunal; and
- (c) a member of the Public Services Tribunal were references to a member of the Teaching Service Tribunal; and
- (d) an assistant member of the Public Services Tribunal were references to an assistant member of the Teaching Service Tribunal; and
- (e) the Registrar of the Public Services Tribunal were references to the Registrar of the Teaching Service Tribunal; and
- (f) public employees within the meaning of that Act were references to members of the Teaching Service; and
- (g) public employment were references to the employment of members of the Teaching Service; and
- (h) public service organizations were references to registered teachers' associations; and
- (i) conditions of public employment were references to terms and conditions of service and employment in the Teaching Service, whether any such term or condition is or is claimed as the responsibility of the State or of an education agency other than the Government.

(2) A claim may be made by or against—

- (a) an education agency (including the Government); or
- (b) the State in its capacity under the *Teaching Service Act 1971* otherwise than as an education agency,

and for the purposes of any such claim, or of any proceedings arising out of any such claim, the education agency or the State, as the case may be, shall be deemed to be a public employer.

(3) A determination affecting conditions of public employment applying only to or in respect of auxiliary members of the Teaching Service does not bind the State except—

- (a) in respect of members of the Teaching Service occupying non-institutional positions or positions in educational institutions conducted by the State; or
- (b) where, with the consent of the Minister, the determination is expressed to bind the State in respect of any such condition.

10. REFERENCE OF MATTERS TO BOARDS OF INQUIRY.

(1) The matters that may be referred to a Board of Inquiry under Part III. of the *Public Services Conciliation and Arbitration Act 1969* include matters relating to the employment and conditions of service of members of the Teaching Service.

(2) The provisions of Subsection (1) are in addition to and not in derogation of the provisions of Part III. of the *Public Services Conciliation and Arbitration Act 1969*.

11. REPRESENTATION OF THE STATE.

The State and the Government shall be represented for the purpose of any claim and of any proceedings arising out of any claim—

- (a) in the case of a claim in respect of a condition of public employment applying only to or in respect of auxiliary members of the Teaching Service—by the Public Services Commission; and
- (b) in the case of any other claim—by the Teaching Service Commission.

12. APPLICATION OF PUBLIC SERVICES CONCILIATION AND ARBITRATION ACT.

Except as provided for by this Act, the *Public Services Conciliation and Arbitration Act 1969* does not apply to or in relation to the conditions of service of members of the Teaching Service.

13. REGULATIONS.

The Head of State, acting on advice, may make regulations, not inconsistent with this Act, prescribing all matters that by this Act are required or permitted to be prescribed, or that are necessary or convenient to be prescribed for carrying out or giving effect to this Act, and in particular for—

- (a) prescribing the method of filing and registering determinations; and

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- (b) prescribing the forms to be used and the fees to be paid in connection with any matter arising under this Act; and
- (c) prescribing the returns to be made, records to be kept and notices to be given under this Act; and
- (d) the imposition of penalties of fines not exceeding K50.00 for offences against the regulations.

Office of Legislative Counsel, PNG