

No 2 of 2008.

*Northern Province Restoration Authority Act 2008.*

Certified on: 05.06.08

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*Northern Province Restoration Authority Act 2008,*

No. of 2008.

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No. of 2008.

**AN ACT**

entitled

***Northern Province Restoration Authority Act 2008,***

Being an Act to establish the Northern Province Restoration Authority to –

- (a) co-ordinate and supervise the resettlement and rehabilitation of the victims of flooding in the 2007 flood disaster; and
- (b) to make provision for the functions and powers of the Authority; and
- (c) for related purposes.

MADE by the National Parliament.

**PART I. – PRELIMINARY.**

**1. COMPLIANCE WITH CONSTITUTIONAL REQUIREMENTS.**

(1) 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 of the *Constitution*; and
- (b) the right to freedom of information conferred by Section 51 of the *Constitution*,

is a law that is made for the purposes of complying with Section 38 of the *Constitution*, and to the extent that the regulation or restriction is necessary taking into account of the National Goals and Directive Principles and the Basic Social Obligations, for the purposes of giving effect to the public interest in public safety, public order and public welfare.

(2) For the purposes of Section 41 of the *Organic Law on Provincial Governments and Local-level Governments*, it is hereby declared that this Act relates to a matter of national interest.

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(3) It is hereby declared that this act is an Act of the Parliament to which Section 41(4)(b) of the *Organic Law on Provincial Governments and Local-level Governments* applies.

**2. INTERPRETATION.**

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

"affected areas" means areas of Northern Province and other Provinces affected by the flood disaster;

"Authority" means the Northern Province Restoration Authority established by Section 4;

"Chairman" means the Chairman of the Authority appointed under Section 5;

"Deputy Chairman" means the Deputy Chairman of the Authority appointed under Section 5;

"flood disaster" means the 2007 flood disaster in Northern Province and other Provinces;

"member" means a member of the Authority;

"Minister" means the Minister responsible for inter-government relation matters;

"Northern" means Northern Province;

"Oro" means Oro Provincial Government;

"person responsible" means a person appointed by a public authority under Section 19(1), and, in relation to a public authority, means the person responsible in and for that public authority;

"public authority" means any –

(a) Department; or

(b) State Service; or

(c) subject to Subsection (2), authority or instrumentality or other body (corporate or unincorporated) (other than a Provincial Government) established by or under Constitutional Law or an Act of Parliament for governmental or administrative purposes;

"this Act" includes the Regulations.

(2) Where any question arises as to whether an authority or instrumentality or other body is a public authority, the Minister may, by notice in the National Gazette, declare it to be a public authority for the purposes of this Act.

**3. APPLICATION.**

(1) This Act binds the State.

(2) This Act applies throughout the country.

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**PART II. – ESTABLISHMENT AND MEMBERSHIP, ETC., OF THE AUTHORITY.**

**4. ESTABLISHMENT, ETC., OF THE AUTHORITY.**

- (1) The Northern Province Restoration Authority is hereby established.
- (2) The Authority –
  - (a) is a body corporate with perpetual succession; and
  - (b) shall have a common seal; and
  - (c) may acquire, hold and dispose of property; and
  - (d) may sue and be sued in its corporate name.

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

**5. MEMBERSHIP OF THE AUTHORITY.**

- (1) The Authority shall consist of the following members :-
  - (a) a prominent citizen of Papua New Guinea who shall be the Chairman;
  - (b) the Departmental Head or his nominee of the Department responsible for national planning and monitoring matters as *ex officio* member representing the National Public Service;
  - (c) one representative of the Non-Government Organisations;
  - (d) one representative of the Churches;
  - (e) one representative of the community.

- (2) The members of the Authority, other than the *ex officio* members –
  - (a) shall be appointed by the National Executive Council by notice in the National Gazette; and
  - (b) hold office during the pleasure of the National Executive Council; and
  - (c) shall be entitled to such fees and allowances as are fixed from time to time under the *Boards (Fees and Allowances) Act 1955*.

(3) The Authority shall appoint one of the members to be the Deputy Chairman.

(4) The *Regulatory Statutory Authorities (Appointment to Certain Offices) Act 2004* does not apply in relation to the appointment of members of the Authority.

**6. CO-OPTED MEMBERS OF THE AUTHORITY.**

- (1) The Authority may, in relation to a matter before it, co-opt -
  - (a) an officer of the National Public Service or Oro Provincial Government or a member of a Local-level Government; or
  - (b) a member of an international lender, donor, private enterprise, a mission or voluntary organization; or

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- (c) any other person who is in the opinion of the Authority, necessary to co-opt as a member of the Authority; or
- (2) A member co-opted under Subsection (1) may take part in deliberations but not vote on questions relating to the matter to which he was appointed.
- (3) For the purposes of this Act, other than as provided in this section, a member co-opted under Subsection (1) shall not be regarded as a member of the Authority.

**7. APPLICATION OF LEADERSHIP CODE.**

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

**8. LEAVE OF ABSENCE.**

The Minister may grant leave of absence to a member of the Authority.

**9. OATH ETC., OF OFFICE.**

A member shall, before entering on the duties of his office, make or subscribe before the Minister, or a person authorized by the Minister for that purpose, an oath or affirmation of office in the form specified in the Schedule.

**10. RESIGNATION.**

A member may resign his office by writing signed by him and delivered to the Minister.

**11. VACANCY NOT TO AFFECT POWERS AND FUNCTIONS.**

The exercise of a power or performance of a function of the Authority under this Act is not invalidated by reason only of a vacancy in the membership of the Authority.

**12. 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 Authority shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of the interest at a meeting of the Authority.

(2) A disclosure under Subsection (1) shall be recorded in the minutes of the meeting of the Authority and, unless the Minister or the Authority determines otherwise, the member shall not -

- (a) be present during the deliberation of the Authority with respect to that matter; or
- (b) take part in any decision of the Authority in respect of that matter.

**13. MEETINGS OF THE AUTHORITY.**

(1) The Authority shall hold such meetings as are necessary for the efficient performance of its functions and at such times and places as it determines or as the Chairman or, in his absence, a Deputy Chairman directs, but in any event, shall meet not less frequently than once in every three months.



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- (2) The Chairman –
  - (a) may, at any time, convene a meeting of the Authority; and
  - (b) shall, on receipt of a written request signed by not less than two other members of the Authority, convene a meeting of the Authority.
- (3) Subject to Subsection (4), the Chairman shall preside at all meetings of the Authority.
- (4) Where the Chairman is not present at a meeting of the Authority, the Deputy Chairman shall preside at that meeting.
- (5) At a meeting of the Authority –
  - (a) the Chairman or the Deputy Chairman and two members are a quorum; and
  - (b) matters arising shall be decided by a majority of votes of the members of the Authority present and voting; and
  - (c) the person presiding has a deliberative and, in the event of an equality of votes on any matter, also a casting vote.
- (6) The Authority shall cause minutes of meetings to be recorded and kept.
- (7) Subject to this Act, the procedures of the Authority are as determined by the Authority.

**14. REPORTS.**

- (1) The Authority shall furnish to the Minister a report on the progress and performance of the Authority in relation to its functions –
  - (a) within six months from the coming into operation of this Act; and
  - (b) before 31 March in each subsequent year, in respect of the year ending 31 December preceding,and the Minister shall table such report at the first sitting of the National Parliament after the date of his receipt of it.

(2) A copy of the report referred to in Subsection (1) shall be made available to the Oro Provincial Government and the relevant Departments and agencies.

(3) The Authority shall also furnish to the Minister such other reports as the Minister may require at such intervals as the Minister may determine.

**15. SECRETARIAT.**

(1) A Secretariat is established to provide secretariat service to the Authority and shall be managed by a Manager appointed under Section 21.

(2) After consultation with the Department responsible for provincial affairs matters and the Department responsible for personnel management matters, the Authority shall appoint suitably qualified persons to be employees of the Secretariat.

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(3) A person appointed under Subsection (2), who is not an officer of the National Public Service, shall, subject to the *Salaries and Conditions Monitoring Committee Act 1988*, be paid such salaries, fees and allowances as are determined by the Authority.

(4) A person appointed under Subsection (2), who is an officer of the National Public Service -

- (a) shall be deemed to have been seconded to the Secretariat; and
- (b) shall, during his period of deemed secondment, be paid his salary and other entitlements by the Department by which, immediately prior to his deemed secondment, he was employed.

(5) For the period of service in the Secretariat, that service 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 grounds of illness; and
- (b) furlough or pay in lieu of furlough (including pay to dependants on the death of an officer).

### **PART III. - FUNCTIONS AND POWERS ETC., OF THE AUTHORITY.**

#### **16. FUNCTIONS OF THE AUTHORITY.**

(1) The functions of the Authority generally, in consultation with Oro Provincial Government, are to oversee and co-ordinate all restoration and rehabilitation activities for the victims of the flood disaster, and, without prejudice to the generality of the foregoing, are -

- (a) co-ordination of the planning and implementation of -
  - (i) clean up tasks in affected areas; and
  - (ii) the restoration of essential services in affected areas; and
  - (iii) all activities relevant to the relocation, where necessary, of population from affected areas to areas not affected; and
  - (iv) the development of long term activities to develop infrastructure and other facilities for restoration, resettlement and rehabilitation purposes; and
- (b) liaise with public bodies, the Oro Provincial government and other Provincial Governments, Non-Government Organizations, private enterprise, donors and international lenders in identifying and negotiating sources of funding for short to medium term restoration activities; and
- (c) the co-ordination of the development of specifications for contracts for resettlement and rehabilitation works and the advertising, evaluation and awarding of such contracts; and
- (d) the supervision and monitoring of the implementation of all contracts relating to restoration and rehabilitation works; and
- (e) the co-ordination of acquisition of land for resettlement purposes; and
- (f) such other functions as are likely to assist in the restoration, resettlement and rehabilitation effort.

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(2) In carrying out its functions, the Authority shall work in co-operation with the Oro Provincial Government and be in accordance with the Provincial and District Plans.

### **17. POWERS OF THE AUTHORITY.**

(1) The Authority has power to do all things necessary or convenient to be done for or in connection with the performance of its functions under this Act and may require a public authority to provide to it such particulars, as the Authority may determine, relating to that public authority or its functions which affect any of the functions of the Authority.

(2) Where in the opinion of the Authority –

(a) any information, books or records in the possession of or under the authority of a public authority is or are relevant to the exercise or performance of the powers or functions of the Authority under this Act or to the achievement of the purposes of this Act; and

(b) it is desirable that the information be given to the Authority or that the books or records be made available for inspection by the Authority, the Authority may issue to the person responsible in that public authority a written notice to that effect under the hand of the Chairman specifying the relevant information, books and records and specifying the place and time at which any information, books and records are to be furnished or produced.

(3) Where a notice under Subsection (2) has been furnished to the person to whom it is issued, the person shall furnish or produce for inspection at the place and time specified in the notice such information, books or records as are specified in the notice and copies of or extracts from an information, books and records so furnished may be made and retained by the Authority.

(4) The provisions of Subsection (3) do not affect the operation of any law by or under which any information, book or record is to be kept confidential.

## **PART IV. – OBLIGATIONS OF PUBLIC AUTHORITIES ETC.,**

### **18. GENERAL OBLIGATIONS.**

All public authorities and all governing bodies (by whatever name known), executives, Departmental Heads, officers and employees of public authorities shall assist and co-operate with the Authority in the performance of the functions and powers of the Authority under this Act.

### **19. PUBLIC AUTHORITY TO APPOINT PERSON TO BE RESPONSIBLE FOR LIAISON WITH THE AUTHORITY, ETC.,**

(1) For the purposes of ensuring and facilitating co-operation with the Authority, a public authority shall appoint a person employed by it for the purposes of this Act.

(2) A person appointed under Subsection (1) shall be of a level of not less than that of Deputy Secretary within the National Public Service or the equivalent.

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- (3) A person appointed under Subsection (1) is responsible for –
- (a) liaison between the public authority by which he is employed and the Authority; and
  - (b) ensuring that all directions and correspondence from the Authority are brought as expeditiously as possible, to the appropriate person within that public authority.
- (4) The management of a public authority shall ensure that every assistance is given to the person responsible to enable him to carry out his duties under this Act.

**20. FAILURE TO CO-OPERATE WITH THE AUTHORITY TO AMOUNT TO MISCONDUCT.**

(1) Where a public authority fails to co-operate with the Authority in the performance by the Authority of its functions and powers under this Act-

- (a) in the case of a public authority other than a Department – every person involved in the failure to co-operate is considered to have been guilty of misconduct or misbehaviour in accordance with the terms of their employment and where misconduct or misbehaviour is grounds for dismissal or removal from office, is liable to dismissal or removal from office; and
- (b) in the case of a Department – the Departmental Head and every officer concerned is guilty of negligence in the discharge of his duties under Section 50(e) of the *Public Services (Management) Act 1995*.

(2) For the purposes of Subsection (1), a public authority or a person employed by a public authority fails to co-operate with the Authority if it or he fails, within a reasonable time

- (a) to comply with a notice issued by the Authority under Section 17(2); or
- (b) to comply with a direction by the Authority; or
- (c) to answer correspondence from the Authority; or
- (d) otherwise, to assist the Authority in the performance of its functions to the extent that such assistance is within the functions and powers of that public authority or person.

**PART V. - APPOINTMENT OF MANAGER, ETC.,**

**21. APPOINTMENT OF MANAGER.**

(1) There shall be a Manager who -

- (a) shall be appointed by the Authority; and
- (b) is eligible for re-appointment.

(2) The Manager shall be the Chief Executive of the Authority and a member of the Secretariat.

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(3) The Manager shall manage and direct the day to day operations of the Secretariat in relation to the objectives and functions of the Authority and carry out his duties in accordance with any directions and policies determined and set by the Authority.

(4) The Manager has no power to appoint, employ or terminate staff of the Secretariat.

**22. TERMINATION OF APPOINTMENT OF MANAGER.**

(1) If the Manager -

- (a) becomes permanently incapable of performing his duties; or
- (b) resigns his office by writing under his hand to the Authority; or
- (c) occupies or holds any other office or employment or engages in the practice of any profession or business, without the written consent of the Authority; or
- (d) becomes bankrupt or applies to take benefits of any law for the relief of bankrupt or insolvents or compounds with his creditors or makes an assignment of his remuneration for their benefits; or
- (e) is convicted of an offence punishable under law with a sentence of imprisonment of twelve months or more,

his appointment will be terminated by the Authority.

(2) Subject to Subsection (3), the Authority may at any time by written notice terminate the appointment of the Manager on the grounds of inability, inefficiency, incapacity or misbehaviour.

(3) The Authority shall not terminate the appointment of the Manager unless it has given the Manager one months prior notice in writing of its intention to do so.

(4) Within fourteen (14) days of the receipt of a notice under Subsection (3) the Manager may reply in writing to the Authority which shall consider the reply and where appropriate, terminate the appointment.

(5) Where the Manager does not within fourteen (14) days of the receipt of a notice under Subsection (4) reply in writing to the Authority, his appointment is terminated.

(6) Where the appointment of the Manager is terminated under this Subsection (5), the Authority shall declare his position to be vacant.

**23. TERMS AND CONDITIONS OF APPOINTMENT OF MANAGER.**

(1) Subject to the *Salaries and Conditions Monitoring Committee Act 1988*, the terms and conditions of the Manager shall be as determined by the Authority.

(2) The Manager shall be employed on a written contract of employment on such terms and conditions determined under Subsection (1).

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(3) If an officer of the Public Service is appointed to be the Manager, his period of service as the Manager shall be counted as a 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 or furlough, or pay in lieu (including pay to dependents or representatives on the death of the officer).

**PART VI. – FINANCE.**

**24. APPLICATION OF *PUBLIC FINANCES (MANAGEMENT) ACT 1995.***

(1) The National Government shall provide sufficient funding to the Authority to enable it to expeditiously and fully perform its function.

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

**PART VII. – MISCELLANEOUS.**

**25. PROTECTION FROM PERSONAL LIABILITY.**

The Chairman, Deputy Chairman or a member of the Authority is not personally liable for any act or default of himself or the Authority done or omitted to be done in good faith in the course of the operations of the Authority or for the purposes of this Act.

**26. CONFIDENTIALITY.**

(1) The Authority shall take all reasonable steps to protect, from unauthorized use or disclosure, information given to it in confidence in connection with the performance of its functions or the exercise of its powers.

(2) For the purposes of Subsection (1), the disclosure of information as required and permitted by any law or court of competent jurisdiction shall be considered authorized use and disclosure of the information.

(3) For the purposes of Subsection (1), the disclosure of information by a person for the purposes of performing that person's functions as a –

- (a) person providing secretarial services to the Authority under Section 15; or
- (b) member of the support staff of the Authority; or
- (c) member of the Authority,

shall be considered authorized use and disclosure of the information.

**27. REGULATIONS.**

(1) The Head of State, acting on advice, may make Regulations, not inconsistent with this Act, prescribing all matters that –

- (a) by this Act are permitted or required to be prescribed; or
- (b) are necessary or convenient to be prescribed for carrying out or giving effect to this Act and generally for achieving the purposes of this Act.

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(2) Without limiting the generality of Subsection (1), Regulations may be made prescribing –

- (a) fees; or
- (b) penalties or fines not exceeding K1,000.00 for offences against the Regulations.

**28. EXPIRY OF THIS ACT.**

This Act, unless sooner repealed, shall expire five years from the date of commencement of the Act or such extended period by the National Executive Council not exceeding five years.

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**SCHEDULE**

**Act Sec. 9**

**OATH OF OFFICE**

I ..... , do swear that I will well and truly serve the Independent State of Papua New Guinea and its People in the Office of Member\*/Chairman\*/Deputy Chairman\* of the Northern Province Restoration Authority.

So help me God!

**AFFIRMATION OF OFFICE.**

I ..... , do solemnly and sincerely promise and declare that I will well and truly serve the Independent State of Papua New Guinea and its People in the Office of Member\*/Chairman\*/Deputy Chairman\* of the Northern Province Restoration Authority.

*\*Delete where inappropriate.*

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***Northern Province Restoration Authority***

I hereby certify that the above is a fair print of the ***Northern Province Restoration Authority Act 2008*** which has been made by the National Parliament.

Clerk of the National Parliament.

I hereby certify that the ***Northern Province Restoration Authority Act 2008*** was made by the National Parliament on 10 April 2008 by an absolute majority in accordance with the ***Constitution***.

Speaker of the National Parliament.

