

No. 15 of 1995.

National Capital District Commission (Amendment) Act 1995.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.

No. of 1995.

National Capital District Commission (Amendment) Act 1995.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.

No. of 1995.

AN ACT

entitled

National Capital District Commission (Amendment) Act 1995,

Being an Act to amend the *National Capital District Commission Act 1990,*

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

1. **INTERPRETATION (AMENDMENT OF SECTION 1).**

Section 1 of the Principal Act is amended by -

(a) inserting immediately after the definition "Commission" the following definitions:-

"'Deputy Governor' means the Deputy Governor of the National Capital District Commission in accordance with Section 5A(3);

'General Election' means a National General Election;

'Governor' means the person holding office as the Governor of the National Capital District Commission in accordance with Section 5A(2);"; and

(b) inserting immediately after the definition "Interim Commission" the following definition:-

"'Local-level Government' means a Local-level Government established in accordance with Part VIII B;"; and

(c) inserting immediately after the definition "National Capital District" the following definition:-

"'open electorate' means an open electorate, as provided for under the *Organic Law on National Elections*, within the National Capital District;".

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2. REPEAL AND REPLACEMENT OF SECTION 2.

Section 2 of the Principal Act is repealed and is replaced with the following:-

"2. GOVERNMENT SYSTEM OF NATIONAL CAPITAL DISTRICT.

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

"(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 VIII A; and
- (c) the Local-level Governments established in accordance with Part VIII B.

"(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".

3. REPEAL AND REPLACEMENT OF SECTION 4.

Section 4 of the Principal Act is repealed and is replaced with the following -

"4. 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
 - (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

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- (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."

4. REPEAL AND REPLACEMENT OF SECTION 5.

Section 5 of the Principal Act is repealed and is replaced by the following:-

"5. CHAIRMAN AND DEPUTY CHAIRMAN.

(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, as are determined by the Salaries and Remuneration Commission."

5. ADDITION OF NEW SECTIONS 5A, 5B, 5C, 5D, 5E.

The Principal Act is amended by inserting after Section 5, the following new sections:-

"5A. THE GOVERNOR AND DEPUTY GOVERNOR.

(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.

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"(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.

(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

(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.

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***5C. DISMISSAL OF GOVERNOR.**

(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.**

(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.

"(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.**

The 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. MEETINGS OF THE COMMISSION (AMENDMENT OF SECTION 10).

Section 10(3) of the Principal Act is amended by repealing Paragraph (a) and replacing it with the following:-

"(a) 10 members are a quorum; and"

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7. REPEAL AND REPLACEMENT OF SECTION 17A.

Section 17A of the Principal Act is repealed by the following:-

***17A. DELEGATION OF FUNCTIONS AND POWERS BY COMMISSION.**

(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."

8. NEW SECTION 38A.

The Principal Act is amended by inserting after Section 38 the following new section:-

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

The Minister may, after consultation with -

(a) the Commission; and

(b) the Central Provincial Government,

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

9. MOTU KOITABU COUNCIL (AMENDMENT OF SECTION 40A).

Section 40A of the Principal Act is amended by adding at the end thereof the following new subsection:-

"(10) Notwithstanding 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*."

10. NEW SECTION 40B.

The Principal Act is amended by inserting after Section 40A the following new section:-

***40B. POWERS GENERALLY OF MOTU KOITABU COUNCIL.**

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

(a) to manage, control and administer the Motu Koitabu areas; and

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- (b) subject to the approval of the Commission, to perform such other powers and functions in accordance with law."

11. **NEW PART VIIIB.**

The Principal Act is amended by inserting after Part VIIIA the following new Part:-

"PART VIIIB. - LOCAL-LEVEL GOVERNMENTS.

"40C. LOCAL-LEVEL GOVERNMENTS.

(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.

(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.

(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.

"(3) At a meeting of a Local-level Government -
(a) one half of the members are a quorum; and

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- (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.

- (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."

I hereby certify that the above is a fair print of the ***National Capital District Commission (Amendment) Act 1995*** which has been made by the National Parliament.

Clerk of the National Parliament.

I hereby certify that the ***National Capital District Commission (Amendment) Act 1995*** was made by the National Parliament on 29 June 1995.

Speaker of the National Parliament.