

No. 3 of 2007

***Independent Public Business Corporation of Papua New Guinea (Amendment) Act  
2007***

Certified on: 08.06.07



No. of 2007.

AN ACT

entitled

***Independent Public Business Corporation of Papua New Guinea (Amendment) Act  
2007.***

**ARRANGEMENT OF SECTIONS.**

1. Interpretation (Amendment of Section 2).
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3. Repeal of Section 5.
4. Establishment of the Corporation (Amendment of Section 6).
5. Objects of the Corporation (Amendment of Section 7).
6. Functions of the Corporation (Amendment of Section 8).
7. Repeal and Replacement of Section 9.
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10. Chairman and Deputy Chairman (Amendment of Section 12).
11. Remuneration of Directors (Amendment of Section 20).
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15. Appointment of Officers (Amendment of Section 29).
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19. Repeal and replacement of Sections 36, 37 and 38.
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**"59A. PEOPLE'S UNIT TRUST.**



No. of 2007.

AN ACT

Entitled

***Independent Public Business Corporation of Papua New Guinea (Amendment) Act  
2007,***

Being an Act to amend the ***Independent Public Business Corporation of Papua New  
Guinea Act 2002,***

MADE by the National Parliament to come into operation –

- (a) in respect of Section 24 it shall be deemed to have come into operation on 20 June 2002; and
- (b) in respect to the rest of the provisions in accordance with a notice in National Gazette by the Head of State, acting with, and in accordance with, the advice of the Minister.

**1. INTERPRETATION (AMENDMENT OF SECTION 2).**

Section 2 of the Principal Act is amended –

- (a) by inserting after the definition "liabilities" the following new Definition –

"Majority State Owned Enterprise" means a State Owned Enterprise in which the State or the Corporation, or both of them together, hold interests in assets or share capital exceeding 50%"; and

- (b) by repealing the definition "Minister" and replacing it with the following –

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"Minister" means the Minister designated by the Prime Minister and published in the National Gazette with respect to the allocation of Ministerial duties and responsibilities of Ministers under Section 148 of the *Constitution* to be the Minister responsible for matters concerning or dealing with the management of State-owned corporations, companies, entities or assets wholly or partially owned by the State;" and

- (c) by repealing the definition "People's Unit Trust"; and
- (d) by inserting after the definition "Secretary" the following new Definition –

"State Owned Enterprise" means –

- (a) a business enterprise in which the State or the Corporation owns any assets; or
- (b) a business enterprise in which any of the share capital is owned by the State or the Corporation; or
- (c) a business enterprise in which a business enterprise referred to in Paragraph (a), (b) or (d) owns any assets; or
- (d) a business enterprise in which any of the share capital is owned by a business enterprise referred to in Paragraph (a), (b) or (c), including by multiple applications of Paragraphs (c) or (d);".

**2. REPEAL AND REPLACEMENT OF SECTION 4.**

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

"4. Application and amendment of *Public Finances (management) Act 1995*.

(1) The *Public Finances (Management) Act 1995* does not apply to the Corporation, the Trusts, the State Owned Enterprises or to any other enterprise in which the Corporation, the Trusts or a State Owned Enterprise holds any shares, property or other interest.

(2) Subsection (1) does not affect the appropriation of any funds pursuant to the *Public Finances (Management) Act 1995*.

(3) Section 2 of the *Public Finances (Management) Act 1995* is amended in the definition of "public body" by adding the following paragraph –

- (f) the Corporation, the Trusts, the State Owned Enterprises and any other enterprise in which the Corporation, the Trusts or a State Owned Enterprise holds any shares, property or other interests (as those terms are defined in the *Independent Public Business Corporation of Papua New Guinea Act 2002*);".

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**3. REPEAL OF SECTION 5.**

Section 5 of the Principal Act is repealed.

**4. ESTABLISHMENT OF THE CORPORATION (AMENDMENT OF SECTION 6).**

Section 6 (5) of the Principal Act is repealed.

**5. OBJECTS OF THE CORPORATION (AMENDMENT OF SECTION 7).**

Section 7 of the Principal Act is repealed and is replaced with the following -

**"7. OBJECTS OF THE CORPORATION.**

The objects of the Corporation shall be -

- (a) to act as trustee of the Trusts and hold assets and liabilities that have been vested in or acquired by it, on behalf of the State; and
- (b) to act as a financial institution for the benefit of and the provision of financial resources and services to State Owned Enterprises and the State, where this is approved by the National Executive Council; and
- (c) to enhance the financial position of the State or State Owned Enterprises; and
- (d) to enter into and perform financial and other arrangements that in the opinion of the Corporation have as their objective either -
  - (i) the advancement of the financial interests of the State or State Owned Enterprises; or
  - (ii) the development of the State or any part thereof ;

**6. FUNCTIONS OF THE CORPORATION (AMENDMENT OF SECTION 8).**

Section 8 of the Principal Act is repealed and is replaced with the following -

**"8. FUNCTIONS OF THE CORPORATION.**

(1) The Corporation shall administer the Trusts and monitor the performance of the assets of the Trusts in such manner as provided under this Act and shall perform such other functions as are required under this Act.

(2) Without limiting the generality of Subsection (1) but subject to the provisions of this Act, the Corporation -

- (a) may undertake the function of holding and monitoring corporation for State owned assets and Majority State Owned Enterprises; and
- (b) may undertake the function of planning, coordinating and managing State assets, infrastructure and projects; and
- (c) may determine policies regarding -
  - (i) the conduct of its affairs and the affairs of any of the Trusts; and

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- (ii) the administration, management and control of the Corporation and any of the Trusts; and
- (d) may borrow, raise or otherwise obtain financial accommodation in Papua New Guinea; and
- (e) may advance money or otherwise make financial accommodation available to the State or State Owned Enterprises; and
- (f) may act as a central borrowing and capital raising authority for State Owned Enterprises; and
- (g) may act as agent for State Owned Enterprises in negotiating, entering into and performing financial arrangements; and
- (h) may provide a medium for the investment of funds of State Owned Enterprises; and
- (i) may manage or cause to be managed the Corporation's financial rights and obligations; and
- (j) has such other functions and duties as are prescribed by the Act or any other Act."

**7. REPEAL AND REPLACEMENT OF SECTION 9.**

Section 9 of the Principal Act is repealed and is replaced with the following –

**"9. POWERS OF THE CORPORATION.**

(1) The Corporation has power to do in the country or elsewhere all things necessary or convenient to be done for or in connection with or otherwise incidental to the performance of its functions and duties.

(2) In its capacity as trustee of the Trusts, the Corporation has all the powers –

- (a) in respect of each of the Trusts that it is possible to confer on a trustee; and
- (b) as if it were the absolute owner of the relevant assets and acting in its personal capacity; and
- (c) necessary for fulfilling its obligations under this Act and the terms of the relevant trust, but subject always to the provisions of this Act.

(3) Without limiting the generality of Subsections (1), and (2), subject to this Act, the Corporation (both in its capacity as trustee of each of the trusts and otherwise) has power to –

- (a) enter into arrangements for the formation, management, acquisition, sale, restructuring or liquidation of state owned assets and state owned enterprises; and
- (b) subscribe for or otherwise acquire shares or other interests in The nature of equity in State owned assets or State Owned Enterprises; and

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- (c) procure or cause to be allotted, issued, sold, disposed of or otherwise dealt with fully or partly paid shares, units or equity interests in State owned assets or State Owned Enterprises; and
- (d) receive and disburse moneys in accordance with this Act for the purpose of performing its functions; and
- (e) deal with shares, stock, units, debentures, options, warrants or other securities or financial instruments or interests with the same power as that of a natural person; and
- (f) carry on any business or undertaking wheresoever situated; and
- (g) manage the affairs of any business enterprise or undertaking; and
- (h) enter into any contract, deed, instrument or agreement; and
- (i) deal with land, any interest in any land or any lease with the same power as that of a natural person; and
- (j) appoint attorneys, agents, nominees or representatives; and
- (k) act as a trustee, attorney, agent, nominee or representative; and
- (l) nominate any person to be a member of the board of directors or other controlling or governing body of a State Owned Enterprise provided such persons would not be disqualified from being a director under any of Section 11(4)(a) and (b)(i), (iii) to (vii) (inclusive) and subject to the provisions of the constitution of the State Owned Enterprise; and
- (m) exercise any right to vote or other power or right attaching to any asset; and
- (n) adopt such means of making known or advertising the activities of the Corporation as the Corporation thinks fit; and
- (o) advise on or arrange financing for the State and State Owned Enterprises in relation to the provision of infrastructure or services by or on behalf of the State; and
- (p) borrow or lend money or enter into financial accommodation arrangements whether in its own capacity or on behalf of the Trusts, the State and State Owned Enterprises (including any transaction between the Corporation, the State and any State Owned Enterprise); and
- (q) grant security over its assets or the assets of the Trusts; and
- (r) provide any guarantee, indemnity or other financial assurance in its own capacity or on behalf of the Trusts; and
- (s) set policies or objectives for State Owned Enterprises on any matter or on behalf of the Trusts, the State or any State Owned Enterprises; and

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- (t) do anything necessary or convenient for or incidental to the purpose of its functions or powers, each of which paragraph shall be a separate and distinct power and none of which is to be limited by any other.

(4) The Corporation may agree to indemnify and may indemnify a director, secretary, liquidator or other officer of a State Owned Enterprise on such terms and conditions as the Corporation determines in its absolute discretion by instrument in writing signed by the Corporation.

(5) In exercising the power of appointment referred to in Subsection (3)(l), the Corporation may appoint any of the Managing Director or the Directors to such positions."

**8. REPEAL AND REPLACEMENT OF SECTION 9A.**

Section 9A of the Principal Act is repealed and replaced as follows –

**"9A. POWERS OF NATIONAL EXECUTIVE COUNCIL AND MINISTER.**

Prior to the Corporation nominating any person to be a member of the Board of a State Owned Enterprise, the Corporation must notify the Secretary of the National Executive Council of the identity, experience and proposed remuneration of the person and the National Executive Council has the right to object to the proposed nomination provided that it gives the Corporation a reason for the objection and does so within 21 days of receipt of the notice of the nomination by the Secretary of the National Executive Council. If the National Executive Council does not object to the nomination within that period, then the nomination is deemed valid, and may then be considered for approval in accordance with the constitution or other constituent rules of the State Owned Enterprise."

**9. DIRECTORS (AMENDMENT OF SECTION 11).**

Section 11 of the Principal Act is amended –

- (a) in Subsection (1)(a) by repealing the words "Papua New Guinea Trade Union Congress" and replacing them with the following –

"Papua New Guinea Institute of Bankers"; and

- (b) in Subsection (1)(c) by repealing the words "National Council of Women" and replacing them with the following –

"Papua New Guinea Institute of Directors Inc"; and

- (c) in Subsection (1)(g) by replacing the word "financial" with the following –

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"treasury"; and

- (d) in Subsection (2) after the words "National Executive Council" and before the words "by notice" by inserting the following –

"upon the recommendation of the Minister,"; and

- (e) in Subsection (4) by amending the following –  
(i) by repealing the reference "Subsection (1)(a), (b), (c), (d) or (e)" and replacing it with the following –

"Subsection (1)(a), (b), (c), (d), (e) and (h)"; and

- (ii) by repealing Subsection (4)(b)(ii); and  
(iii) in Subsection (4)(b)(vi), after the word "Act" by inserting the following –

"; and"; and

- (iv) by inserting after Subsection (4)(b)(vi) the following new subsection –

"(4)(b)(vii) a close relative of another director."

**10. CHAIRMAN AND DEPUTY CHAIRMAN (AMENDMENT OF SECTION 12).**

Section 12(1) of the Principal Act is amended by inserting after the reference "Section 11(1)(a), (b), (c), (d) or (e)" and before the words "as Chairman of the Board" the following –

"in accordance with the recommendation of the Minister".

**11. REMUNERATION OF DIRECTORS (AMENDMENT OF SECTION 20).**

Section 20(2) of the Principal Act is repealed.

**12. APPOINTMENT OF MANAGING DIRECTOR (AMENDMENT OF SECTION 23).**

Section 23 of the Principal Act is amended by inserting after Subsection (2) the following new Subsection –

"(3) The Managing Director may be reappointed in the manner provided for in Subsections (1) and (2) for one further period not exceeding three years ".

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**13. REPEAL AND REPLACEMENT OF SECTION 25.**

Section 25 of the Principal Act is repealed and is replaced with the following –

**"25. REMOVAL OF MANAGING DIRECTOR.**

The Managing Director may be removed from his position in accordance with the terms and conditions approved in accordance with Section 23(2) "

**14. REPEAL OF SECTION 26.**

Section 26 of the Principal Act is repealed.

**15. APPOINTMENT OF OFFICERS (AMENDMENT OF SECTION 29).**

Section 29 of the Principal Act is amended –

(a) by repealing Subsection (2) and replacing it with the following –

"(2) The Corporation is not a Department of the National Public Service, and officers of the Corporation (including the Managing Director) are not officers in the National Public Service."; and

(b) by inserting after Subsection (2) the following new subsections –

"(3) The Corporation may appoint a person possessing the appropriate expertise as a consultant on any matter in relation to the performance of its functions and on such terms and conditions as the Corporation determines.

"(4) The *Salaries and Conditions Monitoring Committee Act 1988* does not apply in respect of the Corporation, except in relation to the Managing Director as provided for in Section 23(2) "

**16. ESTABLISHMENT OF TRUSTS (AMENDMENT OF SECTION 31).**

Section 31 of the Principal Act is amended –

(a) by inserting after Subsection (1) the following new subsections -

"(1A) The beneficiary of the Papua New Guinea General Business Trust is the State.

"(1B) The purposes of the General Business Trust, subject to this Act, include the following –

(a) to hold assets and liabilities which have been acquired or assumed by or vested in the Corporation; and

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- (b) to enable the rehabilitation and restructuring of assets under the control of the Corporation; and
  - (c) to hold the interest of the Corporation in ownership or development of assets in conjunction with private sector investors; and
- (b) to enable the sale or disposal of State-owned assets and the receipt of the proceeds thereof."; and
- (c) in Subsection (2) by repealing the words "business enterprises" and replacing them with the following –
- "State Owned Enterprises"; and
- (d) in Subsection (3) by repealing the words "(including interests in business enterprises)" and replacing them with the following –
- "held by any of the bodies referred to in Section 50(1)".

**17. REPEAL AND REPLACEMENT OF SECTIONS 33 AND 34.**

Sections 33 to 34 of the Principal Act are repealed and replaced with the following

**"33. PROFIT AND LOSSES OF THE CORPORATION.**

Except to the extent that it is otherwise provided by the National Executive Council, all profits made by the Corporation shall accrue to the benefit of consolidated revenue and any losses of the Corporation shall be the responsibility of consolidated revenue.

**"34. ANNUAL PLAN OF THE CORPORATION.**

(1) The Corporation shall, not later than three months before the end of each financial year, submit to the Minister a plan in respect of the next financial year of the activities of the Corporation and the Trusts including –

- (a) a financial plan, including proposed borrowings and payment of dividends to the consolidated revenue fund; and
- (b) an expenditure budget; and
- (c) proposals for acquisition of assets; and
- (d) identification of assets for joint development between the State, the Corporation and private sector investors; and
- (e) identification of assets for rehabilitation and restructure; and
- (f) proposals for sale of assets; and
- (g) proposals for provision of infrastructure and services by or on behalf of the State; and

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- (h) proposals regarding financing for the purposes of this Act; and
- (i) a forecast of the asset, liability and cash flow position of the Corporation and the Trusts as at the end of that financial year; and
- (j) proposed timetables for the matters referred to in Paragraphs (a) to (h).

(2) The plan referred to in Subsection (1) is subject to the approval of the National Executive Council, and is not valid unless and until such approval has been granted.

(3) Upon approval of the plan referred to in Subsection (1), the plan is valid as from the commencement of the period to which the plan relates.

(4) Notwithstanding Subsection (3), borrowing, raising of money or entering into any other financial arrangements requires specific approval of the National Executive Council in accordance with Section 37(1).

(5) Any changes to the plan referred to in Subsection (1) require the approval of the National Executive Council.

- (6) In the course of –
- (a) preparing, in the case of the Corporation; and
  - (b) considering approval, in the case of the National Executive Council, the plan referred to in Subsection (1), regard must be had to the need for the Corporation and each of the Trusts to have an excess of assets over liabilities and be able to meet their debts as and when they fall due, and a plan must not be approved which does not meet these requirements.

**18. REPEAL OF SECTION 35.**

Section 35 of the Principal Act is repealed.

**19. REPEAL AND REPLACEMENT OF SECTIONS 36, 37 AND 38.**

The Principal Act is amended by repealing Sections 36, 37 and 38 and substituting the following new sections:

**"36. BANK ACCOUNTS AND CHEQUES.**

(1) The Corporation shall open and maintain accounts within the country or elsewhere with such bank or banks as it may from time to time determine to be required for its purposes.

(2) Subject to this Act, the Corporation shall pay all moneys received by it into an account referred to in Subsection (1).

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(3) Cheques or any other negotiable instrument drawn on any bank account of the Corporation shall be signed in the manner determined by the Corporation from time to time.

**"37. BORROWING POWERS OF THE CORPORATION.**

(1) The Corporation has the power to borrow or raise money or enter into any other financial arrangements either in Papua New Guinea or elsewhere as a borrower or as a party in the nature of a borrower or as an acquirer of financial accommodation, on terms approved by the National Executive Council.

(2) The Corporation shall, not later than three months before entering into a financial arrangement in accordance with Subsection (1), submit to the Minister a Borrowing Proposal in respect of the financial arrangement including –

- (a) loan terms; and
- (b) potential currency risks; and
- (c) costs; and
- (d) potential alternative financing options, if any; and
- (e) proposed timetables for the matters referred to in Paragraphs (a) to (d).

(3) The proposal referred to in Subsection (2) is subject to the approval of the National Executive Council, and unless approval is given the proposal is not valid.

(4) Upon approval of the proposal referred to in Subsection (2), the plan is valid as from the commencement of the period to which the proposal relates.

(5) Any changes to the proposal referred to in Subsection (2) require the approval of the National Executive Council.

(6) Financial requirements entered into in accordance with Subsection (1) may be made –

- (a) with or without security given by the Corporation; and
- (b) at such rate of interest (if any) and for the payment of such other consideration (if any) as the Corporation thinks fit; and
- (c) on such terms as to repayment and otherwise as the Corporation thinks fit.

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**"38. LENDING POWERS OF THE CORPORATION.**

The Corporation, in the attainment of its objectives and the discharge of its functions under this Act, has the power to make loans or advances or enter into any other financial arrangements either in Papua New Guinea or elsewhere as a lender or as a party in the nature of a lender or as the provider of a financial accommodation, to the State or a State Owned Enterprise, as it thinks fit."

**20. REPEAL OF SECTIONS 39, 40, 41 AND 42.**

Sections 39, 40, 41 and 42 are repealed.

**21. AUDIT (AMENDMENT OF SECTION 44).**

Subsection (8) of Section 44 of the Principal Act is repealed.

**22. REPORTS AND FINANCIAL STATEMENTS (AMENDMENT OF SECTION 45).**

Section 45 of the Principal Act is amended –

- (a) in Subsection (1) by inserting after the words "operations of the Corporation" and before the words "for the year ended 31 December" the following –

"and the Trusts"; and

- (b) by repealing Subsection (6) and replacing it with the following –

"(6) The Minister shall cause the report and audited financial statements, together with the report from the Auditor-General, to be published and presented to the National Parliament at the next sitting after their receipt in each case by the Minister, and shall cause the fact of their receipt to be advertised widely in a newspaper published nationally, and copies of such report and financial statements and any applicable audit report shall be made available by the Corporation at the cost of their reproduction to any person requesting them by written application to the Secretary."; and

- (c) by repealing Subsection (7); and

- (d) by repealing the word "three" and replacing it with "one".

**23. LIABILITY TO TAXATION AND DUTIES (AMENDMENT OF SECTION 46).**

Section 46 of the Principal Act is amended by inserting after Subsection (2) the following new subsection –

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"(3) All supplies of goods or services to the Corporation, whether in its capacity as trustee of any of the Trusts or otherwise, shall be liable to value added tax imposed under the *Value Added Tax Act 1998* at a rate of zero percent."

**24. NEW PART VIA.**

The Principal Act is amended by inserting after Part VI the following new Part –

**"PART VIA. – MAJORITY STATE OWNED ENTERPRISES.**

**46A. APPLICATION OF *PUBLIC FINANCES (MANAGEMENT) ACT 1995.***

The *Public Finances (Management) Act 1995* does not apply to any Majority State Owned Enterprise or State Owned Enterprise.

**46B. APPROVAL REQUIRED FOR CERTAIN CONTRACTS.**

A Majority State Owned Enterprise shall not, except with the approval of the Minister referred to in Section 61 of the *Public Finances (Management) Act 1995* upon the recommendation of the Managing Director, enter into any contract involving the payment or receipt of an amount, or of property to a value, (or both) exceeding K1,000,000.00.

**46C. GOVERNANCE OF MAJORITY STATE OWNED ENTERPRISES.**

(1) The board of directors of a Majority State Owned Enterprise must be appointed by its shareholders in accordance with the provisions of the *Companies Act 1997* and the constitution (if any) of the Majority State Owned Enterprise.

(2) The constitution of a Majority State Owned Enterprise must make provision for directors of the Majority State Owned Enterprise to retire (with eligibility for re-election in accordance with the *Companies Act 1997*) at intervals not exceeding three successive annual meetings of the Majority State Owned Enterprise.

(3) A Majority State Owned Enterprise must hold an annual meeting in accordance with the provisions of the *Companies Act 1997*.

**46D. INDEMNITIES.**

The Corporation may agree to indemnify and may indemnify a director, secretary, liquidator or other officer of a Majority State Owned Enterprise on such terms and conditions as the Corporation determines in its absolute discretion.

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**46E. ANNUAL PLAN OF MAJORITY STATE OWNED ENTERPRISE.**

(1) Each Majority State Owned Enterprise shall not later than four months before the end of each financial year, submit to the Corporation a plan in respect of the next financial year of the activities of the Majority State Owned Enterprise including –

- (a) a business plan; and
- (b) an expenditure budget; and
- (c) forecast financial information including debt repayments and dividends; and
- (d) proposals for acquisition of plant or other assets; and
- (e) borrowing program and proposals; and
- (f) identification of assets for joint development with private sector investors; and
- (g) identification of assets for rehabilitation and restructure; and
- (h) employee relations policies; and
- (i) proposals for sale of assets; and
- (j) proposed timetable for the matters referred to in paragraph (b) to (i) (inclusive); and
- (k) performance indicators; and
- (l) industry reform proposals.

(2) The annual plan of a Majority State Owned Enterprises is subject to approval by the Board of the Corporation.

(3) Any material departure from or changes to the annual plan of a Majority State Owned Enterprise require the approval of the Board of the Corporation.

**46F. SALE OR LEASE OF LAND AND PLANT.**

- (1) A Majority State Owned Enterprise must not –
- (a) sell or lease any land; and
  - (b) sell or lease any plant under a contract for consideration exceeding K1,000,000.00, without the approval of the Corporation.

(2) A contract or arrangement entered into contrary to Subsection (1) is void, and the Majority State Owned Enterprise may recover any land or plant which is the subject matter of any such contract or agreement, and upon doing so must refund any moneys received from the other party to the contract or arrangement.

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**46G. CAPITAL EXPENDITURE.**

(1) A Majority State Owned Enterprise must only incur capital expenditure –

- (a) included in an annual plan approved by the Corporation under Section 46D(2); or
- (b) which, although not included in an annual plan approved by the Corporation under Section 46D(2), is of an amount not exceeding K1,000,000.00 when aggregated with all capital expenditure for the same goods or services during a financial year; or
- (c) which has been specifically approved by the Board of the Corporation.

(2) A contract or arrangement entered into contrary to Subsection (1) is void, and the State Owned Enterprise may recover any moneys paid under the contract or arrangement, and upon doing so must return any property delivered by the other party to the contract.

**46H. BORROWING POWERS.**

A Majority State Owned Enterprise has all the powers of a company under the *Companies Act 1997* to borrow money, obtain financial accommodation, give security and grant guarantees or indemnities.

**46I. DIRECTIONS AND POLICIES.**

The Corporation may, by notice to a Majority State Owned Enterprise, set policies or give directions in any matter concerning operation, planning, staffing, staff remuneration, board remuneration, contract tendering, engagement of consultants or industry reform."

**25. INDEMNITY (AMENDMENT OF SECTION 47).**

Section 47(1) of the Principal Act is amended by inserting after the words "omission for the purposes of this" and before the words, except, in either case, the following –

"Act".

**26. REPEAL AND REPLACEMENT OF SECTION 49.**

Section 49 of the Principal Act is repealed and replaced with the following –

**"49. STATE GUARANTEE.**

(1) The State may, by instrument executed by the Head of State, acting on advice, guarantee or indemnify the Corporation or any other party in respect of any asset or liability (including any overdraft or other financial accommodation) of the Corporation.

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(2) Where any guarantee or indemnity has previously been given by the State in respect of any assets or liabilities which have been assumed by, vested in or transferred to the Corporation, such guarantee or indemnity shall remain in full force and effect.

(3) The State may, by instrument executed by the Minister responsible for treasury matters, guarantee or indemnify a director, secretary, liquidator or other officer of a State Owned Enterprise on such terms and conditions as the Minister determines in his absolute discretion".

**27. VESTING AND TRANSFER (AMENDMENT OF SECTION 50).**

Section 50 of the Principal Act is amended –

(a) by repealing Subsection (1)(c) and replacing it with the following–

"(c) any Minister of the State, Secretary of any Department or other State officer; or"; and

(b) in Subsection (4) by inserting after the words "other terms and conditions" and before the words "attaching to specific assets" the following –

"consistent with this Act"; and

(c) by inserting after Subsection (4) the following new subsections –

"(5) An asset, liability or interest vested in the Corporation pursuant to this Act shall, at the time of vesting, be accounted for in a manner determined by the Corporation that is consistent with applicable financial reporting standards.

(6) A notification made for the purposes of Subsection (1) or Section 31 can be corrected so as to be effective and workable, but otherwise cannot be varied or revoked.

(7) For the avoidance of doubt, any notification made by the Minister during the period between the commencement date of this Act and the commencement date of the *Independent Public Business Corporation of Papua New Guinea (Amendment) Act 2006* which purports to have the effect of revoking a vesting of assets in, or to de-vest assets of, the Corporation is void and of no effect."

**28. REPEAL OF SECTION 59.**

Section 59 of the Principal Act is repealed.

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**29. NEW SECTION 59A.**

The Principal Act is amended by inserting after Section 60 the following new section –

**"59A. PEOPLE'S UNIT TRUST.**

(1) The People's Unit Trust of Papua New Guinea created by deed dated 6 June 2002 of which the Corporation, as successor to the Privatization Commission, as trustee is terminated on the basis that it was never fully constituted and any assets and liabilities held by the Corporation as trustee of that trust, or by any other person as beneficiary of that trust, are held absolutely by the Corporation.

(2) No person shall have any claim for compensation, damages or loss arising from or in respect of the termination of the trust referred to in Subsection (1)."

I hereby certify that the above is a fair print of the *Independent Public Business Corporation of Papua New Guinea (Amendment) Act 2007* which has been made by the National Parliament.

Clerk of the National Parliament.

I hereby certify that the *Independent Public Business Corporation of Papua New Guinea (Amendment) Act 2007* was made by the National Parliament on 26 April 2007.

Speaker of the National Parliament.