

No. 9 of 2010.

Defence Force (International Obligations) Act 2010.

Certified on : 25 JAN 2011



No. of 2010.

Defence Force (International Obligations) Act 2010.

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No. of 2010.

AN ACT

entitled

Defence Force (International Obligations) Act 2010,

Whereas the Government of Papua New Guinea intends to participate in international obligations to maintain and restore economic stability and social stability and environmental sustainability to any State or Organisation that the government deems necessary and shall call upon the Papua New Guinea Defence Force to provide this assistance.

Being an Act to implement Sections 205(1)(b) and 206(1)(B) of the *Constitution* in which the Papua New Guinea Defence Force participates in international obligations relating to active services.

MADE by the National Parliament to come into operation in accordance with a notice in the National Gazette by the Head of State, acting with and in accordance with the advice of the Minister.

PART I. - PRELIMINARY.

1. COMPLIANCE WITH CONSTITUTIONAL REQUIREMENTS.

(1) The 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 -

(a) freedom from arbitrary search and entry conferred by Section 44 of the *Constitution*; and

(b) the right to privacy conferred by Section 49 of the *Constitution*,

is a law that is made for the purpose of giving effect to the public interest in defence, public safety, public order and public welfare.

(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.

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

“Act” means this Act;

“Active Service” means an international obligation involving combat activities.

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“Committee” means the International Obligations Committee as established in Section 4 of this Act;

“Contract” means a legal contract that is valid and effective under the laws of Papua New Guinea;

“Defence Force” means the Papua New Guinea Defence Force as stated in Section 12 of the *Defence Act* (Chapter 74);

“Non Active Service” means an international obligation involving non combat activities;

“Organisation” means an organization that has either:

- (a) requested the Papua New Guinea government for the Defence Force to participate in international obligations; or
- (b) the Committee has advised for the Papua New Guinea government for the participation of the Defence Force to assist an organization;

“person” means any person and may include a corporate body or a natural person;

“State” means a country recognised by international law that has either:

- (a) requested the Papua New Guinea government for the Defence Force to participate in international obligations; or
- (b) the Committee has advised for the Papua New Guinea government for the participation of the Defence Force to assist an organisation.

3. ACT BINDS THE STATE.

Except as otherwise provided, this Act binds the State.

PART II. - ADMINISTRATIVE ARRANGEMENTS.

Division 1. - Establishment, Functions and Powers.

4. ESTABLISHMENT OF THE INTERNATIONAL OBLIGATIONS COMMITTEE.

This Act hereby establishes a Committee called the International Obligations Committee.

5. OBJECTIVES OF THE COMMITTEE.

The objective of the Committee is to advise the National Executive Council on any request by an organization or State for the PNGDF to participate in an International Obligation.

6. FUNCTIONS OF THE COMMITTEE.

The functions of the Committee are -

- (a) to compile a Report in accordance with Section 20 of this Act;
 - (b) to manage the International Obligations Fund under Part 3 of this Act;
- and

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- (c) to establish an enquiry on any matters arising prior, during or after the international obligation; and
- (d) any other functions for the purposes of implementing this Act.

7. POWERS OF THE COMMITTEE.

(1) The Committee shall exercise powers necessary to implement its functions and thereby achieve its objectives.

(2) Without limiting Subsection (1), the Committee has such other powers as are conferred by any other Act.

(3) Without limiting Subsection (1), the Committee may publish statements, reports and guidelines relating to the performance of its functions.

(4) The Committee shall not exercise any power in a manner that is inconsistent with the requirements of a regulatory contract. Such an act will be deemed inconsistent.

Division 2. - Membership of the Committee.

8. COMPOSITION OF THE COMMITTEE.

(1) The Committee consists of the Departmental Heads of the Prime Minister's, Foreign Affairs, Defence, Treasury, Finance, Planning, Trade and Industry, Personnel Management and Attorney-General and Health and Civil Aviation and Transport.

(2) The Committee also consists of the Commander of the Defence Force and the Commissioner of the Royal Papua New Guinea Constabulary.

(3) Members of the Committee may appoint their alternatives to the meeting.

9. HEAD OF DEPARTMENT OF FOREIGN AFFAIRS, TRADE AND IMMIGRATION, AND COMMANDER OF THE DEFENCE FORCE CHAIRPERSONS OF COMMITTEE.

The Chairpersons of this Committee will be the Head of the Department of the Foreign Affairs and the Commander of the Defence Force.

10. APPOINTMENT OF MEMBERS.

The members of the Committee shall be appointed by the Head of State, acting on advice from the National Executive Council.

11. VALIDITY OF CONDUCT OF COMMITTEE.

An act or decision of the Committee is not invalid if:

- (a) a defect or irregularity in appointment or removal of a member of the Committee;
- (b) a vacancy in or absence from an office of the member of the Committee.

12. DELEGATION.

(1) The Committee may delegate to any member a function of the Committee in Section 6 of this Act.

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- (2) A delegation under Subsection (1) -
 - (a) shall be in writing; and
 - (b) may be subject to such conditions or restrictions as specified in the instrument of delegation; and
 - (c) revocable by the Committee in writing.

(3) Subsection (2) shall not effect or prevent the performance of a function or the exercise of a power by the Committee.

PART III. - FINANCIAL ARRANGEMENTS.

Division 1. - International Obligations Fund.

13. ESTABLISHMENT OF INTERNATIONAL OBLIGATIONS FUND.

(1) There shall be an International Obligations Fund established for the purposes of this Act. The Department responsible for financial matters shall manage this fund.

(2) The International Obligations Fund shall be a Trust Fund as prescribed under the *Public Finance (Management) Act 1995*.

14. APPLICATION OF *PUBLIC FINANCE (MANAGEMENT) ACT 1995*.

Sections 15 to 21 of the *Public Finance (Management) Act 1995* apply to the administration of the International Obligations Fund.

15. TAX EXEMPTIONS.

(1) The Committee shall advise the National Executive Council and Parliament the exemption of taxes, duties, fees and other revenue associated charges that may apply to goods and services prior, during and after an international obligation.

(2) All relevant government agencies administering taxes, duties, fees and other revenue associated charges shall ensure that Subsection (1) is implemented.

Division 2. - Persons Assisting the Papua New Guinea Defence Force in International Obligations.

16. TENDERS TO PERSONS TO ASSIST THE DEFENCE FORCE IN INTERNATIONAL OBLIGATIONS.

The Committee may advise the National Executive Council to enter into a Contract with another person for the purposes of assisting the Defence Force in international obligations and the tender for the contract shall be awarded in accordance with Section 59(1) of the *Public Finance (Management) Act 1995*.

17. CONTRACT TO PERSON TO ASSIST THE DEFENCE FORCE IN INTERNATIONAL OBLIGATIONS.

(1) A person that has been awarded a tender under Section 16 of this Act shall immediately enter into a contract with the Department of Defence.

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(2) A person under this contract shall be a Reserve Defence Force personnel in accordance with the *Defence Force Act* (Chapter 74).

PART IV. - INTERNATIONAL OBLIGATIONS ARRANGEMENT.

Division 1. - Contents of International Obligations Arrangement.

18. INTERNATIONAL OBLIGATIONS.

(1) Subject to Section 20, the National Executive Council may recommend to Parliament for the approval of the participation of the Defence Force in international obligations relating only to active services.

(2) The National Executive Council shall only consider the application of Subsection (1) where:

- (a) a request from a State or Organisation has been made to the PNG government for the assistance of the Defence Force; or
- (b) the Committee has advised the Defence Force to initiate participation of international obligations to assist a State or Organisation.

19. REPORT OF THE COMMITTEE ADVISING THE NATIONAL EXECUTIVE COUNCIL ON INTERNATIONAL OBLIGATION.

(1) The Committee shall compile a report advising the National Executive Council on the participation of the Defence Force in international obligations.

- (2) A report referred to in Subsection (1) shall recommend the following:
- (a) strategic considerations of issues arising from the request; and
 - (b) operational considerations arising from the request; and
 - (c) tactical considerations arising from the request; and
 - (d) legal considerations arising from the request; and
 - (e) appropriate arrangements for persons who may enter into a contract assisting the PNGDF in International Obligations as in Part IV of the Act; and
 - (f) any other considerations the committee deems appropriate.

Division 2. - Approval of International Obligations Arrangement.

20. NATIONAL EXECUTIVE COUNCIL AND INTERNATIONAL OBLIGATIONS ARRANGEMENT.

(1) Upon the advice of the Committee the National Executive Council may approve the participation of the Defence Force to participate in international obligations.

(2) The Prime Minister shall advise Parliament on the international obligations the Defence Force is to participate and ask Parliament for their approval.

21. PARLIAMENT TO APPROVE INTERNATIONAL OBLIGATIONS AGREEMENT.

Parliament shall be the only authority to approve the participation of the Defence Force in International Obligations relating to active services.

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22. WAIVER OF PARLIAMENT.

Acting on advice of the Committee the Prime Minister shall consult the Speaker, acting on behalf of the Parliament, to waive Parliament approval under Section 22, if the publication or disclosure of an International Obligation Arrangement contains information that is against the interest of national security, or the national security of the requesting State or Organisation.

PART V. - MISCELLANEOUS.

23. IMMUNITY.

A member of the Committee is not personally liable for anything done or omitted that was done in good faith for carrying out the functions or exercising power under this Act or any other Act.

24. PRESERVATION OF SECRECY.

(1) All members of the Committee, officers and any other person associated with the working of the Committee shall not disclose any information relating to the affairs of the Committee.

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

25. REPEAL.

For the purposes of this Act, the *Defence (Presence Abroad) Act* (Chapter 372) is hereby repealed.

26. REGULATIONS.

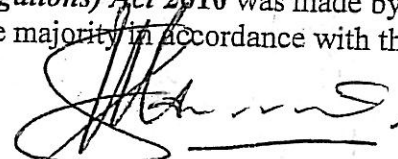
The Head of State, acting on advice from the National Executive Council may make regulations, not inconsistent with this Act, prescribing fines not exceeding K5,000.00 for offences against the regulations.

I hereby certify that the above is a fair print of the *Defence Force (International Obligations) Act 2010* which has been made by the National Parliament.



Clerk of the National Parliament.

I certify that the *Defence Force (International Obligations) Act 2010* was made by the National Parliament on 18 May 2010, by an absolute majority in accordance with the *Constitution*.



Acting Speaker of the National Parliament.

75 JAN 2011