

No. 26 of 1990.

National Capital District Commission Act 1990.

Certified on: / /20 .

INDEPENDENT STATE OF PAPUA NEW GUINEA.



No. 26 of 1990.

National Capital District Commission Act 1990.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.



AN ACT

entitled

National Capital District Commission Act 1990,

Being an Act to make provision in respect of the government of the National Capital District pursuant to Section 4 (*National Capital District*) of the *Constitution*, and for related purposes.

PART I. – PRELIMINARY.

1. INTERPRETATION.

In this Act, unless the contrary intention appears–

“**Chairman**” means the Chairman of the Commission in accordance with Section 5;

“**commencement date**” means the date of coming into operation of this Act;

“**Commission**” means the National Capital District Commission established by Section 3;

¹“**Council**” means the Motu Koitabu Council established by Section 40A;

²“**Deputy Governor**” means the Deputy Governor of the National Capital District Commission in accordance with Section 5A(3);

³“**General Election**” means a National General Election;

⁴“**Governor**” means the person holding office as the Governor of the National Capital District Commission in accordance with Section 5A(2);

¹ Section 1 (definition of “Council”) inserted by *National Capital District Commission (Amendment) Act 1992* (No. 27 of 1992), s1(a).

² Section 1 (definition of “Deputy Governor”) inserted by *National Capital District Commission (Amendment) Act 1995* (No. 15 of 1995), s1(a).

³ Section 1 (definition of “General Election”) inserted by *National Capital District Commission (Amendment) Act 1995* (No. 15 of 1995), s1(a).

“Interim Assembly” means the Motu Koitabuan Interim Assembly established by the repealed Acts;

“Interim Commission” means the National Capital District Interim Commission established by the repealed Acts;

⁵**“Local-level Government”** means a Local-level Government established in accordance with Part VIIIIB;

“member” means a member of the Commission;

“Motu Koitabu” means the peoples known as Motu and Koitabu resident within the National Capital district;

⁶**“Motu Koitabu areas”** means areas declared by the Minister by notice in the National Gazette to be Motu Koitabu areas for the purposes of this Act;

⁷**“Motu Koitabu Council”** means the Motu Koitabu Council established under Section 40A;

“National Capital District” means the district established by Section 4 (*National Capital District*) of the *Constitution*, the boundaries of which are described in the *Organic Law on the boundaries of the National Capital District*;

⁸**“open electorate”** means an open electorate, as provided for under the *Organic Law on National and Local-level Government Elections*, within the National Capital District;

“repealed Acts” means the Acts repealed by Section 46;

“Salaries and Remuneration Commission” means the Salaries and Remuneration Commission established by Section 216A (*The Salaries and Remuneration Commission*) of the *Constitution*;

“this Act” includes the Regulations.

2. GOVERNMENT SYSTEM OF NATIONAL CAPITAL DISTRICT.

⁹(1) A system of government for the National Capital District is hereby established.

⁴ Section 1 (definition of “Governor”) inserted by *National Capital District Commission (Amendment) Act 1995* (No. 15 of 1995), s1(a).

⁵ Section 1 (definition of “Local-level Government”) inserted by *National Capital District Commission (Amendment) Act 1992* (No. 27 of 1992), s1(b).

⁶ Section 1 (definition of “Motu Koitabu areas”) inserted by *National Capital District Commission (Amendment) Act 1992* (No. 27 of 1992), s1(b).

⁷ Section 1 (definition of “Motu Koitabu Council”) inserted by *National Capital District Commission (Amendment) Act 1992* (No. 27 of 1992), s1(b).

⁸ Section 1 (definition of “open electorate”) inserted by *National Capital District Commission (Amendment) Act 1992* (No. 27 of 1992), s1(c).

⁹ Section 2 repealed and replaced by *National Capital District Commission (Amendment) Act 1992* (No. 15 of 1995), s2.

(2) The government of the National Capital District shall comprise—

- (a) the National Capital District Commission; and
- (b) the Motu-Koitabu Council as established in accordance with Part VIIIA;
and
- (c) the Local-level Governments established in accordance with Part VIIIB.

(3) The powers, functions and composition of the National Capital District Commission, the Motu-Koitabu Council and a Local-level Government, shall be as specified in this Act.

PART II. – NATIONAL CAPITAL DISTRICT COMMISSION.**3. NATIONAL CAPITAL DISTRICT COMMISSION.**

(1) The National Capital District Commission is hereby established.

(2)¹⁰ The Commission—

- (a) is a corporation; and
- (b) has perpetual succession; and
- (c) shall have a seal; and
- (d) may—
 - (i) acquire, hold and dispose of land, interest in land and property; and
 - (ii) sue and be sued in its corporate name; and
 - (iii) enter into contracts; and
 - (iv) subject to the prior written approval of the Minister, conduct business enterprises.

114. MEMBERSHIP OF THE NATIONAL CAPITAL DISTRICT COMMISSION.

(1) The National Capital District Commission shall consist of—

- (a) the Governor; and
- (b) the Deputy Governor; and
- (c) the members of the National Parliament representing each electorate; and
- (d) two members of the Motu Koitabu Council; and
- (e) subject to Subsection (2), the head and deputy head of each Local-level Government in each open electorate; and
- (f) one person appointed by the Minister to represent each of the following interest groups:—
 - (i) women; and
 - (ii) the Port Moresby Chamber of Commerce; and

¹⁰ Section 4 repealed and replaced by *National Capital District Commission (Amendment) Act 1992* (No. 27 of 1992), s2; Section 4(3) amended by *National Capital District Commission (Amendment) Act 1994* (No. 25 of 1994), s3; Section 4 repealed and replaced by *National Capital District Commission (Amendment) Act 1995* (No. 15 of 1995), s3.

¹¹ Section 4 repealed and replaced by *National Capital District Commission (Amendment) Act 1992* (No. 27 of 1992), s2; Section 4(3) amended by *National Capital District Commission (Amendment) Act 1994* (No. 25 of 1994), s3; Section 4 repealed and replaced by *National Capital District Commission (Amendment) Act 1995* (No. 15 of 1995), s3.

- (iii) workers unions; and
- (iv) the National Capital District Ecumenical Churches.

(2) Where there are no Local-level Governments in an open electorate or part of an open electorate, the members of the Commission referred to in Paragraph (e) shall comprise the head of each ward committee, not exceeding two, within the open electorate.

(3) The members referred to in Subsection (1)(b), (d), (e) and (f) shall—

- (a) have resided in the National Capital District for a continuous period of four years immediately prior to appointment and shall continue to reside in the National Capital District during the period of appointment; and
- (b) shall hold office for the period up to the date the writ is returned following the next General Election held after the coming into operation of the *Organic Law on Provincial Governments and Local-level Governments*.

(4) The members, other than the Governor or Deputy Governor, shall serve on a part-time basis and shall be paid such fees and allowances and receive such benefits as are determined by the Minister.

5. CHAIRMAN AND DEPUTY CHAIRMAN.

¹²(1) There shall be a Chairman and a Deputy Chairman of the Commission.

(2) Subject to this Act, the Governor shall be the Chairman of the Commission and the Deputy Governor shall be the Deputy Chairman of the Commission.

(3) If the Governor is—

- (a) on leave of absence; or
- (b) absent from the National Capital District; or
- (c) out of speedy and effective communication; or
- (d) otherwise unable to perform or is not readily available to perform the duties of his office,

the Deputy Governor shall perform the functions and responsibilities of the Governor and the Chairman of the Commission.

(4) The Governor and Deputy Governor shall serve the Commission on a full-time basis (subject to their duties as members of the National Parliament) and shall—

- (a) be paid such salaries and allowances; and
- (b) be employed under such other terms and conditions,

¹² Section 5 repealed and replaced by *National Capital District Commission (Amendment) Act 1992* (No. 27 of 1992), s3; repealed and replaced by *National Capital District Commission (Amendment) Act 1994* (No. 25 of 1994), s1; repealed and replaced by *National Capital District Commission (Amendment) Act 1995* (No. 15 of 1995), s4.

as are determined by the Salaries and Remuneration Commission.

5A. THE GOVERNOR AND DEPUTY GOVERNOR.

¹³(1) An office of Governor of the National Capital District and an office of Deputy Governor of the National Capital District are hereby established.

(2) Subject to this Act, the member of the National Parliament representing the National Capital District provincial electorate shall be the Governor.

(3) The head of the Motu Koitabu Council shall be the Deputy Governor.

(4) The Commission may, by notice in the National Gazette, declare that the offices of Governor and Deputy Governor shall be known by such other title as to the Commission seems appropriate and where a declaration has been so made the Governor and Deputy Governor shall be known as and referred to by the titles specified in the declaration and all references in this Act to the Governor and Deputy Governor shall be read accordingly.

5B. VACATION OF OFFICE OF THE GOVERNOR.

¹⁴(1) If the Governor—

- (a) is dismissed from office in accordance with Section 5C; or
- (b) is appointed—
 - (i) a Minister or a Vice-Minister in the National Government; or
 - (ii) the Speaker or Deputy Speaker of the National Parliament; or
 - (iii) the Leader or Deputy Leader of the Opposition in the National Parliament; or
 - (iv) the Chairman of the Permanent Parliamentary Public Works Committee; or
 - (v) the Chairman of the Permanent Parliamentary Public Accounts Committee; or
 - (vi) to an office which has powers and privileges equivalent to those of a Minister; or
- (c) is otherwise disqualified by law or ceases to be a member of the Commission or of the National Parliament,

he shall be deemed to have vacated the office of the Governor.

(2) Where the Governor is a member of the National Parliament, other than the member of the Parliament representing the National Capital District provincial electorate, he shall be deemed to have vacated the office of the Governor, if he—

- (a) is dismissed from office in accordance with Section 5C; or

¹³ Section 5A inserted by *National Capital District Commission (Amendment) Act 1995* (No. 15 of 1995), s5.

¹⁴ Section 5B inserted by *National Capital District Commission (Amendment) Act 1995* (No. 15 of 1995), s5.

- (b) is appointed to any of the offices referred to in Subsection (1)(b); or
- (c) is otherwise disqualified by law or ceases to be a member of the Commission or of the National Parliament.

(3) Where the Governor vacates his office in accordance with Subsection (1)(a) or (b), or (2)(a) or (b), he shall continue to hold office as a member of the Commission, but is not eligible to be appointed as the Governor for the balance of his term of office in the Commission.

(4) Notwithstanding Subsections (1) and (2), the Governor shall continue in office until the election of the next Governor.

(5) For the purposes of Subsection (1)(b)(vi), the National Executive Council may determine whether an office is an office to which that subparagraph applies.

5C. DISMISSAL OF GOVERNOR.

¹⁵(1) Subject to this section, the Commission may by a two-thirds absolute majority vote, dismiss the Governor from office.

- (2) The dismissal of the Governor shall be by motion—
 - (a) which shall be expressed to be a motion to dismiss the Governor; and
 - (b) of which not less than one week's notice signed by the number of members of the Commission, being not less than one-quarter of the total membership of the Commission, has been given in accordance with the procedures of the Commission.

5D. ELECTION OF THE GOVERNOR IN THE EVENT OF VACANCY.

¹⁶(1) Subject to Subsection (3), if the Governor vacates his office in accordance with Section 5B(1), the Commission shall, from amongst the members of the Commission who are members of the Parliament, elect the Governor.

(2) Subject to Subsection (3), if the Governor elected under Subsection (1) vacates his office in accordance with Section 5C, the Commission shall elect another member of the Parliament to be Governor.

- (3) Where—
 - (a) a vacancy exists in the office of the Governor; and
 - (b) all of the members of the Parliament—
 - (i) hold executive office in the National Government or the Parliament; or
 - (ii) are otherwise disqualified by law,

the Commission shall, from amongst the members referred to in Section 4(1)(b), (d) and (e) elect the Governor.

¹⁵ Section 5C inserted by *National Capital District Commission (Amendment) Act 1995* (No. 15 of 1995), s5.

¹⁶ Section 5D inserted by *National Capital District Commission (Amendment) Act 1995* (No. 15 of 1995), s5.

(4) Where the Governor elected under Subsection (3) is a representative from the Motu Koitabu Council, the Deputy Governor shall be elected from amongst the members referred to in Section 4(1)(e).

5E. POLITICAL AND EXECUTIVE RESPONSIBILITIES OF THE GOVERNOR AND DEPUTY GOVERNOR.

¹⁷The Governor, or in his absence the Deputy Governor, shall—

- (a) be politically responsible to both the Commission and the National Parliament for the government of the National Capital District; and
- (b) be constitutionally responsible to the Minister.

6. LEADERSHIP CODE APPLIES.

Pursuant to Section 26(3) of the *Constitution (Application of Division 2)*, the office of member of the Commission is declared to be a public office to and in relation to which Division III.2 (*Leadership Code*) of the *Constitution* applies.

7. INELIGIBILITY FOR OFFICE.

A person who—

- (a) has been convicted of a criminal offence for which a term of imprisonment of not less than two years is prescribed as a penalty; or
- (b) is declared medically unfit; or
- (c) is or has been the Manager or a member of the staff of—
 - (i) the Interim Assembly; or
 - (ii) the Interim Commission; or
 - (iii) the Commission,

unless he has resigned and the resignation has been effective for a period of at least six months prior to the date of his election or appointment,

is not eligible to be elected or appointed as a member of the Commission.

8. VACATION OF OFFICE.

(1) Where a member of the Commission—

- (a) becomes permanently incapable of performing his duties; or
- (b) resigns his office by writing under his hand addressed to the Minister;
or

¹⁷ Section 5E inserted by *National Capital District Commission (Amendment) Act 1995* (No. 15 of 1995), s5.

- (c)¹⁸ absents himself from three consecutive meetings of the Commission without the written consent of the Lord Mayor or alternate Lord Mayor; or
- (d) fails to comply with the provisions of Section 13; or
- (e) becomes bankrupt, 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) becomes of unsound mind as that expression is used in the *Public Health Act 1973*; or
- (g) ceases to be a permanent resident in the National Capital District; or
- (h) is absent from the National Capital District for a continuous period of three months; or
- (i) is convicted of an offence punishable by imprisonment for one year or longer or by death, and as a result of the conviction is subject to be sentenced to imprisonment or is under sentence of death, or is under bond to appear for sentence if called on; or
- (j) is found to have been, at the time of his appointment or election, ineligible for appointment or election,

the Head of State, acting on advice, shall terminate his membership of the Commission.

(2) The Head of State, acting on the advice of the National Executive Council, may at any time, by written notice, advise a member of the Commission that he intends to terminate his appointment on the grounds of inefficiency, incapacity or misbehaviour.

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

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

(5)¹⁹ ²⁰Where a member—

- (a) has his appointment terminated under this section; or
- (b) dies,

the vacancy shall be filled as soon as is practicable.

¹⁸ Section 8(c) amended by *National Capital District Commission (Amendment) Act 1994* (No. 25 of 1994), s3, Schedule.

¹⁹ Section 8(5) repealed and replaced by *National Capital District Commission (Amendment) Act 1992* (No. 27 of 1992), s4(a).

²⁰ Section 8(5) repealed and replaced by *National Capital District Commission (Amendment) Act 1992* (No. 27 of 1992), s4(a).

(6)²¹ [*Repealed.*]

9. VACANCY NOT TO AFFECT POWERS OR FUNCTIONS.

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

10. MEETINGS OF THE COMMISSION.

(1)²² ²³The Commission shall hold meetings at such times and places as the Chairman, or in his absence the Deputy Chairman, determines, but in any event not less frequently than once in every month.

(2)²⁴ ²⁵Where he receives a request to do so by not more than two members, the Chairman, or in his absence the Deputy Chairman, shall convene a meeting of the Commission within 14 days.

(3) At a meeting of the Commission—

(a)²⁶ 10 members are a quorum; and

(b)²⁷ the Chairman, or in his absence the Deputy Chairman shall preside and in the absence of both the Chairman and the Deputy Chairman, the members shall appoint a Chairman from amongst their own number; and

(c) subject to this Act—

(i) matters arising shall be determined by the majority of votes of the members present and voting; and

(ii) the member presiding shall have a deliberative and, in the event of an equality of votes on a matter, also a casting vote.

(4) The Commission shall cause minutes of its meetings to be recorded and kept.

(5) Subject to this Act, the procedures of the Commission are as determined by the Commission.

²¹ Section 8(6) repealed by *National Capital District Commission (Amendment) Act 1992* (No. 27 of 1992), s4(b).

²² Section 10(1) amended by *National Capital District Commission (Amendment) Act 1994* (No. 25 of 1994), s3, Schedule.

²³ Section 10(1) amended by *National Capital District Commission (Amendment) Act 1994* (No. 25 of 1994), s3, Schedule.

²⁴ Section 10(2) amended by *National Capital District Commission (Amendment) Act 1994* (No. 25 of 1994), s3, Schedule.

²⁵ Section 10(2) amended by *National Capital District Commission (Amendment) Act 1994* (No. 25 of 1994), s3, Schedule.

²⁶ Section 10(3)(a) repealed and replaced by *National Capital District Commission (Amendment) Act 1994* (No. 25 of 1994), s2(a); repealed and replaced by *National Capital District Commission (Amendment) Act 1995* (No. 15 of 1995), s6.

²⁷ Section 10(3)(b) repealed and replaced by *National Capital District Commission (Amendment) Act 1994* (No. 25 of 1994), s2(b).

11. CUSTODY AND AFFIXING OF SEAL.

(1) The seal of the Commission—

(a)²⁸ shall be kept in the custody of the Chairman or the Deputy Chairman or of such officer of the Commission as the Commission may approve; and

(b)²⁹ shall be affixed to instruments pursuant to a resolution of the Commission in the presence of the Chairman or the Deputy Chairman and the Manager.

(2)³⁰ ³¹It shall be the responsibility of the Chairman, or in his absence the Deputy Chairman, and the Manager to verify, prior to the affixing of the seal, that an appropriate resolution has been made by the Commission.

12. AUTHENTICATION OF DOCUMENTS, ETC.

³²The seal of the Commission shall be authenticated by the signature of the Chairman or Deputy Chairman and by one member and such seal shall be officially and judicially noticed.

13. DISCLOSURE OF INTEREST BY MEMBER OF COMMISSION.

(1) A member of the Commission who is, or a member of whose immediate family is, directly or indirectly interested in a contract made or proposed to be made by the Commission, or under consideration by the Commission, otherwise than as a member and in common with the other members of an incorporated company consisting of not less than 25 persons shall, as soon as practicable after the relevant facts have come to his knowledge, disclose the nature of the interest at a meeting of the Commission.

(2) A disclosure under Subsection (1) shall be recorded in the minutes of the Commission and the member—

(a) shall not take part, after the disclosure, in any deliberation or decision on the contract; and

(b) shall be disregarded for the purposes of constituting a quorum for any such deliberation or decision.

²⁸ Section 11(1)(a) amended by *National Capital District Commission (Amendment) Act 1994* (No. 25 of 1994), s3, Schedule.

²⁹ Section 11(1)(b) amended by *National Capital District Commission (Amendment) Act 1994* (No. 25 of 1994), s3, Schedule.

³⁰ Section 11(2) amended by *National Capital District Commission (Amendment) Act 1994* (No. 25 of 1994), s3, Schedule.

³¹ Section 11(2) amended by *National Capital District Commission (Amendment) Act 1994* (No. 25 of 1994), s3, Schedule.

³² Section 12 amended by *National Capital District Commission (Amendment) Act 1994* (No. 25 of 1994), s3, Schedule.

PART III. – FUNCTIONS AND POWERS OF THE COMMISSION.**14. FUNCTIONS OF THE COMMISSION.**

Subject to this Act, the functions of the Commission are–

- (a) to control, manage and administer the National Capital District and to ensure the welfare of the National Capital District and of the persons in it; and
- (b) to ensure that an adequate level of assistance is given towards the successful operation of Tabudubu Pty. Ltd., the company established by the Motu Koitabu Interim Assembly for the Motu Koitabu people of the National Capital District.

15. POWERS OF THE COMMISSION.

(1) Subject to this Act, the Commission has, for the purpose of fulfilling its functions, power–

- (a) to legislate as provided in Part VII; and
- (b) to acquire, hold, dispose of, mortgage or pledge property, land or buildings; and
- (c) to develop or improve land; and
- (d) to construct buildings; and
- (e) to invest moneys; and
- (f) with the consent of the Minister, to provide or co-operate with a Department or other body in providing any public or social service; and
- (g) to determine the duties and functions of any person employed by the Commission; and
- (h) to do such other matters and things as seem to it necessary or desirable for carrying out and performing its powers, functions, duties and responsibilities and any other ancillary or incidental matters or things.

(2) The exercise by the Commission of a power or function under this Act is not invalid by reason only of the fact that–

- (a) it takes place outside, or is related to matters outside the National Capital District; or
- (b) it is for the benefit of–
 - (i) some only of persons in the National Capital District; or
 - (ii) any such persons jointly with other persons.

16. COMMITTEES.

(1) There shall be established such number of Committees or Boards as the Commission considers necessary for the proper carrying out of its functions.

(2) A Committee or Board established under Subsection (1) shall—

- (a) be established in the prescribed manner; and
- (b) have such functions as are prescribed; and
- (c) consist of a number of members as prescribed of whom less than one half shall be members of the Commission, and the remainder of whom shall be persons ordinarily resident in the National Capital District and broadly representative of the community and shall include persons having technical expertise on the subjects to be dealt with by the Committee or Board.

(3) The Commission shall delegate to each such Board or Committee established under this section such powers (other than this power of delegation) as are necessary to enable such Board or Committee to carry out its functions.

17. POWERS TO BE EXERCISED BY COMMISSION, ETC.

The powers conferred on the Commission by this Part shall be exercised only by resolution of the Commission or by a Board or Committee in accordance with a delegation under Section 16(3) and no power shall be vested in an individual member of the Commission or of a Board or Commission.

17A. DELEGATION OF FUNCTIONS AND POWERS BY COMMISSION.

³³(1) The Minister may, by written direction to the Commission, direct the Commission to delegate—

- (a) to the Council, such of the functions and powers of the Commission as are specified in the direction in relation to the Motu Koitabu areas or such part of the Motu Koitabu areas; and
- (b) to a Local-level Government, such of the functions and powers of the Commission as are specified in the direction in relation to the Local-level Government area or such part of the Local-level Government area,

as are specified in the direction, and the Commission shall comply with such direction.

(2) A delegation under Subsection (1)—

- (a) may contain such conditions as may be specified in the notice of delegation; and
- (b) shall be published in the National Gazette.

³³ Section 17A inserted by *National Capital District Commission (Amendment) Act 1992* (No. 27 of 1992), s5; repealed and replaced by *National Capital District Commission (Amendment) Act 1995* (No. 15 of 1995), s7.

PART IV. – STAFF.**18. STAFF.**

(1) The staff of the Commission shall consist of—

- (a) a Manager appointed in accordance with Section 19; and
- (b) such officers and employees appointed by the Commission as it considers necessary for the purposes of performing its functions.

(2)³⁴ ³⁵Subject to Subsection (3), the Manager and officers and employees shall hold office on such terms and conditions as are determined by the Commission subject to the *Salaries and Conditions Monitoring Committee Act 1988*.

(3)³⁶ ³⁷Where, in the opinion of the Minister, the inability, incompetence, incapacity or misbehaviour of the Manager or an officer or employee of the Commission has resulted in—

- (a) mismanagement of the financial affairs of the Commission; or
- (b) a breakdown in the administration of the Commission; or
- (c) a failure on the part of the Commission to provide adequate services to the public,

the Minister may direct the Commission to dismiss the Manager, officer or employee, as the case may be, from office in accordance with the appropriate procedures and the Commission shall comply with such direction.

19. MANAGER.

(1) The Manager shall be appointed, subject to the consent of the Minister, by the Commission.

(2) Where the Commission wishes to dismiss the Manager from office before the termination of the period for which he was appointed and the Minister refuses his consent, the Chairman of the Public Services Commission shall appoint a tribunal to consider the matter and the decision of the tribunal shall be final.

(3) The Manager shall manage and be the Chief Executive of the staff of the Commission, and in relation to policy shall act in accordance with the policy and directions of the Commission.

(4) The Manager shall be entitled to attend all meetings of the Commission, but is not a member thereof and does not have a right to vote and shall not be counted for the purposes of constituting a quorum.

³⁴ Section 18(2) amended by *National Capital District Commission (Amendment) Act 1992* (No. 27 of 1992), s6(a).

³⁵ Section 18(2) amended by *National Capital District Commission (Amendment) Act 1992* (No. 27 of 1992), s6(a).

³⁶ Section 18(3) inserted by *National Capital District Commission (Amendment) Act 1992* (No. 27 of 1992), s6(b).

³⁷ Section 18(3) inserted by *National Capital District Commission (Amendment) Act 1992* (No. 27 of 1992), s6(b).

20. PUBLIC SERVICE RIGHTS, ETC., OF MANAGER, OFFICERS AND EMPLOYEES.

Notwithstanding anything in any other Act, where an officer or employee of the National Public Service is appointed to be the Manager or an officer or employee of the staff of the Commission, his service as Manager or as an officer or employee of the Commission shall be counted as service in the National Public Service for the purpose of determining his rights (if any) in respect of—

- (a) leave of absence on the ground of illness; and
- (b) furlough or pay in lieu of furlough (including pay to the dependants on the death of the officer).

PART V. – FINANCES.**21. FINANCES OF COMMISSION.**

The finances of the Commission shall consist of–

- (a) receipts from taxation–
 - (i) imposed by laws made under Part VII or laws continued in force under Section 52; and
 - (ii) imposed under delegation from the National Government under Part VII; and
- (b) grants from the National Government as provided or in Section 22; and
- (c) the proceeds of court fees, fines and penalties as provided for in Section 23, and other fees and charges under this Act or any law made under Part VII or under laws continued in force under Section 52; and
- (d) the proceeds of investments by it (including interest on bank deposits) and income from commercial enterprises conducted by it; and
- (e) the proceeds of investments by it (including interest on bank deposit) and income from commercial enterprises conducted by it; and
- (f) such other moneys as are lawfully available to it under an Act of the Parliament or a law made under Part VII or a law continued in force under Section 52.

22. GRANTS FROM NATIONAL GOVERNMENT.

(1) The National Government shall make the following grants to the Commission:–

- (a) the balance outstanding, as at the commencement date, of sums appropriated for the financial year 1990 for the National Capital District Interim Commission;
- (b) grants in respect of functions transferred to the Commission, which shall be paid annually at the level of National Government funding at the time of transfer and indexed annually in accordance with rises in the Consumer Price Index or in accordance with an alternative method of fixing annual increase agreed between the Commission and the National Government;
- (c) such other sums as the National Government may, from time to time, decide.

(2) Sums paid under Subsection (1)(b) and (c) may be conditional or unconditional at the option of the Minister responsible for financial matters.

(3) The sums specified in this section shall be paid out of the Consolidated Revenue Fund which is appropriated accordingly.

(4) Where, as a result of any court action initiated by the Commission against a person, a fine is levied against that person, the amount of the fine shall be payable to the Commission.

23. COURT FINES AND FEES.

(1) Where a law made under Part VII by the Commission provides for the imposition of fines or penalties, or for forfeitures, for any offence against that law, the amount of the fines or penalties shall be paid, or the forfeitures shall be made, as the case may be, to the Commission.

(2) Where a law made under Part VII provides for a fee to be payable in any court, the amount of the fee shall be paid to the Commission.

(3) Where a law continued in force under Section 52 provides for the payment of fees or the imposition of fines or penalties, or for forfeitures, the amount of the fees and the fines or penalties shall be paid, or the forfeitures shall be made, as the case may be, to the Commission.

24. OTHER FEES, CHARGES, ETC.

(1) A law made under Part VII may impose, or provide for the imposition of fees or charges in respect of goods or services supplied, rendered or made available, or to be supplied, rendered or made available, under a law under Part VII and any such fees or charges shall be payable to the Commission.

(2) Where under an Act of the Parliament, the National Government fixes fees and charges in respect of functions performed by the Commission, such fees and charges shall be fixed annually in accordance with such Act, after consultation between the relevant Department and the Commission, provided that the level shall not be less than is required to fund the cost of administering and performing the function.

25. BORROWING.

(1) Subject to Subsection (2), the Commission may, with the prior consent of the Minister responsible for financial matters, borrow money for any of its functions under this Act by way of mortgage, bank overdraft or otherwise, subject to such conditions as to security or otherwise as are approved by the Minister responsible for financial matters.

(2) The prior written consent of the Minister responsible for financial matters is necessary—

- (a) where the amount of any single loan exceeds K500,000.00; or
- (b) where, as a result of a loan, the total sums borrowed shall exceed K1,000,000.00 in any financial year.

26. INVESTMENT.

The Commission may invest any moneys standing to the credit of an account referred to in Section 27–

- (a) in any securities of, or guaranteed by, the State; or
- (b) on deposit in a bank; or
- (c) in the securities of any money market toward which the Central Bank acts as lender of last resort; or
- (d) in any other securities authorized by the Minister responsible for financial matters; or
- (e) in the shares of any company approved by the Minister.

27. BANK ACCOUNTS.

(1) The Commission shall open and maintain such bank accounts as are necessary for the exercise and performance of its powers and functions, and shall pay into those accounts–

- (a) all moneys received from the State for the purposes of this Act; and
- (b) all moneys previously held by the Interim Assembly and by the Interim Commission and transferred to the Commission under this Act; and
- (c) all moneys appropriated by Act for the purposes of carrying out or giving effect to this Act; and
- (d) rates, taxes, charges and fees imposed, levied or made by the Commission; and
- (e) all other moneys received by the Commission in or for the performance of its functions, duties or powers.

(2) Out of the moneys standing to the credit of the accounts referred to in Subsection (1), the Commission shall pay–

- (a) all moneys payable by the Commission in repayment of advances under this Act and as interest on such advances; and
- (b) the costs, charges and expenses incurred by the Commission in the performance of its functions under this Act; and
- (c) the remuneration of staff of the Commission; and
- (d) any other payment that the Commission is authorized or required to make by or under this Act or any other law.

28. ACCOUNTS.

The Commission shall–

- (a) keep proper accounts and records as prescribed, or as instructed by the Minister responsible for financial matters; and

- (b) do all things necessary to ensure that—
 - (i) all payments out of the respective funds are correctly made and properly authorized; and
 - (ii) adequate control is maintained over the assets of, and the incurring of liabilities by, the Commission.

29. ESTIMATES.

(1) The Commission shall, before 31 October in each year, submit to the Minister estimates of its receipts and expenditure for the next financial year, and may submit supplementary or revised estimates.

(2) Where the Commission fails to submit estimates in accordance with Subsection (1), the Minister may, by written notice to the Commission, require it to submit its estimates, and until the Commission complies with the notice, Subsection (4) applies to the Commission as if the Minister had withheld certification of the Commission's estimates.

(3) Where the Minister is satisfied that the proposals contained in any estimates, supplementary estimates or revised estimates—

- (a) are not unreasonable; and
- (b) are within the authorized powers and duties of the Commission under this Act; and
- (c) are likely to be capable of being met from the finances available, or to become available for the purpose,

the Minister shall certify the estimates to the Commission.

(4) Where the Minister is not satisfied as to the matters referred to in Subsection (3), he may, by notice to the Commission, refuse certification in whole or in part, and shall immediately advise the Commission of his reasons.

(5) Where the Commission has provided in its estimates of receipts for the receipt of, or has received, a grant or advance of moneys from the National Government and it has not made adequate provision in the estimates of expenditure for its expenditure for the purpose for which it is, or has been, made, the Minister may refuse certification in whole or in part.

(6) Where the Minister has withheld certification, in whole or in part, of any estimates, the Commission shall not, without the consent of the Minister, incur expenditure, collect revenue, or carry on works in respect of the whole or the part, as the case may be, of the estimates of which certification has been withheld.

(7) The Commission may, in the course of a financial year, approve variations in respect of matters covered by a certification by the Minister under this section in respect of that financial year, provided that such variations do not exceed in total 30% of the original amounts certified by the Minister.

30. AUDIT.

(1) Subject to this section, the Auditor-General shall—

- (a) inspect and audit the accounts and records of the Commission and records relating to its assets or assets in its custody; and
- (b) promptly draw the attention of the Minister to any irregularity disclosed by the inspection and audit that is, in the opinion of the Auditor-General, of sufficient importance to justify his so doing.

(2) The Auditor-General may, at his discretion, dispense with the whole or any part of the detailed inspection and audit of any accounts referred to in Subsection (1).

(3) The Auditor-General may, at his discretion, for the purpose of assisting him in an inspection and audit under Subsection (1), employ a Registered Company Auditor who shall act under the direction of the Auditor-General and under the terms and conditions determined by the Auditor-General.

(4) A person carrying out an inspection or audit under this section or a person authorized by him—

- (a) is entitled at all reasonable times to full and free access to all accounts, records, documents and papers of the Commission relating directly or indirectly to the receipt or payment by it, or to the acquisition, receipt, custody or disposal of assets by it; and
- (b) may make copies of, or take extracts from, any such accounts, records, documents or papers; and
- (c) may require any person to furnish him with such information in his possession or to which he has access as the person carrying out the inspection or audit, or the person authorized by him, thinks necessary for the purposes of the functions of the Auditor-General under—
 - (i) the *Constitution*; and
 - (ii) this Act.

(5) A person who fails to comply with Subsection (4)(c) is guilty of an offence.

Penalty: A fine not exceeding K200.00.

(6) Where an audit and inspection has been carried out under this section the Auditor-General shall send to the Minister as soon as is practicable a report on the audit and inspection and the Minister shall table the report in the Parliament.

PART VI. – SUSPENSION.

31. MINISTER MAY APPOINT COMMITTEE OF INQUIRY.

(1) Where the Minister is of the opinion that—

- (a) there is widespread corruption in the administration of the affairs of the Commission; or
- (b) there has been gross mismanagement of the financial affairs of the Commission; or
- (c) there has been a breakdown in the administration of the National Capital District; or
- (d) there has been persistent and deliberate frustration of, or failure to comply with, lawful directions of the National Government; or
- (e) the Commission has persistently exceeded its powers or disobeyed applicable laws; or
- (f) it is in the national interest to do so,

he may appoint a Committee of Inquiry of three persons to look into and report to him on the matter.

(2) On receipt of a report under Subsection (1), the Minister shall refer the report to the National Executive Council with a statement of his reasons for appointing a Committee of Inquiry.

32. SUSPENSION.

(1) The Head of State, acting on advice, given after consideration of the report and statement referred to in Section 31(2), may by order in the National Gazette, suspend all or any of the powers or functions of the Commission for a stated or an indefinite period.

(2) In advising the Head of State under Subsection (1), the National Executive Council is not bound by the terms of, or recommendations contained in, the report of the Committee of Inquiry.

33. EFFECT OF SUSPENSION.

(1) Subject to Subsection (2), a suspension order under Section 32(1) operates to deprive the Commission of the suspended powers or functions during the period of suspension.

(2) The suspension of a power or function under Section 32(1) does not affect any right, privilege, obligation or liability acquired, accrued under or in respect of the suspended power or function, or any investigation, legal proceeding or remedy in respect of such right, privilege, obligation or liability which may, subject to this Act, be carried on or endorsed as if the suspension had not taken place.

34. APPOINTMENT OF MANAGER FOLLOWING SUSPENSION.

(1) Where a suspension order is made under Section 32(1), the Head of State, acting on advice, may in the order or in a subsequent instrument appoint a person to be the Manager in relation to the Commission.

(2) Subject to any directions given by the Head of State, acting on advice, a person appointed under Subsection (1), in relation to the Commission—

(a) has and may exercise on behalf of the body such of the suspended powers and functions as are specified by the Head of State, acting on advice; and

(b) has such other powers and functions as are prescribed.

(3) Notwithstanding Subsection (2), but subject to any directions given by the Head of State, acting on advice, the Minister may exercise during a suspension under this Part all or any of the suspended powers or functions.

35. PERIOD OF SUSPENSION.

A suspension under this Part operates until—

(a) the end of a period stated in the suspension order made under Section 32(1); or

(b) such time as the suspension order made under Section 32(1) is revoked by the Head of state, acting on advice,

whichever first occurs.

PART VII. – LEGISLATIVE POWERS.

36. GENERAL PROVISIONS RELATING TO LEGISLATIVE POWERS OF THE COMMISSION.

(1) The Commission has legislative powers to the extent set out in this Part.

(2) Subject to Subsections (4) and (5), a law made by the Commission has effect only in, and in relation to, the National Capital District.

(3) Full faith and credit shall be given throughout Papua New Guinea to the laws made under this Part.

(4) Except as is expressly provided by this Part, this Part does not affect the power of the Parliament under Section 109 (*general power of law-making*) of the *Constitution*, to make laws for the peace, order and good government of Papua New Guinea.

(5) Subject to Section 37(4) and (6) a law made under this Part shall have effect only in so far as not inconsistent with any Act of the Parliament.

(6) For the purposes of Subsection (5), the question, whether or not a law made under this Part is inconsistent with an Act of the Parliament, is non-justiciable except at the instance of the National Government or of the Commission.

(7) The procedure for the presentation to and passing legislation in the Commission shall be as prescribed.

37. LEGISLATIVE POWERS OF COMMISSION.

³⁸(1) Subject to Section 36, the Commission has power to legislate and has the primary responsibility in respect of–

- (a) the control by licensing of mobile traders; and
- (b) the sale and distribution of alcoholic liquor; and
- (c) parks and gardens; and
- (d) physical planning; and
- (e)³⁹ [*Repealed.*]
- (f)⁴⁰ sanitation (other than sewerage) and garbage; and
- (g) taxation as provided in Section 38(a) and (d); and
- (h) the control of littering; and
- (i) the control of unlicensed street vending including the power of confiscation of goods offered for sale; and

³⁸ Section 37: headnote amended by *National Capital District Commission (Amendment) Act 1996* (No. 17 of 1996), s(a).

³⁹ Section 37(1)(e) repealed by *National Capital District Commission (Amendment) Act 1996* (No. 17 of 1996), s(b)(i).

⁴⁰ Section 37(1)(f) repealed and replaced by *National Capital District Commission (Amendment) Act 1996* (No. 17 of 1996), s(b)(ii).

(j) the control of the sale of betelnut within the National Capital District including the power to regulate the sale of such commodity in officially declared market places.

(2) Subject to Section 36, the Commission has also power to legislate in respect of—

- (a) the control by licensing of public entertainments and of places of public entertainment; and
- (b) village courts, other than their jurisdiction; and
- (c) community and Local-level Governments; and
- (d) community and welfare services and development; and
- (e) education; and
- (f) agriculture; and
- (g) health; and
- (h) business development; and
- (i) matters pertaining to the National Information Service; and
- (j) the Building Board; and
- (k) censorship matters; and
- (l) roads, drains, bridges, street lighting and traffic control; and
- (m) markets; and
- (n) tourism; and
- (o) land and land development; and
- (p) cemeteries; and
- (q) registration of births, marriages and deaths; and
- (r) dogs; and
- (s) vehicle registration; and
- (t) public transport; and
- (u) customary marriage and adoption; and
- (v) the imposition of head tax, which may be imposed on corporations as well as natural individuals, but which shall not be imposed by reference to income; and
- (w) gambling, lotteries and games of chance; and
- (x) powers to impose taxation as set out in Section 38.

(3) The Head of State, acting on advice, may by notice in the National Gazette, declare any of the matters set out in Subsection (2) to be the primary responsibility of the Commission.

(4) Subject to this Act, the Commission shall have the exclusive power of making laws in respect of a matter—

- (a) specified in Subsection (1); or
- (b) specified in Subsection (2) in respect of which a notice under Subsection (3) is in force.

(5) Where a notice under Subsection (3) is revoked by another notice, a law of the Commission in relation to the matter the subject of the first-mentioned notice continues in force in relation to that matter until the Parliament makes other provision.

(6) Except as provided by Subsections (7) and (8), the Parliament has no power to make an Act of the Parliament on a matter—

- (a) specified in Subsection (1); or
- (b) specified in Subsection (2) in respect of which a declaration under Subsection (3) is in force.

(7) If the Commission has not made an exhaustive law, in accordance with this Part, on a matter—

- (a) specified in Subsection (1); or
- (b) specified in Subsection (2) in respect of which a declaration under Subsection (3) is in force,

an Act of the Parliament on the matter may have effect in the National Capital District so far as it is not inconsistent with a law of the Commission on that matter.

(8) Subject to Subsection (9), each Act of the Parliament made before the date of the coming into effect of a notice under Subsection (3) in relation to a matter continues in force, and may be altered by another Act, after that date.

(9) When a law is made in relation to a matter under Subsection (4), all Acts of the Parliament that were—

- (a) made with respect to the matter; and
- (b) continued in force by Subsection (8),

cease to have effect, to the extent of any inconsistency, in relation to the National Capital District as if they had been repealed, in relation to the District, by another Act.

(10) For the purposes of Subsection (7), a law is exhaustive in relation to a matter if it shows, by reason of—

- (a) its subject-matter; or
- (b) the method of dealing with the matter that has been adopted by it or by any other law that should be considered with it; or
- (c) the form or complexity of it or of any other law that should be considered with it,

that the Commission has intended to set out completely, exhaustively or exclusively—

- (d) the statutory requirements of the matter; or
- (e) the statute law to govern the matter; or
- (f) the policy on the matter.

(11) The operation of Subsection (10) is not affected by reliance placed by the law on—

- (a) any principle or rule of the underlying law; or
- (b) any other statute,

for purposes of definition or interpretation, or for procedural, evidentiary or other ancillary or adjectival purposes.

(12) For the purposes of this section, a statement in a law that it is or is intended to be exhaustive is not conclusive on the point.

(13) The fact that a law is exhaustive in its relation to a matter does not of itself involve inconsistency with any other law.

38. LEGISLATION IMPOSING TAXATION.

The Commission may legislate to impose taxation of the following kinds:—

- (a) retail sales tax, services tax and related taxes in accordance with the provisions prescribed;
- (b) taxes on public entertainments for which admission is charged, and on places kept for the purpose of such entertainment;
- (c) fees for licences for mobile traders (other than mobile banks within the meaning of the *Banks and Financial Institutions Act 2000*;
- (d) fees for the licensing of places where intoxicating liquor is sold;
- (e) fees for licences to carry on or operate gambling, lotteries or games of chance;
- (f) taxes on land as prescribed;
- (g) head tax;
- (h) any other tax that can be imposed by a Local Government Council.

38A. MINISTER MAY PROVIDE FOR SHARING OF PROCEEDS OF TAXATION.

⁴¹The Minister may, after consultation with—

- (a) the Commission; and
- (b) the Central Provincial Government,

⁴¹ Section 38A inserted by *National Capital District Commission (Amendment) Act 1995* (No. 15 of 1995), s8.

provide for sharing, between the Commission and the Central Provincial Government, the monies raised by taxation imposed under this Act.

39. LEGISLATION TO BE SUBMITTED TO MINISTER.

A law made under this Part by the Commission shall not come into operation until the written consent of the Minister to the text of the law has been given.

PART VIII. – TRANSFER OF FUNCTIONS.

40. TRANSFER OF FUNCTIONS.

(1) The National Government may, at an appropriate time, after giving to the Commission three months notice of their intention to do so, transfer to the Commission all or any of the functions or any part or aspect of them relating to–

- (a) health; and
- (b) education; and
- (c) primary industry; and
- (d) National Information Service; and
- (e) youth affairs; and
- (f) land transport; and
- (g) settlement and land development; and
- (h) library services; and
- (i) village courts; and
- (j) welfare services,

in the National Capital District.

(2) A transfer of functions under Subsection (1)–

- (a) shall be subject to provision of staffing and to National Government funding in accordance with Section 22(1)(b); and
- (b) may be subject to such conditions as the National Government imposes.

PART VIIIA.⁴² – MOTU KOITABU COUNCIL.

40A. MOTU KOITABU COUNCIL.

⁴³(1) There is established a Motu Koitabu Council.

(2) The Motu Koitabu Council shall consist of 10 members elected by the Motu Koitabu people of the National Capital District in accordance with an election conducted by the Electoral Commission in a manner prescribed.

(3) Election under Subsection (2) shall be for a period of three years and an election shall be held every three years.

(4) The members of the Council shall appoint one of their number to be the Chairman of the Council and another to be the Deputy Chairman.

(5) The Council shall be responsible, within the Motu Koitabu areas, for the provision and maintenance of such basic services, community activities, education and health as the Minister directs.

(6) The Minister shall from time to time direct the Commission to make funds available to the Council at a level specified by the Minister.

(7) The Council shall meet as often as the business of the Council requires, but in any event not less frequently than once in each calendar month.

(8) The procedures of the Council are as directed by the Minister.

(9) The powers, remuneration and conditions of tenure of office of members of the Council are as prescribed.

(10)⁴⁴ ⁴⁵Notwithstanding Subsection (3), the term of office of the members of the Council holding office on the date of coming into operation of *the National Capital District Commission (Amendment) Act 1995* begins on the date they were elected in accordance with that subsection, and expires on the day fixed for the return of the writs for the next General Election held after the coming into operation of the *Organic Law on Provincial Governments and Local-level Governments*.

40B. POWERS GENERALLY OF MOTU KOITABU COUNCIL.

⁴⁶The Council has, in addition to the powers granted under Section 17A, power—

- (a) to manage, control and administer the Motu Koitabu areas; and
- (b) subject to the approval of the Commission, to perform such other powers and functions in accordance with law.

⁴² Part VIIIA inserted by *National Capital District Commission (Amendment) Act 1992* (No. 27 of 1992), s7.

⁴³ Section 40A inserted by *National Capital District Commission (Amendment) Act 1992* (No. 27 of 1992), s7.

⁴⁴ Section 40A(10) inserted by *National Capital District Commission (Amendment) Act 1995* (No. 15 of 1995), s9.

⁴⁵ Section 40A(10) inserted by *National Capital District Commission (Amendment) Act 1995* (No. 15 of 1995), s9.

⁴⁶ Section 40B inserted by *National Capital District Commission (Amendment) Act 1995* (No. 15 of 1995), s10.

PART VIIIB.⁴⁷ – LOCAL-LEVEL GOVERNMENTS.

40C. LOCAL-LEVEL GOVERNMENTS.

⁴⁸(1) There is established within each open electorate a Local-level Government.

(2) Subject to a declaration made for the purposes of the Motu Koitabu areas, the boundaries of the Local-level Government areas shall be the same as the boundaries of the open electorates.

40D. COMPOSITION OF LOCAL-LEVEL GOVERNMENTS.

⁴⁹(1) Each Local-level Government shall consist of–

- (a) not more than two wards; and
- (b) not less than eight but not more than 12 members elected by the local constituency in accordance with an election conducted by the Electoral Commission in the prescribed manner.

(2) A member of a Local-level Government shall hold office for a period commencing on and from the date of his election up to and including the date fixed for the return of writs for the next General Election held after the coming into operation of the *Organic Law on Provincial Governments and Local-level Governments*.

(3) The members of a Local-level Government shall elect one of their members to be Chairman and another member to be Deputy Chairman of the Local-level Government.

(4) The salaries, remuneration and other conditions of office shall be as prescribed.

(5) Until elections are conducted for Local-level Governments in accordance with Subsection (1), the members representing the ward committees shall constitute the Local-level Governments.

40E. MEETINGS OF LOCAL-LEVEL GOVERNMENTS.

⁵⁰(1) A Local-level Government shall hold meetings at such times and places as the Chairman, or in his absence the Deputy Chairman, determines, but in any event not less frequently than once in every month.

(2) Where he receives a request to do so by not less than two members, the Chairman, or in his absence the Deputy Chairman, shall convene a meeting of the Local-level Government within 14 days.

⁴⁷ Part VIIIB inserted by *National Capital District Commission (Amendment) Act 1995* (No. 15 of 1995), s11.

⁴⁸ Section 40C inserted by *National Capital District Commission (Amendment) Act 1995* (No. 15 of 1995), s11.

⁴⁹ Section 40D inserted by *National Capital District Commission (Amendment) Act 1995* (No. 15 of 1995), s11.

⁵⁰ Section 40E inserted by *National Capital District Commission (Amendment) Act 1995* (No. 15 of 1995), s11.

- (3) At a meeting of a Local-level Government–
- (a) one half of the members are a quorum; and
 - (b) the Chairman, or in his absence the Deputy Chairman, shall preside, and in the absence of both the Chairman and the Deputy Chairman, the members shall appoint a Chairman from amongst their own number; and
 - (c) subject to this Act–
 - (i) matters arising shall be determined by the majority of votes of the members present and voting; and
 - (ii) the members presiding shall have a deliberative and, in the event of an equality of votes on a matter, also a casting vote.

(4) A Local-level Government shall cause minutes of its meetings to be recorded and kept.

(5) Subject to this Act, the procedures of a Local-level Government are as determined by the Local-level Government, but in any event these shall not exceed those of the National Capital District Commission.

40F. POWERS AND FUNCTIONS OF LOCAL-LEVEL GOVERNMENTS.

⁵¹(1) In addition to the functions and powers delegated in accordance with Section 17A, a Local-level Government–

- (a) shall be responsible, within its area, for the provision and maintenance of such basic services and community activities as are prescribed by the regulations; and
- (b) shall manage, control and administer the Local-level Government area; and
- (c) subject to the approval of the Commission, shall perform such other powers and functions in accordance with law.

(2) For the purposes of its functions under Subsection (1), a Local-level Government may, subject to a determination by the Minister, made after consultation with the National Capital District Commission, make rules in relation to its functions under Subsection (1).

(3) The Minister shall, from time to time, direct the Commission to make funds available to a Local-level Government at a level specified by the Minister.

⁵¹ Section 40F inserted by *National Capital District Commission (Amendment) Act 1995* (No. 15 of 1995), s11.

PART IX. – MISCELLANEOUS.

41. PUBLIC PURPOSES.

The purposes of the Commission are public purposes.

42. PROTECTION FROM PERSONAL LIABILITY, ETC.

A member of the Commission or an officer or employee of the Commission is not personally liable for any act or default of himself or of the Commission, done or omitted to be done in good faith in the course of operations of, or for the purposes of, the Commission.

43. SERVICE OF NOTICES OR LEGAL PROCESS.

A summons, notice, writ or other process required to be served on the Commission may be served by being given to the Manager.

44. REPORTS.

The Commission shall, by 31 March in each year, prepare and submit to the Minister a report on the work of the Commission for the previous year ending 31 December, together with financial statements for that year.

45. REGULATIONS.

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

- (a) fees to be paid in respect of services or licences; and
- (b) penalties of fines not exceeding K500.00, for offences against the regulations.

PART X. – REPEAL.

46. REPEAL.

The Acts specified in Schedule 1 are repealed.

PART XI. – TRANSITIONAL AND SAVING.

47. TRANSFER OF ASSETS AND LIABILITIES.

(1) Subject to Subsection (2), all assets held by, and obligations and liabilities of the—

- (a) Interim Assembly; and
- (b) Interim Commission,

immediately before the commencement date, are, on the commencement date transferred to and becomes assets, obligations and liabilities of the Commission.

(2) Where, under Subsection (1), shares in any company forming part of the business arm of the Interim Assembly are transferred to the Commission, they shall be held by the Commission in trust for the Motu Koitabuan people of the National Capital District.

48. REGISTRATION OF TITLE OF LAND.

(1) Where any property vested in—

- (a) the Interim Assembly; or
- (b) the Interim Commission,

is land registered under the *Land Registration Act 1981*, the Registrar of Titles shall, without formal transfer, on application in that behalf by the Commission, enter or register the Commission in the register kept under that Act and, on entry and registration, grant a certificate of title, lease or other instrument evidencing title to the land within that Act.

(2) No stamp duty or other duty, tax or fee is payable on registration made under Subsection (2).

49. SAVING OF CONTRACTS, ETC.

All contracts and agreements, other than contracts of employment, entered into, made with or addressed to—

- (a) the Interim Assembly; or
- (b) the Interim Commission,

are, to the extent that they were immediately before the commencement date binding on and enforceable against the Interim Assembly or the Interim Commission, as the case may be, binding on and of full force and effect against or in favour of the Commission as fully and effectually as if the Commission had been a party to them or bound by them or entitled to the benefit of them.

50. ACTIONS, ETC., NOT TO ABATE.

Where, immediately before the commencement date, any arbitration, action or proceeding was pending or existing by, against or in favour of—

- (a) the Interim Assembly; or
- (b) the Interim Commission,

it does not, on the commencement date, abate or discontinue, but it may be prosecuted, continued or enforced by, against or in favour of the Commission.

51. STAFF.

A person who, immediately before the commencement date, was a member of—

- (a) the Interim Secretariat to the Interim Assembly; or
- (b) the staff of the Interim Commission,

shall, on the commencement date, be deemed to hold the equivalent office or appointment under this Act and on the same terms and conditions, until such time as appointments are made and terms and conditions determined under this Act.

52. LAWS.

(1) All laws made by—

- (a) the Interim Assembly; and
- (b) the Interim Commission,

under the repealed Acts are in force immediately before the commencement date shall continue in force and shall have the same force and effect as a law passed by the Commission under this Act until such time as such laws are repealed by the Commission.

(2) The provisions of Subsection (1) shall apply notwithstanding that a law to which subsection (1) relates is expressed as expiring at a specified time or after a specified period.

53. LICENCES, ETC.

All licences and permits issued under laws to which Section 52(1) applies and in force immediately before the commencement date shall continue in force until their expiry or cessation according to law.

54. APPLICATION OF ACTS, ETC.

Where—

- (a) any Act or subordinate legislation other than this Act; or
- (b) any document or instrument whenever made or executed,

contains a reference to—

- (c) the repealed Acts; or
- (d) the Interim Assembly; or
- (e) the Interim Commission,

that reference shall, on and after the commencement date, be deemed to be a reference to this Act or to the Commission, as the case may be.

55. SPECIAL FUNCTIONS OF THE MINISTER.

(1) During the transitional period the Minister shall—

- (a) generally do all things within his powers to ensure that the members of the Commission referred to in Section 4 are appointed or elected, as the case may be, and in office within a period of six months of the commencement date; and
- (b) in particular—
 - (i) liaise with the Electoral Commission in relation to the election of members referred to in Section 4(1)(a); and
 - (ii) liaise with persons relevant to the groups to be represented by members appointed under Section 4(1)(b); and
- (c) for a period of two months after the members of the Commission are elected or appointed, as the case may be, act as Chairman of the Commission.

(2) The members of the Interim Assembly and the Interim Commission members holding office at the time of gazettal of this Act shall be deemed to be the Caretaker Commission until the members of the Commission referred to in Sections 4(1)(a) and 4(1)(b) are elected or appointed as the case may be.

56. CARRYING OUT, ETC., OF THE FUNCTIONS AND POWERS OF THE COMMISSION BY THE CARETAKER COMMISSION.

In—

- (a) carrying out the functions of the Commission; and
- (b) exercising the powers of the Commission,

the Caretaker Commission shall take account of the intention of the Parliament that it is acting in the role of caretaker pending the election and appointment of members of the Commission and shall not, without the consent of the Minister—

- (c) initiate any major new policy, or major changes in the policy of the Interim Assembly and Interim Commission immediately before the commencement date; or
- (d) effect any major change to the staff of the Commission.

SCHEDULE 1 – REPEALED ACTS.

National Capital District Government (Preparatory Arrangements) Act (Chapter 392).

National Capital District Government (Preparatory Arrangements) (Amendment) Act 1987.

Office of Legislative Counsel, PNG