

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 140.

Investment Corporation.

GENERAL ANNOTATION.

ADMINISTRATION.

The administration of this Chapter was vested in the Minister for Finance at the date of its preparation for inclusion with the exception of Sections 13 and 16(2) which were vested in the Prime Minister.

The present administration may be ascertained by reference to the most recent Determination of Titles and Responsibilities of Ministers made under Section 148(1) of the Constitution.

References in or in relation to this Chapter to—

“the Departmental Head”—should be read as references to the Secretary for Finance.

“the Department”—should be read as references to the Department of Finance.

TABLE OF CONTENTS.

	<i>Page</i>
<i>Investment Corporation Act</i>	3
Regulations	—
Subsidiary Legislation ¹	19
Appendix—	
Source of Act.	

¹Subsidiary legislation has not been up-dated.

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 140.

Investment Corporation Act.

ARRANGEMENT OF SECTIONS.

PART I.—PRELIMINARY.

1. Interpretation—
 - "the Board of Directors"
 - "company"
 - "corporation"
 - "the Deputy Managing Director"
 - "eligible person"
 - "foreign company"
 - "the Investment Corporation"
 - "the Managing Director"
 - "overseas enterprise"
 - "the regulations"
 - "share"
 - "this Act".
2. Relationship with Development Bank.

PART II.—THE INVESTMENT CORPORATION OF PAPUA NEW GUINEA.

3. Establishment of the Corporation.
4. Incorporation of the Corporation.
5. Object of Investment Corporation.
6. Functions of the Corporation.
7. Restriction on certain share dealings.
8. Powers of the Corporation.
9. Board of Directors.
10. Policies of the Corporation.
11. Disposal of certain shares.

PART III.—THE BOARD OF DIRECTORS OF THE INVESTMENT CORPORATION.

12. Constitution of the Board of Directors.
13. Remuneration of members.
14. Declaration of Office and of secrecy.
15. Vacation of office of members.
16. Managing Director and Deputy Managing Director.
17. Vacation of office of Managing Director, etc.
18. Chairman and Deputy Chairman of Board.
19. Meetings of the Board.
20. Disclosure of interest.

Investment Corporation

PART IV.—THE SERVICE OF THE CORPORATION.

21. Appointment of officers.
22. Regulations for the Service of the Corporation.
23. Temporary and casual employees.
24. Supply of accommodation.
25. Use of officers, etc., of Development Bank.

PART V.—FINANCE, ETC.

26. Capital.
27. Reserve fund.
28. Dealing with profits.
29. Bank accounts.
30. Application of the Public Bodies (Financial Administration) Act.

PART VI.—MISCELLANEOUS.

31. Head office.
32. Attorney.
33. Guarantee by the State.
34. Liability to taxation.
35. Returns.
36. Execution of contracts.
37. Validity of acts and transactions of Investment Corporation.
38. Regulations.

SCHEDULES.

SCHEDULE 1.—Oath and Affirmation of Office.

SCHEDULE 2.—Declaration of Secrecy.

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 140.

Investment Corporation Act.

Being an Act to establish an Investment Corporation of Papua New Guinea and to define its powers and functions, and for related purposes.

PART I.—PRELIMINARY.

1. Interpretation.

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

“the Board of Directors” means the Board of Directors of the Investment Corporation established by Section 9;

“company” means a company incorporated under the *Companies Act*;

“corporation” means a corporation formed or incorporated within or outside the country, and includes a foreign company, but does not include—

(a) a corporation incorporated within any other country that is a public authority or an instrumentality or agency of the government of that country; or

(b) a corporation sole; or

(c) a co-operative company¹ or a savings and loan society;

“the Deputy Managing Director” means the Deputy Managing Director of the Investment Corporation appointed under Section 16;

“eligible person” means—

(a) a citizen; or

(b) the State or a statutory authority of the Government approved for the purpose by the Head of State, acting on advice; or

(c) the Development Bank; or

(d) a Local Government Council or a Local Government Authority; or

(e) a co-operative company¹; or

(f) any other group or body (corporate or unincorporate), recommended by the Board of Directors and approved by the Minister;

“enterprise” means—

(a) a corporation; or

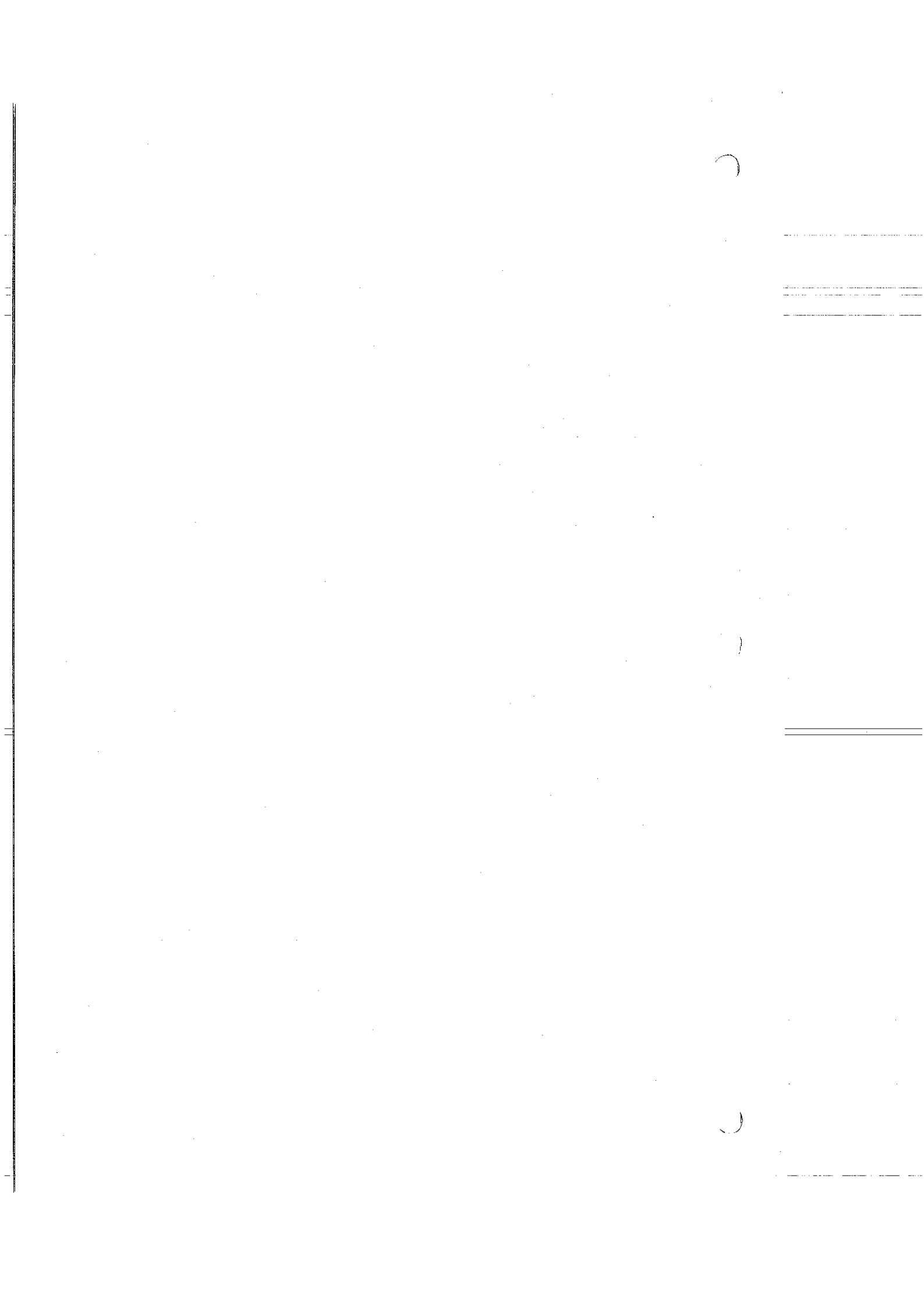
(b) a partnership; or

(c) a firm; or

(d) any other person or body or association of persons,

engaged or proposing to become engaged in the carrying on of business for gain;

¹This paragraph is printed as affected by the *Companies (Co-operative Societies) Act 1975* which inserted Division XII.5 (which see) into the *Companies Act 1963* and provided for the conversion of co-operative societies under the *Co-operative Societies Act 1965* (Adopted) into “co-operative companies”. That Act came into force on 22 January 1976, and has been incorporated into the *Companies Act*. As at the effective date, these references to “co-operative company” should be read as references to “co-operative societies”.



"foreign company" means—

- (a) a company, corporation, society, association or other body incorporated outside the country; or
- (b) an unincorporated society, association or other body that—
 - (i) under the law of its place of origin, may sue or be sued, or hold property in the name of the secretary or other officer of the body or association duly appointed for that purpose; and
 - (ii) does not have its head office or principal place of business in the country;

"the Investment Corporation" means the Investment Corporation of Papua New Guinea established by Section 3;

"the Managing Director" means the Managing Director of the Investment Corporation appointed under Section 16;

"overseas enterprise" (*Repealed by No. 20 of 1976, s. 1.*)

"the regulations" means any regulations made under this Act;

"share", in relation to a corporation, includes stock, an interest and an option to buy shares;

"this Act" includes the regulations.

(*Amended by No. 20 of 1976, s. 1.*)

(2) In this Act, unless the contrary intention appears, a reference to the Investment Corporation shall be read as including a reference to a subsidiary of the Corporation.

2. Relationship with Development Bank.

This Act does not restrict the powers or functions of the Development Bank.

PART II.—THE INVESTMENT CORPORATION OF PAPUA NEW GUINEA.

3. Establishment of the Corporation.

A body by the name of the Investment Corporation of Papua New Guinea is hereby established.

4. Incorporation of the Corporation.

(1) The Investment Corporation—

(a) is a corporation, with perpetual succession; and

(b) shall have a seal; and

(c) may acquire, hold and dispose of property; and

(d) may sue or be sued in its corporate name.

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

5. Object of Investment Corporation.

The object of the Investment Corporation is to provide for an equity holding by eligible persons in enterprises in Papua New Guinea in cases where the Corporation is of the opinion that—

(a) it is in the long-term interest of the people of Papua New Guinea to do so; and

(b) a significant degree of equity holding by eligible persons would not or might not otherwise be readily achieved.

(*Replaced by No. 20 of 1976, s. 2.*)

6. Functions of the Corporation.

(1) For the purpose of achieving its object, the Investment Corporation may, in the exercise of its judgement but subject always to any policy laid down under Section 10—

- (a) take up shares in enterprises, and hold them with a view to their future disposal to eligible persons; and
- (b) dispose of shares in enterprises to eligible persons; and
- (c) arrange opportunities for eligible persons to acquire shares in enterprises, and arrange for enterprises to offer shares, or rights to future shares, to eligible persons; and
- (d) underwrite share issues in the country and take firm any part of any such issue that is not taken up by eligible persons; and
- (e) in accordance with the law relating to such matters, or in such manner and on such conditions as are approved by the Minister in any particular case—
 - (i) establish or manage in the country, or join in the establishment or management in the country of, investment companies or unit trusts or other mutual funds; and
 - (ii) if and when it appears to it desirable, take such action as appears to it necessary or desirable to sell or otherwise make available to eligible persons shares, units or subunits in any such company, trust or fund; and
- (f) enter into consortium arrangements as appropriate; and
- (g) do any other thing that is necessary or convenient for the purpose of achieving its object.

(2) The Investment Corporation may, and shall if the Minister so directs, act as agent for the Government in relation to any matter within the object and functions of the Investment Corporation, and the State shall fully and effectually indemnify it and hold it safe against all claims or actions made or taken against it as a result of its acting as such an agent.

(3) The Investment Corporation does not have, and shall not exercise or purport to exercise, any power of compulsion on or in relation to any enterprise or its shareholders, except so far as such a power is conferred on it by or under any agreement or arrangement with the enterprise or its shareholders.

(4) This Act does not compel the Investment Corporation (otherwise than as agent for the Government under Subsection (2)) to take up an equity holding or to exercise or perform any of its powers or functions in relation to an enterprise, except so far as a duty to do so is imposed on it by or under any agreement or arrangement with the enterprise or its shareholders or otherwise, or by or under any other law.

(Amended by No. 20 of 1976, s.3.)

(5) Notwithstanding anything in this Act, the Investment Corporation shall not buy shares on a stock exchange, other than shares in a company incorporated in the country.

7. Restriction on certain share dealings.

(1) Where the Investment Corporation—

- (a) disposes of a share in accordance with Section 6(1)(b) to an eligible person; or
- (b) sells or otherwise makes available to an eligible person a share, unit or subunit in an investment company, unit trust or mutual fund referred to in Section 6(1)(e),

the person, and his heirs, executors, administrators or assigns, must not sell, transfer or dispose of it, or of a beneficial interest in it, except to—

- (c) an eligible person; or
- (d) the Investment Corporation.

Penalty: A fine not exceeding K100.00 or an amount equal to 50% of the value of the share, unit or subunit, whichever is the greater.

(2) Subsection (1) does not apply to—

- (a) a transaction by way of charge under which the chargee is entitled to the benefit of dividends only; or
- (b) a transaction entered into with the approval of the Investment Corporation; or
- (c) shares disposed of under Section 11.

(3) This section does not invalidate the sale, transfer or disposal of a share, unit or subunit as against a transferee in good faith without notice that the sale, transfer or disposal was in contravention of Subsection (1).

8. Powers of the Corporation.

(1) The Investment Corporation has power to do, in the country or elsewhere, all things necessary or convenient to be done for or in connexion with the achievement of its object and the performance of its functions.

(2) Without limiting the generality of Subsection (1) but subject to this Act, the power of the Investment Corporation under that subsection includes power—

- (a) to borrow money with the consent of and on such terms and conditions as are approved by the Minister; and
- (b) to lend money; and
- (c) to participate in the formation of a company or other business enterprise; and
- (d) to subscribe for or otherwise acquire, and to dispose of—
 - (i) shares in, or securities of, a corporation; or
 - (ii) interests in, or securities of, any other business enterprise; and
- (e) to underwrite issues of shares in, or securities of, a corporation; and
- (f) to buy back any shares sold by it at a price that, in the opinion of the Investment Corporation, is fair and reasonable in the circumstances; and
- (g) to form subsidiaries in any manner permitted by law; and

- (b) to appoint persons to be members of boards of directors or other controlling authorities of business enterprises; and
- (i) to enter into partnerships or arrangements for the sharing of profits; and
- (j) to establish credits and give guarantees; and
- (k) to buy or otherwise acquire, hold, maintain, repair, improve, develop and manage property, and to sell, lease or otherwise deal with any such property, and for any such purpose to have, exercise or perform any of the powers, functions, duties and responsibilities of an owner of the property in question; and
- (l) to carry on any business that comes into the hands of the Investment Corporation; and
- (m) to buy and sell land, buildings and other assets; and
- (n) to give and take security and to give charges on its assets; and
- (o) to appoint agents and attorneys; and
- (p) to act as agent for other persons; and
- (q) to do anything incidental to any of its powers.

9. Board of Directors.

- (1) A Board of Directors of the Investment Corporation is hereby established.
- (2) The Board shall be constituted as provided by Part III.

10. Policies of the Corporation.

(1) Notwithstanding anything in this Act, in the exercise of its powers and the performance of its functions the Investment Corporation shall act in accordance with sound business principles and in particular, but without limiting the generality of the foregoing, it shall not—

- (a) acquire shares or interests in, or participate in the formation of, an enterprise unless in its opinion the enterprise will operate in an efficient manner and on a profitable basis; or
- (b) dispose of shares at less than—
 - (i) their fair market value; or
 - (ii) where there is in its opinion no significant trading in the shares, a price that, in its opinion, is fair and reasonable in the circumstances.

(2) Subject to Subsection (1), in the exercise of its powers and the performance of its functions the Investment Corporation shall have regard to the likely contribution of any enterprise to the development of Papua New Guinea.

(3) Subject to Subsection (1), the Investment Corporation shall operate within any framework of policy laid down from time to time by the Minister and approved by the Head of State, acting on advice.

(4) The Board of Directors shall, from time to time, inform the Minister of the policy of the Investment Corporation and of any changes in policy that it thinks desirable, and shall furnish to the Minister such information in relation to the exercise of the powers and the performance of the functions of the Investment Corporation as he requires.

(5) In the event of a difference of opinion as to a matter of policy, the Minister and the Investment Corporation shall endeavour to reach agreement.

(6) If the Minister and the Investment Corporation are unable to reach agreement, the Investment Corporation shall immediately furnish to the Minister a statement in relation to the matter in respect of which the difference of opinion has arisen.

(7) Subject to Subsection (1), the Head of State, acting on advice, may then, by order, determine the policy to be adopted by the Investment Corporation.

(8) The Minister shall inform the Investment Corporation of the policy determined under Subsection (7), and shall take such action (if any) within his power as he thinks necessary by reason of the adoption of that policy.

(9) The Investment Corporation shall ensure that effect is given to the policy while the order remains in force.

11. Disposal of certain shares.

(1) Subject to Subsection (2), the Investment Corporation shall, at least once in each year, review its holding of shares (other than shares acquired as a result of the investment of its money in accordance with Section 6 of the *Public Bodies (Financial Administration) Act* as applied to it by Section 30), and where—

- (a) it holds a substantial number of shares in an enterprise; and
- (b) the Board of Directors is satisfied, as to any of the shares, that the retention of them is not necessary for—
 - (i) the effective management of the Investment Corporation's portfolio of investments; or
 - (ii) safeguarding the interests of the people of Papua New Guinea; or
 - (iii) achieving the object of the Investment Corporation; and
- (c) in the opinion of the Board of Directors, it is not appropriate or practicable to dispose of the shares to eligible persons as such,

the Investment Corporation may dispose of the shares to any person.

(2) Subsection (1) does not require the Investment Corporation to dispose of shares—

- (a) at a loss; or
- (b) so as to reduce the total extent of the participation by eligible persons and the Corporation in the ownership of the capital, or in the control, of an enterprise,

or to dispose of them at all.

(Amended by No. 20 of 1976, s. 4.)

PART III.—THE BOARD OF DIRECTORS OF THE INVESTMENT CORPORATION.

12. Constitution of the Board of Directors.

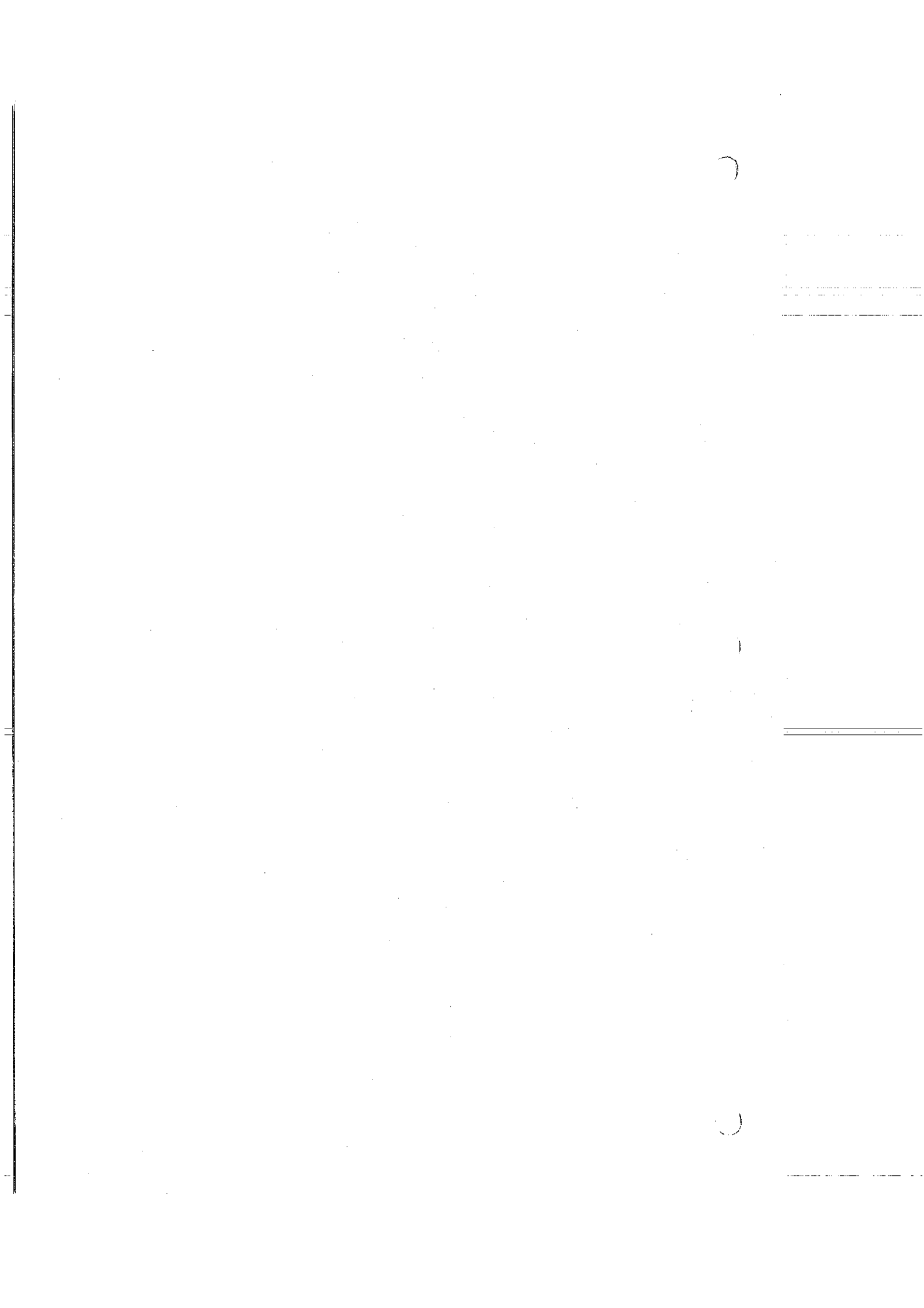
(1) The Board of Directors shall consist of—

- (a) the Managing Director; and
- (b) an officer of the Development Bank appointed by the Minister by notice in the National Gazette; and
- (c) an officer of the Department of Finance appointed by the Minister by notice in the National Gazette; and

Investment Corporation

Ch. No. 140

- (d) not less than five and not more than nine other members, of whom not less than four are citizens, appointed by the Minister by notice in the National Gazette.



(2) A member appointed under Subsection (1)(b) or (c), and a member appointed under Subsection (1)(d) who is an officer or employee of the Public Service, holds office during the pleasure of the Minister.

(3) A member appointed under Subsection (1)(d) who is not an officer or employee of the Public Service—

(a) shall, subject to Subsections (4) and (5), be appointed for a period of three years; and

(b) holds office subject to good behaviour; and

(c) is eligible for re-appointment.

(4) In the event of a member appointed under Subsection (1)(d) ceasing to hold office before the expiration of the period of his appointment, and the appointment in his place of a person other than an officer or employee of the Public Service, the period of the appointment is the remainder of the period of office of the member ceasing to hold office.

(5) An officer or employee of the Investment Corporation or the Development Bank shall not be a member of the Board appointed under Subsection (1)(d).

13. Remuneration of members.

A member of the Board of Directors shall be paid by the Investment Corporation such remuneration (if any) as the Minister¹ determines.

14. Declaration of Office and of secrecy.

(1) A member of the Board of Directors shall, before entering on his duties or exercising any power under this Act, make the Declaration of Office provided for by the Constitution and make a declaration of secrecy in the form in Schedule 2.

(2) The Declaration of Office and the declaration of secrecy may be made before the Minister.

(Replaced by No. 20 of 1976, s. 6.)

15. Vacation of office of members.

If a member of the Board of Directors appointed under Section 12(1)(d)—

(a) becomes permanently incapable of performing his duties; or

(b) 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

(c) resigns his office by writing under his hand addressed to the Minister; or

(d) is absent, except on leave granted by the Minister, from all meetings of the Board held during two consecutive months or during any three months in any period of twelve months; or

(e) fails to comply with his obligation under Section 20,

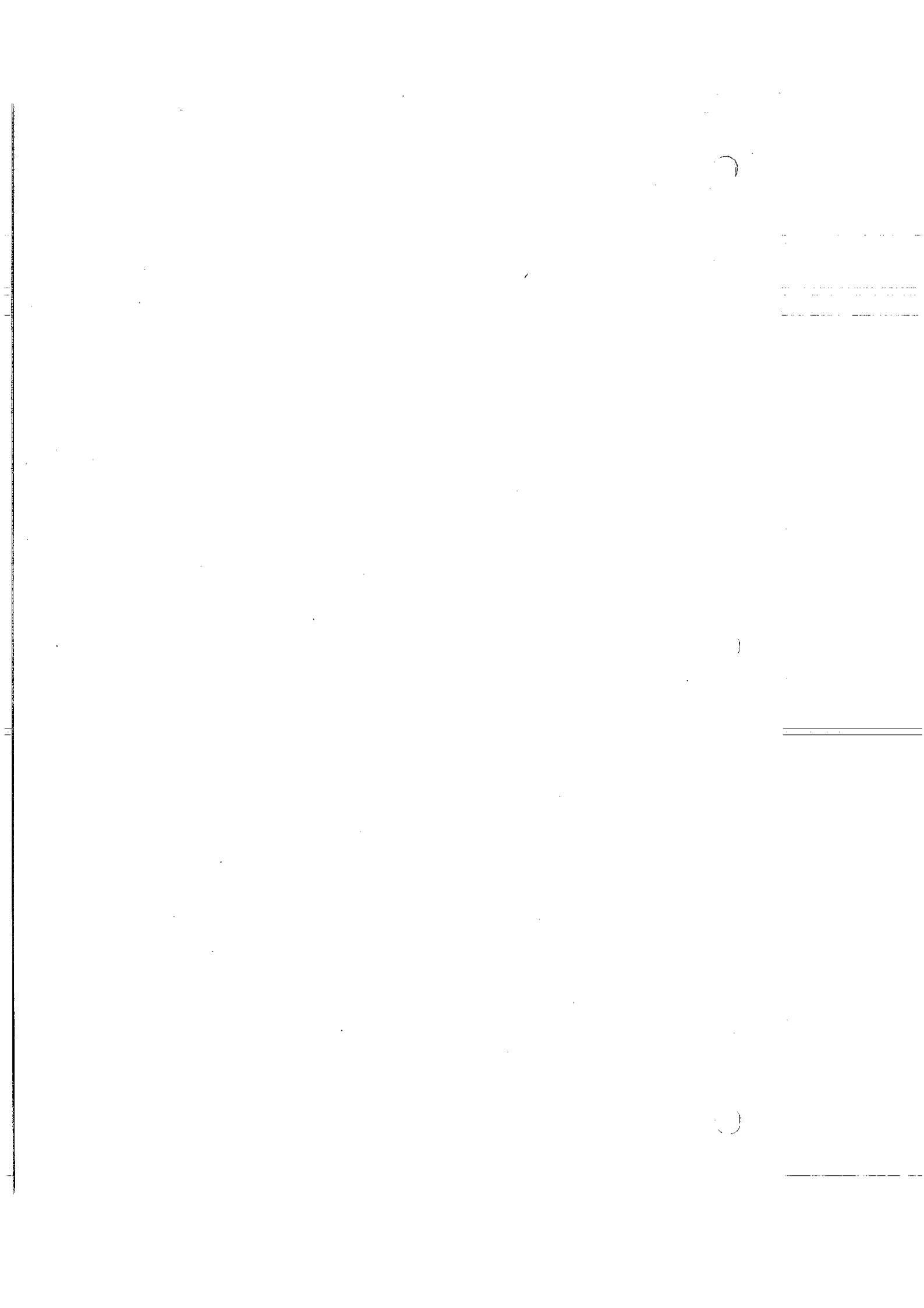
the Minister shall terminate his appointment.

16. Managing Director and Deputy Managing Director.

(1) There shall be a Managing Director and a Deputy Managing Director of the Investment Corporation who—

(a) shall be appointed by the Minister; and

¹As at the effective date, the reference was to the Prime Minister.



Ch. No. 140

Investment Corporation

- (b) shall be appointed for such period, not exceeding seven years, as the Minister determines; and
- (c) hold office subject to good behaviour; and

(d) are eligible for re-appointment.

(2) The Managing Director and the Deputy Managing Director shall be paid by the Investment Corporation such salary and allowances as the Minister¹ determines.

(3) The Investment Corporation may make available to the Managing Director or the Deputy Managing Director such housing or other accommodation, and on such terms and conditions, as it thinks proper.

(4) The Managing Director shall manage the Investment Corporation and, in relation to the management of the Investment Corporation, shall act in accordance with its policy and with the directions of the Board of Directors.

(5) The Deputy Managing Director shall perform such duties as the Managing Director directs, and in the event of a vacancy in the office of Managing Director or his absence or inability to act the Deputy Managing Director shall perform the duties of the Managing Director and has and may exercise the powers and functions of the Managing Director.

17. Vacation of office of Managing Director, etc.

If the Managing Director or the Deputy Managing Director—

- (a) becomes permanently incapable of performing his duties; or
- (b) engages in any paid employment outside the duties of his office; or
- (c) 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 salary for their benefit; or
- (d) resigns his office by writing under his hand to the Minister,

the Minister shall terminate his appointment.

18. Chairman and Deputy Chairman of Board.

(1) The Minister shall appoint one of the members of the Board of Directors to be Chairman of the Board, and another such member to be Deputy Chairman of the Board, for such respective periods as the Minister determines.

(2) The Chairman and the Deputy Chairman of the Board of Directors hold office as Chairman and Deputy Chairman respectively until the expiration of their respective periods of appointment or until they respectively cease to be members of the Board, whichever first happens.

(3) The Chairman or the Deputy Chairman of the Board of Directors may resign his office as Chairman or Deputy Chairman by writing under his hand addressed to the Minister.

19. Meetings of the Board.

(1) The Board of Directors shall meet at such times and places as the Board determines or as the Chairman or the Deputy Chairman directs.

(2) At a meeting of the Board of Directors—

- (a) six members, of whom the Chairman or Deputy Chairman is one, are a quorum; and
- (b) the Chairman, or in his absence the Deputy Chairman, shall preside; and

¹As at the effective date, the reference was to the Prime Minister.

- (c) all questions shall be decided by a majority of votes of the members present and voting; and
- (d) the member presiding has a deliberative and, in the event of an equality of votes on a matter, also a casting vote.

(3) The Deputy Managing Director may attend any meeting of the Board of Directors at which the Managing Director is not present, and in relation to meetings that he attends under this subsection shall, for the purposes of this Act, be deemed to be a member of the Board.

20. Disclosure of interest.

(1) A member of the Board of Directors who is directly or indirectly interested in a matter being considered or about to be considered by the Board shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest at a meeting of the Board.

(2) A disclosure under Subsection (1) shall be recorded in the minutes of the Board of Directors, and after the disclosure the member—

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

PART IV.—THE SERVICE OF THE CORPORATION.

21. Appointment of officers.

(1) The Investment Corporation may appoint such officers as are necessary for the purposes of this Act.

(2) The officers of the Investment Corporation constitute the Service of the Investment Corporation.

(3) Where, immediately before his appointment, an officer of the Investment Corporation was an officer of the Public Service, his service as an officer of the Investment Corporation shall be counted as service in the 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) long leave, furlough or pay in lieu of long leave or furlough (including pay to dependants or personal representatives on the death of the officer).

(4) Section 104 of the *Public Service Act* applies in relation to offices in the Service of the Investment Corporation as if they had been specifically included in that section.

(5) Subject to this Act, officers hold office on such terms and conditions as are determined by the Investment Corporation.

22. Regulations for the Service of the Corporation.

The regulations may make provision in relation to the Service of the Investment Corporation, and in particular may—

- (a) prescribe the terms and conditions of employment of officers; and
- (b) make provision for the establishment of a superannuation scheme to provide benefits for the Managing Director, Deputy Managing Director and officers of the Investment Corporation, on retirement.

23. Temporary and casual employees.

(1) The Investment Corporation may appoint such temporary and casual employees as are necessary for the purposes of this Act.

(2) Employees appointed under Subsection (1) shall be employed on such terms and conditions as the Investment Corporation determines.

24. Supply of accommodation.

The Investment Corporation may make available to its officers and employees, or any of them, such housing or other accommodation, and on such terms and conditions, as it thinks proper.

25. Use of officers, etc., of Development Bank.

The Investment Corporation may, by agreement with the Development Bank and on such terms and conditions as are agreed on, make use of the services of officers and employees of that Bank.

PART V.—FINANCE, ETC.

26. Capital.

The capital of the Investment Corporation consists of—

- (a) such sums as are advanced to the Investment Corporation out of moneys appropriated by Act for the purpose; and
- (b) such sums as are transferred from the Investment Corporation of Papua New Guinea Reserve Fund under Section 27.

27. Reserve fund.

(1) The Investment Corporation shall have a reserve fund, to be called the Investment Corporation of Papua New Guinea Reserve Fund, which shall consist of such sums as are placed to the credit of the Fund under Section 28.

(2) There may be transferred from time to time from the Investment Corporation of Papua New Guinea Reserve Fund to the capital of the Investment Corporation such sums as the Board of Directors determines.

28. Dealing with profits.

(1) The net profit of the Investment Corporation in each year shall be first applied against any previous losses carried forward and the balance shall, subject to Subsection (2), be placed to the credit of the Investment Corporation of Papua New Guinea Reserve Fund.

(2) Out of its net annual profit remaining after its application against previous losses, the Investment Corporation shall pay into the Consolidated Revenue Fund such amounts as are determined from time to time by the Minister.

(3) In determining, for the purposes of this Act, the net profit of the Investment Corporation, any amounts written off or provided for contingencies are subject to the consent of the Minister.

29. Bank accounts.

(1) The Investment Corporation shall open and maintain accounts within the country with such bank or banks as the Board of Directors thinks proper.

(2) The accounts shall include—

(a) an investment account, into which there shall be paid any money received from or on account of any investments by the Investment Corporation otherwise than as agent for the Government or any other person; and

(b) one or more agency accounts, into which there shall be paid—

(i) any moneys received from or on account of any investment by the Investment Corporation as agent for the Government or any other person; and

(ii) any moneys received for or in relation to any such investment.

(3) The Investment Corporation shall pay all moneys received by it into an account referred to in Subsection (1).

30. Application of the Public Bodies (Financial Administration) Act.

(1) Subject to Subsection (3), the *Public Bodies (Financial Administration) Act* applies to and in relation to the Investment Corporation.

(2) The Investment Corporation is a trading enterprise for the purposes of Sections 10 and 15 of the *Public Bodies (Financial Administration) Act*.

(3) Sections 4, 5, 11, 13 and 14 of the *Public Bodies (Financial Administration) Act* do not apply to or in relation to the Investment Corporation.

PART VI.—MISCELLANEOUS.

31. Head office.

(1) The head office of the Investment Corporation shall be at such place in the country as the Board of Directors from time to time decides.

(2) Until the Board of Directors decides the place at which the head office shall be situated, the head office shall be at Port Moresby.

32. Attorney.

The Investment Corporation may, by instrument under its seal, appoint a person (whether within or outside the country) to be its attorney and, subject to the instrument, a person so appointed may do any act or exercise or perform any power or function which he is authorized by the instrument to do, exercise or perform.

33. Guarantee by the State.

The State is responsible for all moneys due by the Investment Corporation, but this section does not authorize a creditor or other person claiming against the Corporation to sue the State in respect of the claim.

34. Liability to taxation.

The Investment Corporation is liable to taxation under any law.

35. Returns.

The Investment Corporation shall furnish to the Minister such periodical statements as are prescribed.

36. Execution of contracts.

(1) Contracts on behalf of the Investment Corporation may be made, varied or discharged in accordance with this section, and any contract so made is effectual in law, and is binding on the Corporation and on all other parties to the contract, their heirs, successors, assigns, executors and administrators.

(2) A contract that, if made between private persons, would by law be required to be in writing under seal may be made, varied or discharged in the name and on behalf of the Investment Corporation in writing under the seal of the Corporation.

(3) A contract that, if made between private persons, would by law be required to be in writing and signed by the parties to be charged with it may be made, varied or discharged in the name and on behalf of the Investment Corporation in writing signed by a person acting with the express or implied authority of the Corporation.

(4) A contract that, if made between private persons, would by law be valid although made by parol only may be made, varied or discharged by parol in the name and on behalf of the Investment Corporation by a person acting with the express or implied authority of the Corporation.

(5) This section does not invalidate a contract executed on behalf of the Investment Corporation by a duly appointed attorney of the Corporation if the contract would be valid if executed by the attorney on his own behalf.

37. Validity of acts and transactions of Investment Corporation.

The validity of an act or transaction of the Investment Corporation shall not be called in question in any legal proceedings on the ground that any provision of this Act has not been complied with.

38. 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 or for the conduct of business by the Investment Corporation, and in particular for prescribing penalties of fines not exceeding K100.00 for offences against the regulations.

—————
SCHEDULES.

—————
SCHEDULE 1.

—————
OATH AND AFFIRMATION OF OFFICE. (*Repealed by No. 20 of 1976, s. 7.*)

(8) Where the group or a member of the group refuses or fails to do any thing that, in the opinion of the Registrar, a Deputy Registrar or the person winding-up the affairs of the group, is necessary or desirable for the purposes of the winding-up, the Registrar, Deputy Registrar or person may do the thing for and in the name of the group or the member, as the case may be.

(9) Where an order is made under Subsection (1) or (2), this Act ceases to apply to and in relation to the group except to the extent necessary to allow its affairs to be wound up.

29. Manner of winding-up by the Court.

(1) A creditor, including a contingent or prospective creditor, may—

- (a) in a case where the Registrar has refused to make an order for the winding-up of a business group under Section 28(1) and the Minister has dismissed an appeal against that refusal; or
- (b) in any case, instead of requesting the Registrar to make an order for the winding-up of a business group,

present a petition to the National Court for the winding-up of the group.

(2) The National Court may order the winding-up of a business group for any of the reasons specified in Section 28(2).

(3) Where a petition is presented to the National Court under Subsection (1), Divisions X1.2 and X1.4 of the *Companies Act*, with the necessary modifications, apply as if the business group were a company.

30. Power to stay winding-up.

(1) At any time after an order for winding-up has been made, the National Court or the Registrar may—

- (a) on the application of the Registrar or of a creditor, member of the committee or member; and
- (b) on proof to its or his satisfaction that the proceedings should be stayed,

make an order staying all proceedings on the winding-up of a business group, either altogether or for a limited period, on such terms and conditions as it or he thinks fit.

(2) Before making an order on an application under Subsection (1), the National Court may require the Registrar to furnish a report with respect to any facts or matters that in its opinion are relevant.

31. Proof and ranking of claims.

(1) Subject to the application in accordance with this Act of any law relating to bankruptcy, in every winding-up of a business group—

- (a) all debts payable on a contingency; and
- (b) all claims (present or future, certain or contingent, ascertained or sounding only in damages) against the group,

are admissible to proof against the group, a just estimate being made so far as possible of the value of such debts or claims as—

- (c) are subject to a contingency; or
- (d) sound only in damages; or
- (e) for some other reason do not bear a certain value.

(2) Subject to Section 32, in the winding-up of an insolvent business group—

- (a) the same rules apply with regard to—
 - (i) the respective rights of secured and unsecured creditors; and
 - (ii) debts provable; and
 - (iii) the valuation of annuities and future and contingent liabilities,as apply under the law relating to bankruptcy in relation to the estates of bankrupt persons; and
- (b) all persons who in any case would be entitled to prove for and receive dividends out of the assets of the business group may come in under the winding-up and make such claims against the business group as they respectively are entitled to make under this section.

32. Payment of debts.

The following rules apply in the winding-up of a business group:—

- (a) all debts secured by registered charges (other than debts of members) have first priority to the extent of the debts secured, and, as between themselves, rank for priority in accordance with Section 27(2)(b); and
- (b) any costs of or incidental to the winding-up have second priority; and
- (c) all amounts due in respect of workers' compensation under any law relating to workers' compensation have third priority; and
- (d) all amounts—
 - (i) of rates that are or are in the nature of local government rates and that—
 - (A) are due from the business group at the date of commencement of the winding-up; and
 - (B) became due and payable within the period of 12 months before that date; and
 - (ii) of assessed income tax, being a tax assessed under any Act before the date of commencement of the winding-up and not exceeding in the whole one year's assessment; and
 - (iii) due and payable—
 - (A) by way of repayment of any advance made to the business group; or
 - (B) in payment of any amount owing by the business group for goods supplied or services rendered to it under any Act relating to or providing for the improvement, development or settlement of land or aid to, or the development or encouragement of, mining,have fourth priority; and
- (e) the debts in each class specified in Paragraphs (b), (c) and (d) rank equally between themselves, and shall be paid in full unless the property of the business group is insufficient to meet them, in which case they abate in equal proportions as between themselves; and
- (f) all creditors who are not members of the group shall be paid in priority to creditors who are members; and

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 140.

Investment Corporation.

SUBSIDIARY LEGISLATION.

1. Act, Section 1.—Declaration of Eligible Persons.

Abani Family
Mrs. Ageta Opu and Family
Aiko Group
Alotau Construction Pty Ltd
Amanud Businessmen's Club
Aobas Trucking Society
Asitianna Group
Aulatam Building Club
Bagum Clan
Baibana Ganai Clan
Bakani Group
Baramata No. 4 (Lands Development) Association Group
Bartim Club
Bauome Group
Berevo Supporters Club
Biranis Single Women's Club
Bishop of New Guinea, The
Boga Boga Village Group
Buka Passage Tavern
Bulu Brothers
Bwagaoia Station Women Club
Canter Group
Cletus Tulut and Family
Dogura Market Trusteeship
Doparinavo Family Fund
Eli Brothers Group
The Evangelical Lutheran Church of New Guinea
Evi Association
Gathoapara Keruerupu Association
Geapphgetawo Group

Gilbit Group
Habalia Association
Herevahape Haihavu Trade Store
Hilalon Women's Club
Hilalon Women's Fellowship
Isivita Development Group
James and Family
Kaji Pam Society
Kalam Society
Kapin Group No. 1
Kenewana Union
Kondol Apinam Village
Kubalia Savings Club
Kurumagu Family
Labo Trade Store
Madame Village Trading Store
Magbem Savings Club
Malom Village Fund
Manikitobara Association
Manilobo, Clan of
Mareke Women Fellowship
Migu and Touvade Clan
Mokorino Trade Store
Morima Group Association
Motogan Kondal Village
New Guinea Islands Produce Co., Ltd
Noloanoli Group
Nunukih-Bross Family
Pakinela Cocoa Growers Co-operative Ltd
Papa Village Association
Papua New Guinea Retirement Benefits Board
Peita Family
Peko Mogi Family
Pelly Association
Pisi Community Sawmill
Poma Special Village Fund
Public Officers Superannuation Board
Purari Kaia Oromako Business Group
Rai Coast Community Group
Ramonuina Building Society Savings

Rigolorupu Family
R3Bs Clan
Ruino Brothers Savings Club
Ruino Savings Group
Samber Association
Savings and Loan Societies
Seo Koraize Family
Sohe Community Area
Takania Club
Tikania Club
Torevekorage Group
Toyalabu Group Account
Trustees of the Shell Company (Pacific Islands) Limited Retirement Benefit Scheme
Trustees of the Superannuation Fund of Commonwealth New Guinea Timbers Limited
Turen Family Account
Tutorne Farmers Association
U. and P. W. Gideon Goloba'au Trade Store
Ujah's Family
The United Church in Papua, New Guinea and the Solomon Islands
United Party of Papua New Guinea
University of Papua New Guinea, and organizations within the University
V. H. Huahua Trade Society
Vith Engsivud Afidan Goilala Association
Wabag Lutheran Church Inc., The
Watuat Pitanamu Branch Society
Western Highlands Baptist Union Inc.
Wom Village Group

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 140

Investment Corporation.

APPENDIX.

SOURCE OF THE INVESTMENT CORPORATION ACT.

Part A.—Previous Legislation.

Investment Corporation Act 1971 (No. 24 of 1971)

as amended by—

Investment Corporation (Amendment) Act 1971 (No. 86 of 1971)

Investment Corporation (Unit Trusts) Act 1973 (No. 24 of 1973)

Investment Corporation (Transfer of Powers) Act 1973 (No. 98 of 1973)

Investment Corporation (Amendment) Act 1976 (No. 20 of 1976)

Statute Law Revision (Transfer of Powers) Act 1976 (No. 25 of 1976).

Part B.—Cross References.

Section etc., in Revised Edition.	Previous References ¹ .	Section, etc., in Revised Edition.	Previous References ¹ .
1	4	22	25
2	5	23	26
3	6(1)	24	27
4	6(2),(3)	25	28
5	8	26	29
6	9	27	30
7	10,13(3)	28	31
8	11	29	32
9	7	30	33,34
10	12	31	36
11	13(1),(2)	32	37
12	14	33	38
13	18	34	35
14	19	35	39
15	20	36	40
16	16	37	41
17	17	38	42
18	15	Schedules—	Schedules—
19	21,22	Schedule 1	First Schedule
20	23	Schedule 2	Second Schedule
21	24		

¹Unless otherwise indicated, references are to the Act set out in Part A.

