

No. 5 of 2001.

National Capital District Commission Act 2001.

Certified on: 14/12/2001.

INDEPENDENT STATE OF PAPUA NEW GUINEA.



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SCHEDULE 1 – ..

INDEPENDENT STATE OF PAPUA NEW GUINEA.



AN ACT

entitled

National Capital District Commission Act 2001,

Being an Act to make provision in respect of the Government of the National Capital District pursuant to Section 4 (National Capital District) of the Constitution – by establishing the National Capital District Commission and the Motu-Koitabu Council and to make provision for their composition, functions and powers and to repeal the National Capital District Commission Act 1990 as amended, and for related purposes,

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.

PART 1. – 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) freedom from arbitrary search and entry conferred by Section 48 of the *Constitution*; and
- (b) freedom of employment conferred to Section 48 of the *Constitution*; and
- (c) the right to privacy conferred by Section 49 of the *Constitution*; and
- (d) the right to freedom of information conferred by Section 51 of the *Constitution*; and
- (e) the right to freedom of movement conferred by Section 52 of the *Constitution*,

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

(2) This Act, to the extent that it regulates the rights to vote and stand for public office contained in Section 50 of the *Constitution* including the right and reasonable opportunity to hold public office and to exercise public functions under Section 50(1)(e) of the *Constitution* by providing for the composition of the membership of the National Capital District Commission, is declared as a law made pursuant to Section 50(2) of the *Constitution* for the purpose of giving effect to the public interest in –

- (a) public welfare; and
- (b) the development of under-privileged or less advanced groups, through greater and more effective and meaningful participation and representation of the people of the National Capital District, affected by the activities of the National Capital District Commission, in the decisions and affairs of the Commission.

(3) The Parliament, in enacting this law, considers it is reasonably justifiable, taking into account –

- (a) the National Goals and Directive Principles (including, in particular, the goals that citizens of Papua New Guinea should, among other things, have equal opportunity to participate in, and benefit from the political life of the country, and in the creation of political structures that will enable effective, meaningful participation by the people of Papua New Guinea in political, social and economic life, and for every citizen to be able to participate, either directly or through a representative, in the consideration of any matter affecting his interests or the interests of his community and to ensure that, as far as possible, political and official bodies are so composed as to be broadly representative of citizens); and
- (b) the Basic Rights and Basic Social Obligations (including, in particular, the right of all persons whatever their race, tribe, place of origin, political opinion, colour, creed or sex, to take part in political activities),

for providing for composition of the National Capital District Commission for the purpose recited in this section, in a democratic society that has a proper regard for the rights and dignity of mankind.

(4) Insofar as the right of any person under this Act or under any other law, including a Constitutional Law to be or remain a member of the Commission is regulated by this law, that right is so regulated for the purpose and the reasons stated in this section.

2. INTERPRETATION.

In this Act, unless the contrary intention appears –

“**Chairman**” means the Chairman of the Commission appointed under Section 6(2);

- “Commission”** means the National Capital District Commission established by Section 4;
- “Council”** means the Motu Koitabu Council established by Section 45;
- “Deputy Chairman”** means the Deputy Chairman of the Commission appointed under Section 6(2);
- ¹**“Deputy Governor”** means the Deputy Governor of the National Capital District Commission appointed in accordance with Section 6A(3);
- “General Election”** means a National General Election;
- ²**“Governor”** means the person holding office as the Governor of the National Capital District Commission in accordance with Section 6A(2);
- “Local-level Government”** means a Local-level Government established in accordance with Part 10;
- “member”** means a member of the Commission;
- “Motu Koitabu”** means the people known as Motu and Koitabu resident within the National Capital District;
- “Motu Koitabu areas”** means areas declared by the Minister by notice in the National Gazette to be Motu Koitabu areas for the purposes of this Act;
- “Motu Koitabu Council”** means the Motu Koitabu Council established under Section 45;
- “National Capital District”** means the district established by Section 4 (National Capital District) of the *Constitution*, the boundaries of which are described in the *Organic Law on the boundaries of the National Capital District*;
- “repealed Acts”** means the Acts repealed by Section 56;
- “Salaries and Remuneration Commission”** means the Salaries and Remuneration Commission established by Section 216A (The Salaries and Remuneration Commission) of the *Constitution*;
- “settlement”** means an area with the National Capital District regarded as a settlement and declared by the Minister by notice in the National Gazette to be a settlement for the purposes of this Act;
- “this Act”** includes the Regulations.

3. 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 –

¹ Section 2 Amended by No. 11 of 2006, s. 1.

² Section 2 Amended by No. 11 of 2006, s. 1.

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- (a) the National Capital District Commission; and
- (b) the Motu Koitabu Council as established in accordance with Part 9.

(3) The powers, functions and composition of the National Capital District Commission and Motu Koitabu Council shall be as specified in this Act.

PART 2. – NATIONAL CAPITAL DISTRICT COMMISSION.

4. NATIONAL CAPITAL DISTRICT COMMISSION.

(1) The National Capital District Commission is hereby established.

(2) The Commission –

(a) is a corporation; and

(b) has perpetual succession; and

(c) shall have a seal; and

(d) may –

(i) acquire, hold and dispose of land, interest in land and property; and

(ii) sue and be sued in its corporate name; and

(iii) enter into contracts; and

(iv) subject to the prior written approval of the Minister, conduct business enterprises.

5. MEMBERSHIP OF THE COMMISSION.

³(1) The National Capital District Commission shall consist of 10 members being –

(a) the Governor; and

(b) the Deputy Governor; and

(c) the members of the National Parliament for the National Capital District electorate and for each other electorate within the National Capital District, who shall be *ex officio* members of the Commission, except that where one of such members is appointed as the Minister responsible for provincial government and local-level government matters, that person is not eligible to be a member of the Commission and his membership in the Commission shall remain vacant until he ceases to be Minister responsible for provincial local-level government matters or otherwise ceases to be eligible as a member of the Commission; and

(d) four members who shall be appointed by the Governor, each one of whom shall represent one of the following interests so that each of the following interests is represented: –

(i) women;

(ii) youths;

(iii) trade unions;

³ Section 5 Substituted by No. 11 of 2006, s. 2.

- (iv) settlement representative; and
- (e) the Provincial Administrator of the Central Province, *ex officio*; and
- (f) two members of the Motu Koitabu Council comprising –
 - (i) the Chairman of the Council, *ex officio*; and
 - (ii) one other members of the Council appointed by the Governor.

(2) The members referred to in Subsection (1)(d) –

- (a) shall hold office for a term of four years; and
- (b) shall be persons who comply with the eligibility requirements specified in Section 8.

(3) Where the Chairman of the Council does not comply with the eligibility requirements specified in Section 8, he is not eligible to be a member and the Head of State, acting on advice, shall appoint to be a member of the Commission such other member of the Council who complies with eligibility requirements specified in Section 8 as he considers appropriate.

(4) Subject to Subsection (3), the Chairman of the Council –

- (a) shall only hold office as a member of the Commission whilst he holds office of the Chairman of the Council; and
- (b) upon ceasing to hold the Office of Chairman of the Council, the person who is elected as Chairman of the Council under Section 45 shall be appointed as a member of the Commission.

(5) A person appointed under Subsection (3) shall only hold office as a member of the Commission –

- (a) whilst he holds office as a member of the Council; or
- (b) until the election of a Chairman of the Council who complies with the eligibility requirements specified in Section 8.

(6) Section 10 of the *Regulatory Statutory Authorities (Appointment to Certain Offices) Act 2004* does not apply to the appointment, revocation or termination of persons appointed to the Commission pursuant to Subsection (1)(d) or (f)(ii).

6. CHAIRMAN AND DEPUTY CHAIRMAN.

⁴(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) Subject to this Act, the Chairman –

⁴ Section 6 Substituted by No. 11 of 2006, s. 2.

- (a) shall have general superintendence of the affairs and the management of the Commission and shall ensure that the Commission is fulfilling its functions and objectives; and
- (b) shall conduct meetings of the Commission in accordance with this Act; and
- (c) on behalf of the Commission, shall present recommendations to the National Government on matters pertaining to the powers and functions of the Commission; and
- (d) shall manage the Commission in the planning and implementation of development and investment programs including the planning of capital expenditure and the preparation of long term financial projections; and
- (e) shall manage and assist where necessary in the preparation of statutory or management accounts and the preparation of management of budgets, estimates of capital and revenue expenditures, cash flows and other financial data or information or accounting records; and
- (f) in the discharge of his duties and in the exercise of his powers, shall conform with, observe and comply with all resolutions, regulations and directions from time to time made or given by the Minister; and
- (g) in consultation with the Board, may recommend to the Minister for his approval and certification proposed changes to the Commission's estimates of the receipts and expenditure for any financial year certified by the Minister under Section 32; and
- (h) shall review and, where necessary, order an investigation into the circumstances under which any transaction or deal involving any property or asset of the Commission was made; and
- (i) has such other functions as are specified in this Act; and
- (j) has such functions incidental to the functions specified in this subsection.

(4) Where the Chairman or Deputy Chairman ceases to be a member of the Commission, he ceases to be Chairman or Deputy Chairman of the Commission, as the case may be.

(5) Where the Chairman is –

- (a) on leave of absence; or
- (b) absent from the National Capital District; or
- (c) out of speedy or effective communication; or
- (d) otherwise unable to perform or is not readily available to perform the functions and responsibilities of Chairman,

the Deputy Chairman shall perform the functions and responsibilities of the Chairman of the Commission.

(6) Where, for protocol or ceremonial reasons, there is a need for an Office of Lord Mayor, the Chairman or, in his absence, the Deputy Chairman shall be deemed to hold the Office of Lord Mayor for such purposes.

(7) The Chairman, and in his absence the Deputy Chairman, are responsible to the Minister for the performance by the Commission of its functions.

6A. THE GOVERNOR AND DEPUTY GOVERNOR.

⁵(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.

(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.

6B. VACATION OF OFFICE OF THE GOVERNOR.

⁶(1) If the Governor –

(a) is appointed –

- (i) a Minister or a Parliamentary Secretary 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

(b) 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.

⁵ Section 6A Inserted by No. 11 of 2006, s. 2.

⁶ Section 6B Inserted by No. 11 of 2006, s. 2.

(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 appointed to any of the offices referred to in Subsection (1)(a); or
- (b) 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 (2)(a), 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)(a)(vi), the Minister may determine whether an office is an office to which that subparagraph applies.

6C. ELECTION OF THE GOVERNOR IN THE EVENT OF VACANCY.

⁷(1) Subject to Subsection (3), if the Governor vacates office in accordance with Section 6B(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 6B(2), 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 5(1)(b),(c),(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 5(1)(b),(c) and (d).

6D. POLITICAL AND EXECUTIVE RESPONSIBILITIES OF THE GOVERNOR AND DEPUTY GOVERNOR.

⁸The Governor, or in his absence the Deputy Governor, shall –

⁷ Section 6C Inserted by No. 11 of 2006, s. 2.

⁸ Section 6D Inserted by No. 11 of 2006, s. 2.

- (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.

7. LEADERSHIP CODE APPLIES.

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

8. ELIGIBILITY FOR OFFICE OF MEMBERS OF THE COMMISSION.

A person is not eligible for appointment as a member or interim member of the Commission under Section 5(1)(b), (c) and (e) or Section 10 where he –

- (a) has not resided in the National Capital District for a continuous period of at least four years immediately prior to appointment; or
- (b) has, within a period of 10 years immediately prior to his appointment, been convicted of a criminal offence and as a result of such conviction was sentenced to a period of imprisonment of not less than 18 months; or
- (c) has, within a period of five years immediately prior to his appointment, been found guilty of an offence under the Leadership Code and been recommended for dismissal from office; or
- (d) has been declared bankrupt or insolvent; or
- (e) has been declared medically unfit.

9. VACATION OF OFFICE.

(1) Where a member of the Commission –

- (a) becomes permanently incapable of performing his duties; or
- (b) resigns his office by writing under his hand addressed to the Minister; or
- (c) absents himself from three consecutive meetings of the Commission without the consent of the Minister; or
- (d) fails to comply with the provisions of Section 14; or
- (e) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for the benefit of his creditors; or
- (f) becomes of unsound as that expression is used in the *Public Health Act 1973*; or
- (g) ceases to be a permanent resident of the National Capital District; or

- (h) is absent from the National Capital District for a continuous period of three months without the consent of the Minister; or
- (i) is convicted of a criminal offence,

the Head of State, acting on advice, shall terminate his appointment.

(2) The Head of State, acting on advice, may at any time, by written notice, advise a member of the Commission referred to in Section 5(1)(b) and (c) that he intends to terminate his appointment on the grounds of inefficiency, incapacity or misbehaviour.

(3) Within 14 days of the receipt of a notice under Subsection (2), the member may reply in writing to the National Executive Council, who shall consider the reply and as soon as is practicable give written notice of his decision to the member.

(4) Where the member referred to in Subsection (2) does not, within 14 days of the receipt of a notice under that Subsection, reply in writing to the National Executive Council, his appointment is terminated.

(5) Where a member –

- (a) has his appointment terminated under this section; or
- (b) dies,

the vacancy shall be filled as soon as is practicable.

10. VACANCY NOT TO AFFECT POWERS OR FUNCTIONS.

The exercise or performance of a power or function of the Commission is not invalidated by reason only of a vacancy in the membership of the Commission.

11. MEETINGS OF THE COMMISSION.

(1) The Commission shall hold meetings at such times and in such places in the National Capital District as the Chairman, or in his absence the Deputy Chairman determines, but in any event not less frequently than once in each month.

(2) Where the Chairman received a request in writing by not less than six members, the Chairman or in his absence the Deputy Chairman, shall convene a meeting of the Commission within 14 days of such written request.

(3) At a meeting of the Commission –

- (a) nine members shall constitute a quorum provided one of such members is the Chairman or in his absence, the Deputy Chairman; and
- (b) the Chairman, or in his absence the Deputy Chairman, shall preside at any meeting of the Commission; and
- (c) matters arising shall be determined by a majority of votes of the members present and voting; and

(d) the Chairman, or in his absence the Deputy Chairman, shall have a deliberative and in the event of an equality of votes on a matter, also a casting vote.

(4) The Commission shall cause minutes of its meetings to be kept.

(5) Subject to this act, the procedures of the Commission are as determined by the Commission.

12. CUSTODY AND AFFIXING THE SEAL.

(1) The seal of the Commission –

(a) shall be kept in the custody of the Chairman or in his absence the Deputy Chairman or in the custody of such other officer of the Commission as the Commission may approve; and

(b) shall only be affixed to instruments pursuant to a resolution of the Commission.

(2) It shall be the responsibility of the Chairman or in his absence the Deputy Chairman to verify, prior to affixing of the seal, that an appropriate resolution has been made by the Commission to affix the seal.

13. AUTHENTICATION OF DOCUMENTS, ETC.

The seal of the Commission shall only be authenticated on any document by the signature of the Chairman or in his absence the Deputy Chairman and by one other member and such seal shall be judicially noticed.

14. DISCLOSURE OF INTEREST BY MEMBER OF COMMISSION.

(1) A member of the Commission who is, or a member of whose immediate family is, directly or indirectly interested in a contract made or proposed to be made by the Commission, or under consideration by the Commission, otherwise than as a member and in common with the other members of an incorporated company consisting of not less than 25 persons shall, as soon as practicable after the relevant facts have come to his knowledge, disclose the nature of the interest at a meeting of the Commission.

(2) A disclosure under Subsection (1) shall be recorded in the minutes of the Commission and the member –

(a) shall not take part, after the disclosure, in any deliberation or decision on the contract; and

(b) shall be disregarded for the purposes of constituting a quorum for any such deliberation or decision.

PART 3. – FUNCTIONS AND POWERS OF THE COMMISSION.

15. FUNCTIONS OF THE COMMISSION.

Subject to this Act, the functions of the Commission are –

- (a) to control, manage, and administer the National Capital District and to ensure the welfare of the National Capital District and of the persons in it; and
- (b) to ensure that an adequate level of assistance is given towards the successful operation of Tabudubu Pty. Ltd., the company established for the Motu Koitabu people of the National Capital District.

16. POWERS OF THE COMMISSION.

(1) Subject to this Act, the Commission has, for the purpose of fulfilling its functions, power –

- (a) to legislate as provided in Part 7; and
- (b) to acquire, hold, dispose of, mortgage or pledge property, land or buildings; and
- (c) to develop or improve land; and
- (d) to construct buildings; and
- (e) to invest moneys; and
- (f) with the consent of the Minister, to provide or co-operate with a Department or other body in providing any public or social service; and
- (g) to determine the duties and functions of any person employed by the Commission; and
- (h) to do such other matters and things as seem to it necessary or desirable for carrying out and performing its powers, functions, duties and responsibilities and any other ancillary or incidental matters or things.

(2) The exercise by the Commission of a power or function under this Act is not invalid by reason only of the fact that –

- (a) it takes place outside, or is related to matters outside, the National Capital District; or
- (b) it is for the benefit of –
 - (i) some only of person in the National Capital District; or
 - (ii) any such persons jointly with other persons.

17. COMMITTEES AND BOARDS.

(1) The Commission may establish such number of Committees or Boards as the Commission considers necessary for the proper carrying out of its functions.

- (2) A Committee or Board established under Subsection (1) shall –
- (a) be established in the prescribed manner; and
 - (b) have such functions as are prescribed; and
 - (c) consist of a number of members as prescribed of whom less than one half shall be members of the Commission, and the remainder of whom shall be persons ordinarily resident in the National Capital District and broadly representative of the community; and
 - (d) include persons having technical expertise on the subjects to be dealt with by the Committee or Board.

(3) The Commission shall delegate to each Committee or Board established under this section such powers (other than this power of delegation) as are necessary to enable such Committee or Board to carry out its functions.

18. POWERS TO BE EXERCISED BY COMMISSION, ETC.

The powers conferred on the Commission by this Part shall be exercised only by resolution of the Commission or by a Committee or Board in accordance with a delegation under Section 17(3) and no power shall be vested in an individual member of the Commission or of a Board or Commission.

19. DELEGATION OF FUNCTIONS AND POWERS BY COMMISSION.

The Minister may, by written direction to the Commission, direct the Commission to delegate 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 of the Motu Koitabu areas as are specified in the direction, and the Commission shall comply with such direction.

PART 4. – STAFF.

20. STAFF.

(1) The staff of the Commission shall consist of –

- (a) a Manager appointed in accordance with Section 21; and
- (b) such officers and employees appointed by the Commission as it considers necessary for the purposes of performing its functions.

(2) The Manager and officers and employees shall hold office on such terms and conditions as are determined by the Commission subject to the *Salaries and Conditions Monitoring Committee Act 1988*.

(3)⁹ ¹⁰Where the Commission upon its own investigation or an assessment of any other information received by it that there has been inability, incompetence, incapacity, misbehaviour or negligence by the staff or employees of the Commission has resulted in –

- (a) mismanagement of the financial affairs of the Commission; or
- (b) a breakdown in the administration of the Commission; or
- (c) a failure on the part of the Commission to provide adequate services to the public,

the Commission may, in respect of such staff or employees of the Commission, take such disciplinary steps as are considered necessary including laying of a disciplinary charge, effecting of suspension or dismissal from employment in accordance with establishment procedure as applicable to staff or employees of the Commission.

21. MANAGER.

(1) The Manager shall be appointed, subject to the consent of the Minister, by the Commission.

(2) The Commission may only dismiss the Manager from office before the termination of the period for which he was appointed with the consent of the Minister.

(3)¹¹ ¹²Subject to the directions of Chairman, the Manager shall manage, and shall be the chief executive of, the staff of the Commission, and in relation to policy, shall act in accordance with the directions of the Board or Chairman.

(4) The Manager shall be entitled to attend all meetings of the Commission, but is not a member thereof and does not have a right to vote and shall not be counted for the purposes of constituting a quorum.

⁹ Section 20 Subsection (3) substituted by No. 11 of 2006, s. 3.

¹⁰ Section 20 Subsection (3) substituted by No. 11 of 2006, s. 3.

¹¹ Section 21 Subsection (3) substituted by No. 11 of 2006, s. 4.

¹² Section 21 Subsection (3) substituted by No. 11 of 2006, s. 4.

22. PUBLIC SERVICE RIGHTS, ETC., OR MANAGER, OFFICERS AND EMPLOYEES.

Notwithstanding anything in any other Act, where an officer or employee of the National Public Service is appointed to be the Manager or an officer or employee of the staff of the Commission, his service as Manager or as an officer or employee of the Commission 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 ground of illness; and
- (b) furlough or pay in lieu of furlough (including pay to the dependants on the death of the officer).

PART 5. – FINANCES OF THE COMMISSION AND COUNCIL.

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

Part VIII of the *Public Finances (Management) Act 1995* applies to and in relation to the Commission, subject to such modifications as are contained in this Part as are permitted by Part VIII of the *Public Finances (Management) Act 1995*.

24. FINANCES OF COMMISSION.

The finances of the Commission shall consist of –

- (a) receipts from taxation –
 - (i) imposed by laws made under Part VII or laws continued in force under Section 64; and
 - (ii) imposed by regulation under this Act or by regulation continued in force under Section 64; and
 - (iii) imposed under delegation from the National Government under Part 7; and
- (b) grants from the National Government as provided or in Section 25; and
- (c) the proceeds of court fees, fines and penalties as provided for in Section 26, and other fees and charges under this Act or any law made under Part 7 or under laws continued in force under Section 64; and
- (d) the proceeds of investments by it (including interest on bank deposit) and income from commercial enterprises conducted by it; and
- (e) such other moneys as are lawfully available to it under an Act of the Parliament or a law made under Part 7 or a law continued in force under Section 64 or a regulation under this Act or a regulation continued in force under Section 64.

25. GRANTS FROM NATIONAL GOVERNMENT.

(1) The National Government shall make the following grants to the Commission: –

- (a) the balance outstanding, as at the commencement date, of sums appropriated for the financial year 2001 for the National Capital District Interim Commission;
- (b) grants in respect of functions transferred to the Commission, which shall be paid annually at the level of National Government funding at the time of transfer and indexed annually in accordance with an rises in the Consumer Price Index or in accordance with an alternative method of fixing annual increase agreed between Commission and the National Government;

(c) such other sums as the National Government may, from time to time, decide or in accordance with law.

(2) Sums paid under Subsection (1)(b) and (c) may be conditional or unconditional at the option of the Minister responsible for financial matters.

(3) The sums specified in this section shall be paid out of the Consolidated Revenue which is appropriated accordingly.

(4) Where, as a result of any court action initiated by the Commission against a person, a fine is levied against that person, the amount of the fine shall be payable to the Commission.

26. COURT FINES AND FEES.

(1) Where a law made under Part 7 by the Commission provides for the imposition of fines or penalties, or for forfeiture, for any offence against that law, the amount of the fines or penalties shall be paid, or the forfeitures shall be made, as the case may be, to the Commission.

(2) Where a law made under Part 7 provides for a fee to be payable in any court, the amount of the fee shall be paid to the Commission.

(3) Where a law continued in force under Section 64 provides for the payment of fees or the imposition of fines or penalties, or for forfeitures, the amount of the fees and the fines or penalties shall be paid, or the forfeitures shall be made, as the case may be, to the Commission.

27. OTHER FEES, CHARGES, ETC.

(1) A law made under Part 7 may impose, or provide for the imposition of fees or charges in respect of goods or services supplied, rendered or made available, or to be supplied, rendered or made available, under a law under Part 7 and any such fees or charges shall be payable to the Commission.

(2) Where under a Act of the Parliament, the National Government fixes fees and charges in respect of functions performed by the Commission, such fees and charges shall be fixed annually in accordance with such Act, after consultation between the relevant Department and the Commission, provided that the level shall not be less than is required to fund the cost of administering and performing the function.

28. BORROWING.

(1) Subject to Subsection (2), the Commission may, with the prior consent of the Minister responsible for financial matters, borrow money for any of its functions under this Act by way of mortgage, bank overdraft or otherwise, subject to such conditions as to security or otherwise as are approved by the Minister responsible for financial matters.

(2) The prior written consent of the Minister responsible for financial matter is necessary –

- (a) where the amount of any single loan exceeds K500,000.00; or
- (b) where, as a result of a loan, the total sums borrowed shall exceed K1,000,000.00 in any financial year.

29. INVESTMENT.

The Commission may invest any moneys standing to the credit of an account referred to in Section 30 –

- (a) in any securities of, or guaranteed by, the State; or
- (b) on deposit in a bank; or
- (c) in the securities of any money market toward which the Central Bank acts as lender of last resort; or
- (d) in any other securities authorized by the Minister responsible for financial matters; or
- (e) in the shares of any company approved by the Minister.

30. BANK ACCOUNTS.

(1) The Commission shall open and maintain such bank accounts as are necessary for the exercise and performance of its powers and functions, and shall pay into those accounts –

- (a) all moneys received from the State for the purposes of this Act; and
- (b) all moneys transferred to the Commission under this Act; and
- (c) all moneys appropriated by Act for the purposes of carrying out or giving effect to this Act; and
- (d) rates, taxes, charges and fees imposed levied or made by the Commission; and
- (e) all other moneys received by the Commission in or for the performance of its functions, duties or powers.

(2) Out of the moneys standing to the credit of the accounts, referred to in Subsection (1), the Commission shall pay –

- (a) all moneys payable by the Commission in repayment of advances under this Act and as interest on such advances; and
- (b) the costs, charges and expenses incurred by the Commission in the performance of its functions under this Act; and
- (c) the remuneration of staff of the Commission; and
- (d) any other payment that the Commission is authorized or required to make by or under this Act or any other law.

31. ACCOUNTS.

The Commission shall –

- (a) keep proper accounts and records as prescribed, or as instructed by the Minister responsible for financial matters; and
- (b) do all things necessary to ensure that –
 - (i) all payments out of the respective funds are correctly made and properly authorized; and
 - (ii) adequate control is maintained over the assets of, and the incurring of liabilities by, the Commission.

32. ESTIMATES.

(1) The Commission shall, before 31 October in each year, submit to the Minister estimates of its receipts and expenditure for the next financial year, and may submit supplementary or revised estimates.

(2) Where the Commission fails to submit estimates in accordance with Subsection (1), the Minister may, by written notice to the Commission, require it to submit its estimates, and until the Commission complies with the notice, Subsection (4) applies to the Commission as if the Minister had withheld certification of the Commission's estimates.

(3) Where the Minister is satisfied that the proposals contained in any estimates, supplementary estimates or revised estimates –

- (a) are not unreasonable; and
- (b) are within the authorized powers and duties of the Commission under this Act; and
- (c) are likely to be capable of being met from the finances available, or to become available for the purpose,

the Minister shall certify the estimates to the Commission.

(4) Where the Minister is not satisfied as to the matters referred to in Subsection (3), he may, by notice to the Commission, refuse certification in whole or in part, and shall immediately advise the Commission of his reasons.

(5) Where the Commission has provided in its estimates of receipts for the receipt of, or has received, a grant or advance of moneys from the National Government and it has not made adequate provision in the estimates of expenditure for its expenditure for the purpose for which it is, or has been, made, the Minister may refuse certification in whole or in part.

(6) Where the Minister has withheld certification, in whole or in part, of any estimates, the Commission shall not, without the consent of the Minister, incur expenditure, collect revenue, or carry on works in respect of the whole or the part, as the case may be, of the estimates of which certification has been withheld.

(7) The Commission may, in the course of a financial year, approve variations in respect of matters covered by a certification by the Minister under this Action in respect of that financial year, provided that such variations do not exceed in total 30% of the original amounts certified by the Minister.

33. FINANCIAL ASSISTANCE TO CENTRAL PROVINCIAL GOVERNMENT.

The Commission shall pay to the Central Provincial Government a minimum of 5% of the Value Added Tax refunded to the Commission in a fiscal year by the Internal Revenue Commission.

34. AUDIT.

(1) Subject to this section, the Auditor-General shall –

- (a) inspect and audit the accounts and records of the Commission and records relating to its assets or assets in its custody; and
- (b) promptly draw the attention of the Minister to any irregularity disclosed by the inspection and audit that is, in the opinion of the Auditor-General, of sufficient importance to justify his so doing.

(2) The Auditor-General may, at his discretion, dispense with the whole or any part of the detailed inspection and audit of any accounts referred to in Subsection (1).

(3) The Auditor-General may, at his discretion, for the purpose of assisting him in an inspection and audit under Subsection (1), employ a Registered Company Auditor who shall act under the direction of the Auditor-General and under the terms and conditions determined by the Auditor-General.

(4) A person carrying out an inspection or audit under this section or a person authorized by him –

- (a) is entitled at all reasonable times to full and free access to all, documents and papers of the Commission relating directly or indirectly to any receipt or payment by it, or to the acquisition, receipt, custody or disposal of assets by it; and
- (b) may make and retain copies of, or take and retain extracts from, any such accounts, records, documents or papers; and
- (c) may require any person to furnish him with such information in his possession or to which he has access as the person carrying out the inspection or audit, or the person authorized by him, thinks necessary for the purposes of the functions of the Auditor-General under –
 - (i) the *Constitution* ; and
 - (ii) this Act.

(5) A person who fails to comply with Subsection (4)(c) is guilty of an offence.

Penalty: A fine not exceeding K2,000.00

s. 34.

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(6) Where an audit and inspection has been carried out under this section the Auditor-General shall send to the Minister as soon as is practicable a report on the audit and inspection and the Minister shall table the report in the Parliament.

PART 6. – SUSPENSION.

35. MINISTER MAY APPOINT COMMITTEE OF INQUIRY.

(1) Where the Minister is of the opinion that –

- (a) there is widespread corruption in the administration of the affairs of the Commission; or
- (b) there has been gross mismanagement of the financial affairs of the Commission; or
- (c) there has been a breakdown in the administration of the National Capital District; or
- (d) there has been persistent and deliberate frustration of, or failure to comply with, lawful directions of the National Government; or
- (e) the Commission has persistently exceeded its powers or disobeyed applicable laws; or
- (f) it is in the national interest to do so,

he may appoint a Committee of Inquiry of three people to inquire into and report to him on the matter.

(2) A Committee of Inquiry under Subsection (1) shall notify the Chairman of the Commission of the inquiry and the grounds giving rise to it and shall allow him to make written representations.

(3) On receipt of a report under Subsection (1), the Minister shall refer the report to the National Executive Council with a statement of his reasons for appointing a Committee of Inquiry and with the written representation (if any) of the Chairman of the Commission.

36. SUSPENSION.

(1) The Head of State, acting on advice, given after consideration of the report and statement and representations referred to in Section 35(3), may by order in the National Gazette, suspend all or any of the powers or functions of the Commission for a stated or in indefinite period.

(2) In advising the Head of State under Subsection (1), the National Executive Council is not bound by the terms of, or recommendations contained in the report of the Committee of Inquiry.

37. EFFECT OF SUSPENSION.

(1) Subject to Subsection (2), a suspension order under Section 36(1) operates to deprive the Commission of the suspended powers or functions during the period of suspension.

(2) The suspension of a power or function under Section 36(1) does not affect any right, privilege, obligation or liability acquired, accrued under or in respect of the

suspended power or function, or any investigation, legal proceeding or remedy in respect of such right, privilege, obligation or liability which may, subject to this Act, be carried on or endorsed as if the suspension had not taken place.

38. APPOINTMENT OF MANAGER FOLLOWING SUSPENSION.

(1) Where a suspension order is made under Section 36(1), the Head of State, acting on advice, may in the order or in a subsequent instrument appoint a person to be the Manager in relation to the Commission.

(2) Subject to any directions given by the Head of State, acting on advice, a person appointed under Subsection (1), in relation to the Commission –

- (a) has and may exercise on behalf of the body such of the suspended powers and functions as are specified by the Head of State, acting on advice; and
- (b) has such other powers and functions as are prescribed.

39. PERIOD OF SUSPENSION.

A suspension under this Part operates until –

- (a) the end of a period stated in the suspension order made under Section 36(1); or
- (b) such time as the suspension order made under Section 36(1) is revoked by the Head of State, acting on advice,

whichever first occurs.

PART 7. – LEGISLATIVE POWERS.

40. GENERAL PROVISIONS RELATING TO LEGISLATIVE POWERS OF THE COMMISSION.

(1) The Commission has legislative powers to the extent set out in this Part.

(2) Subject to Subsections (4) and (5), a law made by the Commission has effect only in, and in relation to the National Capital District.

(3) Full faith and credit shall be given throughout Papua New Guinea to the laws made under this Part.

(4) Except as is expressly provided by this Part, this Part does not affect the power of the Parliament under Section 109 (general power of law-making) of the *Constitution*, to make laws for the peace, order and good government of Papua New Guinea.

(5) Subject to Section 41(4) and (6) a law made under this Part shall have effect only in so far as not inconsistent with any Act of the Parliament.

(6) For the purposes of Subsection (5), the question, whether or not a law made under this Part is inconsistent with an Act or the Parliament, is non-justiciable except at the instance of the National Government or of the Commission.

(7) The procedure for the presentation to and passing legislation in the Commission shall be as prescribed.

41. LEGISLATIVE POWERS OF COMMISSION.

(1) Subject to Section 40, the Commission has power to legislate and has the primary responsibility in respect of –

- (a) the control by licensing of mobile traders; and
- (b) the sale and distribution of alcoholic liquor; and
- (c) parks and gardens; and
- (d) physical planning; and
- (f) sanitation (other than sewerage) and garbage; and
- (g) taxation as provided in Section 42(a) and (d)
- (h) the control of littering; and
- (i) the control of unlicensed street vending, including the power of confiscation of goods offered for sale; and
- (j) the control of the sale of betelnut within the National Capital District including the power to regulate the sale of such commodity in officially declared market places.

(2) Subject to Section 40, the Commission has also power to legislate in respect of –

- (a) the control by licensing of public entertainment and of places of public entertainment; and
- (b) village courts, other than their jurisdiction; and
- (c) community and Local-level Governments; and
- (d) community and welfare services and development; and
- (e) education; and
- (f) agriculture; and
- (g) health; and
- (h) business development; and
- (i) matters pertaining to the National Information Service; and
- (j) the Building Board; and
- (k) censorship matters; and
- (l) roads, drains, bridges, street lighting and traffic control; and
- (m) markets; and
- (n) tourism; and
- (o) land and land development; and
- (p) cemeteries; and
- (q) registration of births, marriages and deaths; and
- (r) dogs; and
- (s) vehicle registration; and
- (t) public transport; and
- (u) customary marriage and adoption; and
- (v) the imposition of head tax, which may be imposed on corporations as well as natural individuals, but which shall not be imposed by reference to income; and
- (w) gambling, lotteries and games of chance; and
- (x) powers to impose taxation as set out in Section 42.

(3) The Head of State, acting on advice, may by notice in the National Gazette, declare any of the matters set out in Subsection (2) to be the primary responsibility of the Commission.

(4) Subject to this Act, the Commission shall have the exclusive power of making laws in respect of a matter –

- (a) specified in Subsection (1); or
- (b) specified in Subsection (2) in respect of which a notice under Subsection (3) is in force.

(5) Where a notice under Subsection (3) is revoked by another notice, a law of the Commission in relation to the matter the subject of the first-mentioned notice continues in force in relation to that matter under the Parliament makes other provision.

(6) Except as provided by Subsections (7) and (8) the Parliament has no power to make an Act of the Parliament on a matter –

- (a) specified in Subsection (1); or
- (b) specified in Subsection (2) in respect of which a declaration under Subsection (3) is in force.

(7) If the Commission has not made an exhaustive law, in accordance with this Part, on a matter –

- (a) specified in Subsection (1); or
- (b) specified in Subsection (2) in respect of which a declaration under Subsection (3) is in force,

an Act of the Parliament on the matter may have effect in the National Capital District so far as it is not inconsistent with a law of the Commission on that matter.

(8) Subject to Subsection (9), each Act of the Parliament made before the date of the coming in effect of a notice under Subsection (3) in relation to a matter continues in force, and may be altered by another Act, after that date.

(9) Where a law is made in relation to a matter under Subsection (4), all Acts of the Parliament that were –

- (a) made with respect to the matter; and
- (b) continued in force by Subsection (8),

cease to have effect, to the extent of any inconsistency, in relation to the National Capital District as if they had been repealed, in relation to the District, by another Act.

(10) For the purposes of Subsection (7), a law is exhaustive in relation to a matter if it shows, by reason of –

- (a) its subject-matter; or
- (b) the method of dealing with the matter that has been adopted by it or by any other law that should be considered with it; or
- (c) the form or complexity of it or of any other law that should be considered with it, that the Commission has intended to set out completely,

that the Commission has intended to set out completely, exhaustively or exclusively –

- (d) statutory requirements of the matter; or
- (e) the statute law to govern the matter; or

(f) the policy on the matter.

(11) The operation of Subsection (10) is not affected by reliance placed by the law on –

(a) any principle or rule of the underlying law; or

(b) any other statute,

for purpose of definition or interpretation, or for procedural, evidentiary or other ancillary or adjectival purposes.

(12) For the purposes of this section, a statement in a law that it is or is intended to be exhaustive is not conclusive on the point.

(13) The fact that a law is exhaustive in its relation to a matter does not of itself involve inconsistency with other law.

42. LEGISLATION IMPOSING TAXATION.

The Commission may legislate to impose taxation of the following kinds:-

- (a) retail sales tax, services tax and related taxes in accordance with the provisions prescribed;
- (b) taxes on public entertainments for which admission is charged, and on places kept for the purpose of such entertainment;
- (c) fees for licences for mobile traders (other than mobile banks within the meaning of the *Banks and Financial Institutions Act 2000*);
- (d) fees for the licensing of places where intoxicating liquor is sold;
- (e) fees for licences to carry on or operate gambling, lotteries or games of chance;
- (f) taxes on land as prescribed;
- (g) head tax;
- (h) any other tax that can be imposed by a Local-level Government.

43. LEGISLATION TO BE SUBMITTED TO MINISTER.

A law made under this Part by the Commission shall not come into operation until the written consent of the Minister to the text of the law has been given.

PART 8. – TRANSFER OF FUNCTIONS.

44. TRANSFER OF FUNCTIONS.

(1) The National Government may, at an appropriate time, after giving to the Commission three months notice of their intention to do so, transfer to the Commission all or any of the functions or any part or aspect of them relating to –

- (a) health; and
- (b) education; and
- (c) primary industry; and
- (d) National Information Service; and
- (e) youth affairs; and
- (f) land transport; and
- (g) settlement and land development; and
- (h) library services; and
- (i) village courts; and
- (j) welfare services

in the National Capital District.

(2) A transfer of functions under Subsection (1) –

- (a) shall be subject to provision of staffing and to National Government funding in accordance with Section 25(1)(b); and
- (b) may be subject to such conditions as the National Government imposes.

PART 9. – MOTU KOITABU COUNCIL.

45. MOTU KOITABU COUNCIL.

(1) There is established a Motu Koitabu Council.

(2) The Motu Koitabu Council shall consist of 13 members elected by the Motu Koitabu people of the National Capital District in accordance with an election conducted by the Electoral Commission in a manner prescribed, of whom one member shall be a woman and one member shall be a youth (being a person not less than 18 years of age and not exceeding 25 years of age).

(3) Members of the Council elected under Subsection (2) shall hold office for a period commencing on and from the date of their election up to and including the date fixed for the return of writs for the next general election held after their election.

(4) The members of the Council shall elect one of their number to be the Chairman of the Council and another to be the Deputy Chairman of the Council.

(5) The Council shall be responsible, within the Motu Koitabu areas, for the provision and maintenance of such basic services, community activities, education and health as the Minister directs.

(6) The Minister shall direct the Commission to provide the Motu Koitabu Council with its own professional planning unit to play the functions delegated under Subsection (5).

(7) The Minister shall, in addition to the Commission Budget allocation for education, health, roads and infrastructure, direct the Commission to allocate an appropriate percentage of its annual budget to the Motu Koitabu Council for administration and its planning purposes.

(8) The Council shall meet as often as the business of the Council requires, but in any event not less frequently than once in each calendar month.

(9) The procedures of the Council are as directed by the Minister.

(10) The powers, remuneration and conditions of tenure of office of members of the Council are as prescribed.

(11) Notwithstanding Subsection (3), the term of office of the members of the Council expires on the day fixed for the return of the writs for the next General Election to be held following the date of their election.

(12) Subsection (2) shall have effect on and from the election of members of the Council next held after the coming into operation of this Act.

46. POWERS GENERALLY OF MOTU KOITABU COUNCIL.

The Council has, in addition to the powers granted under Section 19, power –

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

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

PART 10. – LOCAL-LEVEL GOVERNMENTS.

47. 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.

48. 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 his election.

(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.

49. MEETING 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
- (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 as are determined by the Local-level Government, but in any event these shall not exceed those of the National Capital District Commission.

50. POWERS AND FUNCTIONS OF LOCAL-LEVEL GOVERNMENTS.

(1) In addition to the functions and powers delegated in accordance with Section 19, 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.

PART 11. – MISCELLANEOUS.

51. PUBLIC PURPOSES.

The purposes of the Commission are public purposes.

52. PROTECTION FROM PERSONAL LIABILITY, ETC.

A member of the Commission or of the Council or an officer or employee of the Commission or of the Council is not personally liable for any act or default of himself or of the Commission or of the Council, done or omitted to be done in good faith in the course of operations of, or for the purposes of, the Commission or of the Council.

53. SERVICE OF NOTICES OR LEGAL PROCESS.

A summons, notice, writ or other process required to be served on the Commission may be served by being given to the Manager.

54. REPORTS.

The Commission shall, by 31 March in each year, prepare and submit to the Minister a report on the work of the Commission for the previous year ending 31 December, together with financial statements for that year.

55. REGULATIONS.

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

- (a) fees to be paid in respect of services or licences; and
- (b) penalties of fines not exceeding K10,000.00, for offences against the regulations.

PART 12. – REPEAL.

56. REPEAL.

The Acts specified in the Schedule are repealed.

PART 13. – TRANSITIONAL AND SAVINGS.**57. INTERPRETATION.**

In this Part, unless the contrary intention appears –

“**equivalent Local-level Government**” in relation to a previous Local-level Government, means a Local-level Government established under this Act for the same open electorate for which the previous Local-level Government was established.

“**previous commission**” means the National Capital District Commission established by the repealed Acts;

“**previous Council**” means the Motu Koitabu Council established by the repealed Acts;

“**previous Local-level Government**” means a Local-level Government established under the repealed Acts and in existence immediately prior to the coming into operation of this Act.

58. TRANSFER OF ASSETS AND LIABILITIES.

(1) Subject to Subsection (4), all assets held by, and obligations and liabilities of the previous Commission immediately before the coming into operation of this Act are, on that coming into operation, transferred to and become assets, obligations and liabilities of the Commission.

(2) All assets held by, and obligations and liabilities of the previous Council immediately before the coming into operation of this Act, are, on that coming into operation, transferred to and become assets, obligations and liabilities of the Council.

(3) All assets held by, and obligations and liabilities of a previous Local-level Government immediately before the coming into operation of this Act, are, on that coming into operation, transferred to and become assets, obligations and liabilities of the equivalent Local-level Government under this Act.

(4) Where, under Subsection (1), shares in any company forming part of the business arm of the Interim Assembly are transferred to the Commission, they shall be held by Commission in trust for the Motu Koitabuan people of the National Capital District.

59. REGISTRATION OF TITLE OF LAND.

(1) Where any property vested in the previous Commission is land registered under the *Land Registration Act 1981*, the Registrar of Titles shall, without formal transfer, on application in that behalf by the Commission, enter or register the Commission in the register kept under that Act and, on entry and registration, grant a certificate of title, lease or other instrument evidencing title to the land within that Act.

(2) Where any property vested in the previous Council is land registered under the *Land Registration Act 1981*, the Registrar of Titles shall, without formal transfer, on application in that behalf by the Commission, enter or register the Council in the register kept under that Act and, on entry and registration, grant a certificate of title, lease or other instrument evidencing title to the land within that Act.

(3) Where any property vested in the previous Council is land registered under the *Land Registration Act 1981*, the Registrar of Titles shall, without formal transfer, on application in that behalf by the Commission, enter or register the equivalent Local-level Government in the register under that Act and, on entry and registration, grant a certificate of title, lease or other instrument evidencing title to the land within that Act.

(4) No stamp duty or other duty, tax or fee is payable on registration made under Subsection (1), (2) or (3).

60. SAVINGS OF CONTRACTS ETC.

(1) All contracts and agreements, other than contract of employment, entered into, made with or addressed to the previous Commission are, to the extent that they were immediately before the coming into operation of this Act binding on and enforceable against the previous Commission binding on and of full and effect against or in favour of the Commission as fully and effectually as if the Commission had been a party to them or bound by them or entitled to the benefit of them.

(2) All contracts and agreements, other than contracts of employment, entered into, made with or addressed to the previous Council are, to the extent that they were immediately before the coming into operation of this Act binding on and enforceable against the previous Council binding one and of full force and effect against or in favour of the Council as fully and effectually as if the Council had been a party to them or bound by them or entitled to the benefit of them.

(3) All contracts and agreements, other than contracts of employment, entered into, made with or addressed to a previous Local-level Government are, to the extent that they were immediately before the coming into operation of this Act binding on and enforceable against the previous Local-level Government binding on and of full force and effect against or in favour of the equivalent Local-level Government as fully and effectually as if the equivalent Local-level Government had been a party to them or bound by them or entitled to the benefit of them.

61. ACTIONS, ETC., NOT TO ABATE.

(1) Where, immediately before the coming into operation of this Act any arbitration, action or proceeding was pending or existing by, against or in favour of the previous Commission it does not, on that coming into operation, abate or discontinue, but it may be prosecuted, continued or enforced by, against or in favour of the Commission.

(2) Where, immediately before the coming into operation of this Act any arbitration, action or proceeding was pending or existing by, against or in favour of

the previous Council it does not, on that coming into operation, abate or discontinue, but it may be prosecuted, continued or enforced by, against or in favour of the Council.

(3) Where, immediately before the coming into operation of this Act any arbitration, action or proceeding was pending or existing by, against or in favour of the previous Local-level Government it does not, on that coming into operation, abate or discontinue, but it may be prosecuted, continued or enforced by, against or in favour of the equivalent Local-level Government.

62. MANAGER.

The person who, immediately before the coming into operation of this Act, held the office of the Manager of the previous Commission shall, on that coming into operation, be deemed to hold office of Manager under this Act and on the same terms and conditions, until such appointment is made and terms and conditions determined under this Act.

63. STAFF.

A person who immediately before the coming into operation of this Act, was an officer or employee of –

- (a) the previous Commission; or
- (b) the previous council; or
- (c) a previous Local-level Government,

shall, on that coming into operation, be deemed to hold the equivalent office or appointment under this Act and on the same terms and conditions, until such time as appointments are made and terms and conditions determined under this Act.

64. REGULATIONS, LAWS AND RULES.

(1) A regulation made under the repealed Acts and in force immediately before the coming into operation of this Act shall continue in force and shall have the same force and effect as a regulation made under Section 55 until such time as such regulation is repealed or otherwise expires according to its provisions.

(2) A law made the previous Commission under the repealed Acts and in force immediately before the coming into operation of this Act shall continue in force and shall have the same force and effect as a law passed by the Commission under this Act until such time as such law is repealed by the Commission or otherwise expires according to its provisions.

(3) A law made by the previous Commission under the repealed Acts and in force immediately before the coming into operation of this Act shall continue in force and have the same force and effect as a rule passed by the equivalent Local-level Government under this Act until such time as such rule is repealed by the equivalent Local-level Government or otherwise expires according to its provisions.

65. LICENCES, ETC.

All licences and permits issued under regulations, laws and rules to which Section 63 applies and in force immediately before the coming into operation of this Act shall continue in force until their expiry or cessation according to law.

66. APPLICATION OF ACTS, ETC.

Where –

- (a) any Act or subordinate legislation other than this Act; or
- (b) any document or instrument whenever made or executed,

contains a reference to –

- (c) the repealed Acts; or
- (d) the previous Commission; or
- (e) the previous Council,

that reference shall, on and after the commencement date, be deemed to be a reference to this Act or to the Commission or the Council as the case may be.

67. MOTU KOITABU AREAS.

The areas declared under the repealed Acts to be Motu Koitabu areas are, on the coming into operation of this Act, deemed to be Motu Koitabu areas for the purposes of this Act.

68. MEMBERS, ETC., OF PREVIOUS COUNCIL.

(1) Members of the previous Council, holding office as such immediately before the coming into operation of this Act, are, on that coming into operation, deemed to have been elected as members of the Council under this Act and shall continue to hold office until the expiry of the period for which they were elected or until they otherwise vacate office according to law, whichever shall first happen.

(2) The members of the previous Council, appointed as Chairman and Deputy Chairman of the previous Council and holding office as such Chairman and Deputy Chairman immediately before the coming into operation of this Act, shall, on that coming into operation, deemed to hold office as such Chairman and Deputy Chairman of the Council under this Act until the expiry of the period of which they were appointed or until they otherwise vacate office according to law.

69. LOCAL-LEVEL GOVERNMENT.

(1) A previous Local-level Government, established under the repealed Acts, and in existence immediately before the coming into operation of this Act, is on that coming into operation, deemed to be a Local-level Government established under this Act.

(2) Members of a previous Local-level Government, holding office as such immediately before the coming into operation of this Act, are, on that coming into operation, deemed to have been elected as such members of the equivalent Local-level Government under this Act and shall continue to hold office until the expiry of the period for which they were elected or until they otherwise vacate office according to law, whichever shall first happen.

(3) The members of a previous Local-level Government appointed as Chairman and Deputy Chairman of the previous Local-level Government and holding office as such Chairman and Deputy Chairman immediately before the coming into operation of this Act, shall, on that coming into operation, continue to hold office as such Chairman and Deputy Chairman until the expiry of the period for which they were appointed or until they otherwise vacate office according to law.

SCHEDULE 1 – ..
Repealed Acts

<i>National Capital District Commission Act 1990</i>
National Capital District Commission (Amendment) Act 1992
National Capital District Commission (Amendment) Act 1994
National Capital District Commission (Amendment) Act 1995
National Capital District Commission (Amendment) Act 1996
National Capital District Commission (Amendment) Act 2001
National Capital District Commission (Amendment No. 2) Act 2001
<i>National Capital District Commission Act 1990</i>
National Capital District Commission (Amendment) Act 1992
National Capital District Commission (Amendment) Act 1994
National Capital District Commission (Amendment) Act 1995
National Capital District Commission (Amendment) Act 1996
National Capital District Commission (Amendment) Act 2001
National Capital District Commission (Amendment No. 2) Act 2001