

No. 12 of 2015.

Mt Hagen City Authority Act 2015.

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No. of 2015.

Mt Hagen City Authority Act 2015.

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No. of 2015.

AN ACT

entitled

Mt Hagen City Authority Act 2015,

Being an Act to provide for the establishment of the Mt Hagen City Authority, and for related purposes,
MADE by the National Parliament to be deemed to have come into operation on 1 January 2015.

PART I. - PRELIMINARY.

1. COMPLIANCE WITH CONSTITUTIONAL REQUIREMENTS.

This Act, to the extent that it regulates or restricts a right or freedom referred to in Subdivision III.3.C (*qualified rights*) of the *Constitution*, namely -

- (a) the right to privacy conferred by Section 49; and
- (b) the right to vote and stand for public office conferred by Section 50; and
- (c) the right to freedom of information conferred by Section 51,

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

2. INTERPRETATION.

In this Act, unless the contrary intention appears -

“appointed member” means a member of the Board referred to in Section 10(1)(e);

“Authority” means the Mt Hagen City Authority established by Section 3;

“Board” means the Board of the Authority established under Section 8;

“Chairperson” means the Chairperson of the Board;

“Chief Executive Officer” means the chief executive officer of the Authority appointed under Section 23;

“Deputy Chairperson” means the Deputy Chairperson of the Board;

“Mt Hagen area” means the area referred to in Section 30 of this Act;

“member” means a member of the Board;

“Organic Law” means the *Organic Law on Provincial Governments and Local-level Governments*;

“Salaries and Conditions Monitoring Committee” means the Salaries and Conditions Monitoring Committee established under Section 4 of the *Salaries and Conditions Monitoring Committee Act 1988*;

“this Act” includes any regulations made under it.

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PART II. - ESTABLISHMENT AND FUNCTIONS, ETC., OF THE MT HAGEN CITY AUTHORITY.

3. ESTABLISHMENT OF THE AUTHORITY.

- (1) The Mt Hagen City Authority is established.
- (2) The Authority -
 - (a) is a body corporate with perpetual succession; and
 - (b) has a common seal; and
 - (c) may acquire, hold and dispose of real and personal property; and
 - (d) may sue and be sued in its corporate name.

(3) All courts, judges and persons acting judicially are to take judicial notice of the seal of the Authority affixed to a document and are to presume that it was duly affixed.

4. FUNCTIONS OF THE AUTHORITY.

(1) The Authority is primarily responsible for providing municipal services in the Mt Hagen area in accordance with a memorandum of understanding entered into by the Authority with the Mt Hagen Urban Local-level Government.

- (2) Municipal services include, but are not limited to -
 - (a) the collection of rubbish; and
 - (b) the management of the municipal dump; and
 - (c) the cleaning and lighting of roads, streets and paths; and
 - (d) the maintenance of public parks and recreation areas; and
 - (e) the control of cats, dogs and other domesticated animals.
- (3) Without limiting the generality of this section, the Authority shall -
 - (a) perform service delivery functions and carry out service delivery responsibilities specified in the Ministerial determination made under Subsection (4); and
 - (b) develop, build, repair, improve and maintain roads and other infrastructure; and
 - (c) approve the disbursement of district support grants and other grants; and
 - (d) oversee, co-ordinate and make recommendations as to the overall district planning, including budget priorities, for consideration by the Provincial Government and the National Government; and
 - (e) determine and control the budget allocation priorities for the Local-level Governments in the district; and
 - (f) approve the Local-level Government budgets for presentation to the Local-level Government and to make recommendations concerning them; and
 - (g) draw up a rolling five-year development plan and annual estimates for the district; and
 - (h) conduct annual reviews of the rolling five-year development plan; and
 - (i) carry out such other functions as are prescribed by the regulation.

(4) The Minister shall determine the service delivery functions and responsibilities of the City Authority in consultation with the Board and the Provincial Executive Council.

(5) The Minister may, in consultation with the Board and the Provincial Executive Council, revoke or vary a determination made under Subsection (4).

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(6) A determination, revocation or variation made under Subsections (4) or (5) shall be published in the National Gazette as soon as possible after it has been made.

(7) To avoid doubt, the power to make a determination under this section does not, in any way, limit or affect the power to make a determination under Section 5 of the *Intergovernmental Relations (Functions and Funding) Act 2009*.

5. GENERAL POWERS OF THE AUTHORITY.

(1) The Authority has power to do all things that are necessary or convenient to be done for, or in connection with, the performance of its functions referred to in Section 4(1).

(2) Without limiting Subsection (1), the Authority may -

- (a) enter into contracts; and
- (b) charge fees for work done, and services provided by the Authority; and
- (c) purchase and take on hire, and dispose of, plant, machinery, equipment and other goods; and
- (d) engage consultants and other persons to perform works or services for the Authority; and
- (e) form, or participate in the formation of companies; and
- (f) enter into partnerships and participate in joint ventures; and
- (g) do anything incidental to any of its powers.

6. AUTHORITY TO CO-OPERATE WITH PROVINCIAL GOVERNMENT.

An Authority shall –

- (a) cooperate with the Provincial Government; and
- (b) not perform any of its functions or exercise any of its powers in a way that is inconsistent or in conflict with the policies and plans of the Provincial Government.

7. MONITORING OF THE AUTHORITY.

(1) The Provincial and Local-level Service Monitoring Authority shall monitor the performance of the Authority.

(2) The Provincial and Local-level Service Monitoring Authority may make recommendations or give advice, or both, to the Minister on how to improve the performance of the Authority.

PART III. - THE BOARD.

8. ESTABLISHMENT OF THE BOARD.

The Board of the Authority is established.

9. FUNCTIONS AND POWERS OF THE BOARD.

(1) The functions of the Board are -

- (a) to ensure the proper, efficient and economical performance of the Authority's operations; and
- (b) such other functions as are conferred on the Board by or under this Act.

(2) The Board has power to do all things necessary or convenient to be done for or in connection with the performance of its functions.

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(3) Anything done in the name of, or on behalf of the Authority by the Board, or with the authority of the Board, is taken to have been done by the Authority.

10. MEMBERSHIP OF THE BOARD.

(1) The Board shall consist of eight members of the Authority which shall comprise of the following:

- (a) the open member for Hagen who shall be the Chairman; and
- (b) the Lord Mayor of Mt. Hagen Urban Local-level Government; and
- (c) the President of Mt. Hagen Rural Local-level Government; and
- (d) the President of Mt. Hagen Chamber of Commerce; and
- (e) three members, appointed by the Member for the Mt. Hagen Open Electorate, to represent the youth, women and churches in the electorate; and
- (f) a representative of the Western Highlands Provincial Government appointed by the Governor of Western Highlands.

(2) A member -

- (a) subject to Section 11, shall be appointed for a period not exceeding three years; and
- (b) is eligible for re-appointment; and
- (c) is to be paid the remuneration, sitting fees and allowances approved, in writing, by the Minister; and
- (d) holds office on such other terms and conditions as are prescribed by the regulations.

11. CHAIRPERSON AND DEPUTY CHAIRPERSON.

(1) The Member of the Parliament representing the Mt Hagen open electorate is the Chairperson of the Board.

(2) The President of the Mt Hagen Urban Local level Government shall be the Deputy Chairman of the Authority, and automatically assumes that position on his election as President.

- (3) If the Member of the Parliament representing the Mt. Hagen Open Electorate -
- (a) ceases to be a member of the National Parliament; or
 - (b) has been suspended under the Leadership Code,

the members of the Board shall elect one of the other members of the Board to act as the Chairperson of the Board until the office of the member of the Parliament representing the Mt. Hagen Open Electorate is filled.

12. VACATION OF OFFICE.

(1) A member, other than an *ex officio* member, may resign from his office by writing to the Chairperson.

(2) A person ceases to be an appointed member if he -

- (a) dies; or
- (b) becomes bankrupt, or applies to take the benefit of any law for the benefit of bankrupt or insolvent debtors, compounds with his or her creditors, or makes an assignment of his or her remuneration for their benefit; or
- (c) is convicted of an offence punishable under a law by a term of imprisonment for one year or longer, or by death.

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(3) The Minister may terminate the appointment of a member by notice in writing to the member if the Minister is satisfied that -

- (a) it is not in the best interest of the Authority for the member to continue as a member of the Board; or
- (b) the performance of the member has been unsatisfactory for a significant period; or
- (c) the appointed member is unable to perform his or her duties because of physical or mental incapacity.

(4) A person ceases to be a member of the Board if he becomes a Minister of a ministry in the National Government.

(5) The Minister may, upon recommendation of the Board, terminate a member's appointment on grounds of inefficiency, incapacity or misbehavior.

13. VACANCY NOT TO AFFECT POWERS OR FUNCTIONS.

The performance of the functions, and the exercise of the powers, of the Authority are not affected by reason only of vacancies in the membership of the Board and a vacancy in the membership of the Board shall be filled as soon as practicable.

14. DISCLOSURE OF INTERESTS.

(1) A member who has a direct or indirect interest 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) The disclosure shall be recorded in the minutes of the meeting of the Board and the member -

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

15. MEETINGS OF THE BOARD.

(1) All meetings of the Board shall be held in Mt Hagen.

(2) The Board shall hold meetings at such times and places as the Chairman, or in his absence the Deputy Chairman, determines, but in any event, at least once every four months.

(3) Notwithstanding Subsection (2), where he receives a written request to do so, by not less than three members, the Chairman, or in his absence the Deputy Chairman, shall convene a meeting within 21 days.

(4) The Chairperson shall preside at a meeting of the Board and in the absence of the Chairperson, the Deputy Chairperson shall preside at a meeting of the Board.

(5) At a meeting of the Board -

- (a) half of the members plus one forms a quorum; and
- (b) the Board may meet in the absence of the Chairperson but shall not meet in the absence of both the Chairperson and the Deputy Chairperson; and

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- (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 vote and, in the event of an equality of vote on a matter, also a casting vote.

(6) The Board shall cause minutes of its meetings to be recorded and kept and determine its own procedures.

16. DELEGATION.

The Board may, in writing, delegate to a member of the Board all or any of the Board's functions or powers, except this power of delegation.

PART IV. - SUSPENSION OF THE BOARD AND MINISTER'S POWERS.

17. SUSPENSION OF A BOARD BY THE NATIONAL EXECUTIVE COUNCIL.

(1) The National Executive Council may, by notice published in the National Gazette, suspend the Board if the Council is satisfied that -

- (a) the Authority is incapable of effectively performing its functions; or
- (b) the Authority has conducted or is conducting its affairs in a grossly improper manner; or
- (c) the Authority has misappropriated or is misappropriating funds.

(2) In deciding whether or not to suspend the Authority, the National Executive Council shall have regard to a report given to the Minister under Section 18(3).

(3) The National Executive Council may extend or revoke a suspension at any time.

18. REPORT ON PROPOSED SUSPENSION OF THE BOARD.

(1) The head of the department responsible for provincial and local-level government matters shall prepare a written report on the proposed suspension of the Board.

(2) The head of the department shall give the Board a copy of the report and the Board may, within 28 days after receiving the report, respond in writing to the report.

(3) The head of the department shall give the report, and any response received from the Board, to the Minister.

19. TRANSFER OF BOARD'S FUNCTIONS AND POWERS TO MINISTER.

Upon the suspension of the Board, the functions and powers of the Board shall be transferred to the Minister.

20. DIRECTIONS BY THE MINISTER.

The Minister may give a written direction to the Board concerning the Authority's operations if the Minister is satisfied that the direction is necessary to ensure the proper performance of the Authority's functions, and the Authority shall comply with the direction.

21. REQUEST BY THE MINISTER FOR ADVICE OR INFORMATION.

The Minister may, in writing, request advice or information from the Board on any matter relating to the operations of the Authority, and the Board shall comply with the request.

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22. POWERS OF ENTRY AND SEARCH.

(1) The Minister may authorise the entry and search of premises if he is satisfied, on reasonable grounds, that the Authority -

- (a) is incapable of effectively performing its functions; or
- (b) has or is conducting its affairs in a grossly improper manner; or
- (c) has or is misappropriating funds.

(2) Subject to Subsection (3), an authorised officer may, with such assistance and by such force as is necessary and reasonable, enter any premises of, or under the control of, the Authority if the occupier of the premises has consented to the entry and may do any or all of the following:

- (a) search the premises for, seize, inspect, examine, take extracts from, and make copies of, any documents relating to the affairs of the Authority; and
- (b) seize any other thing found during the course of the search that he believes, on reasonable grounds, is relevant to the affairs of the Authority; and
- (c) ask any person at the premises to answer any questions relating to the affairs of The Authority.

(3) The consent of the occupier of the premises is not required if the authorised officer is satisfied, on reasonable grounds, that because of circumstances that exist on or in relation to the premises, documents relating to the affairs of the Authority are being destroyed or likely to be destroyed.

(4) An authorised officer may ask any member of the staff of the Authority or any agent of the Authority -

- (a) to answer any question relating to the affairs of the Authority; or
- (b) to provide information that the Minister reasonably requires for the administration or enforcement of this Act.

(5) A person who fails to answer a question or provide information under Paragraph (2)(c) or Subsection (4) is guilty of an offence punishable on conviction by a fine not exceeding K1,000.00.

(6) It is a defence to a prosecution for an offence under subsection (5) for a person if an answer to a question or the provision of information would tend to incriminate the person.

(7) The Minister may, in writing, appoint members of the National Public Service to be authorised officers for the purposes of this section.

PART V. - STAFF OF THE AUTHORITY.

23. CHIEF EXECUTIVE OFFICER.

(1) There shall be a chief executive officer of the Authority whose appointment shall be in accordance with the *Regulatory Statutory Authorities (Appointment to Certain Offices) Act 2004*.

(2) The chief executive officer is responsible for the day to day management of the Authority and the implementation of policies and decisions of the Authority.

(3) Subject to Subsection (4), the Salaries and Conditions Monitoring Committee shall approve the terms and conditions of appointment of the chief executive officer.

(4) The suspension or termination of the appointment of the chief executive officer shall be in accordance with the *Regulatory Statutory Authorities (Appointment to Certain Offices) Act 2004*.

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(5) The Chief Executive Officer may, in writing, delegate any or all of his functions or powers to a member of the staff of the Authority, except this power of delegation.

24. STAFF OF THE AUTHORITY.

(1) The chief executive officer is responsible for the appointment of the staff of the Authority following a merit based selection process.

(2) The Salaries and Remuneration Committee shall approve the terms and conditions of appointment of the staff of the Authority.

PART VI. - FINANCES, ETC.

25. APPLICATION OF PART VIII OF THE *PUBLIC FINANCES (MANAGEMENT) ACT 1995.*

Part VIII of the *Public Finances (Management) Act 1995* applies to the Authority.

26. GRANTS FROM THE NATIONAL GOVERNMENT.

(1) The National Government shall provide to the Authority the following grants:

- (a) a town and service grant; and
- (b) staffing grant; and
- (c) other grants.

(2) The Minister responsible for treasury matters shall determine the town and urban services grants after receiving advice from the National Economic and Fiscal Commission.

(3) The National Economic and Fiscal Commission shall consider the estimated cost of providing services and any income available to the Authority to meet the costs.

(4) The head of the department responsible for treasury matters may impose conditions on grants by way of budget circular.

(5) The department responsible for treasury matters, the National Economic and Fiscal Commission and the department responsible for provincial and local-level government affairs matters shall be responsible for monitoring the expenditure of grants.

27. FUNDS OF THE AUTHORITY.

The funds of the Authority consist of -

- (a) all monies appropriated by an Act for the purpose of carrying out or giving effect to this Act; and
- (b) all monies received by the Authority for services provided by the Authority; and
- (c) any other monies received by the Authority by way of grants, donations or other contributions from any lawful source, including sources from outside Papua New Guinea.

28. EXPENDITURE.

The monies of the Authority shall be expended only -

- (a) in payment or discharge of expenses, obligations and liabilities of the Authority; and
- (b) in payment of the remuneration, sitting fees and allowances of members of the Board; and
- (c) for such other purposes that are consistent with the functions of the Authority as the Board may determine.

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29. BUDGET.

- (1) The Authority shall, before 31 March in each year, submit its annual budget for the next year to the Minister responsible for treasury matters for approval.
- (2) A copy of the budget shall be provided to the Provincial Government.

PART VII. - MISCELLANEOUS.

30. BOUNDARIES OF THE AUTHORITY.

The boundaries and jurisdiction of the Authority are the same as the boundaries and jurisdiction of the Mt Hagen Open Electorate.

31. REPORTS.

(1) The Board shall prepare an annual report on the operations of the Authority and shall give the annual report to the Minister on or before 31 March of the next year.

(2) In addition to the annual report, the Board shall for each year prepare performance reports for the following periods of that year:

- (a) 1 January to 30 June; and
- (b) 1 July to 31 December.

(3) The Board shall give the performance report to the Provincial Government and the Local-level Governments in the Province in the following:

- (a) in the case of the report for the period from 1 January to 30 June - on or before 31 July of that year; and
- (b) in the case of the report for the period from 1 July to 31 December - on or before 31 January of the next year.

32. REGULATIONS.

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

OFFICE OF LEGISLATIVE COUNSEL, PNG