

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 394.

Post and Telecommunication Corporation.

GENERAL ANNOTATION.

ADMINISTRATION.

At the date of its preparation for inclusion, the administration of this Chapter was vested in the Minister for Public Utilities, with the exception of Sections 7 (3 (c) and 16 (2), which were vested in the Minister for Public Service.

The present administration may be ascertained by reference to the most recent Determination of Titles and Responsibilities of Ministers made under Section 148 (1) of the Constitution.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 394.

Post and Telecommunication Corporation Act.

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SCHEDULE 1.—Exceptions and Modifications to Public Bodies
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INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 394.

Post and Telecommunication Corporation Act.

Being an Act to provide for the establishment of a Post and Telecommunication Corporation and to define its functions, objectives and powers, and for related purposes.

PART I.—PRELIMINARY.

1. Compliance with Constitutional requirement.

(1) For the purposes of Section 29 of the *Organic Law on Provincial Government*, it is declared that this Act relates to a matter that is of national interest.

(2) The purposes of the Corporation are public purposes.

2. Interpretation.

In this Act, unless the contrary intention appears—

“Board” means the Board of the Post and Telecommunication Corporation appointed under Section 7;

“Chairman” means the Chairman of the Corporation appointed under Section 9;

“the commencement date” means 1 July 1982, being the date on which the *Post and Telecommunication Corporation Act 1982* came into force;

“Corporation” means the Post and Telecommunication Corporation established under Section 3;

“Government Authority” means—

- (a) Departments; and
- (b) Statutory Authorities; and
- (c) corporations wholly owned by the State; and
- (d) the Defence Force; and
- (e) the Parliamentary Service; and
- (f) the Police Force; and
- (g) any other service declared by an Act of the Parliament to be a State Service;

“Managing Director” means the Managing Director of the Corporation appointed under Section 16;

“member” means a member of the Board;

“registered company auditor” means a person registered as such under Section 12 of the *Companies Act*;

“telecommunication services” means—

- (a) a service for transmitting, by means of electric or electromagnetic energy—
 - (i) sounds, including speech and music; or
 - (ii) visual images; or

- (iii) signals for communications, whether as between persons and persons, things and things or persons and things of any matter otherwise than in the form of sounds or visual images; or
- (iv) signals for the actuation or control of machinery or apparatus; or
- (b) a service for receiving any such sounds, images or signals that have been transmitted by means of electric or electromagnetic energy;

"this Act" includes the regulations.

PART II.—POST AND TELECOMMUNICATION CORPORATION.

3. Establishment.

(1) The Post and Telecommunication Corporation is hereby established.

(2) The Corporation—

- (a) is a corporation with perpetual succession; and
- (b) shall have a seal; and
- (c) may acquire, hold and dispose of property; and
- (d) may sue and be sued in its corporate name.

(3) The common seal of the Corporation shall not be affixed to any instrument except in pursuance of a resolution of the Board and the affixing of the seal shall be attested by any two members of the Board.

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

4. Functions.

The functions of the Corporation are—

- (a) to provide domestic and international postal and telecommunication services to meet the reasonable needs of the people, Governments and business enterprises of Papua New Guinea; and
- (b) to maintain its assets in good order; and
- (c) to market postage stamps and philatelic products to fulfil the needs of philatelists in Papua New Guinea and elsewhere and to maintain a reasonable attitude to the philatelic market; and
- (d) to provide money transfer services within Papua New Guinea and between Papua New Guinea and other places; and
- (e) to exercise such control as the Board may determine over persons providing postal and telecommunication services, or services related to postal and telecommunication activities; and
- (f) in accordance with the provisions of the *Radiocommunications Act*—
 - (i) to establish, maintain and operate radiocommunications stations; and
 - (ii) to control licensing of the operations of radiocommunications stations; and
 - (iii) to regulate the use of radiocommunications generally; and

- (g) to represent Papua New Guinea as a member of, and actively participate in, international bodies concerned with the administration of postal and telecommunication services or in which the Corporation has a financial interest; and
- (h) to act as advisers to the Governments of Papua New Guinea on all matters relating to postal and telecommunication activities in Papua New Guinea; and
- (i) to provide training facilities to develop the staff skills needed to meet the special requirements of the Corporation and to co-operate with other training institutions in providing training relevant to the Corporation's functions; and
- (j) with the prior approval of the Minister, to enter into international agreements relating to postal and telecommunication activities where such agreements are in the best interests of Papua New Guinea; and
- (k) to fulfil, on behalf of the State, any obligations of the State under any treaty or international agreement entered into by the State relating to postal and telecommunication activities; and
- (l) to engage in research related to postal and telecommunication activities; and
- (m) to act as agents for Governments and Government Authorities in Papua New Guinea in providing services on their behalf, where, in the opinion of the Board, such services can conveniently be provided, on such terms and conditions as may be agreed between the Board and the Government or Government Authorities concerned.

5. Objectives.

In carrying out its functions under Section 4 the Corporation shall pursue the following objectives :—

- (a) to earn a rate of return, as determined from time to time by the National Executive Council, on net fixed assets and to ensure that any extensions to the postal and telecommunication system earn such rate of return, unless specific directions to the contrary are given by the National Executive Council; and
- (b) in the provision of domestic and international postal and telecommunication services, to contribute as far as is practicable to the continued development of Papua New Guinea by—
 - (i) making improved postal and telecommunication services available to as many people as is practicable, and extending those services as rapidly as is practicable so that all people in Papua New Guinea have access to them; and
 - (ii) providing improved postal and telecommunication services to any internationally agreed standards of performance; and
 - (iii) fostering the development of postal and telecommunication development projects within Asia and the South Pacific; and
- (c) to provide satisfying employment for officers and employees in a working environment that contributes to a high level of staff morale and operational efficiency and, where appropriate, to assist officers and employees to gain the skills necessary for the career development consistent with the Corporation's functions; and

- (d) to be a responsible corporate citizen by—
 - (i) protecting the physical and social environment where practicable in relation to the Corporation's activities; and
 - (ii) contributing to the national welfare but not so as to compete with any bodies whose main functions are promotion of welfare; and
 - (iii) refraining from providing services which are not justified by reasons of high cost or limited demand; and
- (e) to keep abreast of and contribute to developments in the field of communications and communications management, and to improve and extend postal and telecommunication services in the light of such developments bearing in mind the needs, goals and aspirations of the people, Governments and business enterprises of Papua New Guinea; and
- (f) to encourage the development of efficient national manufacturing, service and other industries related to the Corporation's activities.

6. Powers.

The Corporation has, in addition to the powers otherwise conferred on it by this Act and by any other law, powers to do all things that are necessary or convenient to be done for or in connexion with the performance of its functions and objectives.

PART III.—THE BOARD.

7. The Board.

- (1) There shall be a Post and Telecommunication Corporation Board.
- (2) The Board shall consist of—
 - (a) the Secretary for Finance or his nominee; and
 - (b) the Director of the National Planning Office or his nominee; and
 - (c) the Managing Director; and
 - (d) a member representing private consumer groups; and
 - (e) a member with experience of accounting and business practice; and
 - (f) a member with experience of the postal and telecommunications industry; and
 - (g) a member representing the community; and
 - (h) a member representing the trade union with the largest membership amongst the officers and employees of the Corporation.
- (3) The members referred to in Subsection 2 (d), (e), (f), (g) and (h)—
 - (a) shall be appointed by notice in the National Gazette by the Head of State, acting on advice, given after consideration of recommendations by the Minister; and
 - (b) shall be appointed for a period not exceeding three years; and
 - (c) shall be appointed on such terms and conditions as are determined by the Minister; and
 - (d) are eligible for re-appointment.

8. Alternate members.

(1) For each of the members appointed under Section 7 (2) (d), (e), (f), (g) and (h) an alternate member shall be appointed in the same way and subject to the same conditions as the member for whom he is alternate.

(2) In the event of the inability to act of a member, the alternate member has and may exercise all his powers, functions, duties and responsibilities and this Act applies accordingly.

(3) An alternate member may, unless the Board otherwise directs, attend all meetings of the Board but shall not, except where he is attending in the absence of the member for whom he is the alternate, take part in debate, vote on any matter or be counted towards a quorum.

9. Chairman and Deputy Chairman.

(1) The Head of State, acting on advice given after consideration of recommendations by the Minister, shall appoint a member, other than the Managing Director, to be the Chairman of the Board, and another member to be the Deputy Chairman of the Board, for such period as is determined by the Head of State, acting on advice.

(2) The Chairman and Deputy Chairman hold office as Chairman or Deputy Chairman until the expiration of the period of their respective appointments or until they cease to be members, whichever first occurs.

10. Leave of absence of members.

The Chairman may grant leave of absence to a member on such terms and conditions as he determines.

11. Vacation of office of members.

(1) Where a member, other than the Managing Director—

- (a) becomes permanently incapable of performing his duties; or
- (b) resigns his office by writing under his hand addressed to the Minister; or
- (c) is absent, except with the written consent of the Chairman, from three consecutive meetings of the Board; or
- (d) fails to comply with the provisions of Section 14; or
- (e) becomes bankrupt or 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 their benefit; or
- (f) is convicted of an offence punishable under a law by imprisonment for one year or longer or by death, and as a result of the conviction is sentenced to imprisonment or death,

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 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 deliver written notice of its 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.

12. Vacancy not to affect powers or functions.

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

13. Meetings of the Board.

(1) The Board shall meet as often as the business of the Corporation requires and at such times and places as it determines, or as the Chairman, or in his absence the Deputy Chairman, directs, but in any event not less frequently than once in every three months.

(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 Board within 14 days.

(3) At a meeting of the Board—

(a) five members are a quorum; and

(b) the Chairman, or in his absence the Deputy Chairman, shall preside and if both are absent the members present shall appoint a Chairman from among their own number; and

(c) matters arising shall be decided by a majority of the votes of the members present and voting; and

(d) the member presiding has a deliberative and, in the event of an equality of votes on a matter, also a casting vote.

(4) The Board shall cause minutes of its meetings to be recorded and kept.

(5) Subject to this Act the procedures of the Board are as determined by the Board.

(Amended by No. 31 of 1983.)

14. Disclosure of interest by member.

(1) A member who is directly or indirectly interested in a contract made or proposed to be made by the Board or under consideration by the Board, 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 possible after the relevant facts have come to his knowledge, disclose the nature of his interest at a meeting of the Board.

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

(a) shall not take part after the disclosure in any deliberation or decision of the Board with respect to that contract; and

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

15. Delegation.

The Board may, by instrument, delegate all or any of its powers and functions (except this power of delegation).

PART IV.—MANAGING DIRECTOR.

16. Appointment, etc.

(1) There shall be a Managing Director of the Corporation who—

- (a) shall be appointed by the Head of State, acting on advice, given after considering a recommendation of the Board; and
- (b) shall be appointed for such period as the Head of State, acting on advice, determines; and
- (c) shall be the Chief Executive Officer of the Corporation; and
- (d) shall be Head of the Service of the Corporation.

(2) Subject to the *Salaries and Conditions Monitoring Committee Act*, the terms and conditions of appointment and service of the Managing Director are as determined by the Minister.

17. Termination of appointment.

(1) Where the Managing Director—

- (a) becomes permanently incapable of performing his duties; or
- (b) resigns his office by writing under his hand addressed to the Head of State; or
- (c) engages, without the written consent of the Board, in any paid employment outside the duties of his office; or
- (d) becomes bankrupt or 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 their benefit; or
- (e) is convicted of an offence punishable under a law by death or by imprisonment for one year or longer, and as a result of the conviction, is sentenced to death or imprisonment,

the Head of State shall terminate his appointment.

(2) The Head of State, acting on advice, may, at any time, by written notice, advise the Managing Director 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 Managing Director may reply in writing to the Head of State, who shall, acting on advice, consider the reply and as soon as is practicable deliver written notice of his decision to the Managing Director.

(4) Where the Managing Director does not, within 14 days of the receipt of a notice under Subsection (2), reply in writing to the Head of State, his appointment is terminated.

18. Public Service rights.

Where an officer of the Public Service is appointed to be Managing Director, his service as Managing Director shall be counted as service in the Public Service for the purpose of determining his rights (if any) in respect of—

- (a) leave of absence on the grounds of illness; and
- (b) furlough or pay instead of furlough (including pay to dependants on the death of the officer).

19. Functions.

(1) The Managing Director shall—

- (a) manage the Corporation and shall, in relation to the management of the Corporation, act in accordance with the policy and directions of the Board; and
- (b) advise the Board on any matter concerning the Corporation referred to him by the Board.

(2) The Managing Director has such other functions as the Board from time to time determines.

PART V.—STAFF OF THE CORPORATION.**20. Appointment of officers.**

(1) The Corporation may appoint to be officers of the Corporation such persons as it thinks fit and necessary for the purposes of the Corporation.

(2) The Managing Director and officers of the Corporation constitute the staff of the Corporation.

(3) Where an officer of the Corporation was, immediately before his appointment, an officer of the Public Service, his service as an officer in the Corporation shall be counted as service in the Public Service for the purpose of determining his rights (if any) in respect of—

- (a) leave of absence on the grounds of illness; and
- (b) furlough or pay instead of furlough (including pay to dependants on the death of the officer).

(4) Subject to this Act and to the *Salaries and Conditions Monitoring Committee Act*, officers hold office on such terms and conditions as are determined by the Board.

21. Regulations for the staff of the Corporation.

(1) The regulations may make provision in relation to the staff of the Corporation and, in particular, may—

- (a) subject to the *Salaries and Conditions Monitoring Committee Act*, prescribe the terms and conditions of employment; and
- (b) make provision for a superannuation or other retirement benefit scheme to provide benefits for the staff; and
- (c) prescribe disciplinary procedures, creation and abolition of offices, classification of offices, promotion of officers and other matters for the regulation of the service of the Corporation.

(2) In the absence of regulations under Subsection (1), the provisions of regulations pertaining to the Public Service shall, in so far as applicable, apply.

22. Other employees.

(1) The Managing Director may, with the approval of the Board, appoint such other employees as he thinks necessary for the purposes of the Act.

(2) Employees appointed under Subsection (1) shall be employed on such terms and conditions as the Board determines, subject to the *Salaries and Conditions Monitoring Committee Act*.

PART VI.—FINANCES, ETC.,

23. Application of Public Bodies (Financial Administration) Act.

(1) The *Public Bodies (Financial Administration) Act* applies to and in relation to the Corporation subject to the exceptions and modifications specified in Schedule 1.

(2) The Corporation is a trading body for the purposes of Section 12 of the *Public Bodies (Financial Administration) Act*.

(3) For the purposes of Section 13 (1) of the *Public Bodies (Financial Administration) Act*, tenders shall be publicly invited and contracts taken by the Corporation for all works, supplies and services, the estimated cost of which exceeds K10 000.00.

24. Fees and charges.

(1) Subject to any determination under Section 21 of the *Prices Regulation Act*, the Board may fix fees and charges to be made for goods and services supplied by the Corporation.

(2) Notification of fees and charges fixed under Subsection (1) shall be made in the National Gazette and otherwise as the Board determines.

(Replaced by No. 57 of 1983, s. 1.)

25. Payments in respect of prior expenditure. *(Repealed by No. 57 of 1983, s. 2.)*

26. Audit.

(1) Subject to this section, the Auditor-General shall inspect and audit the accounts and records of the Corporation and records relating to its assets or assets in its custody, and shall 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, in 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) Where, by 1 April in any year, the Auditor-General or a registered company auditor employed by him under Subsection (3), has not commenced the inspection and audit in respect of the previous financial year, the Corporation may employ a registered company auditor to carry out such inspection and audit.

(5) 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 accounts, records, documents and papers of the Corporation relating directly or indirectly to the receipt or payment of moneys by it, or to the acquisition, receipt, custody or disposal of assets by it; and
- (b) may make copies of, or take 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; and
 - (iii) the *Public Bodies (Financial Administration) Act*.

(6) A person who fails to comply with a requirement under Subsection 5 (c) is guilty of an offence.

Penalty: A fine not exceeding K200.00.

PART VII.—MISCELLANEOUS.

27. Protection from personal liability.

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

28. 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 are necessary or convenient to be prescribed for carrying out or giving effect to this Act, and in particular for prescribing—

- (a) * * * *
- (b) penalties (including minimum penalties) of fines not exceeding K1 000.00 and default penalties of fines not exceeding K50.00 for offences against the regulations.

(Amended by No. 57 of 1983, s. 3.)

PART VIII.—REPEAL AND SAVING.

29. Repeal and saving.

(1) *The Post and Telegraph (Finance) Act* is repealed.

(2) All sums, immediately before the commencement date, at credit of bank accounts opened under the authority of the *Post and Telegraph (Finance) Act* are transferred to accounts opened under the authority of this Act and the *Public Bodies (Financial Administration) Act*.

PART IX.—TRANSITIONAL.

30. Transfer of assets etc., to Corporation.

All assets (other than land held by the State) which immediately before the commencement date were occupied or held by the Postal and Telecommunication Service and all obligations and liabilities of the Postal and Telecommunication Services immediately before that date are, on that date, transferred to the Corporation.

31. Saving of contracts.

All contracts and agreements entered into, made with or addressed to the State, in so far as relating to the functions of the Corporation under this Act, are, to the extent that they were immediately before the commencement date binding on and enforceable against or in favour the State, binding and of full force and effect against or in favour of the Corporation as fully and effectually as if, instead of the State, the Corporation had been a party to them or bound by them or entitled to the benefit of them.

32. Staff.

A person holding an office or appointment in the Postal and Telecommunication Services at the commencement date holds a similar 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.

33. Actions, etc., not to abate.

Where, immediately before the commencement date, any action, arbitration or proceeding was pending or existing by, against or in favour of the State in so far as it relates to the functions of the Corporation under this Act, it does not, on the commencement date abate or discontinue or be in any way affected by any provision of this Act, but it may be prosecuted, continued and enforced by, against or in favour of the State as if this Act had not been made.

34. Application of Acts, etc.

Where—

- (a) any Act or subordinate enactment, other than this Act; or
- (b) any document or instrument whenever made or executed, contains a reference, express or implied, to the Postal and Telecommunication Services, that reference shall, on and after the commencement date, except where the context otherwise requires, be read and construed and has effect as a reference to the Corporation.

SCHEDULE 1.

Sec., 23 (1).

EXCEPTIONS AND MODIFICATIONS TO PUBLIC BODIES (FINANCIAL ADMINISTRATION) ACT.

Provision	Modification
Section 5	Not applicable.
Section 6	Section 6 (2) (e) applies as if the reference to the Minister were a reference to the Minister acting with the concurrence of the Minister responsible for financial matters.
Section 12	Not applicable.

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 394.

Post and Telecommunication Corporation.

APPENDIX I.

SOURCE OF THE POST AND TELECOMMUNICATION CORPORATION ACT.

Part A.—Previous Legislation.

Post and Telecommunication Corporation Act 1982 (No. 6 of 1982)

as amended by—

Post and Telecommunication Corporation (Amendment) Act 1983 (No. 31 of 1983)

Post and Telecommunication Corporation (Amendment No. 2) Act 1983 (No. 57 of 1983).

Part B.—Cross References.

Section, etc., in Revised Edition.	Previous Reference. ¹	Section, etc., in Revised Edition.	Previous Reference. ¹
1	1	19	19
2	2	20	20
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17	17	Schedule 1	Shedule.
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¹Unless otherwise indicated, references are to the Act as set out in Part A.

