

No. 34 of 2014

Higher Education (General Provisions) Act 2014.

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No. of 2014

AN ACT

entitled

Higher Education (General Provisions) Act 2014.

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No. of 2014

AN ACT

entitled

Higher Education (General Provisions) Act 2014.

Being an Act to -

- (a) establish the Department of Higher Education, Research, Science and Technology to foster -
 - (i) the rational development of higher and technical education with regard to the needs and resources of Papua New Guinea; and
 - (ii) the rationalisation and coordination of higher and technical education so that the most effective use can be made of the resources available for higher and technical education; and
 - (iii) the maintenance and enhancement of standards and quality in higher and technical education; and
 - (iv) the coordination, planning, management and monitoring of research; and
 - (v) the promotion of innovative technologies for the development of the country, and
- (b) establish the National Higher and Technical Education Board as the national quality assurance and regulatory body for higher and technical education in Papua New Guinea, and
- (c) repeal the ***Higher Education Act 1983*** and other laws, and for related purposes.

MADE by the National Parliament to come into operation upon certification by the Speaker of the National Parliament.

PART 1. - PRELIMINARY.

Division 1. - Compliance with Constitutional Requirements.

1. COMPLIANCE WITH CONSTITUTIONAL REQUIREMENTS.

(1) This Act to the extent that it regulates or restricts a right or freedom referred to in Subdivision III.3.C (*qualified rights*) of the ***Constitution***, namely the right to privacy conferred by Section 49 of the ***Constitution***, is a law that is made for the purpose.

(2) For the purposes of Section 41 of the ***Organic Law on Provincial Governments and Local-level Governments***, it is hereby declared that this Act relates to a matter of national interest.

2. INTERPRETATION.

In this Act, unless the contrary intention appears -

“accredited programme” means a programme accredited under this Act;

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- “agency agreement” means an arrangement between two or more institutions or between one or more universities and one or more higher education institutions to provide or purport to provide a higher education programme on behalf of the principal university or higher education institution;
- “agent operating under an agency agreement” means an institution or provider that provides a higher education programme on behalf of a principal under the agreement;
- “Appeals Tribunal” means the Higher Education Appeals Tribunal established under Part XI of the Act;
- “Board” means the National Higher and Technical Education Board established under Section 13;
- “Chairperson” means the Chairperson of the Board appointed under Section 15;
- “chancellor” means the chairman of the governing body of a public university and ceremonial head of the university;
- “chief executive officer” means the most senior management position in an institution of higher education and includes the titles vice-chancellor, president, rector, director, principal;
- “commencement date” means the date this Act comes into effect;
- “Department” means the Department of Higher Education, Research, Science and Technology;
- “Departmental Head” means the Departmental Head of the Department of Higher Education, Research, Science and Technology appointed under Section 10;
- “entity” includes a public body, private body, or body corporate;
- “financial assistance” includes but is not limited to a scheme for providing financial scholarships or loans to students in accordance with Section 165;
- “graduate tax” means a cost recovery measure on loan through a tax levy on graduates in addition to income tax;
- “higher and technical education” means education leading to a higher education award.
- “higher education award” means any award that is -
- (a) any award described in the PNGNQF as a higher education or a technical and vocational education qualification, which includes formal qualifications with the title of certificate, diploma, advanced diploma, associate degree, bachelor degree, graduate certificate, graduate diploma, masters degree or doctoral degree; or
 - (b) an award of a similar kind, or represented as being of a similar kind, to any of the above awards, including an award offered by an overseas institution that operates in Papua New Guinea; or
 - (c) a preparatory, bridging or foundation programme, whether leading to a formal qualification or not, conducted at post-secondary level that prepares or enables a student to undertake a programme leading to a higher education award;
- “higher education institution” means an educational institution that provides post-secondary (non-school) education leading to a formal higher education award including, but not restricted to, technical and vocational institutions and training centres, information technology centres, secretariat schools, language schools, hospitality training centres, care-giving training providers, performing arts and sports academies, religious educational institutions and training colleges, technical colleges, teachers’ colleges, nursing colleges and universities; and includes the entity that provides this education through the institution;
- “impose a condition” includes to change or confirm the condition;
- “intervene” means the direct involvement of the Minister under Part XIII;
- “Member” means a member of the Board and includes the Chairperson;

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- “Minister” means the Minister responsible for the Department of Higher Education, Research, Science and Technology;
- “national standards” means various standards for quality assurance decisions that are made by the Board;
- “notice” means a written notice stating the following-
- (a) the decision; and
 - (b) the reasons for the decision; and
 - (c) the person to whom the notice is given may appeal against the decision; and
 - (d) how to start an appeal;
- “operate in Papua New Guinea” means to provide higher and technical education from premises located in Papua New Guinea, where premises includes the following-
- (a) a structure, building, vehicle, vessel or aircraft; and
 - (b) a place (whether or not enclosed or built on); and
 - (c) equipment or a part of a thing referred to in Paragraph (a) or (b).
- “overseas higher education institution” means an higher education institution that is established in another country;
- “overseas student” means -
- (a) a person who is not a Papua New Guinea resident; or
 - (b) holds a student visa issued under the *Migration Act* (Chapter 16);
- “overseas university” means a university that is established in another country and recognised as a university in the country of its establishment;
- “Papua New Guinea University” means a university whether public or private that is registered under this Act under Part VIII;
- “PNGNQF” means the Papua New Guinea National Qualifications Framework;
- “professional licensing or accreditation body” means a body responsible for the regulation of an occupation through licensing or registration of graduates from, or accreditation of, any programme leading to a higher education award;
- “programme” means a combination of subjects, the successful completion of study in which will lead to the granting of a higher education award, and “programme of study” shall have a corresponding meaning;
- “public higher education institution” means a higher education institution established by the State and primarily funded by the State and registered under Part VI;
- “public research institute” means an entity established by the State for the primary purpose of conducting research on areas of national priority;
- “public university” means a university established by the State without reference to any other owners or interests and primarily funded by the State and approved under Part VIII;
- “recognition” means the status awarded to an overseas higher education institution that meets the criteria prescribed in this Act under Part IX;
- “recommendation” includes reasons for the recommendation;
- “registered higher education institution” means a higher education institution which is registered and issued a certificate of registration in accordance with the Act;
- “registration” means registration of an institution by provision of a certificate of registration in accordance with this Act, and includes the renewal of registration;
- “religious educational institution” means -
- (a) an institution in which instruction is wholly or mainly of a religious or doctrinal nature; or
 - (b) an institution conducted by a church for the exclusive training of its own personnel;
- “scholarship” means financial assistance given to students in accordance with Section 165;
- “self-accrediting authority” means an authority granted under Part VII of the Act;

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“show cause period” means a period ending at least 60 days after the show cause notice is given;

“subject” means a distinct and formally assessed part of a programme, and the word “unit” shall have a corresponding meaning;

“teachers’ college” means a college or institution that is conducted solely or mainly for the purpose of educating persons to teach in schools;

“technical college” means a higher education institution that is conducted principally for the provision of vocational or technical education in accordance with the PNGNQF, the standard and complexity of which, in the opinion of the Minister is such as to warrant its being regarded as a technical college rather than a technical school;

“this Act” includes the Regulations.

Division 2. - Application of Act.

3. APPLICATION.

(1) This Act binds the State.

(2) Subject to this section, this Act applies, unless the contrary intention appears, to -

- (a) all higher and technical education, including all higher education institutions and higher education awards and related activities; and
- (b) all Papua New Guinea universities, including all overseas universities, and higher education institutions operating in Papua New Guinea; and
- (c) to all natural persons or providers whether resident in the country or not; and
- (d) to all public bodies and state agents whether established by an Act of Parliament or not; and
- (e) to all corporations, agents or entities whether incorporated or carrying on business in the country or not.

(3) Unless otherwise specified by this Act, the provisions of this Act do not apply to or in relation to education or training activities that do not lead to a higher education award.

(4) Where a question arises as to whether education or training activities were conducted for the purpose of providing a higher education award, the Minister’s decision, taking into account the recommendation of the Departmental Head, is binding.

(5) Notwithstanding anything to the contrary, the Act does not abrogate the right of an entity or agency responsible for a higher education institution to promote a particular identity within that institution.

PART II. - OBJECTIVES AND PRINCIPLES OF THE ACT.

4. OBJECTIVES OF THE ACT.

The objectives of the Act are -

- (a) to promote the integral human development of Papua New Guineans consistent with the Government policy; and
- (b) to promote and encourage the development of a system of post-secondary higher and technical education that -
 - (i) meets the requirements of the country and its people; and
 - (ii) enables neighbouring countries to benefit from the country’s higher education programmes; and

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- (c) to provide the enabling environment for the attainment of strategic goals as they relate to higher and technical education; and
- (d) to create a system of higher and technical education that promotes and strengthens the skills and capabilities of Papua New Guineans and others to adequately meet the challenges of the future; and
- (e) to make the benefits of higher and technical education available as widely as possible; and
- (f) to promote and strengthen the research, scientific and technological capabilities of higher education institutions and public research institutes; and
- (g) to establish, preserve and improve standards of higher and technical education throughout the country; and
- (h) to maintain public confidence in higher and technical education by establishing processes for the quality assurance and regulation of higher education institutions, including universities, and their programmes.

5. PRINCIPLES RELEVANT TO THE ACT.

In the administration of higher and technical education matters all persons exercising functions, powers, and duties under the Act shall recognise and take into account the following principles -

- (a) higher and technical education must lead to a lively, just and self-reliant nation of forward and outward-looking citizens; and
- (b) higher and technical education must enable citizens to be at peace with each other and their neighbours at home and abroad; and
- (c) higher and technical education must equip citizens to improve and sustain the quality of life; and
- (d) higher and technical education must strengthen the citizen's resolve to uphold their Christian principles; and
- (e) higher and technical education must promote gender equity, performance and equality in participation; and
- (f) higher and technical education must promote and strengthen the country's rich cultural and environmental diversity.

PART III. - ORGANISATION AND ADMINISTRATION.

Division 1. - National Higher and Technical Education Plan.

6. NATIONAL HIGHER AND TECHNICAL EDUCATION PLAN.

There shall be a national higher and technical education plan for Higher and Technical Education, Research, Science and Technology which shall be determined by the Head of State, acting on advice, after receiving a report and recommendations from the Minister and may in similar manner be extended, amended or replaced.

Division 2. - Department of Higher Education, Research, Science and Technology.

7. DEPARTMENT TO ADMINISTER THE ACT.

The Department of Higher Education, Research, Science and Technology established pursuant to and in accordance with Section 20 of the *Public Services (Management) Act 2014* shall administer this Act in the manner and to the extent set out in this Act and any other law relating to higher and technical education.

8. POWERS AND FUNCTIONS OF THE DEPARTMENT.

(1) The powers and functions of the Department are set out in Schedule 1A and Schedule 1B of this Act.

(2) The Department has, in addition to the powers and functions otherwise conferred on it by this Act and any other law, full powers to do all things that are necessary or convenient to be done for or in connection with the performance of its functions and the achievement of its objectives.

Division 3. - Department of Higher Education, Research, Science and Technology to establish and maintain register.

9. REGISTER.

(1) In performing its functions under this Act, the Department shall establish and maintain in the Department a register for each of the following -

- (a) higher education institutions registered under Part VI; and
- (b) accredited programmes under Part VI; and
- (c) higher education institutions with self-accrediting authority under Part VII; and
- (d) universities under Part VIII; and
- (e) overseas higher education institutions recognised under Part IX; and
- (f) public research institutes; and
- (g) such other matters as are determined by itself.

(2) The regulations may make provision for or with respect to -

- (a) the particulars to be recorded in the register; and
- (b) the manner and form in which the register is to be maintained.

(3) The register may be made available to the public at the Department's head office at a reasonable time and on the Department's official website on the Internet.

(4) Subject to this Act, the Departmental Head may -

- (a) issue copies of or extracts from entries in the Register certified under his hand and seal; and
- (b) certify under his hand and seal that an entry, act, matter or thing required or authorised under this Act to be made or done, has or has not been made or done, as the case may be.

(5) Where there is a change made that relates to a matter recorded in the register, the register shall be amended accordingly.

(6) The Register is evidence of all matters required or authorised by this Act to be entered in it.

(7) A certified copy or extract issued under Subsection (4) is evidence in all courts and proceedings without further proof or production of the original.

(8) A certificate is evidence of the statements contained in the certificate.

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Division 4. - Departmental Head.

10. DEPARTMENTAL HEAD.

(1) There shall be a Departmental Head of the Department who shall be appointed and shall hold office for a term of four years pursuant to the *Public Services (Management) Act 2014* and the *Public Services (Management)(Selection and Appointment of Departmental Heads and Provincial Administrators) Regulation 2003*.

(2) For purposes of this section, the office of the Departmental Head is an office to which Division III.2 (*Leadership Code*) of the *Constitution* applies.

11. POWERS AND FUNCTIONS OF THE DEPARTMENTAL HEAD.

(1) The Departmental Head shall -

(a) be responsible for -

(i) the carrying out the functions and responsibilities of a Departmental Head under the *Public Services (Management) Act 2014* and any other law; and

(ii) the administration of this Act; and

(b) provide leadership and manage the Department in accordance with the policy and directions of the Minister; and

(c) advise the Minister on any matter concerning higher and technical education, research, and science and technology referred to him by the Minister; and

(d) advise the Board on any matter relating to higher and technical education referred to him by the Board.

(2) The Departmental Head shall carry out and perform the duties required of him under this Act and may exercise such other powers to carry out the functions as the National Executive Council or the Minister may, from time to time, determine.

(3) The Departmental Head shall have and use as his seal of office a seal in such form as the Minister approves.

(4) In pursuance of his duties and functions under this Act, the Departmental Head may fix, or cause to be affixed, a facsimile of his signature which shall be deemed to be the signature of the Departmental Head.

(5) All courts, judges and persons acting judicially shall take judicial notice of the seal of the Department affixed to a document, and shall presume that it was duly affixed unless proven otherwise.

Division 5. - Staff of the Department.

12. STAFF OF THE DEPARTMENT.

The Departmental Head and the officers appointed and hold office in accordance with and pursuant to the *Public Services (Management) Act 2014* and the Public Service General Orders constitute the staff of the Department.

PART IV. - NATIONAL HIGHER AND TECHNICAL EDUCATION BOARD.

13. NATIONAL HIGHER AND TECHNICAL EDUCATION BOARDS.

The National Higher and Technical Education Board is hereby established.

14. POWERS AND FUNCTIONS OF THE BOARD.

- (1) The Board has the following powers and functions -
 - (a) to assist in ensuring that the objectives of this Act are achieved in respect of quality assurance and regulation for higher and technical education; and
 - (b) to report to the Departmental Head in respect of its activities and on matters referred to it by the Departmental Head; and
 - (c) to monitor the work of each of the committees and other bodies established under Section 23; and
 - (d) to recommend to the Departmental Head policy guidance on national quality assurance arrangements for higher and technical education; and
 - (e) to review, consult on and update the PNGNQF from time to time; and
 - (f) to approve national standards for quality assurance and regulation of higher education institutions and Papua New Guinea universities; and
 - (g) to approve application guides, forms, and other documents required under the Act; and
 - (h) to make decisions on matters referred to it for its decision; and
 - (i) to recognise or not recognise the registration or programme accreditation decisions of any other agency or professional licensing or accreditation body in respect of a higher education institution or higher education programme as meeting requirements of the national standards; and
 - (j) to conduct thematic or sectoral reviews on any matters relating to compliance with the national standards.

(2) The Board has, in addition to the powers and functions otherwise conferred on it by this Act and any other law, full powers to do all things that are necessary or convenient to be done for or in connection with the performance of its functions and the achievement of its objectives.

(3) Subject to this Act and any other laws, a Member of the Board is not personally liable for any act or default of himself or that the Board has done or omitted to be done in good faith and in the course of the operation of the Board.

15. MEMBERSHIP OF THE BOARD.

(1) The Board shall consist of a Chairperson and not more than six nor less than four Board Members, of whom at least two shall be women.

(2) Membership of the Board shall be approved by the National Executive Council on the recommendation of the Minister, following advice from the Departmental Head.

(3) Prior to advising the Minister, the Departmental Head must invite applications through a process of public advertisement.

- (4) A person appointed to the Board shall -
 - (a) be a fit and proper person to hold the office; and
 - (b) have substantial current knowledge and expertise in the management of institutions of higher education or of academic affairs in higher and technical education, which may include research management; or
 - (c) have substantial current knowledge and experience in the design, development and delivery of programmes leading to higher education awards; or
 - (d) have substantial current knowledge and experience in meeting the employment needs of industry, business, government or the community in Papua New Guinea; or

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- (e) have substantial current knowledge and experience in quality assurance of higher and technical education; or
 - (f) have substantial current knowledge and experience in -
 - (i) business management; or
 - (ii) leadership and administration or governance; or
 - (iii) planning; or
 - (iv) finance; or
 - (v) the practice of law; or
 - (vi) the practice of regulation,
provided that he must not be -
 - (A) an owner, whether in part or full, of a private higher education institution registered under this Act; or
 - (B) the chief executive officer of a higher education institution; or
 - (C) a member of the governing body of a higher education institution; or
 - (D) a current public service employee.
- (5) The Board shall elect its own Chairperson and Deputy Chairperson.
- (6) The Chairperson shall be -
 - (a) of good and high standing within the community; and
 - (b) appointed for a period not exceeding three years; and
 - (c) appointed on honorarium on a part-time basis on such terms and conditions as are determined by the Head of State, acting on advice; and
 - (d) eligible for re-appointment.
- (7) A Board Member, other than the Chairperson, shall be -
 - (a) appointed for a period not exceeding three years; and
 - (b) appointed on a part-time basis on such terms and conditions as are determined by the Minister; and
 - (c) eligible for re-appointment only for a consecutive second term.
- (8) The Members of the Board may be paid such fees and allowances in accordance with the *Boards (Fees and Allowances) Act* (Chapter 299) or as determined by the Minister.

16. ALTERNATE BOARD MEMBERS.

- (1) For each Member, other than the Chairperson, an alternate Member may be appointed in the same way and subject to the same conditions as the member for whom he is the alternate.
- (2) In the event that a Member is unable to act, the alternate Member has and may exercise all his powers, functions, duties and responsibilities.
- (3) An alternate Member may attend any meeting of the Board and in the absence of the Member for whom he is the alternate, take part in discussion, vote on any matter and be counted toward a quorum.
- (4) Where, in relation to the office of a Member appointed under Section 15 a casual vacancy occurs, the person appointed to be in the alternate to the Member may be deemed to be appointed for the term of office of the Member.

17. LEAVE OF ABSENCE OF MEMBERS.

The Chairperson may grant leave of absence to a Member on such terms and conditions as determined by the Minister.

18. VACATION OF OFFICE OF MEMBERS.

(1) Where a Member -

- (a) becomes permanently incapable of performing his duties; or
- (b) resigns from his office by writing under his hand addressed to the Minister; or
- (c) is absent, except with the written consent of the Chairperson in respect of a Member, or the Minister in respect of the Chairperson, from three consecutive meetings of the Board; or
- (d) knowingly fails to disclose his interest under Section 21; or
- (e) becomes bankrupt or applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit; or
- (f) is convicted -
 - (i) of an offence under this Act; or
 - (ii) of an indictable offence under any other law of Papua New Guinea; or
 - (iii) of any crime involving false statements, fraudulent use or destruction of property, falsification of records, carrying on business fraudulently or any crime involving corruption or dishonesty, whether within or outside Papua New Guinea; or
- (g) stands for election to a political office; or
- (h) discloses information which is confidential to the Board or the Department as provided in this Act or in the rules of procedure of the Board, he ceases to be a Member of the Board, or in the case of a nominee, his designation as such shall promptly lapse.

(2) Notwithstanding Subsection (1), the Minister may, at any time, by written notice, advise a Member that he intends to terminate his appointment on the grounds of inefficiency, incapacity or misbehaviour.

(3) Within 14 days of the receipt of the notice under Subsection (2), the Member may reply in writing to the Minister who shall consider the reply and as soon as is practicable deliver a written notice of his decision to the Board.

(4) Where the Member referred to in Subsection (2) does not, within fourteen days of the receipt of a notice, reply in writing to the Minister, his appointment is terminated.

19. VACANCY NOT TO AFFECT POWERS AND FUNCTIONS.

The exercise or performance of a power or function of the Board is not invalidated by reason only of a vacancy in the membership of the Board.

20. MEETINGS OF THE BOARD.

(1) The Board shall meet at such times and places as the Chairperson determines, but in any event it shall meet not less frequently than four times in each year.

(2) Notwithstanding Subsection (1), the Departmental Head may direct that a meeting of the Board be held at a time and place fixed by him, and the Chairperson shall convene a meeting accordingly.

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- (3) At a meeting of the Board -
 - (a) two-thirds of the number of Members constitute a quorum; and
 - (b) the Chairperson, or in his absence, the Deputy Chairperson, shall preside at a meeting of the Board and if both the Chairperson and the Deputy Chairperson are absent the Members present shall appoint one of their number to preside for that meeting; and
 - (c) matters arising shall be decided by a majority of the votes of the Members present and voting; and
 - (d) the Member presiding has a deliberative and, in the event of an equality of votes on a matter, also a casting vote.
- (4) The Board shall cause minutes of its meeting to be recorded and kept.
- (5) Subject to this Act, the Board shall determine or adopt its rules of procedure.
- (6) Except with the written authority of the Chairperson, proceedings of the Board are confidential and shall not be published or disclosed to any person unless permitted under the Act.

21. DISCLOSURE OF INTEREST BY MEMBERS.

(1) A Member who has or develops an interest or which he knows or reasonably should have known that he has an interest in any matter under consideration by the Board shall, after the relevant facts have come to his or her knowledge, immediately disclose the nature of his interest to Board Members through the Chairperson.

(2) A disclosure under Subsection (1) shall be recorded in the minutes of the Board, and the Member shall -

- (a) not take part, after the disclosure, in any deliberation or decision of the Board in relation to the matter; and
- (b) be disregarded for the purpose of constituting a quorum of the Board for any such deliberation or decision.

(3) Where a Member who has an interest in any matter has not made a disclosure in accordance with this section, the matter shall be reconsidered by the Board.

(4) For the purposes of this section, a person has an interest in a matter where that person -

- (a) could benefit directly or indirectly from a decision on a matter over which he or she has influence or control, or if a matter over which that Member has influence or control relates in any way to -
 - (i) a business or property the Member directly or indirectly owns or controls; or
 - (ii) a business or property owned or controlled, directly or indirectly, by a family Member; or
 - (iii) a business or property in which the Member has a beneficial interest of any kind, whether through a trust or otherwise, or
- (b) is party to, or will or may derive a material financial benefit from the matter; or
- (c) has a material financial interest in another party to the matter; or
- (d) is a family member of a person who will or may derive financial benefit from the matter; or
- (e) is otherwise directly or indirectly materially interested in the transaction.

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(5) For purposes of this section, the following words and phrases shall have the following meaning -

- (a) "benefit" shall mean gain or advantage of any kind, and shall include financial gain, property, service, or improvement of condition; and
- (b) "business" shall mean businesses of any kind whether situated in Papua New Guinea or elsewhere and whether incorporated or not; and
- (c) "family member" shall mean a parent, brother, sister, spouse, cousin, aunt, uncle, nephew, niece or child, including a person who is adopted legally or in accordance with custom, or for whom care was given by the member such that there exists a relationship in the nature of parent and child, and shall also mean a spouse of any person referred to in this definition and their children, and any other member of a person's immediate or extended family; and
- (d) "interest" shall mean either direct ownership of, indirect ownership of, shares in financial benefit from, remuneration, fees or commissions from, or complete or partial control of, such property or business; and
- (e) "property" shall mean real or personal property of every description whether situated in Papua New Guinea or elsewhere.

22. ANNUAL REPORT.

(1) The Board shall, as soon as practicable before 31 April in each year, submit to the Departmental Head a report on the operations of the Board.

(2) The annual report shall include -

- (a) information on the extent to which the Board has carried out its functions, including a summary of Board decisions by category; and
- (b) information on any changes to the PNGNQF; and
- (c) information and advice on national standards and quality assurance of higher education institutions; and
- (d) any other matters the Board may decide to incorporate in the report.

PART V. - WORKING COMMITTEES OF THE BOARD.

23. ESTABLISHMENT OF WORKING COMMITTEE.

(1) Where the Board considers it desirable in the interest of higher education quality assurance to do so, the Board may, with the approval of the Departmental Head, establish any or all of the working committees -

- (a) a PNGNQF Committee; and
- (b) a Distance and Flexible Learning Committee; and
- (c) any other working committee that the Board considers appropriate.

(2) A committee established under Subsection (1) shall have such functions and include such representatives as the Board thinks fit.

(3) The Chairperson of the Board shall appoint a chairperson for each committee of the Board.

(4) The procedures of a committee shall be as determined by the Board, or, in so far as they are not determined by the Board, decided by the committee.

(5) A committee shall cause minutes of its proceedings to be recorded and kept.

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(6) Subject to other laws, a member of a working committee may be paid such fees and allowances in accordance with the ***Boards (Fees and Allowances) Act*** (Chapter 299) or as determined by the Minister.

24. COMMITTEE TO FURNISH REPORT.

(1) A committee established under Subsection (1) shall, upon request by the Board, the Departmental Head or the Minister, submit to the Board or the Departmental Head or the Minister such reports or updates required.

(2) Notwithstanding the generality of the foregoing paragraph, the Board may require a committee to submit to it on a regular basis or at such times to be fixed by it the progressive update of tasks or work undertaken and the committee must comply.

25. LIABILITY OF A COMMITTEE MEMBER.

A member of a committee is not personally liable for any act or default of himself or that committee done or omitted to be done in good faith and in the course of the operation of that committee or for the purposes of that committee.

PART VI. - HIGHER EDUCATION INSTITUTIONS.

Division 1. - Higher education institutions generally.

26. LEGAL STATUS OF A REGISTERED HIGHER EDUCATION INSTITUTION.

- (1) A registered higher education institution -
- (a) is a corporation, with perpetual succession, or an entity established by the State; and
 - (b) may have a seal; and
 - (c) may acquire, hold and dispose of property; and
 - (d) may sue and be sued in its corporate name.

(2) All courts, Judges and persons acting judicially shall take judicial notice of the seal of the registered higher education institution affixed to a document and shall presume that it was duly affixed unless proven otherwise.

27. HIGHER EDUCATION INSTITUTION TO REGISTER.

- (1) A higher education institution is required to register under this Part where -
- (a) it intends to operate in Papua New Guinea; or
 - (b) it intends to offer a programme of study leading to a higher education award; or
 - (c) it intends to merge two or more registered higher education institutions into one higher education institution,
- unless it is required to register as a university under Part VIII.

(2) An entity or person who is not registered under this Act shall not conduct or purport to conduct or hold itself out as a registered higher education institution.

(3) Each higher education institution registered under this Act shall have a governing body to which it is responsible and must work within the framework of plans, policies and financial provisions consistent with this Act and other laws.

- (4) An entity or person who contravenes Subsection (2) is guilty of an offence.
- Penalty - Where the offence is committed by -
- (a) an individual -

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- (i) a fine not exceeding K50,000.00; or
- (ii) imprisonment for a term not exceeding 12 years; or
- (iii) both such fine and imprisonment.
- (b) a body corporate -
 - (i) a fine not exceeding K250,000.00; or
 - (ii) imprisonment for a term not exceeding 12 years for a director; or
 - (iii) both such fine and imprisonment.

28. STANDARD CONDITION OF REGISTRATION.

- (1) It is a standard condition of registration that a registered higher education institution shall -
- (a) comply with the national standards at all times; and
 - (b) comply with all reasonable requests by the Departmental Head to provide information, records or copies thereof whether stored in a manual or electronic form that the institutional management is keeping or has control of.
- (2) The standard condition applies to help the Departmental Head decide whether -
- (a) the registered institution is complying with the national standards; or
 - (b) the registered institution and its governing body are complying with any other conditions imposed on the registration or approval under this Act.
- (3) For purposes of Subsection (1) the words "Departmental Head" includes his nominee.

Division 2. - Public higher education institutions.

Subdivision A. - Establishment of a public higher education institution.

29. PROPOSAL TO ESTABLISH A PUBLIC HIGHER EDUCATION INSTITUTION.

(1) Where it is proposed to establish a new public higher education institution or merge or amalgamate an existing higher education institution, financed or proposed to be financed wholly or partly by the State, full details of the proposal shall be given to the Department in sufficient time to allow it to report, through the Minister, to relevant government authorities, as appropriate, on the proposal, before any commitment is entered into and an application must be submitted.

- (2) The application under Subsection (1) shall -
- (a) be in writing; and
 - (b) set out the governance and administrative structure of the proposed institution; and
 - (c) set out the operational, human resource and financial plans of the proposed institution; and
 - (d) set out the details of all proposed programmes of study; and
 - (e) not discriminate on the basis of sex, race or religion except to the extent permitted by Section 55(2) (*equality of citizens*) of the *Constitution*; and
 - (f) demonstrate that the objectives of the proposed institution do not encourage any illegal or unlawful purposes; and
 - (g) demonstrate that the proposed institution will comply with national standards; and
 - (h) provide all the information required by the Board to be provided; and
 - (i) be made to the Departmental Head on the approved form.

30. ASSESSMENT OF THE APPLICATION AND RECOMMENDATION BY THE BOARD.

(1) On receipt of an application under Section 29, the Departmental Head shall cause an assessment of the application and -

- (a) where he is satisfied with the information provided, complete the assessment and prepare a report and submit the report to the Board; and
- (b) cause a notice of the application to be published in the National Gazette and in a newspaper published in and circulating generally in the country not less than once in each week for two consecutive weeks.

(2) Where the Departmental Head is of the opinion that additional information is required from the applicant, he may require the applicant to furnish such further information before the assessment is completed according to this Part.

(3) When assessing the application, the Departmental Head -

- (a) shall use the criteria in the national standards; and
- (b) may use the assistance of one or more experts from the panel of experts approved by the Board.

(4) The Board shall, based on the assessment, prepare and submit a report with recommendations to the Minister through the Departmental Head, including advice of any conditions that should be placed on an approval.

(5) The Minister shall, within three months of the date of receipt of the report under Subsection (4) prepare a submission to the National Executive Council for its decision.

31. DECISION BY NATIONAL EXECUTIVE COUNCIL.

If the National Executive Council grants approval, the Minister through the Departmental Head shall as soon as practicable -

- (a) cause a copy of the approval to be published in the National Gazette declaring the approval for the establishment of the institution under the Act and fixing a date on which it will come into effect; and
- (b) give public notice of the approval in the national or local newspapers that are distributed regularly throughout the country.

32. TERM OF APPROVAL.

The approval granted under this part shall, subject to other provisions of this Act, remain in force unless cancelled under Section 35.

33. RECORDING AND ISSUANCE OF CERTIFICATE.

After approval has been granted, the Departmental Head shall -

- (a) give effect to the approval by entering in the register established under Section 9 the prescribed particulars; and
- (b) issue a Certificate of Registration in the form prescribed in a regulation.

34. QUALITY ASSURANCE.

After approval has been granted, the Department is required to conduct regular institutional quality assurance reviews of the institution against the national standards and prepare a report for the Board, at such times as the Board determines but no less frequently than once every five years.

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Subdivision B. - Closure of public higher education institutions, show cause process, etc.

35. CLOSURE OF PUBLIC HIGHER EDUCATION INSTITUTION.

(1) The National Executive Council may, on the recommendation of the Board through the Minister and by notice in the Gazette, close a public higher education institution on any of the following grounds -

- (a) cancellation of registration Certificate of Registration under Subsection (2); or
- (b) there is a change in the Government Policy or change in the Law necessitating such closure.

(2) The Board may cancel the Certificate of Registration of a public higher education institution where the institution -

- (a) is not complying or has not complied with the national standards; or
- (b) is not complying with this Act or any other applicable national laws; or
- (c) has contravened a condition of the registration approval; or
- (d) has made a major change to the institution without the approval of the Board; or
- (e) has failed to offer any programmes within a reasonable time; or
- (f) has failed to submit an annual report.

(3) Prior to cancellation, the Board shall give the higher education institution -

- (a) written notice of the grounds for cancellation; and
- (b) invite the institution to make a representation to the Board within 60 days from the date of receipt of the show cause notice.

(4) The show cause notice must state the following-

- (a) the action the Board proposes under this Division; and
- (b) the ground or grounds for the proposed action; and
- (c) the outline of the facts and circumstances with evidence forming the basis for the ground; and
- (d) an invitation to the governing body of the institution to show within 60 days (being the show cause period) why the proposed action should not be taken.

(5) The higher education institution must make written representation about the show cause notice to the Board in the show cause period (60 days).

36. ENDING SHOW CAUSE PROCESS WITHOUT FURTHER NOTICE.

If, after considering the representations for the show cause notice, the Board obtains evidence that the grounds no longer exist to cancel the registration, the Board shall -

- (a) not take further action about the show cause notice; and
- (b) as soon as practicable, give notice in writing to the institution that no further action will be taken about the show cause notice.

37. CANCELLATION.

(1) Where the Board cancels the Certificate of Registration it shall notify the institution in writing of the cancellation setting out the reasons for the cancellation.

(2) Where the registration has been cancelled, the Departmental Head shall -

- (a) give effect to the cancellation by cancelling the Certificate of Registration in the register; and
- (b) cause a notice of the cancellation to be published in the newspaper published in and circulating in the country not less than once for one week.

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38. EFFECT OF CANCELLATION OF REGISTRATION.

Where a registration of the institution is cancelled in accordance with Section 35 or Section 37 of this Part -

- (a) its programme accreditation lapses on the day the cancellation takes effect; and
- (b) all assets and liabilities of such public higher education institution shall after closure be vested in the State to deal with them accordingly; and
- (c) the Department may -
 - (i) consult with the funding donors on any funding by them due to the institution as at the date of cancellation; and
 - (ii) make necessary arrangement for the transfer of existing enrolling students to one or more registered higher education institutions and the deregistered higher education institution must fully co-operate.

39. COURT MAY ORDER CANCELLATION.

(1) Without prejudice to any penalty specifically provided for contravention of any provision of this Act, where a higher education institution is convicted of an offence under this Act, the Court may order the Board to -

- (a) cancel the Certificate of Registration of that higher education institution; or
- (b) cancel the Certificate of Approval for accreditation of any or all programmes accredited for that institution.

(2) The Board shall comply with the order by the Court, subject to appeal, and shall notify the institution in writing of the cancellation setting out the reasons for the cancellation.

40. APPEAL AGAINST CANCELLATION.

A higher education institution whose Certificate of Registration or Certificate of Approval for programme accreditation has been cancelled by the Board under Section 35 or Section 37 may lodge an appeal against the decision of the Board to the Appeals Tribunal in a form prescribed by regulation.

Division 3. - Programme Accreditation, renewal, etc., of a public higher education institution.

Subdivision A. - Procedure for programme accreditation.

41. PROGRAMME TO BE ACCREDITED.

A public higher education institution must not offer a programme leading to a higher education award unless -

- (a) that programme is an accredited programme approved under this Part for that institution; or
- (b) that programme is part of an approved national curriculum for Papua New Guinea including an approved national training programme for technical and vocational education and training; or
- (c) that programme is conducted by an agent operating under an agency agreement with a registered higher education institution whose accredited programme it is offering; or
- (d) that institution is operating as an affiliated institution of a Papua New Guinea University in respect of the programme; or
- (e) it holds a self accrediting authority for the programme.

42. APPLICATION FOR APPROVAL FOR ACCREDITATION OF PROGRAMME.

- (1) Where a registered public higher education institution proposes to -
 - (a) introduce a new programme; or
 - (b) merge or amalgamate an existing programme,full details of the proposal shall be given to the Department in sufficient time to allow it to report, through the Minister, to the National Executive Council and an application must be submitted.
- (2) The application under Subsection (1) shall -
 - (a) be in writing; and
 - (b) demonstrate that the proposed programme will comply with national standards; and
 - (c) provide all the information required by the Board to be provided;
 - (d) be made to the Departmental Head on the approved form.

43. ASSESSMENT OF THE APPLICATION.

- (1) On receipt of an application under Section 41, the Departmental Head shall cause an assessment of the application and -
 - (a) where he is satisfied with the information provided, complete the assessment and prepare a report and submit the report to the Board; and
 - (b) seek comment from relevant agencies on their views and the proposed funding of the programme.
- (2) Where the Departmental Head is of the opinion that additional information is required from the applicant, he may require the applicant to furnish such further information before the assessment is completed according to this Part.
- (3) When assessing the application, the Departmental Head -
 - (a) must use the criteria in the national standards; and
 - (b) may use the assistance of one or more experts from the panel of experts approved by the Board.
- (4) The report submitted under Subsection (1) must include recommendations on -
 - (a) the approval or rejection of the application; and
 - (b) the scope of an approval; and
 - (c) the term of an approval (which must be five years or less); and
 - (d) any specific conditions to be placed on the programme accreditation.

44. DECISION ON APPLICATION.

The Board must make a decision on the application within 12 months from the date of receipt of the application by the Departmental Head and shall inform the applicant in writing as soon as practicable.

45. RECORDING AND ISSUANCE OF CERTIFICATE.

- (1) After approval has been granted, the Departmental Head shall -
 - (a) give effect to the approval by entering in the register established under Section 9 the prescribed particulars; and
 - (b) issue a certificate of approval in a form prescribed in a regulation.
- (2) If a certificate is lost or destroyed, the Departmental Head may, upon receipt of the prescribed fee in a regulation, issue a replacement certificate.

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Subdivision B. - Procedure for renewal of programme accreditation for public higher education institution.

46. RENEWAL OF PROGRAMME ACCREDITATION.

(1) The authorised representatives of a public registered higher education institution may make an application to the Departmental Head for approval of the renewal of its programme accreditation.

- (2) The application shall -
- (a) be in writing; and
 - (b) made within the period starting twelve months and ending six months before the term of the existing registration ends; and
 - (c) provide all the information required to be provided by the Board, including information in respect of national standards; and
 - (d) be accompanied by the fee prescribed by a regulation.

(3) The registration fee paid under Subsection (2)(d) is not refundable.

(4) On receipt of the application, the Departmental Head shall assess it and cause a report with a recommendation to the Board to either -

- (a) grant approval; or
- (b) grant approval with condition; or
- (c) refuse approval.

47. DECISION ON APPLICATION.

The Board must make a decision on the application within six months from the date of receipt of the application by the Departmental Head and shall advise the applicant in writing as soon as practicable.

48. APPROVAL TO BE IN FORCE WHILE APPLICATION IS CONSIDERED.

Where an application is made under Section 46 (1), the applicant's approval under this Part is taken to continue in force from the day that it would, apart from this section, have expired until -

- (a) if the renewal has been approved, the day a notice about the decision is given to the applicant; or
- (b) if the renewal has been refused, the day a notice about the decision is given to the applicant.

Subdivision C. - Procedure for application for removal of condition, etc., for public higher education institution.

49. APPLICATION FOR REMOVAL OF CONDITION.

(1) A registered public higher education institution with a specific condition imposed on its approval of programme accreditation may apply under this Part for removal.

- (2) The application shall -
- (a) be in writing; and
 - (b) provide evidence that the condition has been met or no longer is applicable.

(3) On receipt of the application, the Department shall make an assessment and cause a report with a recommendation to the Board to either -

- (a) remove the condition; or

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- (b) amend the condition; or
- (c) reject the application.

50. DECISION ON APPLICATION.

The Board must make a decision on the application within six months from the date of receipt of the application by the Departmental Head and shall inform the applicant in writing as soon as practicable.

Subdivision D. - Merger of public higher education institutions.

51. MERGE OF PUBLIC HIGHER EDUCATION INSTITUTIONS.

(1) Subject to Subsection (2), the National Executive Council may, on the advice of the Minister and by notice in the Gazette, merge two or more registered public higher education institutions into a single public higher education institution.

(2) The Minister shall -

- (a) give written notice of the intention to merge to the public higher education institutions concerned; and
- (b) consult with relevant other ministers, departments and agencies; and
- (c) publish a notice giving the reasons for the proposed merger in at least one national and one regional newspaper circulating in the area in which the public higher education institutions concerned are situated; and
- (d) give the governing body of the public higher education institutions concerned and any other interested persons an opportunity to make representations within at least 90 days of the date of the notice referred to in Paragraph (b); and
- (e) consider such representations.

(3) The single public higher education institution in Subsection (1) is deemed to be a public higher education institution registered under this Act.

Division 4. - Private higher education institution.

Subdivision A. - Establishment of a private higher education institution.

52. EXPRESSION OF INTEREST.

(1) An entity that is seeking registration must submit an expression of interest to the Department on the approved form.

(2) The Department will advise the applicant on the requirements for an application for registration.

53. APPLICATION FOR REGISTRATION.

(1) An entity or person seeking -

- (a) to register a new higher education institution; or
- (b) to merge two or more existing higher education institutions into a single higher education institution to be registered under this Act, shall make an application on the approved form.

(2) The application for registration under this Part may be submitted together with an application for programme accreditation under Division 3 of this Part.

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(3) An application to register an institution of higher education shall be made to the Departmental Head by the authorised representatives of the higher education institution and shall -

- (a) be in writing; and
- (b) set out the governance and administrative structure of the proposed institution, including evidence of its incorporation; and
- (c) set out the operational, human resource and financial plans of the proposed institution, including the balance sheet and financial statements detailing assets and liabilities and income including sources of income; and
- (d) set out the details of all proposed programmes of study; and
- (e) not discriminate on the basis of sex, race or religion except to the extent permitted by Section 55(2) (*equality of citizens*) of the *Constitution*; and
- (f) demonstrate that the objectives of the proposed institution do not encourage any illegal or unlawful purposes; and
- (g) demonstrate that the proposed institution will comply with national standards; and
- (h) provide all the information required by the Board to be provided; and
- (i) provide evidence of financial guarantees if required; and
- (j) be made to the Departmental Head on the approved form; and
- (k) be accompanied by the registration fee prescribed by a regulation.

(4) The registration fee paid under Subsection (3)(k) is not refundable.

(5) An applicant under Subsection (3) who is knowingly or carelessly provides information which misleading or contains information which is false is guilty of an offence.

Penalty – Where the offence is committed by -

- (a) an individual -
 - (i) a fine not exceeding K50,000.00; or
 - (ii) imprisonment for a term not exceeding 12 years; or
 - (iii) both such fine and imprisonment.
- (b) a body corporate -
 - (i) a fine not exceeding K250,000.00; or
 - (ii) imprisonment for term not exceeding 12 years for a director; or
 - (iii) both such fine and imprisonment.

(6) Any person or entity that is guilty of an offence under Subsection (2) is not eligible to apply for registration until at least five years after the date on which the offence is proven.

(7) Subsection (1) shall apply to a new institution established through a merger between registered higher education institutions.

54. ASSESSMENT OF THE APPLICATION.

(1) On receipt of an application under Section 53(1), the Departmental Head shall cause an assessment of the application and where -

- (a) he is satisfied with the information provided, complete the assessment and prepare a report and submit the report to the Board; and

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- (b) cause a notice of the application to be published in the National Gazette and in a newspaper published in and circulating generally in the country not less than once in each week for two consecutive weeks; and
- (c) invite any person wishing to object to the application to lodge a written objection with the Department within 30 days of the date of publication of the notice.

(2) Where the Departmental Head is of the opinion that additional information is required from the applicant, he may require the applicant to furnish such further information before the assessment is completed according to this Part.

(3) If the applicant does not provide the requested additional information within 28 days from the date of receipt of the letter of request for additional information, the application will be deemed to have been withdrawn.

(4) Notwithstanding Subsection (3), the applicant may withdraw its application prior to approval by notice in writing to the Departmental Head.

- (5) When assessing the application, the Departmental Head -
 - (a) shall use the criteria in the national standards; and
 - (b) may use the assistance of one or more experts from the panel of experts approved by the Board.

- (6) The report submitted under Subsection (1) shall include recommendations on -
 - (a) the approval or rejection of the application; and
 - (b) the scope of an approval; and
 - (c) the term of an approval (which must be five years or less); and
 - (d) any specific conditions to be placed on the registration.

(7) The types of specific condition that may be placed on a registration include but are not limited to the following -

- (a) that the applicant shall complete a specific action within a specified timeframe; and
- (b) that the applicant shall rectify certain deficits within a specified timeframe; and
- (c) that the applicant shall refrain from a specific action until specific actions have been completed; and
- (d) that the applicant shall engage additional staff; and
- (e) that the applicant shall provide additional resources or infrastructure; and
- (f) that the applicant shall supply information to the satisfaction of the Department.

55. DECISION ON APPLICATION.

- (1) The Board must make a decision on the application -
 - (a) within nine months from the date of receipt of the application; or
 - (b) if a longer period is determined by the Board - within that period.

(2) For the purposes of Subsection (1)(a), the Department is deemed to receive the application when it receives both the application and payment of the application fee prescribed in a regulation.

(3) If the Board determines a longer period under Subsection 1(b), the Department shall, within 21 days of the Board's making the decision for a further period notify the applicant, in writing.

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- (4) If the Board -
 - (a) grants approval; or
 - (b) grants approval with condition; or
 - (c) refuses approval,

the Departmental Head must, as soon as practicable, inform the applicant in writing about the decision.

56. REGISTRATION.

- (1) Where approval has been granted, the Departmental Head shall -
 - (a) effect the registration by entering in the register established under Section 9 the prescribed particulars; and
 - (b) issue a certificate of registration in a prescribed form in a regulation.

(2) If a certificate of registration is lost or destroyed, the Departmental Head may, upon receipt of the fee prescribed in a regulation, issue a replacement certificate.

(3) Approval granted for registration or renewal under this Part shall be treated, for purposes of this Act and any other Law, as a provider's approval or authorisation to operate a higher education institution.

57. TERM OF APPROVAL.

Subject to other provisions of this Act, the registration or renewal under this part shall remain in force for a term not exceeding five years.

Subdivision B. - Renewal of registration of private higher education institution.

58. APPLICATION FOR RENEWAL OF REGISTRATION.

(1) The authorised representatives of a registered private higher education institution may make an application to the Departmental Head for approval of the renewal of its registration.

- (2) The application shall -
 - (a) be in writing; and
 - (b) made within the period starting twelve months and ending six months before the term of the existing registration ends; and
 - (c) provide all the information required to be provided by the Board, including information in respect of national standards; and
 - (d) be accompanied by the fee prescribed by a regulation.

(3) The registration fee paid under Subsection (2)(d) is not refundable.

(4) On receipt of the application, the Departmental Head shall assess it and cause a report with a recommendation to the Board to either -

- (a) grant approval; or
- (b) grant approval with condition; or
- (c) refuse approval.

59. DECISION ON APPLICATION.

The Board must make a decision on the application within six months from the date of receipt of the application by the Departmental Head and shall advise the applicant in writing as soon as practicable.

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60. APPROVAL TO BE IN FORCE WHILE APPLICATION IS CONSIDERED.

Where an application is made under Section 58(1), the applicant's approval under this Part is taken to continue in force from the day that it would, apart from this section, have expired until -

- (a) if the renewal has been approved, the day a notice about the decision is given to the applicant; or
- (b) if the renewal has been refused, the day a notice about the decision is given to the applicant.

Subdivision C. - Removal of condition, etc., imposed on private higher education institution.

61. APPLICATION FOR REMOVAL OF CONDITION.

(1) A registered private higher education institution with a specific condition imposed on its registration may apply for the removal of the condition.

- (2) The application shall -
 - (a) be in writing; and
 - (b) provide evidence that the condition has been met or that it is no longer applicable; and
 - (c) be accompanied by the fee prescribed by a regulation.

(3) The application fee paid under Subsection (2)(c) is not refundable.

(4) On receipt of the application, the Departmental Head shall assess it and cause a report with a recommendation to the Board to either -

- (a) remove the condition; or
- (b) amend the condition; or
- (c) reject the application.

62. DECISION ON APPLICATION.

The Board shall make a decision on the application within six months from the date of receipt of the application by the Departmental Head and shall advise the applicant in writing as soon as practicable.

Subdivision D. - Cancellation of registration, programme accreditation, etc., and show cause process.

63. CANCELLATION OF REGISTRATION, PROGRAMME ACCREDITATION, ETC.

(1) Subject to Subsection (2), the Board may cancel a Certificate of Registration or Certificate of Approval for programme accreditation, whichever is appropriate -

- (a) if the institution -
 - (i) is not complying or has not complied with the national standards; or
 - (ii) is not complying with this Act or any other law; or
 - (iii) has contravened a condition of the registration or accreditation approval; or
 - (iv) has made a major change to the institution without the approval of the Board; or
 - (v) has failed to offer any programmes within a reasonable time; or
 - (vi) has failed to submit an annual report; or

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- (b) where the Board discovers any fact, which had it been known prior to the issuance of the Certificate of Registration or the Certificate of Approval, the Board could have refused to register the higher education institution or to accredit the programme.
- (2) Prior to cancellation, the Board shall give the institution -
 - (a) written notice of the grounds for cancellation; and
 - (b) invite the institution to make a representation to the Board within 60 days from the date of receipt of the show cause notice.
- (3) The show cause notice must state the following -
 - (a) the action the Board proposes under this Division; and
 - (b) the ground or grounds for the proposed action; and
 - (c) the outline of the facts and circumstances with evidence forming the basis for the ground; and
 - (d) an invitation to the governing body of the institution to show within 60 days (being the show cause period) why the proposed action should not be taken.
- (4) The higher education institution shall make written representation about the show cause notice to the Board in the show cause period (60 days).
- (5) For purposes of this section, 'institution' refers to a registered private higher education institution.

64. ENDING SHOW CAUSE PROCESS WITHOUT FURTHER NOTICE.

If, after considering the representations for the show cause notice, the Board obtains evidence that the grounds no longer exist to cancel the registration, the Board shall -

- (a) not take further action about the show cause notice; and
- (b) as soon as practicable, give notice in writing to the institution that no further action will be taken about the show cause notice.

65. CANCELLATION.

(1) Where the Board cancels a Certificate of Registration or cancels the Certificate of Approval for programme accreditation whether in part or full, it shall notify the authorised representative in writing of the cancellation setting out the reasons for the cancellation.

(2) Where the registration or programme accreditation has been cancelled, the Departmental Head shall -

- (a) give effect to the cancellation by cancelling the Certificate of Registration register; and
- (b) cause a notice of the cancellation to be published in the newspaper published in and circulating in the country not less than once for one week.

66. EFFECT OF CANCELLATION OF REGISTRATION.

Where the Certificate of Registration of the institution is cancelled in accordance with this Part -

- (a) its programme accreditation lapses on the day the cancellation takes effect; and
- (b) the Department may -
 - (i) make appropriate consultations to deal with any funding either from the State or other donor agencies or organisation due to the institution as at the date of cancellation; and

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- (ii) facilitate the transfer of existing enrolling students to one or more registered higher education institutions and the administration of the deregistered higher education institution must fully co-operate.

67. COURT MAY ORDER CANCELLATION.

Without prejudice to any penalty specifically provided for contravention of any provision of this Act, where a higher education institution is convicted of an offence under this Act, the Court may order the Board to -

- (a) cancel the Certificate of Registration of that higher education institution; or
- (b) cancel the Certificate of Approval for accreditation of any or all programmes accredited for that institution.

68. APPEAL AGAINST CANCELLATION.

A higher education institution whose Certificate of Registration or Certificate of Approval for programme accreditation has been cancelled by the Board under Section 65, may lodge an appeal against the decision of the Board to the Appeals Tribunal in a form prescribed by regulation.

Division 5. - Programme accreditation for a private higher education institution.

Subdivision A. - Preliminaries.

69. REQUIREMENT FOR PROGRAMMES TO BE ACCREDITED.

(1) A private higher education institution shall not offer a programme leading to a higher education award unless -

- (a) that programme is an accredited programme approved under this Part for that institution; or
- (b) that programme is part of an approved national curriculum for Papua New Guinea including an approved national training programme for technical and vocational education and training; or
- (c) that programme is conducted by an agent operating under an agency agreement with a registered higher education institution whose programme it is offering; or
- (d) that institution is operating as an affiliated institution of a Papua New Guinea University in respect of the programme; or
- (e) it holds a self accrediting authority for the programme.

(2) A higher education institution who contravenes Subsection (1) is guilty of an offence.

Penalty - Where the offence is committed by -

- (a) an individual -
 - (i) a fine not exceeding K50,000.00; or
 - (ii) imprisonment for a term not exceeding 12 years; or
 - (iii) both such fine and imprisonment.
- (b) a body corporate -
 - (i) a fine not exceeding K250,000.00.00; or
 - (ii) imprisonment for term not exceeding 12 years for a director; or
 - (iii) both such fine and imprisonment.

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Subdivision B. - Procedure for application for accreditation of a programme, etc., for private higher education institutions.

70. APPLICATION FOR ACCREDITATION OF PROGRAMME.

- (1) Either of the following may apply to the Departmental Head for accreditation of a programme leading to a higher education award -
- (a) the authorised representative of a higher education institution registered under this Part; or
 - (b) an entity applying for registration under this Act.
- (2) An application under Subsection (1) shall -
- (a) be in writing; and
 - (b) provide all the information required by the Board to be provided, including information in respect of national standards; and
 - (c) be made to the Departmental Head on the approved form; and
 - (d) be accompanied by the fee prescribed by a regulation.
- (3) The application fee paid under Subsection (2)(d) is not refundable.
- (4) An applicant under Subsection (1) who knowingly or carelessly provides information which is misleading or contains information which is false is guilty of an offence.

Penalty - Where the offence is committed by-

- (a) an individual -
 - (i) a fine not exceeding K50,000.00; or
 - (ii) imprisonment for a term not exceeding 12 years; or
 - (iii) both such fine and imprisonment.
 - (b) a body corporate -
 - (i) a fine not exceeding K250,000.00; or
 - (ii) imprisonment for term not exceeding 12 years for a director; or
 - (iii) both such fine and imprisonment.
- (5) For purposes of this section, 'false' or 'misleading' includes false or misleading because of the omission of a statement.

71. ASSESSMENT OF THE APPLICATION.

- (1) On receipt of an application under Section 70, the Departmental Head shall cause an assessment of the application and -
- (a) where he is satisfied with the information provided, complete the assessment and prepare a report and submit the report to the Board; and
 - (b) cause a notice of the application to be published in the National Gazette and in a newspaper published in and circulating generally in the country not less than once in each week for two consecutive weeks; and
 - (c) invite any person wishing to object to the application to lodge a written objection with the Department within 30 days of the date of publication of the notice.

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(2) Where the Departmental Head is of the opinion that additional information is required from the applicant, he may require the applicant to furnish such further information before the assessment is completed according to this Part.

(3) If the applicant does not provide the requested additional information within 28 days from receipt of the letter of request for additional information, the application will be deemed to have been withdrawn.

(4) Notwithstanding Subsection (3), the applicant may withdraw its application prior to approval by notice in writing to the Departmental Head.

(5) When assessing the application, the Departmental Head –

- (a) must use the criteria in the national standards; and
- (b) may use the assistance of one or more experts from the panel of experts approved by the Board.

(6) The report submitted under Subsection (1) shall include recommendations on-

- (a) the approval or rejection of the application; and
- (b) the scope of an approval; and
- (c) the term of an approval (which must be five years or less); and
- (d) any specific conditions to be placed on the programme accreditation.

(7) The types of specific condition that may be placed on a programme accreditation include but are not limited to the following -

- (a) that the applicant shall complete a specific action within a specified timeframe; and
- (b) that the applicant shall rectify certain deficits within a specified timeframe; and
- (c) that the applicant shall refrain from a specific action until specific actions have been completed; and
- (d) that the applicant shall engage additional staff; and
- (e) that the applicant shall provide additional resources or infrastructure; and
- (f) that the applicant shall supply information to the satisfaction of the Department.

72. DECISION ON APPLICATION.

(1) The Board must make a decision on the application -

- (a) within nine months from the date of receipt of the application; or
- (b) if a longer period is determined by the Board under Subsection (3) - within that period.

(2) For the purposes of Subsection (1)(a), the Department is deemed to receive the application when it receives both the application and payment of the application fee prescribed in a regulation.

(3) Notwithstanding Subsection (1)(b) but subject to Subsection (4), if the Board determines that, for reasons beyond its control, a decision on the application cannot be made within the period mentioned in Subsection (1)(b), the Board may determine a longer period, not exceeding a further six months, within which it must make a decision on the application.

(4) If the Board determines a longer period, it must notify the applicant, in writing stating the reasons for the deferral.

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- (5) If the Board -
 - (a) grants approval; or
 - (b) grants approval with condition; or
 - (c) refuses approval,

the Departmental Head must, as soon as practicable, inform the applicant in writing about the decision.

73. RECORD OF ACCREDITED PROGRAMME.

- (1) After approval has been granted the Departmental Head shall -
 - (a) effect approval by entering in the register established under Section 9 the prescribed particulars; and
 - (b) issue a certificate of approval in a prescribed form in a regulation.

(2) If a certificate is lost or destroyed, the Departmental Head may, upon receipt of the fee prescribed in a regulation, issue a replacement certificate.

74. TERM OF APPROVAL OF PROGRAMME ACCREDITATION.

Subject to other provisions of this Act, the approval granted under this Part shall remain in force for a term not exceeding five years.

Subdivision C. - Procedure for renewal of programme accreditation for private higher education institutions.

75. APPLICATION FOR RENEWAL OF PROGRAMME ACCREDITATION.

(1) The authorised representatives of a registered higher education institution may make an application to the Departmental Head for approval of the renewal of its programme accreditation.

- (2) The application shall -
 - (a) be in writing; and
 - (b) made within the period starting twelve months and ending six months before the term of the existing registration ends; and
 - (c) provide all the information required to be provided by the Board, including information in respect of national standards; and
 - (d) be accompanied by the fee prescribed by a regulation.

(3) The registration fee paid under Subsection (2)(d) is not refundable.

(4) On receipt of the application, the Departmental Head shall assess it and cause a report with a recommendation to the Board to either -

- (a) grant approval; or
- (b) grant approval with condition; or
- (c) refuse approval.

76. DECISION ON APPLICATION.

The Board shall make a decision on the application within six months from the date of receipt of the application by the Departmental Head and shall advise the applicant in writing as soon as practicable.

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77. APPROVAL TO BE IN FORCE WHILE APPLICATION IS CONSIDERED.

Where an application is made under Section 75(1), the applicant's approval under this Part is taken to continue in force from the day that it would, apart from this Section, have expired until -

- (a) if the renewal has been approved, the day a notice about the decision is given to the applicant; or
- (b) if the renewal has been refused, the day a notice about the decision is given to the applicant.

Subdivision D. - Procedure for removal of condition, etc., for private higher education institution.

78. APPLICATION FOR REMOVAL OF CONDITION.

(1) A registered private higher education institution with a specific condition imposed on its approval for programme accreditation may apply for the removal either partly or wholly of the condition.

- (2) The application shall -
 - (a) be in writing; and
 - (b) provide evidence that the condition has been met or no longer is applicable.

(3) On receipt of the application, the Department shall make an assessment and cause a report with a recommendation to the Board to either -

- (a) remove the condition; or
- (b) amend the condition; or
- (c) reject the application.

79. DECISION ON APPLICATION.

The Board shall make a decision on the application within six months from the date of receipt of the application by the Departmental Head and shall inform the applicant in writing as soon as practicable.

PART VII. – SELF-ACCREDITING AUTHORITY.

Division 1. - Preliminaries.

80. REQUIREMENT TO HOLD A SELF-ACCREDITING AUTHORITY.

(1) The authority that a registered higher education institution holds to self-accredit a programme must be approved under this Part unless the institution is a Papua New Guinea university.

(2) A higher education institution that is approved for self-accrediting authority for one or more programmes shall not apply that authority to accredit a programme other than in relation to a field of study or PNGNQF level for which the institution holds a self-accrediting authority.

(3) No person or higher education institution may represent or hold itself out as holding a self-accrediting authority in Papua New Guinea unless it is approved under this Act or the institution is a Papua New Guinea university.

(4) A person or higher education institution who contravenes Subsection (2) or Subsection (3) is guilty of an offence.

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Penalty – Where the offence is committed by-

- (a) an individual -
 - (i) a fine not exceeding K50,000.00; or
 - (ii) imprisonment for a term not exceeding 12 years; or
 - (iii) both such fine and imprisonment.
- (b) a body corporate -
 - (i) a fine not exceeding K250,000.00; or
 - (ii) imprisonment for term not exceeding 12 years for a director; or
 - (iii) both such fine and imprisonment.

81. QUALIFICATIONS FOR APPLICATION.

(1) A higher education institution is eligible to apply for self-accrediting authority for one or more programmes -

- (a) if it is registered under this Act; and
- (b) the relevant programmes have been offered for at least five years; and
- (c) the relevant programmes have been accredited twice in succession; and
- (d) no specific conditions are imposed on the accreditation of any of the applicant's existing programmes.

(2) Any person or entity that is guilty of an offence under Subsection (2) is not eligible to apply for registration until at least five years after the date on which the offence is proven.

Division 2. - Procedure for application for self-accrediting authority.

82. APPLICATION FOR SELF-ACCREDITING AUTHORITY.

(1) The authorised representatives of the higher education institution may make an application to the Departmental Head for a self-accrediting authority and it shall -

- (a) be in writing; and
- (b) include information in respect of under national standards; and
- (c) be made at least two years after the date of the most recent renewal of programme accreditation for the relevant programmes; and
- (d) confirm that no specific conditions are imposed on the accreditation of the applicant's existing programmes; and
- (e) confirm that the relevant programmes have been accredited twice in successions; and
- (f) include all the information required by the Board; and
- (g) be accompanied by the fee prescribed by a regulation.

(2) The registration fee paid under Subsection (1)(g) is not refundable.

(3) An applicant who knowingly or carelessly provides information which is misleading or contains information which is false is guilty of an offence.

Penalty – Where the offence is committed by-

- (a) an individual -
 - (i) a fine not exceeding K50,000.00; or
 - (ii) imprisonment for a term not exceeding 12 years; or
 - (iii) both such fine and imprisonment.

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- (b) a body corporate –
 - (i) a fine not exceeding K250,000.00; or
 - (ii) imprisonment for term not exceeding 12 years for a director; or
 - (iii) both such fine and imprisonment.

(4) For purposes of this section, 'false' or 'misleading' includes false or misleading because of the omission of a statement.

83. ASSESSMENT OF THE APPLICATION.

(1) On receipt of an application under Section 82(1), the Departmental Head shall cause the assessment of the application and where -

- (a) he is satisfied with the information provided, complete the assessment and prepare a report and submit the report to the Board; and
- (b) cause a notice of the application to be published in the National Gazette and in a newspaper published in and circulating generally in the country not less than once in each week for two consecutive weeks; and
- (c) invite any person wishing to object to the application to lodge a written objection with the Department within 30 days of the date of publication of the notice.

(2) Where the Departmental Head is of the opinion that additional information is required from the applicant, he may require the applicant to furnish such further information before the assessment is completed according to this Part.

(3) If the applicant does not provide the requested additional information within 28 days from receipt of the letter of request for additional information, the application will be deemed to have been withdrawn.

(4) Notwithstanding Subsection (3), the applicant may withdraw its application prior to approval by notice in writing to the Departmental Head.

- (5) When assessing the application, the Departmental Head –
 - (a) shall use the criteria in the national standards; and
 - (b) may use the assistance of one or more experts from the panel of experts approved by the Board.

- (6) The report submitted under Subsection (1) shall include recommendations on-
 - (a) the approval or rejection of the application; and
 - (b) the scope of an approval; and
 - (c) any specific conditions to be placed on the approval.

84. DECISION ON APPLICATION.

- (1) The Board shall make a decision on the application -
 - (a) within nine months from the date of receipt of the application; or
 - (b) if a longer period is determined by the Board under Subsection (3) - within that period.

(2) For the purposes of Subsection (1)(a), the Department is deemed to receive the application when it receives both the application and payment of the application fee as prescribed in a regulation.

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(3) If the Board determines a longer period, the Department must, within 21 days of the Board's making the decision for a further period notify the applicant, in writing.

(4) If the Board -

- (a) grants approval; or
- (b) grants approval with condition; or
- (c) refuses approval,

the Departmental Head shall, as soon as practicable, inform the applicant in writing about the decision.

85. RECORD OF SELF-ACCREDITING AUTHORITY.

(1) After approval has been granted, the Departmental Head shall -

- (a) effect registration by entering in the register established under Section 9 the prescribed particulars; and
- (b) issue a Certificate of Approval for self-accrediting authority in a form prescribed under regulation.

(2) If a certificate is lost or destroyed, the Departmental Head may, upon receipt of the fee prescribed in a regulation, issue a replacement certificate.

86. TERM OF APPROVAL.

The approval granted under this Part shall remain unless it is cancelled by the Board.

Division 3. - Procedure for application for removal of condition, etc., for self-accrediting Authority.

87. APPLICATION FOR REMOVAL OF CONDITION.

(1) A registered higher education institution with a specific condition imposed on its authority may apply for the removal of the condition.

(2) The application shall -

- (a) be in writing; and
- (b) provide evidence that the condition has been met or that it is no longer applicable; and
- (c) be accompanied by the fee prescribed by a regulation.

(3) The application fee paid under Subsection (2)(c) is not refundable.

88. ASSESSMENT OF THE APPLICATION.

(1) On receipt of an application under Section 87(1), the Departmental Head shall cause the assessment of the application and where he is satisfied with the information provided, complete the assessment and prepare a report and submit the report to the Board.

(2) Where the Departmental Head is of the opinion that additional information is required from the applicant, may require the applicant to furnish such further information before the assessment is completed according to this Part.

(3) If the applicant does not provide the requested additional information within 28 days from the receipt of the letter of request for additional information, the application will be deemed to have been withdrawn.

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(4) Notwithstanding Subsection (3), the applicant may withdraw its application prior to approval by notice in writing to the Departmental Head.

- (5) When assessing the application, the Departmental Head -
- (a) must use the criteria in the national standards; and
 - (b) may use the assistance of one or more experts from the panel of experts approved by the Board.

89. DECISION ON APPLICATION.

- (1) The Board must make a decision on the application -
- (a) within nine months from the date of receipt of the application; or
 - (b) if a longer period is determined by the Board under Subsection (3) - within that period.

(2) For the purposes of Subsection (1)(a), the Department is deemed to receive the application when it receives both the application and payment of the application fee prescribed by a regulation.

(3) If the Board determines a longer period, the Department must, within 21 days of the Board's making the decision for a further period notify the applicant, in writing.

- (4) If the Board -
- (a) grants approval; or
 - (b) grants approval with condition; or
 - (c) refuses approval,

the Departmental Head must, as soon as practicable, inform the applicant in writing about the decision.

90. RECORD OF CHANGES.

After approval has been granted, the Departmental Head shall effect the approval by entering in the register established under Section 9 the prescribed particulars.

Division 4. - Changes to scope of self-accrediting authority.

91. PROCEDURE FOR APPLICATION TO CHANGE SCOPE OF SELF-ACCREDITING AUTHORITY.

(1) The authorised representative of a registered higher education institution with a self-accrediting authority may apply for approval to change the scope of the authority.

- (2) The application shall -
- (a) be in writing; and
 - (b) state the proposed change to the scope of the authority; and
 - (c) provide the information required by the Board including information in respect of national standards; and
 - (d) be accompanied by the fee prescribed in a regulation.

(3) The application fee paid under Subsection (2)(d) is not refundable.

92. ASSESSMENT OF THE APPLICATION.

(1) On receipt of an application under Section 91(1), the Departmental Head shall cause the assessment of the application and where he is satisfied with the information provided, complete the assessment and prepare a report and submit the report to the Board.

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(2) Where the Departmental Head is of the opinion that additional information is required from the applicant, may require the applicant to furnish such further information before the assessment is completed according to this Part.

(3) If the applicant does not provide the requested additional information within 28 days from receipt of the letter of request for additional information, the application will be deemed to have been withdrawn.

(4) Notwithstanding Subsection (3), the applicant may withdraw its application prior to approval by notice in writing to the Departmental Head.

(5) When assessing the application, the Departmental Head -

- (a) shall use the criteria in the national standards; and
- (b) may use the assistance of one or more experts from the panel of experts approved by the Board.

(6) The report submitted under Subsection (1) must include recommendations on -

- (a) the approval or rejection of the application; and
- (b) the scope of an approval; and
- (c) any specific conditions to be placed on the approval.

93. DECISION ON APPLICATION.

(1) The Board shall make a decision on the application -

- (a) within nine months from the date of receipt of the application; or
- (b) if a longer period is determined by the Board under Subsection (3), within that period.

(2) For the purposes of Subsection (1)(a), the Department is deemed to receive the application when it receives both the application and payment of the application fee prescribed in a regulation.

(3) If the Board determines a longer period, the Department must, within 21 days of the Board's making the decision for a further period notify the applicant, in writing.

(4) If the Board -

- (a) grants approval; or
- (b) grants approval with condition; or
- (c) refuses approval,

the Departmental Head must, as soon as practicable, inform the applicant in writing about the decision.

94. RECORD OF SELF-ACCREDITING AUTHORITY.

After approval has been granted, the Departmental Head shall effect the approval by entering in the register established under Section 9 the prescribed particulars.

Division 5. - Cancellation of approval and show cause process.

95. CANCELLATION OF APPROVAL.

(1) Subject to Subsection (2) the Board may cancel the self-accrediting authority approval issued to the holder under this Part -

- (a) if the institution -
 - (i) is not complying or has not complied with the national standards; or

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- (ii) is not complying with this Act or any other applicable national laws; or
 - (iii) has contravened a specific condition imposed on its registration, programme accreditation or self-accrediting authority; or
 - (iv) has made a change of scope to the self-accrediting authority without the approval of the Board; or
 - (b) where the Board discovers any fact, which had it been known prior to the issuance of the certificate of approval, the Board could have refused to grant the self-accrediting authority.
- (2) Prior to cancelling the approval, the Board shall give the holder -
- (a) written notice of the grounds for cancellation; and
 - (b) invite the institution to make a representation to the Board within 60 days from the date of receipt of the show cause notice.
- (3) The show cause notice must state the following -
- (a) the action the Board proposes under this Division; and
 - (b) the ground or grounds for the proposed action; and
 - (c) the outline of the facts and circumstances with evidence forming the basis for the ground; and
 - (d) an invitation to the governing body of the holder to show within 60 days (being the show cause period) why the proposed action should not be taken.
- (4) The higher education institution shall make written representation about the show cause notice to the Board in the show cause period.
- (5) For purposes of this section, 'holder' refers to a registered higher education institution that holds a self-accrediting authority approved under Division 4 of this Part.

96. ENDING SHOW CAUSE PROCESS WITHOUT FURTHER NOTICE.

If, after considering the representations for the show cause notice, the Board obtains evidence that the grounds no longer exist to cancel the approval of authority, the Board shall -

- (a) not take further action about the show cause notice; and
- (b) as soon as practicable, give notice in writing to the institution that no further action will be taken about the show cause notice.

97. CANCELLATION OF CERTIFICATE OF APPROVAL.

(1) Where the Board cancels the Certificate of Approval for self-accrediting authority, it shall notify the institution in writing of the cancellation setting out the reasons for the cancellation.

- (2) Where the authority has been cancelled, the Departmental Head shall -
- (a) give effect to the cancellation making appropriate changes to the register established under Section 9; and
 - (b) cause a notice of the cancellation to be published in the newspaper published in and circulating in the country not less than once for one week.

98. EFFECT OF CANCELLATION.

(1) Where the Certificate of Approval is cancelled in accordance with this Part, the self-accrediting authority lapses on the day the cancellation takes effect.

(2) For purposes of this section, the word 'cancel' means withdraw and 'cancellation' shall have a corresponding meaning.

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99. APPEAL AGAINST CANCELLATION.

An institution whose self-accrediting authority has been cancelled by the Board under Section 97, may lodge an appeal against the decision of the Board to the Appeals Tribunal in a form prescribed by regulation.

PART VIII. - UNIVERSITIES.

Division 1. - Universities generally.

100. RESTRICTION ON NAME AND USE OF THE TITLE "UNIVERSITY".

(1) No person or entity, other than the State, shall use "Papua New Guinea", "National" and "State" in the naming of a university unless approved under this Act.

(2) No person or entity shall -

- (a) use the title "university" in naming an educational institution; or
- (b) use the title "university" in a business or corporation name; or
- (c) operate in Papua New Guinea a university, or purport to operate an establishment as a university or part of a university, including through the internet or any other telecommunication device; or
- (d) advertise as a university, offer a programme as a university, or issue an award as a university that operates in Papua New Guinea,

unless it is registered or recognised under this Act.

(3) A person who contravenes Subsection (2) is guilty of an offence.

Penalty - Where the offence is committed by -

- (a) an individual -
 - (i) a fine not exceeding K50,000.00; or
 - (ii) imprisonment for a term not exceeding 12 years; or
 - (iii) both such fine and imprisonment.
- (b) a body corporate -
 - (i) a fine not exceeding K250,000.00; or
 - (ii) imprisonment for term not exceeding 12 years for a director; or
 - (iii) both such fine and imprisonment.

101. STATUS OF A UNIVERSITY.

(1) A university -

- (a) is a corporation, with perpetual succession; and
- (b) may have a seal; and
- (c) may acquire, hold and dispose of property; and
- (d) may sue and be sued in its corporate name.

(2) All courts, Judges and persons acting judicially shall take judicial notice of the seal of the university affixed to a document and shall presume that it was duly affixed unless proven otherwise.

102. REQUIREMENT FOR UNIVERSITY TO REGISTER.

(1) A university is required to register under this Part where it intends to be established in Papua New Guinea.

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(2) An entity or person who is not registered as a university under this Part shall not conduct or purport to conduct or hold itself out as a Papua New Guinea university.

(3) An entity or person who contravenes Subsection (2) is guilty of an offence.

Penalty – Where the offence is committed by-

- (a) an individual -
 - (i) a fine not exceeding K50,000.00; or
 - (ii) imprisonment for a term not exceeding 12 years; or
 - (iii) both such fine and imprisonment.
- (b) a body corporate -
 - (i) a fine not exceeding K250,000.00; or
 - (ii) imprisonment for term not exceeding 12 years for a director; or
 - (iii) both such fine and imprisonment.

(4) Any person or entity that is guilty of an offence under Subsection (2) is not eligible to apply for registration until at least five years after the date on which the offence is proven.

103. UNIVERSITY GOVERNING BODY.

The governing body of a Papua New Guinea university, in addition to functions and responsibilities prescribed in the enabling legislation or university statute or charter or by-law, shall -

- (a) comply with the Governance Manual approved for universities by the Minister; and
- (b) work within the framework of plans, policies and financial provisions that are consistent with the provisions of this Act and any other relevant and applicable laws.

Division 2. - Papua New Guinea public universities.

104. PROPOSAL TO ESTABLISH A PUBLIC UNIVERSITY.

(1) Where it is proposed to establish a new public university or merge or amalgamate existing universities or an existing university with a higher education institution, financed or proposed to be financed wholly or partly by the State, full details of the proposal shall be given to the Department in sufficient time to allow it to report, through the Minister, to relevant government authorities, as appropriate, on the proposal, before any commitment is entered into and an application for registration must be submitted.

- (2) The application under Subsection (1) shall -
 - (a) be in writing; and
 - (b) justify the need to establish a new university; and
 - (c) set out the educational philosophy of the proposed university; and
 - (d) set out the governance and administrative structure of the proposed university; and
 - (e) set out the operational, human resource and financial plans of the proposed university, including -
 - (i) a feasibility study and a comprehensive long range development plan for the proposed university; and
 - (ii) evidence of the method of acquiring buildings, furnishings and material and human and financial resources sufficient for ongoing sustainability; and
 - (iii) a risk management plan; and
 - (f) set out the details of all proposed programmes of study; and

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- (g) not discriminate on the basis of sex, race or religion except to the extent permitted by Section 55(2) (*equality of citizens*) of the *Constitution*; and
- (h) demonstrate that the objectives of the proposed university do not encourage any illegal or unlawful purposes; and
- (i) demonstrate that the proposed university will comply with national standards; and
- (j) provide all the information required by the Board to be provided; and
- (k) be made to the Departmental Head on the approved form.

105. PROPOSAL TO BE ADVERTISED.

(1) As soon as practicable after receiving the proposal, the Department shall cause a notice of the application to be published in the National Gazette and in a newspaper published in and circulating generally in the country not less than once in each week for two consecutive weeks.

- (2) A notice under Subsection (1) shall -
 - (a) include the information referred to in Subsection (1); and
 - (b) invite any person wishing to object to the application in accordance with this Division to lodge a written objection with the Department within one month of the date of publication of the notice under Subsection (1); and
 - (c) specify the date for the consideration of the application, being a date not less than one month after the date of publication of a notice.

106. GROUNDS OF OBJECTION.

(1) Any objection to the application made under this Part may be taken on one or more of the following grounds -

- (a) that the application is not in accordance with this Act; or
 - (b) that the information set out in the application, or that any document required to accompany the application, is incorrect or misleading.
- (2) A statement of objection under Subsection (1) shall -
 - (a) contain the name and address of the person making the objection; and
 - (b) be signed by that person; and
 - (c) specify in detail the grounds of objection.
- (3) The Department shall -
 - (a) send to the applicant a copy of any objection lodged; and
 - (b) invite the applicant to give a reply within 21 days from receiving the date of invitation.

107. ASSESSMENT OF THE APPLICATION AND RECOMMENDATION BY THE BOARD.

(1) On receipt of an application under Section 104(1), the Departmental Head shall cause an assessment of the application and where he is satisfied with information provided, complete the assessment and prepare a report and submit the report to the Board.

(2) Where the Departmental Head is of the opinion that additional information is required from the applicant, he may require the applicant to furnish such further information before the assessment is completed according to this Part.

- (3) When assessing the application, the Departmental Head -
 - (a) shall use the criteria in the national standards; and

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- (b) shall establish a panel of experts to assess the application using experts from the register of experts approved by the Board; and
- (c) shall consider the objections and replies thereto, if any; and
- (d) take into account any other considerations or factors, that it may consider necessary.

(4) The Board shall, based on the assessment, prepare and submit a report with recommendations to the Minister through the Departmental Head, including advice of any conditions that should be placed on an approval for registration.

(5) The Minister shall, within three months of the date of receipt of the report under Subsection (4) prepare a submission to the National Executive Council for its decision.

108. NATIONAL EXECUTIVE COUNCIL TO MAKE DECISION.

If the National Executive Council grants approval, the Minister through the Departmental Head shall as soon as practicable -

- (a) cause a copy of the approval to be published in the National Gazette declaring the approval for the registration of a university under the Act and fixing a date on which it will come into effect; and
- (b) give public notice of the approval in the national or local newspapers that are distributed regularly throughout the country; and
- (c) direct the Department to cause a Bill for an Act to establish that university, to be submitted to the Minister who is to table it in Parliament for enactment.

109. NATIONAL EXECUTIVE COUNCIL TO MAKE OR APPROVE CERTAIN APPOINTMENTS.

(1) The chancellor and pro chancellor of the university shall be appointed by the National Executive Council, on the recommendation of the Minister through the process prescribed in a regulation.

(2) The National Executive Council shall approve the appointment of all members of the governing body of the university, other than *ex officio* members and elected members, on the recommendation of the Minister through the process prescribed in a regulation.

(3) The National Executive Council shall approve the appointment of the chief executive officer of the university, on the recommendation of the Minister through the process prescribed in a regulation.

(4) Appointments and approvals under Subsections (1), (2) and (3) will be published in the National Gazette.

110. SIZE OF UNIVERSITY GOVERNING BODY.

The membership of the governing body of a public university shall comprise a minimum of nine and a maximum of 13 persons, including the chancellor and pro chancellor, with a majority of members being persons external to the university.

111. CERTIFICATE OF REGISTRATION, ETC.

- (1) After approval has been granted, the Departmental Head shall -
 - (a) give effect to the approval by entering in the register established under Section 9 the prescribed particulars; and
 - (b) issue a certificate of registration as a university in the form prescribed in a regulation.

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(2) If a certificate is lost or destroyed, the Departmental Head may, upon receipt of the fee prescribed in a regulation, issue a replacement certificate.

112. QUALITY ASSURANCE.

After approval has been granted, the Department is required to conduct regular institutional quality assurance reviews of the institution against the national standards and prepare a report for the Board, at such times as the Board determines but no less frequently than once every five years.

Division 3. - Papua New Guinea private universities.

113. EXPRESSION OF INTEREST.

(1) An entity that is seeking registration as a private Papua New Guinea university must submit an expression of interest to the Department on the approved form.

(2) The Department will advise the applicant on the requirements for an application for registration.

114. APPLICATION FOR REGISTRATION OF A PRIVATE PAPUA NEW GUINEA UNIVERSITY (OTHER THAN A PUBLIC UNIVERSITY).

(1) An entity that is desirous of being registered under this Act shall make an application after it has completed the expression of interest process.

(2) The application under Subsection (1) shall -

- (a) be in writing; and
- (b) justify the need to establish a new university; and
- (c) set out the educational philosophy of the proposed university; and
- (d) set out the governance and administrative structure of the proposed university; and
- (e) set out the operational, human resource and financial plans of the proposed university, including -
 - (i) a feasibility study and a comprehensive long range development plan for the proposed university; and
 - (ii) evidence of the method of acquiring buildings, furnishings and material and human and financial resources sufficient for ongoing sustainability; and
 - (iii) a risk management plan; and
- (f) set out the details of all proposed programmes of study; and
- (g) not discriminate on the basis of sex, race or religion except to the extent permitted by Section 55(2) (*equality of citizens*) of the *Constitution*; and
- (h) demonstrate that the objectives of the proposed university do not encourage any illegal or unlawful purposes; and
- (i) demonstrate that the proposed university will comply with national standards; and
- (j) provide all the information required by the Board to be provided; and
- (k) be made to the Departmental Head on the approved form; and
- (l) be accompanied by the fee prescribed in a regulation.

(3) An applicant who knowingly or carelessly provides information which is misleading or contains information which is false, is guilty of an offence.

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Penalty – Where the offence is committed by-

- (a) an individual-
 - (i) a fine not exceeding K50,000.00; or
 - (ii) imprisonment for a term not exceeding 12 years; or
 - (iii) both such fine and imprisonment.
- (b) a body corporate –
 - (i) a fine not exceeding K250,000.00; or
 - (ii) imprisonment for term not exceeding 12 years for a director; or
 - (iii) both such fine and imprisonment.

(4) For purposes of this offence, “false” or “misleading” includes false or misleading because of the omission of a statement.

115. APPLICATION TO BE ADVERTISED.

(1) As soon as practicable after receiving the application made under Section 114(1), the Department shall cause a notice of the application to be published in the National Gazette and in a newspaper published in and circulating generally in the country not less than once in each week for two consecutive weeks.

- (2) A notice under Subsection (1) shall -
 - (a) include the information referred to in Subsection (1); and
 - (b) invite any person wishing to object to the application in accordance with this Division to lodge a written objection with the Department within one month of the date of publication of the notice under Subsection (1); and
 - (c) specify the date for the consideration of the application, being a date not less than one month after the date of publication of a notice.

116. GROUNDS OF OBJECTION.

(1) Any objection to the application made under this Part may be taken on one or more of the following grounds -

- (a) that the application is not in accordance with this Act; or
 - (b) that the information set out in the application, or that any document required to accompany the application, is incorrect or misleading.
- (2) A statement of objection under Subsection (1) shall -
 - (a) contain the name and address of the person making the objection; and
 - (b) be signed by that person; and
 - (c) specify in detail the grounds of objection.
- (3) The Department shall -
 - (a) send to the applicant a copy of any objection lodged; and
 - (b) invite the applicant to give a reply within 21 days from receiving the invitation.

117. ASSESSMENT OF THE APPLICATION AND RECOMMENDATION BY THE BOARD.

(1) On receipt of an application under Section 114(1), the Departmental Head shall cause an assessment of the application and where he is satisfied with information provided, complete the assessment and prepare a report and submit the report to the Board.

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(2) Where the Departmental Head is of the opinion that additional information is required from the applicant, he may require the applicant to furnish such further information before the assessment is completed according to this Part.

- (3) When assessing the application, the Departmental Head -
- (a) shall use the criteria in the national standards; and
 - (b) shall establish a panel of experts to assess the application using experts from the register of experts approved by the Board; and
 - (c) shall consider the objections and replies thereto, if any; and
 - (d) take into account any other considerations or factors, that it may consider necessary.

(4) The Board shall, based on the assessment, prepare and submit a report with recommendations to the Minister through the Departmental Head, including advice of any conditions that should be placed on an approval for registration.

- (5) The Board must make recommendations on the application-
- (a) within 12 months of the date of its being received by the Department; or
 - (b) if a longer period is determined by it - within that period.

(6) For the purposes of Subsection (5)(a), the Department is deemed to receive the application when it receives both the application and payment of the application fee prescribed in a regulation.

(7) The Minister shall, within three months of the date of receipt of the report under Subsection (4) prepare a submission to the National Executive Council for its decision.

118. DECISION BY NATIONAL EXECUTIVE COUNCIL.

(1) If the National Executive Council grants approval, the Minister through the Departmental Head shall as soon as practicable -

- (a) cause a copy of the approval to be published in the National Gazette declaring the approval for the registration of a university under the Act and fixing a date on which it will come into effect; and
- (b) give public notice of the approval in the national or local newspapers that are distributed regularly throughout the country; and
- (c) inform the applicant about the decision.

(2) If the National Executive Council decides to refuse the application, the Minister shall as soon as practicable give the applicant a notice about the decision.

119. ENACTMENT OF UNIVERSITY ACT IF REQUIRED.

(1) If the National Executive Council grants approval for the establishment of a new private Papua New Guinea university, the Departmental Head shall direct the governing body of the University to cause a Bill for an Act to establish that university to be prepared if required, to be submitted to the Minister who is to table it in Parliament for enactment.

(2) If the approved university is not already registered as a higher education institution, the Board may agree to register the entity as a higher education institution for a specific term, while the enactment of an Act under Subsection (1) is pending, to allow the entity to commence operations.

120. CERTIFICATE OF REGISTRATION, ETC.

- (1) After approval has been granted, the Departmental Head shall -
- (a) give effect to the approval by entering in the register established under Section 9 the prescribed particulars; and
 - (b) issue a certificate of registration as a university in the form prescribed in a regulation.

(2) If a certificate is lost or destroyed, the Departmental Head may, upon receipt of the fee prescribed in a regulation, issue a replacement certificate.

121. QUALITY ASSURANCE.

After approval has been granted, the Department is required to conduct regular institutional quality assurance reviews of the institution against the national standards and prepare a report for the Board, at such times as the Board determines but no less frequently than once every five years.

PART IX. - RECOGNITION OF OVERSEAS HIGHER EDUCATION INSTITUTIONS (INCLUDING OVERSEAS UNIVERSITIES)

Division 1. - Preliminaries.

122. REQUIREMENT FOR RECOGNITION OF OVERSEAS HIGHER EDUCATION INSTITUTIONS.

- (1) An overseas higher education institution must be recognised under this Part where -
- (a) it intends to operate in Papua New Guinea either independently or through an agent operating under an agency agreement; or
 - (b) it intends to offer a programme of study leading to a higher education award by operating in Papua New Guinea.

(2) An overseas higher education institution that is not recognised under this Act shall not conduct any programme leading to an award or purport to conduct or hold itself out as a recognised overseas higher education institution.

- (3) An entity or a person who contravenes Subsection (2) is guilty of an offence.

Penalty – A fine not exceeding K250,000.00.

(4) Any person or entity that is guilty of an offence under Subsection (2) is not eligible to apply for recognition until at least five years after the date on which the offence is proven.

(5) For purposes of this Part, the word 'overseas higher education institution' also includes an overseas university.

123. QUALIFICATIONS FOR RECOGNITION.

An overseas higher education institution is eligible for recognition if -

- (a) it is established and operated under the laws of its principal country of establishment; and
- (b) has complied with all the laws and national standards of its country of origin or principal country of establishment; and
- (c) its activities and operations are routinely quality assured by a demonstrably reputable agency in its country of origin; and
- (d) its activities and operations are consistent with its meeting national standards; and

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- (e) it does not discriminate on the basis of sex, race or religion except to the extent permitted by Section 55(2) (*equality of citizens*) of the *Constitution*; and
- (f) the objectives of the entity do not encourage any illegal or unlawful purposes.

Division 2. - Procedure for application for recognition, etc., of an overseas higher education institution

124. APPLICATION FOR RECOGNITION.

- (1) An overseas higher education institution seeking recognition may apply to the Department for recognition under this Act.
- (2) The application shall -
 - (a) be in writing; and
 - (b) provide all information required by the Board, including information in respect of national standards and information on the status or approval of the institution in its country of origin; and
 - (c) be accompanied by the fee prescribed under a regulation.
- (3) The registration fee paid under Subsection (2)(c) is not refundable.
- (4) An applicant who knowingly or carelessly provides information which is misleading or contains information which is false, is guilty of an offence.

Penalty – A fine not exceeding K250,000.00.

- (5) For purposes of this Section, '*false*' or '*misleading*' includes false or misleading because of the omission of a statement.

125. ASSESSMENT OF THE APPLICATION.

- (1) On receipt of an application under Section 124(1), the Departmental Head shall cause an assessment of the application and -
 - (a) where he is satisfied with information provided, complete the assessment and prepare a report and submit the report to the Board; and
 - (b) cause a notice of the application to be published in the National Gazette and in a newspaper published in and circulating generally in the country not less than once in each week for two consecutive weeks.
- (2) Where the Departmental Head is of the opinion that additional information is required from the applicant, he may require the applicant to furnish such further information before the assessment is completed according to this Part.
- (3) If the applicant does not provide the requested additional information within 28 days from the date of receipt of the letter of request for additional information, the application will be deemed to have been withdrawn.
- (4) Notwithstanding Subsection (3), the applicant may withdraw its application prior to approval by notice in writing to the Departmental Head.
- (5) When assessing the application, the Departmental Head -
 - (a) shall take account of the approvals for the institution in its home country; and
 - (b) shall use the criteria in the national standards; and

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- (c) may use the assistance of one or more experts from the panel of experts approved by the Board.
- (6) The report submitted under Subsection (1) must include recommendations on -
 - (a) the approval or rejection of the application; and
 - (b) the scope of an approval; and
 - (c) the term of an approval (which must be five years or less); and
 - (d) any specific conditions to be placed on the recognition; and
 - (e) if the applicant seeks to use the title 'university' in respect of its operations in Papua New Guinea, whether the applicant should be permitted to use this title as part of its recognition; and
 - (f) whether the applicant will also be required to apply for programme accreditation by the Board for any programmes it offers in Papua New Guinea.

126. DECISION ON APPLICATION.

- (1) The Board shall make a decision on the application -
 - (a) within nine months from the date of receipt of the application; or
 - (b) if a longer period is determined by the Board - within that period.
- (2) For the purposes of Subsection (1)(a), the Department is deemed to receive the application when it receives both the application and payment of the application fee prescribed in a regulation.
- (3) If the Board determines a longer period under Subsection 1(b), the Department must, within 21 days of the Board's making the decision for a further period notify the applicant, in writing.
- (4) If the Board -
 - (a) grants approval; or
 - (b) grants approval with condition; or
 - (c) refuses approval,the Departmental Head must, as soon as practicable, inform the applicant in writing about the decision.
- (5) Where approval is granted, the Departmental Head shall -
 - (a) give effect to the approval by entering in the register established under Section 9 the prescribed particulars; and
 - (b) issue a certificate of recognition in the form prescribed under a regulation.
- (6) The overseas higher education institution may seek renewal of its recognition under the same arrangements as for the registration of private higher education institutions under Part VI, Division 4.
- (7) If the Board requires the overseas higher education institution to apply for programme accreditation through the Board, the process will be that of Part VI, Division 5.

127. STANDARD CONDITION OF RECOGNITION.

It is a standard condition of recognition that a recognised higher education institution shall comply with all reasonable requests by the Departmental Head to provide information, records or copies thereof whether stored in a manual or electronic form that the institutional management is keeping or has control of.

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Division 3. - Cancellation of recognition of an overseas higher education institution (including an overseas university).

128. CANCELLATION OF RECOGNITION OF OVERSEAS HIGHER EDUCATION INSTITUTION.

(1) Subject to Subsection (2) the Board may cancel a Certificate of Recognition issued to an overseas higher education institution under this Act -

- (a) if it has been deregistered in its country of origin; or
- (b) if it is not complying with this Act or any other national laws of Papua New Guinea; or
- (c) at its own request; or
- (d) if the institution fails to maintain recognition by the Board; or
- (e) if the institution has failed to offer any programmes within a reasonable time; or
- (f) where the Board discovers any fact, which had it been known prior to the issuance of the certificate of recognition, the Board could have refused to recognise the overseas higher education institution.

(2) Prior to cancelling a Certificate of Recognition under (a), (b) or (d) above, the Board shall give the overseas higher education institution -

- (a) written notice of the grounds for cancellation; and
- (b) invite the institution to make a representation to the Board within 60 days from the date of receipt of the show cause notice.

(3) The show cause notice must state the following -

- (a) the action the Board proposes under this Division; and
- (b) the ground or grounds for the proposed action; and
- (c) the outline of the facts and circumstances with evidence forming the basis for the ground; and
- (d) an invitation to the overseas higher education institution to show within 60 days (being the show cause period) why the proposed action should not be taken.

(4) The overseas higher education institution must make written representation about the show cause notice to the Board in the show cause period (60 days).

129. ENDING SHOW CAUSE PROCESS WITHOUT FURTHER NOTICE.

If, after considering the representations for the show cause notice, the Board obtains evidence that the grounds no longer exist to cancel the recognition, the Board shall -

- (a) not take further action about the show cause notice; and
- (b) as soon as practicable, give notice in writing to the overseas higher education institution that no further action will be taken about the show cause notice.

130. CANCELLATION OF CERTIFICATE OF RECOGNITION.

(1) Where the Board cancels a Certificate of Recognition, it shall notify the authorised representatives in writing of the cancellation stating the reasons for the cancellation.

(2) Where the registration has been cancelled, the Departmental Head shall -

- (a) give effect to the cancellation by cancelling the Certificate of Recognition register; and
- (b) cause a notice of the cancellation to be published in the newspaper published in and circulating in the country not less than once for one week; and
- (c) the recognition lapses on the day the cancellation takes effect.

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(3) For purposes of this section, the word 'cancel' means withdraw and 'cancellation' shall have a corresponding meaning.

131. COURT MAY ORDER CANCELLATION.

Without prejudice to any penalty specifically provided for contravention of any provision of this Act, where an overseas higher education institution is convicted of an offence under this Act, the Court may order the Board to cancel the Certificate of Recognition of that higher education institution.

132. APPEAL AGAINST CANCELLATION.

An overseas higher education institution whose Certificate of Recognition is cancelled by the Board under Section 128 or 130 may lodge an appeal against the decision of the Board to the Appeals Tribunal in a form prescribed by regulation.

PART X. – APPEALS

Division 1. - Higher Education Appeals Tribunal

133. ESTABLISHMENT OF THE APPEALS TRIBUNAL.

The Higher Education Appeals Tribunal is hereby established.

134. POWERS AND FUNCTIONS.

(1) The Higher Education Appeals Tribunal shall have jurisdiction to review all decisions of the Board relating to approvals or cancellations and administrative decisions made by the Department.

(2) Notwithstanding the generality of the foregoing provision, the Appeals Tribunal does not have the jurisdiction to review matters not related to matters of procedure or issues of procedural irregularity regarding each of the decisions outlined in Subsection (1).

135. MEMBERSHIP OF THE APPEALS TRIBUNAL.

(1) The Tribunal shall consist of -

- (a) a chairperson, who shall be a person qualified as a Magistrate at Grade 5 level; and
- (b) two members who are of good standing in a community.

(2) A person appointed under Subsection 1(b) shall have substantial -

- (a) experience and is a fit and proper person to hold the office; and
- (b) knowledge and expertise in the leadership and management of academic affairs in higher or research or technical education; or
- (c) knowledge and experience in -
 - (i) business management; or
 - (ii) administration; or
 - (iii) planning; or
 - (iv) finance; or
 - (v) the practice of law.

(3) The chairperson and other members of the Higher Education Appeals Tribunal shall be appointed by the Minister for a term of three years, either on a full-time or part-time basis, and are eligible for re-appointment.

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(4) A member of the Appeals Tribunal is eligible for re-appointment for another term and must not be appointed after serving two terms consecutively.

136. VACATION OF OFFICE OF MEMBERS.

(1) Where a member -

- (a) becomes permanently incapable of performing his duties; or
- (b) resigns from his office by writing under his hand addressed to the Minister; or
- (c) is absent, except with the written consent of the chairperson in respect of a member, or the Minister in respect of the chairperson, from three consecutive regular sittings of the Tribunal; or
- (d) becomes bankrupt or applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit; or
- (e) is convicted -
 - (i) of an offence under this Act; or
 - (ii) of an indictable offence under any other law of Papua New Guinea; or
 - (iii) of any crime involving false statements, fraudulent use or destruction of property, falsification of records, carrying on business fraudulently or any crime involving corruption or dishonesty, whether within or outside Papua New Guinea; or
- (f) stands for election to a political office, he or she shall cease to be a member of the Tribunal.

(2) Notwithstanding Subsection (1), the Minister may, at any time, by written notice, advise a member that he intends to terminate his appointment on the grounds of inefficiency, incapacity or misbehaviour.

(3) Within 14 days of the receipt of the notice under Subsection (2), the member may reply in writing to the Minister who shall consider the reply and as soon as is practicable deliver a written notice of his decision to the Board.

(4) Where a member referred to in Subsection (2) does not, within 14 days of the receipt of a notice, reply in writing to the Minister, his appointment is terminated.

137. OATH OF OFFICE.

Before taking office, the chairperson, members and administrator of the Appeals Tribunal shall swear an oath of office before the Minister.

138. ADMINISTRATION OF APPEALS TRIBUNAL.

(1) The administrative costs of the Appeals Tribunal shall be borne by the Department.

(2) The Department must employ an administrator who shall be responsible for the administration of the Appeals Tribunal and shall report directly to the chairperson of the Appeals Tribunal.

(3) The Appeals Tribunal shall set the time and date for hearing of the appeal and must notify the Department and the appellant.

(4) The Appeals Tribunal must send a notice of appeal to the Board in the form prescribed in the regulation.

139. RIGHT TO APPEAL.

Subject to Section 134(2), a higher education institution or person that is aggrieved by a decision of the Board or the Department can appeal to the Higher Education Appeals Tribunal for a review of the decision.

140. APPEAL PROCESS.

(1) An appeal must be lodged within 21 days from the date of the receipt of the notification of a decision the subject of an appeal.

- (2) The appeal shall -
 - (a) be made in writing; and
 - (b) set out the grounds for appeal; and
 - (c) be lodged with the administrator of the Appeals Tribunal; and
 - (d) be accompanied by the fee prescribed in a regulation.
- (3) When hearing and determining an appeal, the Appeals Tribunal must -
 - (a) exercise all rules and powers of a court for the execution of its functions; and
 - (b) keep a record of the proceedings; and
 - (c) state in writing the reason for its decision on the appeal.
- (4) The Department, the Board if applicable, and the appellant -
 - (a) must be given the opportunity to make representations either orally or in writing or both; and
 - (b) are entitled to be represented by legal practitioners or by persons authorised by the Appeals Tribunal in writing.

(5) The use of technology of any form to facilitate the hearing shall be at the discretion of the Appeals Tribunal.

141. DETERMINATION OF APPEAL.

- (1) In determining an appeal, the Appeals Tribunal may -
 - (a) confirm the original decision; or
 - (b) amend the original decision; or
 - (c) substitute another decision for the original decision; or
 - (d) set aside the original decision and return the matter to the Board with any directions it considers appropriate.

(2) For purpose of Subsection (1), the Appeals Tribunal may make orders and give the directions it considers appropriate.

(3) The decision of the Appeals Tribunal under Subsection (1) is final.

(4) The Board or the Department shall give effect to the decision of the Appeals Tribunal.

142. NOTIFICATION OF DECISION.

A copy of the decision of the Appeals Tribunal must be sent to -

- (a) the Board, if relevant to a decision of the Board; and
- (b) the Departmental Head; and
- (c) the Minister; and
- (d) the appellant,

within seven days after the decision is made.

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143. ANNUAL REPORT.

(1) The administrator shall, on or before 31 May in each year, submit to the Minister an annual report.

(2) The annual report must -

(a) be given -

- (i) in the way required by the Minister; and
- (ii) for the period from 1 January to 31 December immediately before the reporting day.

PART XI. - SALARIES AND CONDITIONS OF SERVICE OF ACADEMIC AND NON-ACADEMIC STAFF IN PUBLIC HIGHER EDUCATION INSTITUTIONS AND PUBLIC UNIVERSITIES.

144. SALARIES AND CONDITIONS OF SERVICE.

(1) The Departmental Head through the Minister shall make recommendations to the Salaries and Conditions Monitoring Committee established under the *Salaries and Conditions Monitoring Committee Act 1988* on the salaries and conditions of academic and non-academic staff in public higher education institutions and public universities.

(2) Before making the recommendations under Subsection (1) the Department may enter into negotiations on the terms of its proposed recommendations with all or any of the following as is appropriate in the circumstances -

- (a) the management of public higher education institutions and universities; and
- (b) the head of the department responsible for personnel management matters; and
- (c) the Teaching Service Commission; and
- (d) such other persons or organisations as it thinks fit.

PART XII. - FINANCES AND ASSETS OF THE DEPARTMENT.

145. MONEYS OF THE DEPARTMENT GENERALLY.

The Department shall open and maintain such bank accounts as are necessary for its powers, functions and duties, and shall pay into appropriate trust accounts -

- (a) all moneys appropriated for the purposes of carrying out or giving effect to this Act; and
- (b) all moneys received by the Department for the sale, leasing or hire of property; and
- (c) all other moneys received by the Department for repayment of student loans; and
- (d) all other moneys received by the Department in the exercise and performance of its powers, functions and duties, subject to the provisions of the *Public Finances (Management) Act 1995* and any other law.

146. ASSETS OF THE DEPARTMENT.

The Department may hold State assets on trust to use and appropriate, or permit its use and appropriation for the purposes of the erection and maintenance of its buildings and for other purposes in connection with or for the benefit or maintenance of its objects.

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PART XIII. - COMPLIANCE AND ENFORCEMENT.

Division 1. - Visit by authorised person.

147. AUTHORISATION TO VISIT PREMISES OF EDUCATION INSTITUTION.

(1) For ensuring compliance with this Act, the Minister, on the recommendation of the Departmental Head, may authorise a person to visit premises where a higher education institution, including a university, either registered or recognised or requiring to be registered or recognised under this Act is providing or proposing to provide a programme leading to a higher education award.

(2) The authorisation must be in writing and state the address of the institution's premises to be visited.

148. POWERS OF AUTHORISED PERSON.

(1) An authorised person may enter the premises of a higher education institution or university stated in the persons authorisation at any reasonable time on any day higher education programmes are normally provided on the premises.

(2) On entering the premises, the authorised person may exercise any of the following powers -

- (a) observe the institutions operations; and
- (b) require any person in authority to give information about the programmes and institutions operations; and
- (c) inspect and or take copies of any documents whether in an electronic or manual form on relevant matters regarding matters covered by this Act kept on the premises; and
- (d) require any person to provide assistance reasonably necessary for exercising the power under Paragraph (c); and
- (e) require any person who has, either solely or in association with other persons, the management or control of a higher education institution to provide any information concerning that institution; and
- (f) require that person or institution to give him full and free access to the electronic medium and to the information contained therein; and
- (g) inspect and make a report of the premises and facilities used for conducting the institutions programmes and academic activities.

149. PRODUCTION OF AUTHORISATION.

An authorised person exercising the powers under Section 148 in relation to a person must produce for inspection the authorised persons authorisation, if required.

150. OBSTRUCTION, ETC. OF AUTHORISED PERSON.

A person who, without reasonable excuse (proof of which is on him), obstructs, hinders or resists an authorised person or refuses or fails to supply any information required under Section 147 or Section 148 is guilty of an offence.

Penalty - Where the offence is committed by an individual -

- (a) a fine not exceeding K5,000.00; or
- (b) imprisonment for a term not exceeding six months; or
- (c) both such fine and imprisonment.

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151. MINISTER TO DIRECT PROVISION OF A REPORT.

(1) Where, based on evidence gathered under the foregoing provisions or other information or evidence, the Minister is of the opinion that it is reasonable to do so, he may, after consultation with the Departmental Head, direct the governing body or administration of a public higher education institution or public university to provide a report in response to any issues of compliance with this Act and measures the public higher education institution or university has taken or is taking to resolve or address these matters.

(2) The Department must consider the report and as soon as practicable advise the Minister through the Departmental Head on the best possible course of action taking into account all necessary considerations and implications likely or otherwise of such actions.

Division 2. - State may intervene under specific circumstances.

152. STATE INTERVENTION UNDER SPECIFIC CIRCUMSTANCES.

(1) Where, in the opinion of the Departmental Head, a public higher education institution under this Act, including a public university, is -

- (a) being so negligently, inefficiently or badly conducted as not to be in the interests of higher education institutions in the country; or
- (b) is in financial difficulty due to gross mismanagement; or
- (c) is unable to perform its functions effectively due to dissension among members of the governing body; or
- (d) is unable to resolve a student revolt or strike within a reasonable period and that the strike or revolt results in or is likely to result in -
 - (i) injury or death of a person; or
 - (ii) the destruction of public property, other than minor damage; or
 - (iii) a serious threat to the public; or
- (e) is unable to resolve a staff revolt or strike and that the revolt or strike results or is likely to result in -
 - (i) the institution not discharging its duties imposed on it by or under this Act or any other law relating to higher education or university matters; or
 - (ii) an unprecedented academic staff resignation; or
 - (iii) injury or death of a person; or
 - (iv) the destruction of public property, other than minor damage; or
 - (v) a serious threat to the public; or
- (f) is not properly carrying out the duties imposed on it by or under this Act or any other law relating to higher education or university matters, the Departmental Head may advise the Minister, and the Minister may direct the governing body or administration of the institution to provide a report describing the nature of the problem and measures the institution has taken or is taking to resolve it.

(2) Where the governing body or administration of institution fails to provide the report to the satisfaction of the Minister within a time prescribed in the direction, the Minister must, in consultation with the Departmental Head, take appropriate actions or measures that are necessary as appears to be best calculated to promote the interests of the institution.

(3) The Minister may, in the best interest of the institution referred to in Subsection (2), exercise one or more of the following powers to -

- (a) appoint an independent arbitrator to resolve the issue; and
- (b) revoke the membership of the governing body; and
- (c) appoint an interim governing body; and
- (d) suspend the chief executive officer; and

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- (e) direct the interim governing body to appoint an acting chief executive officer as the interim academic and administrative head of the institution to exercise general supervision and control over the affairs of the institution.

153. SUSPENSION OF POWERS AND FUNCTIONS OF THE GOVERNING BODY.

Where the Minister decides to suspend the powers of the existing governing body, that suspension will operate to deprive members of the governing body of the suspended powers or functions during the period of suspension, provided that the suspension of a power or function does not affect any right, privilege, obligation or liability acquired, accrued or incurred under or in respect of the suspended power or function, or any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation or liability, which may be carried on or enforced as if the suspension or termination had not taken place.

Division 3. - Prosecution of offences.

154. PROSECUTION.

(1) An offence against this Act shall be prosecuted summarily before a Principal Magistrate in the District Court.

(2) A person authorised by the Departmental Head, in writing, may lay information and conduct prosecutions for an offence committed under the Act after permission from the Public Prosecutor, and the Department may sue for and recover fees and fines due and payable under this Act.

(3) Section 132 of the *District Court Act 1963* shall not apply to offences committed under this Act.

Division 4. - Liability, fines, etc.

155. LIABILITY FOR NON-PAYMENT OF PENALTIES.

All pecuniary penalties not specifically designated as fines incurred under or imposed pursuant to this Act, and the liability to all rents, charges, expenses and duties and all other sums of money payable under this Act may be sued for, determined, enforced and recovered by suit or other appropriate civil proceedings in a court of competent jurisdiction in the name of the State as the nominal plaintiff, and all such proceedings shall be deemed to be civil proceedings and the fact that a bond or other security has been paid shall not be pleaded or made use of in answer to or in stay of any such proceedings.

PART XIV. - REPEAL, SAVINGS AND TRANSITIONAL.

156. REPEAL.

The *Higher Education Act 1983* is hereby repealed.

157. SAVING OF CONTRACTS, ETC.

All contracts and agreements (other than contract of employment), entered into, made with or addressed to the former Office of Higher Education are, to the extent that they were immediately before the coming into operation of this Act, binding on and of full force and effect against or in favour of the former Office of Higher Education, on that coming into operation, binding on and of full force and effect against or in favour of the Department as fully and effectively as if it had been a party to them or entitled to the benefit of them.

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158. SAVING OF EXISTING APPROVALS OF EXISTING HIGHER EDUCATION INSTITUTIONS INCLUDING UNIVERSITIES.

(1) Where, on the commencement date, a higher education institution, including a university, has obtained approval or registration as a higher education institution or university under the *Higher Education Act 1983*, the *National Training Council Act 1991*, the *Education Act 1983* or any other Act, and if a university with such an approval has also been gazetted as a university and has been declared to be a university, that approval shall be taken as a registration under this Act (or a recognition of an overseas higher education institution), with a term of three years from the commencement date for those institutions that are subject to a time limitation on their registration (or recognition).

(2) All higher education institutions under Subsection (1) that are taken as registered but do not have self-accrediting authority in respect of a programme leading to a higher education award have their programmes accredited for a term of two years from the commencement date, after which time they must seek renewal of programme accreditation.

(3) The Department shall, within six months after the commencement of this Act, require in writing that a holder of an approval referred to in Subsections (1) or (2) take measures to comply with the requirements of the Act.

(4) All other higher education institutions that are required to be registered under this Act or to have their programmes accredited but are not registered through Subsection (1), are required to apply for registration and accreditation of programmes within 12 months after the commencement date.

159. TRANSFER OF ASSETS, ETC., TO THE DEPARTMENT.

All State assets held in trust by, and obligations and liabilities imposed on the former Office of Higher Education immediately before the coming into operation of this Act, are, on that date, transferred to the Department who shall hold those assets in trust for the State.

160. TRANSFER OF ACCOUNTS.

All sums, immediately before the coming into operation of the Act, at credit of, and on accounts opened by the former Office of Higher Education are, on that coming into operation, transferred to equivalent accounts opened under the name of the Department as the trustee of the State under the provisions of the Act.

161. STAFF.

All persons employed as officers or employees of the former Office of Higher Education immediately before the coming into operation of this Act are, on that coming into operation, deemed to be officers or employees of the staff of the Department, but in such offices and at such levels as are determined by the Department under the *Public Services (Management) Act 2014*.

162. ACTIONS, ETC., NOT TO ABATE.

Where, immediately before the coming into operation of this Act, any action, arbitration or proceeding was pending or existing by, against or in favour of the former Office of Higher Education, it does not, on the coming into operation of this Act, abate or discontinue or be in any way affected by any provision of this Act, but it may be prosecuted, continued and enforced by, against or in favour of the Department as the trustee for the State.

163. ABOLITION OF THE OFFICE OF HIGHER EDUCATION.

The Office of Higher Education as constituted under the *Higher Education Act 1983* ceases to exist upon the coming into operation of this Act.

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164. APPLICATION OF ACTS, ETC.

Where -

- (a) any Act or subordinate enactment, other than this Act; and
- (b) any document or instrument whenever made or executed contains a reference, express or implied, to the former Office of Higher Education that reference shall, where relevant to the functions of the Department on and after the coming into operation of this Act, except where the context otherwise requires, read and construed as a reference to the Department.

PART XV. - MISCELLANEOUS.

165. TERTIARY EDUCATION STUDENT ASSISTANCE SCHEME IN HIGHER EDUCATION INSTITUTIONS.

(1) The Minister may, out of moneys lawfully made available for the purpose, provide financial assistance to students in registered higher education institutions including universities, subject to such terms and conditions as are prescribed in a regulation.

- (2) Financial assistance made available to a student under Subsection (1) shall -
 - (a) be awarded through formal applications; and
 - (b) be awarded on the applicant's academic record; and
 - (c) be in the form of a scholarship or loan; and
 - (d) be the subject of a contract between the State and the successful applicant; and
 - (e) in the case of a loan, be subject to an approved form of a tax, a graduate tax or direct payment imposed on the successful applicant after graduating; and
 - (f) in the case of a loan, be recoverable from the successful applicant through a direct loan recovery method imposed under Paragraph (e).

166. CONSULTATION WITH INTERESTED BODIES.

In performing its functions under this Act, the Department shall consult with interested persons and bodies on matters which affect the functional responsibilities of those persons and bodies.

167. CONFIDENTIALITY.

(1) Any confidential information obtained under the Act shall not be disclosed to any third party without the prior written approval of the person who provided that information, except -

- (a) to the extent that disclosure is authorised or required under this Act or any other law; and
- (b) to the extent that the person providing the information authorised its disclosure at the time of providing the information; or
- (c) to the extent necessary to enable the Department to publish statistical information; or
- (d) to the extent necessary to enable the Department or the Minister or the Board to give advice to the National Executive Council or State Departments or agencies.

(2) A Member of the Board, or a committee, or an expert, or an employee of the Department who uses, for the purpose of his personal gain, any information disclosed under this Act that comes to his knowledge in the programme of, or by reason of, his membership of the Board, or a committee, or his employment as an expert or an employee of the Department, is guilty of an offence.

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- (3) A person who contravenes Subsection (1) or (2) is guilty of an offence.

Where the offence is committed by an individual -

- (a) a fine not exceeding K5,000.00; or
- (b) imprisonment for a term not exceeding six months; or
- (c) both such fine and imprisonment.

168. PROVISION OF STATISTICAL INFORMATION.

(1) All higher education institutions registered or recognised under this Act must submit to the Departmental Head data on the institution and data for each programme, relating to the most recently ended year, in the approved form.

(2) The data must be given no later than the day prescribed by the Department for the purpose.

(3) In this Section, data for each programme, means the following -

- (a) the number of full time students who undertook the programme; and
- (b) the number of part-time students who undertook the programme; and
- (c) the modes of delivery of the programme; and
- (d) the number of female students who undertook the programme; and
- (e) the number of male students who undertook the programme; and
- (f) the number of overseas students who undertook the programme; and
- (g) the broad field of education to which the programme applies; and
- (h) the number of graduates from the programme; and
- (i) retention and progress rates for each year of the programme; and
- (j) other details about the programme and students as approved by the Departmental Head.

169. MAJOR CHANGES.

(1) A registered or recognised higher education institution intending to make a major change to the institution or its programme must obtain approval from the Department.

(2) For purposes of this Section, 'major change' includes -

- (a) a change to the institution's corporate status; or
- (b) a substantial change in the ownership of, or shareholding in, the institution; or
- (c) a change that may result in a significant decline in the financial position of the institution; or
- (d) a change to the place or places where the institution operates; or
- (e) a change to the way of delivering a programme, including but not limited to a change from face-to-face delivery to providing the programme subjects electronically or by distance education; or
- (f) a change that may result in the programme no longer being recognised by relevant professional or industry associations, including a situation where graduates of the programme can no longer be able to obtain professional registration; or
- (g) a change that involves substituting new subjects or course for more than 30 percent of the subjects or course in the programme or deleting more than 30 percent of the subjects or courses in the programme; or
- (h) a significant reduction in the number of student contact hours for the programme; or
- (i) a change that occurs is described as a major change in national standards.

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(3) For purposes of this section, 'a registered higher education institution' includes both a public higher education institution and a private higher education institution, while a 'recognised higher education institution' comprises an overseas higher education institution.

170. EFFECT OF MERGER OR AMALGAMATION, ETC., OF HIGHER EDUCATION INSTITUTIONS AND UNIVERSITIES.

(1) Upon the amalgamation or merger referred to in Section 51 of an existing registered higher education institution with another registered higher education institution or other institution or entity, the registration of the higher education institution that has been merged or amalgamated shall cease and its programme accreditations shall become those of the institution with which it has merged or amalgamated.

(2) If the higher education institution merges or amalgamates with a Papua New Guinea university, the university's self-accrediting authority will apply to all programmes formerly provided by the merged or amalgamated institution.

171. APPROVAL OF FORMS.

The Board or Department may approve forms relevant to functions under this Act.

172. DELEGATION BY MINISTER.

The Minister may, in writing, delegate to the Departmental Head any of the Minister's powers or functions under this Act.

173. WINDING UP OF INSTITUTIONS.

(1) Subject to this Act and any other Law, a higher education institution that is registered under this Act intending to windup its operations shall inform the Department at least 12 months before the intended date of closure.

(2) For the purposes of Subsection (1), an institution shall ensure that the future of the education and training of its enrolling registered students is not jeopardised.

174. CONSEQUENTIAL AMENDMENTS.

The enactments listed in column 1 of Schedule 2 are amended in the manner set out in column 2 of that Schedule.

175. PROVISIONAL REGISTRATION.

(1) The Board may grant provisional registration or recognition to a higher education institution on such terms as the Board may approve, provided the institution meets, or will shortly meet, national standards.

(2) The process and procedure for granting of provisional registration, or recognition shall be as prescribed in a regulation.

176. ANNUAL REPORT.

(1) Each higher education institution and university registered or recognised under this Act shall, as soon as practicable before 30 June in each year, submit to the Department a report on its operations.

(2) The annual report must -

(a) be submitted -

(i) in the way required by the Department; and

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- (ii) for the period from 1 January to 31 December immediately before the reporting day;
- (b) contain information to help the Board assess whether -
 - (i) the institution is meeting the national standards and quality assurance of higher education institutions; and
 - (ii) the institution is complying with the conditions of registration and accreditation of programme (if any); and
- (c) include -
 - (i) information on the extent to which the institution has carried out its functions; and
 - (ii) completed audited financial statements for the period covered in the annual report if required; and
 - (iii) any other matters that the Department may reasonably require to be incorporated in the report.

177. CONSULTANTS, VOLUNTEERS, ETC.

The Department may, subject to the provisions of the *Public Finances (Management) Act 1995* and any other law, from time to time, within the limits of funds lawfully available for the purpose, and on such terms and conditions as are fixed by the Departmental Head, engage –

- (a) consultants; or
 - (b) overseas volunteers; or
 - (c) persons seconded from universities, international agencies and non-government organisations; or
 - (d) persons with expert skills from the private sector,
- for the purpose of carrying out its functions under this Act.

PART XVI. - REGULATIONS.

178. 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 are necessary or convenient to be prescribed, for carrying out or giving effect to this Act.

SCHEDULE 1

Schedule 1 A

Section 8

The Department shall have the following powers –

- (a) to co-ordinate and implement Government policies relating to higher and technical education, and research, science and technology; and
- (b) to co-ordinate and implement the registration, de-registration, and accreditation or de-accreditation of all higher education institutions and programmes, including the approval of universities, in accordance with decisions by the Board or Minister or National Executive Council, as prescribed in this Act; and
- (c) to require reports from the Board; and
- (d) to support the Board in the performance of its functions; and
- (e) to prosecute or take other enforcement action against persons and institutions that contravene the provisions of this Act after permission is obtained from the Public Prosecutor; and

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- (f) to formulate and review proposals for financial assistance for higher education institutions to be made to the Government, including sectoral funding models; and
- (g) to receive and coordinate and manage all requests for financial support from Papua New Guinea universities made to the Government, including annual budget submissions; and
- (h) to receive from central agencies all Government funding for Papua New Guinea universities, including annual budgetary appropriations, and to disburse this to universities in accordance with agreed plans, targets and outputs; and
- (i) to review and develop policies and advice in relation to academic salaries and other forms of remuneration or entitlement for staff of public higher education institutions and in relation to the fees charged to students; and
- (j) to approve and administer a Governance Manual for universities and provide related guidance on corporate, academic or student governance and to ensure the accountability of universities and other institutions of higher education to government; and
- (k) to review and provide advice on proposed formal affiliations, mergers or amalgamations of higher education institutions and universities; and
- (l) to co-ordinate, plan, secure and allocate research funds; and
- (m) to advise on and recommend categorisations of higher education institutions and public research institutions; and
- (n) to promote co-ordination and co-operation between higher education institutions and other bodies that conduct research, including public research institutions; and
- (o) to develop and monitor the implementation of a national plan for higher and technical education and research, science and technology; and
- (p) to assist in the preparation and execution of plans for the development of public higher education institutions, public universities and public research institutions; and
- (q) to monitor the enrolment patterns and programme offerings at higher education institutions, including universities, and the output and impact of research conducted at research institutions and universities; and
- (r) to monitor, collect, examine and make available, information relating to higher education institutions including universities, and relating to science, technology and research; and
- (s) to seek advice and or obtain information from any person, business entity, industry, or organisations whether public or private in regard to higher education institutions, including universities, and research institutions; and
- (t) to share information on higher education institutions with other authorities dealing with higher and technical education or with any professional licensing or accreditation body to the extent permitted by law; and
- (u) so far as is practicable, regularly visit the premises of each higher education institution and research institution; and
- (v) if requested by the Minister, to assist in the resolution of a crisis affecting a public higher education institution or a public university; and
- (w) to appoint and support committees, working parties or other advisory bodies (which shall, where appropriate, reflect the principles of partnership of all higher and technical education institutions and agencies with responsibility for such institutions) to carry out such duties as it thinks fit and conferring appropriate powers on such committees or advisory bodies, this function to include the establishment of a body with delegated authority to arbitrate on matters referred to it by universities or institutions of higher education; and
- (x) to facilitate, promote and encourage research in science and technology and its application in higher and technical education; and

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- (y) to plan the overall strategy to ensure the necessary co-operation of relevant departments and non-government organisations in all aspects of higher and technical education; and
- (z) to exercise such other powers as are necessary to achieve its objectives or as are given to it under this Act or any other law.

SCHEDULE 1

Schedule 1 B

Section 8

The functions of the Department are -

- (a) to advise the Minister, after consultation with interested parties, on all matters concerning higher and technical education, or research, or science and technology; and
- (b) to implement the Papua New Guinea National Qualifications Framework in accordance with decisions by the Board; and
- (c) to administer quality assurance arrangements in accordance with this Act; and
- (d) to develop broad policies in relation to governance, research, programmes of study, building, equipment and staffing, for public higher education institutions and public research institutions; and
- (e) to recommend to the Minister for approval by the Government financial allocations and a funding model for public higher education institutions, including public universities, and public research institutions; and
- (f) to receive and coordinate and manage all requests for financial support from Papua New Guinea universities made to the Government, including annual budget submissions; and
- (g) to receive from central agencies all Government funding for Papua New Guinea universities, including annual budgetary appropriations, and to disburse this to universities in accordance with agreed plans, targets and outputs; and
- (h) to develop and implement policies relating to higher and technical education of -
 - (i) citizens resident abroad; and
 - (ii) non-citizen students enrolled in higher education institutions in Papua New Guinea; and
 - (iii) citizens studying abroad, including financial assistance; and
- (i) to review and develop policies and provide advice in relation to salaries and other forms of remuneration or entitlement for staff of public higher education institutions and public universities; and
- (j) to formulate policies in relation to the Government's financial support for students to undertake accredited programmes of higher and technical education; and
- (k) to indicate broad areas of responsibilities and objectives for higher and technical education and public research institutions; and
- (l) to ensure appropriate arrangements for the governance, co-ordination, management and accountability of public higher education institutions, including public universities, and public research institutions; and
- (m) to perform central admission functions and verification of admissibility of candidates to higher education institutions; and
- (n) to develop and implement selection criteria for scholarship awards based on merit, performance and equity; and

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- (o) to provide advice on proposed formal affiliations, mergers or amalgamations of higher education institutions; and
- (p) to act as agent for the State, as required, in relation to any international agreement relating to higher and technical education matters; and
- (q) to ensure effective coordination with other government agencies responsible for education and training; and
- (r) to develop, review, implement and report on the progress of the national plan for higher and technical education, research, science and technology; and
- (s) to carry out such other functions as are necessary to achieve its objectives or as are given to it under this Act or any other law.

SCHEDULE 2

Consequential amendments

Column 1	Column 2
<i>Education Act 1983</i>	Amend the Act as follows: Section 2 (ii) Remove the definition of “the Commission for Higher Education” and enter a new definition “the National Higher and Technical Education Board established under the <i>Higher Education (General Provisions) Act 2014</i>” Section 17 (2) Replace the words ‘Commission for Higher Education’ with ‘Department of Higher Education, Research, Science and Technology’ Section 27(5) Replace the words starting at ‘declared’ through to the end of the section with the words ‘of higher education under the <i>Higher Education (General Provisions) Act 2014</i>, he shall before making such a determination consult with the Minister responsible for the Department of Higher Education, Research, Science and Technology’.
<i>National Training Council Act 1991</i>	Amend the Act as follows: Section 5 (1) Replace the words ‘Commission for Higher Education as specified in the <i>Higher Education Act 1983</i>’ with ‘National Higher and Technical Education Board as specified in the <i>Higher Education (General Provisions) Act 2014</i>’ Section 5 (2) Replace the words ‘Commission for Higher Education’ with ‘National Higher and Technical Education Board’

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	Section 8 (1)(e) Replace the words “Chairman of the Commission for Higher Education” with by “the Departmental Head of the Department of Higher Education, Research, Science and Technology”
<i>University of Papua New Guinea Act 1983</i>	Amend the Act as follows - Section 2 Remove the definition “the Commission for Higher Education” Section 2 Insert new definition “Minister” means the Minister responsible for the Department of Higher Education, Research, Science and Technology” if required. Section 9 (a) (vi) Replace the words by “A person nominated by the Departmental Head of the Department of Higher Education, Research, Science and Technology”. Insert new section 10: “The National Executive Council shall approve all appointments that are proposed to made under Subsections 9 (b), (e), (f) and (i) before the appointments are confirmed”. Section 26(1) Replace all words after “appoint” with “by the National Executive Council”. Section 27(1) Replace all words after “appointed” with “by the National Executive Council”. Section 28(1) Add after the word “Statutes”, “subject to approval of the appointment by the National Executive Council”. Section 35 (1) Replace the words “Commission for Higher Education” with “Minister responsible for the Department of Higher Education, Research, Science and Technology”
<i>University of Goroka Act 1997</i>	Amend the Act as follows - Section 2 Insert new definition “Minister” means the Minister responsible for the Department of Higher Education, Research, Science and Technology” if required.

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	Section 9(1) (f) Replace the words by “A person nominated by the Departmental Head of the Department of Higher Education, Research, Science and Technology”. Insert new Section 10: “The National Executive Council shall approve all appointments that are proposed to be made under Subsections 9(1) (g), (k) and (n) before the nomination and appointments are confirmed”. Section 26(1) Replace all words after “appointed” with “by the National Executive Council”. Section 27(1) Replace all words after “appointed with “by the National Executive Council”. Section 28(1) Add after the word “Statutes”, “subject to approval of the appointment by the National Executive Council”. Section 35(1) Remove the words “Commission for Higher Education, through the” and add at the end “responsible for the Department of Higher Education, Research, Science and Technology”.
<i>University of Vudal Act 1997 / University of Vudal (Amendment) Act 2009</i>	Amend the amended/original Act as follows - [Amended Act] Section 2 Insert new definition “Minister” means the Minister responsible for the Department of Higher Education, Research, Science and Technology” if required. [Amended Act] Section 9(1) (f) Replace the words by “a person nominated by the Departmental Head of the Department of Higher Education, Research, Science and Technology”. [Amended Act] Insert new Section 10: “The National Executive Council shall approval all appointments that are proposed to be made by Council under Subsections 9(1) (h) and (i) before the nomination and appointments are confirmed”.

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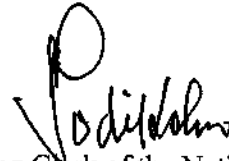
	[Original Act] Section 26(1) Replace all words after "appointed" with "by the National Executive Council". [Original Act] Section 27(1) Replace all words after "appointed" with "by the National Executive Council". [Original Act] Section 28(1) Add after the word "Statutes", "subject to approval of the appointment by the National Executive Council". [Original Act] Section 35(1) Remove the words "Commission for Higher Education, through the" and add at the end "responsible for the Department of Higher Education, Research, Science and Technology". Insert new Section 10: "The National Executive Council shall approve the nominated person in Subsection (9) (a) (vi) and all appointments that are proposed to made under Subsections 9 (b), (e), (f) and (i) before the nomination and appointments are confirmed". Section 26(1) Replace all words after "appointed" with "by the National Executive Council". Section 27(1) Replace all words after "appointed" with "by the National Executive Council". Section 28(1) Add after the word "Statutes", "subject to approval of the appointment by the National Executive Council".
<i>Papua New Guinea University of Technology Act 1986</i>	Amend the Act as follows - Section 2 Remove the definition "Commission for Higher Education". Section 2 Insert new definition "'Minister" means the Minister responsible for the Department of Higher Education, Research, Science and Technology" if required.

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	Section 9(1) (f) Replace the words by “a person nominated by the Departmental Head of the Department of Higher Education, Research, Science and Technology”. Insert new Section 10: “The National Executive Council shall all appointments that are proposed to be made under Subsections 9(1) (g) and (i) before the nomination and appointments are confirmed”. Section 26(1) Replace all words after “appointed” with “by the National Executive Council”. Section 27(1) Replace all words after “appointed” with “by the National Executive Council”. Section 28(1) Add after the word “Statutes”, “subject to approval of the appointment by the National Executive Council”. Section 35(1) Replace the words “Commission for Higher Education” by “Minister responsible for the Department of Higher Education, Research, Science and Technology”.
<i>Divine Word University Act 1999</i>	Amend the Act as follows - Section 6(2) (iv) Replace with “a person nominated by the Departmental Head of the Department of Higher Education, Research, Science and Technology”. Amend references to the “<i>Higher Education Act 1983</i>” if required.

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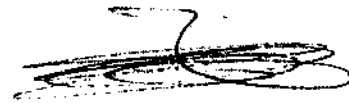
I hereby certify that the above is a fair print of the ***Higher Education (General Provisions) Act 2014***, which has been made by the National Parliament.



Acting Clerk of the National Parliament.

30 OCT 2014

I hereby certify that the ***Higher Education (General Provisions) Act 2014*** was made by the National Parliament on 15 May, 2014, by an absolute majority as required by the ***Constitution***.



Speaker of the National Parliament.

30 OCT 2014