

No. 14 of 1998.

Public Finances (Management) (Amendment) Act 1998.

Certified on : 28.04.98

INDEPENDENT STATE OF PAPUA NEW GUINEA.

No. of 1998.

Public Finances (Management) (Amendment) Act 1998.

ARRANGEMENT OF SECTIONS.

1. Interpretation (Amendment of Section 2).
2. Payments into trust accounts (Amendment of Section 16).
3. Transfer to Trust Accounts of advances of Government contribution to donor-funded projects (Amendment of Section 34).
4. Tenders of property, stores, works and services (Amendment of Section 40).
5. Execution of State contracts (Amendment of Section 47).
6. New Section 47A.

“47A. OFFENCES.

7. Approval required for certain contracts (Amendment of Section 61).
8. Provincial and District Treasury (Amendment of Section 70).
9. New Section 70A.

“70A. PAYMENTS BY A PROVINCIAL GOVERNMENT OR A LOCAL-LEVEL GOVERNMENT.

10. Imposition of surcharge (Amendment of Section 102).

INDEPENDENT STATE OF PAPUA NEW GUINEA.

No. of 1998.

AN ACT

entitled

Public Finances (Management) (Amendment) Act 1998.

Being an Act to amend the *Public Finances (Management) Act 1995*,

MADE by the National Parliament.

1. INTERPRETATION (AMENDMENT OF SECTION 2).

Section 2 of the Principal Act is amended by repealing the definition of "Small Contracts Award Board".

2. PAYMENTS INTO TRUST ACCOUNTS (AMENDMENT OF SECTION 16).
Section 16(2) of the Principal Act is repealed and is replaced with the following:-

"(2) Subject to Subsection (1), transfers of funds from Consolidated Revenue Fund to Trust Fund are prohibited unless a special transfer is authorized by an Appropriation Act."

3. TRANSFER TO TRUST ACCOUNTS OF ADVANCES OF GOVERNMENT CONTRIBUTIONS TO DONOR-FUNDED PROJECTS (AMENDMENT OF SECTION 34).

Section 34 of the Principal Act is amended by repealing the words "may be transferred" and replacing them with the following:-

"shall be transferred".

4. TENDERS FOR PROPERTY, STORES, WORKS AND SERVICES (AMENDMENT OF SECTION 40).

Section 40 of the Principal Act is amended by adding the following new subsection:-

"(5) In relation to contracts for the supply of works and services, the provisions of this section and of Section 41 shall apply to -

- (a) turnkey contracts; and
- (b) build-operate transfer contracts; and
- (c) contracts which in substance are similar to turnkey contracts or build-operate transfer contracts; and

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(d) contracts involving the expenditure of public moneys.”.

5. EXECUTION OF STATE CONTRACTS (AMENDMENT OF SECTION 47).

Section 47 of the Principal Act is amended -

(a) by repealing the heading and replacing it with the following:-

“EXECUTION, ETC.. OF STATE CONTRACTS.”; and

(b) by adding the following new subsection:-

“(3) Where the amount of the consideration of a contract or agreement to which the State is a party exceeds K5,000,000.00, the Minister shall cause a copy of the contract or agreement to be laid before the first sitting of the Parliament after execution of the contract or agreement.”.

6. NEW SECTION 47A.

Part VII of the Principal Act is amended by inserting after Section 47 the following new section:-

“47A. OFFENCES.

A Departmental Head, Provincial Administrator, head of a public body or other officer who authorizes or permits a breach of procedures relating to the -

(a) calling, consideration and awarding of tenders; or

(b) the execution of a state contract,

is for the purposes of the *Public Services (Management) Act 1995* or any contract entered into under that Act, guilty of a serious disciplinary offence.”.

7. APPROVAL REQUIRED FOR CERTAIN CONTRACTS (AMENDMENT OF SECTION 61).

Section 61(4) of the Principal Act is repealed.

8. PROVINCIAL AND DISTRICT TREASURY (AMENDMENT OF SECTION 70).

Section 70 of the Principal Act is amended by adding the following new subsection:-

“(4) For the purposes of this section, “public moneys” includes, in addition to the definition in Section 2 -

(a) all moneys received from the National Government by way of grants or otherwise; and

(b) all revenue, income and receipts accruing to a Provincial Government or Local-level Government.”.

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9. **NEW SECTION 70A.**

The Principal Act is amended by inserting after Section 70 the following new section:-

“70A. PAYMENTS BY A PROVINCIAL GOVERNMENT OR A LOCAL-LEVEL GOVERNMENT.

(1) A Provincial Government and a Local-level Government shall maintain bank accounts in accordance with the Financial Instructions.

(2) No moneys shall be paid by a Provincial Government or a Local-level Government except -

- (a) moneys appropriated under an Act; or
- (b) moneys deemed to have been appropriated under an Act; or
- (c) to meet expenditure that is charged on that Provincial Government or Local-level Government by a law; or
- (d) for the payment of a refund of revenue required or permitted by a law where specific authority for the payment does not exist; or
- (e) for the payment of revenue refunds provided for under any revenue law; or
- (f) subject to Subsection (3), where, at the beginning of a fiscal year -
 - (i) the respective Provincial Government or Local-level Government has not made provision for public expenditure; or
 - (ii) a relevant law relating to the appropriation of moneys has not been approved by the Minister responsible for finance matters under Section 141 of the *Organic Law on Provincial Governments and Local-level Governments*.

“(3) The amounts which may be authorized under Subsection (2)(f) shall not exceed in total one third of the budgetted expenditure for the respective Provincial Government or Local-level Government during the immediately preceding fiscal year.

“(4) The authority conferred by Subsection (3) lapses -

- (a) when the Provincial Government or Local-level Government has made provision for the public expenditure for the relevant fiscal year; and

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(b) a relevant law relating to the appropriation of moneys has been approved by the Minister responsible for finance matters under Section 141 of the ***Organic Law on Provincial Governments and Local-level Governments***.

“(5) All amounts expended pursuant to Subsection (3) are a charge against the expenditure approved under Subsection (4) and shall be properly brought to account accordingly.”.

10. IMPOSITION OF SURCHARGE (AMENDMENT OF SECTION 102).

Section 102 of the Principal Act is amended -

(a) by inserting after Paragraph (f) the following new Paragraph:-

“(fa) has authorized or permitted a breach of procedures relating to -

(i) the calling, considering and awarding of tenders; or

(ii) the execution of a State Contract; or”; and

(b) by inserting after Paragraph (p) the following new Paragraph:-

“(q) in a case to which Paragraph (fa) relates, the amount of any improper payment or other loss of public moneys.”.

I hereby certify that the above is a fair print of the ***Public Finances (Management) (Amendment) Act 1998*** which has been made by the National Parliament.

Acting Clerk of the National Parliament.

I hereby certify that the ***Public Finances (Management) (Amendment) Act 1998*** was made by the National Parliament on 17 March 1998.

Speaker of the National Parliament.