

Papua and New Guinea

No. 84 of 1966

An Act to amend the *Papua and New Guinea Act*
1949–1964.

[Assented to 29 October 1966]

BE it enacted by the Queen's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

Short title
and citation.

1.—(1.) This Act may be cited as the *Papua and New Guinea Act* 1966.

(2.) The *Papua and New Guinea Act* 1949–1964* is in this Act referred to as the Principal Act.

(3.) The Principal Act, as amended by this Act, may be cited as the *Papua and New Guinea Act* 1949–1966.

Commence-
ment.

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

(2.) Sections 3, 8 and 11 of this Act shall come into operation on a date to be fixed by Proclamation.

Interpretation.

3. Section 5 of the Principal Act is amended by inserting in sub-section (1.), before the definition of “ Acting Administrator ”, the following definition:—

“ ‘ a Full Court’ means a Full Court of the Supreme Court;”.

References in
other laws to
Administrator,
Supreme Court,
or Public
Service of a
Territory.

4. Section 12A of the Principal Act is amended by adding at the end thereof the following sub-section:—

“ (2.) A reference in any other law of the Commonwealth (whether passed or made before or after the commencement of this sub-section) to the Supreme Court of a Territory shall, in relation to the Territory of Papua or the Territory of New Guinea, be read as a reference to the Supreme Court of the Territory of Papua and New Guinea.”.

5. After section 15 of the Principal Act the following section is inserted:—

Officers’
Rights
Declaration
Act to apply.

“ 15A. Where a person appointed to be Administrator of the Territory was, immediately before his appointment, an officer of the Public Service of the Commonwealth—

(a) he retains his existing and accruing rights;

* Act No. 9, 1949, as amended by No. 80, 1950; No. 41, 1954; No. 15, 1957; Nos. 4 and 47, 1960; No. 27, 1963; and No. 103, 1964.

- (b) for the purpose of determining those rights, his service as Administrator shall be taken into account as if it were service in the Public Service of the Commonwealth; and
- (c) the *Officers' Rights Declaration Act 1928-1959* applies as if this Act and this section had been specified in the Schedule to that Act."

6.—(1.) Section 36 of the Principal Act is amended—

Composition
of House of
Assembly.

- (a) by omitting sub-section (1.) and inserting in its stead the following sub-section:—

“(1.) The House of Assembly shall consist of ninety-four members, as follows:—

- (a) ten persons, to be known as official members, appointed by the Governor-General on the nomination of the Administrator;
 - (b) sixty-nine persons elected by electors of the Territory; and
 - (c) fifteen persons, being persons possessing such educational qualifications as are specified by, or determined under, the regulations, elected by electors of the Territory.”; and
- (b) by omitting from paragraph (c) of sub-section (3.) the words “referred to in paragraph (b) of sub-section (1.) of this section”.

(2.) The amendments made by the last preceding sub-section apply in relation to the first general election of elected members of the House of Assembly for the Territory of Papua and New Guinea held after the commencement of this section, but do not otherwise affect the constitution of that House before the latest polling day fixed for the purposes of that general election.

7. Section 55 of the Principal Act is amended by inserting after paragraph (j) the following paragraphs:—

Certain
Ordinances to
be reserved.

- “(ja) that removes any matter or class of matters from the jurisdiction of the Supreme Court;
- (jb) that makes provision affecting the practice or procedure of the Supreme Court;
- (jc) that establishes, or provides for the establishment of, a court; or”.

8. Section 58 of the Principal Act is amended by omitting sub-section (4.) and inserting in its stead the following sub-sections:—

Constitution of
Supreme Court.

“(4.) A Full Court of the Supreme Court is constituted by a number of judges sitting together, the number being in accordance with provision made by Ordinance.

“(4A.) The jurisdiction of the Supreme Court shall be exercised as provided by Ordinance and, in particular, provision may be made by Ordinance for the exercise of the jurisdiction of the Supreme Court by a single judge sitting in court or in chambers or by a Full Court, including provision for the exercise of jurisdiction by a Full Court in appeals from, or in respect of cases stated by, single judges.

“(4B.) The jurisdiction of the Supreme Court may be exercised by a judge or judges notwithstanding that the jurisdiction of the Court is being exercised at the same time by another judge or judges.”.

Appointment
and tenure of
Chief Justice
and other
judges.

9. Section 59 of the Principal Act is amended by omitting subsection (4.).

10.—(1.) Sections 61 and 62 of the Principal Act are repealed and the following sections inserted in their stead:—

Qualifications
of judges.

“61. A person shall not be appointed to be a judge of the Supreme Court unless he is or has been a barrister or solicitor of the High Court or of the Supreme Court of a State or Territory of the Commonwealth of not less than five years’ standing.

Ordinances
relating to
jurisdiction,
practice and
procedure of
the Supreme
Court.

“62.—(1.) The Supreme Court has such jurisdiction as is provided by Ordinance.

“(2.) The jurisdiction of the Supreme Court referred to in the last preceding sub-section is in addition to the jurisdiction that the Court has under any law of the Commonwealth or Imperial Act.

“(3.) Provision may be made by Ordinance with respect to the practice and procedure of and in the Supreme Court.

“(4.) An Ordinance shall not authorize the making of regulations or any other instrument with respect to the jurisdiction of, or the practice and procedure of or in, the Supreme Court.

“(5.) In this section, ‘practice and procedure’ includes any matter with respect to which provision may be made by Rules of Court under the next succeeding section.

Rules of Court.

“62A.—(1.) The judges of the Supreme Court or a majority of them may make Rules of Court, not inconsistent with this Act, with respect to the practice and procedure of and in the Supreme Court.

“(2.) In particular, Rules of Court may make provision with respect to—

(a) the practice and procedure in the offices of the Supreme Court;

- (b) the service and execution of the process and judgments of the Supreme Court;
- (c) the service and execution in the Territory of the process and judgments of any foreign Court;
- (d) the issue by the Supreme Court of letters of request for the service in any foreign country of any process of the Supreme Court;
- (e) the costs of proceedings in the Supreme Court;
- (f) the method of pleading;
- (g) the attendance of witnesses; and
- (h) the means by which particular facts may be proved, and the mode in which evidence of particular facts may be given, in any proceedings or on any application in connexion with, or at any stage of, any proceedings.

“(3.) The power to make Rules of Court conferred by this section does not include power to make Rules that are inconsistent with an Ordinance and, if an Ordinance comes into operation that is inconsistent with Rules of Court made in pursuance of that power, the Rules of Court cease to have effect to the extent of the inconsistency.

“(4.) Notice of the making of Rules of Court in pursuance of this section shall be published in the *Government Gazette*, and the Rules shall come into operation on the day on which the notice is so published or on such later date as is fixed by or under the Rules.

“(5.) The Chief Justice shall cause a copy of Rules of Court made in pursuance of this section to be forwarded to the Minister within fourteen days after the date on which notice of the making of the Rules is published in the *Government Gazette*.

“(6.) The Governor-General may, within three months after the date of publication in the *Government Gazette* of notice of the making of any Rules of Court, disallow the Rules or part of the Rules.

“(7.) Upon publication in the *Government Gazette* of notice of the disallowance of any Rules of Court or of a part of any Rules of Court, the disallowance has, subject to the next succeeding sub-section, the same effect as a repeal of the Rules or of the part of the Rules.

“(8.) If a disallowed Rule of Court or part of a Rule of Court amended or repealed a Rule of Court in force immediately before the commencement of the disallowed Rule or part, the disallowance revives the previous Rule of Court on and from the date of publication of the notice of disallowance as if the disallowed Rule or part had not been made.

“(9.) Where the Governor-General disallows any Rules of Court or part of any Rules, the Minister shall cause a statement of the reasons for the disallowance to be laid before each House of the Parliament as soon as possible, but in any case within fifteen sitting days of that House after the date of disallowance.

“(10.) Provision may be made by Ordinance in relation to the numbering and publication of Rules of Court made in pursuance of this section.”.

(2.) Notwithstanding the amendment made by the last preceding sub-section but subject to the succeeding provisions of this section, Ordinances, Rules of Court and regulations relating to the jurisdiction, practice or procedure of the Supreme Court of the Territory of Papua and New Guinea that were in force immediately before the commencement of this section continue in force.

(3.) An Ordinance referred to in the last preceding sub-section may be amended or repealed by Ordinance made under the Principal Act as amended by this Act.

(4.) Rules of Court and regulations referred to in sub-section (2.) of this section have effect subject to Ordinances and Rules of Court made under the Principal Act as amended by this Act, and may be repealed, in whole or in part, by any such Ordinance or Rules of Court.

(5.) Sub-section (2.) of this section does not operate to continue in force any provision of an Ordinance authorizing the making of Rules of Court or regulations.

11.—(1.) Section 64 of the Principal Act is repealed and the following section inserted in its stead:—

Appeals to
High Court.

“64.—(1.) The High Court has jurisdiction to hear and determine appeals from all judgments, decrees, orders and sentences of a Full Court, other than a judgment, decree or order given or made by consent.

“(2.) An appeal does not lie from a judgment, decree, order or sentence as provided by the last preceding sub-section except by leave of the High Court.

“(3.) The jurisdiction of the High Court to hear and determine an application for leave to appeal, or an appeal, under this section shall be exercised by a Full Court of the High Court.

“(4.) In the application of section twenty-three of the *Judiciary Act* 1903–1966 in relation to an appeal under this section, the reference in that section to the Supreme Court of a State or a Judge thereof shall be read as a reference to a Full Court of the Supreme Court.

“(5.) An Ordinance shall not make provision for an appeal to the High Court from any judgment, decree, order or sentence of a court of the Territory.”.

(2.) Notwithstanding the repeal effected by the last preceding sub-section, the section repealed by that sub-section continues to have effect in relation to judgments, decrees, orders and sentences of the Supreme Court of the Territory of Papua and New Guinea given, made or pronounced before the commencement of this section, but, if an appeal is brought to a Full Court of that Court from such a judgment, decree, order or sentence in pursuance of an Ordinance providing for such an appeal, an appeal does not lie to the High Court from that judgment, decree, order or sentence.

12. Section 77 of the Principal Act is amended by omitting from paragraph (c) the words “ Fifty pounds ” and inserting in their stead the words “ One hundred dollars ”.

*Inquiries, &c.,
for purposes of
Ordinances.*

13. At any time after the commencement of this section and before the date of commencement of the sections referred to in sub-section (2.) of section 2 of this Act, Ordinances may be made under the Principal Act as amended by this Act as if those sections had come into operation, but an Ordinance made by virtue of this section shall not come into operation before the date of commencement of those sections.

*Making of
Ordinances
before com-
mencement of
amendments.*