

# PAPUA NEW GUINEA ACT (No. 2) 1974

## No. 161 of 1974

An Act relating to Papua New Guinea.

BE IT ENACTED by the Queen, the Senate and the House of Representatives of Australia, as follows:—

Short title  
and citation.

1. (1) This Act may be cited as the *Papua New Guinea Act (No. 2) 1974*.<sup>1</sup>

(2) The *Papua New Guinea Act 1949-1973*,<sup>2</sup> as amended by the *Papua New Guinea Act 1974*,<sup>3</sup> is in this Act referred to as the Principal Act.

(3) Section 1 of the *Papua New Guinea Act 1974* is amended by omitting sub-section (2).

(4) The Principal Act, as amended by this Act, may be cited as the *Papua New Guinea Act 1949-1974*.

Commence-  
ment.

2. (1) Sections 1, 2 and 11 shall come into operation on the date on which this Act receives the Royal Assent.<sup>1</sup>

(2) Sections 4 to 10 (inclusive) shall come into operation on a date to be fixed by Proclamation.

(3) Section 3 shall come into operation on a date to be fixed by Proclamation.

Interpret-  
ation.

3. Section 5 of the Principal Act is amended by omitting paragraphs (a) and (b) of sub-section (1A).

Constitution  
of Supreme  
Court.

4. Section 58 of the Principal Act is amended by omitting from sub-sections (2) and (5A) the word “Governor-General” and substituting the words “High Commissioner”.

Appoint-  
ment of  
Chief Justice  
and other  
judges.

5. Section 59 of the Principal Act is amended by omitting the word “Governor-General” (wherever occurring) and substituting the words “High Commissioner”.

Acting  
judges.

6. Section 60 of the Principal Act is amended by omitting the word “Governor-General” (wherever occurring) and substituting the words “High Commissioner”.

Qualifica-  
tions of  
judges.

7. Section 61 of the Principal Act is amended by omitting from sub-paragraph (ii) of paragraph (a) the word “Governor-General” and substituting the words “High Commissioner”.

**8. Section 62A of the Principal Act is amended—**

Rules of  
Court.

- (a) by omitting sub-section (3) and substituting the following sub-section:—

“(3) The power to make Rules of Court conferred by this section does not include power to make Rules that are inconsistent with an enactment and, on the coming into operation of an enactment that is inconsistent with Rules of Court, the Rules of Court cease to have effect to the extent of the inconsistency.”; and

- (b) by omitting sub-sections (5) to (9) (inclusive) and substituting the following sub-sections:—

“(5) The Chief Justice shall cause a copy of Rules of Court made in pursuance of this section to be laid before the House of Assembly at a meeting of that House within 15 sitting days of that House after the date on which notice of the making of the Rules is published in the *Government Gazette*.

“(6) The House of Assembly may, by resolution passed at the meeting at which any Rules of Court are laid before it, or at the next succeeding meeting, disallow the Rules or part of the Rules, and the Rules, or the part of the Rules, so disallowed shall thereupon cease to have effect.

“(7) Notice of a disallowance under sub-section (6) shall be published in the *Government Gazette*.

“(8) The disallowance of any Rules of Court or of a part of any Rules of Court has, subject to sub-section (9), the same effect as a repeal of the Rules or of the part of the Rules.

“(9) If a disallowed Rule of Court or a disallowed 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 the disallowance as if the disallowed Rule or part had not been made.”.

**9. Section 64 of the Principal Act is repealed.**

Appeals to  
High Court.

- 10. Section 73 of the Principal Act is amended by omitting from sub-section (2) the word “Governor-General” and substituting the words “High Commissioner”.**

Grant of  
pardon,  
remission,  
&c.

- 11. (1) The amendment made by section 3 does not have effect in relation to a proposed law that was passed by the House of Assembly, but not assented to by the Governor-General, before the commencement of that section.**

Transitional.

- (2) Where, immediately before the prescribed date, a person held office as a judge of the Supreme Court of Papua New Guinea under section 59 of the Principal Act or as an acting judge of that Court under section 60 of that Act, that person ceases, on that date, so to hold office but

is eligible for appointment as a judge of that Court under section 59 of the Principal Act as amended by this Act or as an acting judge of that Court under section 60 of that Act as so amended.

(3) Subject to the Rules of Court of the Supreme Court of Papua New Guinea and to any direction or order given after the prescribed date by a judge of that Court with respect to matters of practice and procedure, any proceedings in that Court as constituted immediately before that date that were pending or uncompleted immediately before that date may be continued and completed on and after that date in that Court as so constituted.

(4) The amendments made by section 8 have no effect in relation to Rules of Court made before the prescribed date.

(5) Notwithstanding the repeal effected by section 9, section 64 of the Principal Act continues to have effect in relation to an appeal, or an application for leave to appeal, under that section that was pending in the High Court before the prescribed date and in relation to any appeal arising out of such an application for leave to appeal.

(6) A warrant given by the Governor-General under sub-section 73 (2) of the Principal Act and in force immediately before the prescribed date continues in force on and after the date as if it had been given by the High Commissioner under that sub-section as amended by section 10 of this Act.

(7) In this section, "prescribed date" means the date fixed under sub-section 2 (2).

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#### NOTES

1. Act No. 161, 1974; assented to 17 December 1974.
2. Act No. 9, 1949, as amended by No. 80, 1950; No. 41, 1954; No. 15, 1957; Nos. 4 and 47, 1960; No. 27, 1963; No. 104, 1964; No. 84, 1966; Nos. 25 and 157, 1968; Nos. 58 and 123, 1971; No. 74, 1972; Nos. 69 and 120, 1973; and No. 216, 1973 (as amended by No. 20, 1974).
3. Act No. 56, 1974.