

Chapter 366.  
***Insurance Corporation Act 1977.***

Certified on: / /20 .



INDEPENDENT STATE OF PAPUA NEW GUINEA.



Chapter 366.

*Insurance Corporation Act 1977.*

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INDEPENDENT STATE OF PAPUA NEW GUINEA.



AN ACT

entitled

*Insurance Corporation Act 1977,*

Being an Act to establish and incorporate the Niugini Insurance Corporation, and for related purposes.

**PART I. – PRELIMINARY.**

**1. INTERPRETATION.**

In this Act, unless the contrary intention appears—

“**actuary**” means a Fellow of the Institute of Actuaries in England, or a Fellow of the Faculty of Actuaries in Scotland, or a Fellow of the Society of Actuaries in America;

“**the Board**” means the Niugini Insurance Corporation Board established under Section 6;

“**business of insurance**” means any business by way of providing insurance, including re-insurance, and includes all business that is general insurance business within the meaning of the *Insurance Act 1995* and all business that is life insurance business;

“**the Chairman**” means the Chairman of the Board;

“**the Corporation**” means the Niugini Insurance Corporation established by Section 25;

“**the Deputy Chairman**” means the Deputy Chairman of the Board;

“**the Deputy General Manager**” means the Deputy General Manager of the Corporation;

“**the Fund**” means the Niugini Insurance Corporation General Reserve Fund established under Section 26;

“**the General Manager**” means the General Manager of the Corporation;

“**member**” means a member of the Board.

“**this Act**” includes the regulations made under this Act.

**PART II. – NIUGINI INSURANCE CORPORATION.****2. ESTABLISHMENT OF THE CORPORATION.**

(1) The Niugini Insurance 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 or be sued in its corporate name.

(3) 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) The Head office of the Corporation shall be established in Port Moresby or at such other place in the country as the Minister, on the recommendation of the Corporation, appoints.

(5) Any Act in force in Papua New Guinea relating to insurance shall apply, according to its tenor, to and in respect of the Corporation and the activities of the Corporation.

**3. PURPOSE OF THE CORPORATION.**

(1) The main purpose of the Corporation is to carry on the business of insurance.

(2) Within the context of the general framework of the policy objectives of the State, the Corporation shall, within the limits of its powers, ensure in performing its functions that its policies are directed to the greatest advantage of the people of Papua New Guinea.

**4. FUNCTIONS OF THE CORPORATION.**

The functions of the Corporation are to carry on the business of insurance and any other business that is capable of being carried on advantageously with the general business of the Corporation and that the Minister, on the advice of the Board, considers it desirable to undertake.

**5. POWERS OF THE CORPORATION.**

(1) The Corporation has power to do, in Papua New Guinea or elsewhere, all things necessary or convenient to be done for or in connection with the performance of its functions.

(2) Without limiting the generality of Subsection (1), the powers of the Corporation under that subsection include power–

(a) to establish branches; and

(b) to engage, or make arrangements with, persons to act as agents for the Corporation; and

(c) to act as an insurance broker; and

(d) to act as agent for a person carrying on any business of insurance; and

(e) to enter into contracts of re-insurance in relation to liabilities undertaken by the Corporation; and

- (f) to enter into any contract of a kind usually entered into, or do anything usually done, by a person carrying on any business of insurance of a kind carried on by the Corporation; and
- (g) subject to any Act to determine fair and reasonable rates of premium for classes of insurance undertaken by the Corporation; and
- (h) to do anything incidental to any of its powers.

**PART III. – NIUGINI INSURANCE CORPORATION BOARD.****6. THE BOARD.**

(1) There shall be a Niugini Insurance Corporation Board which shall consist of not less than five members and not more than eight members appointed by the Minister by notice in the National Gazette.

(2) The Minister shall appoint to the Board as members persons who are in his opinion competent and have the relevant experience in trade, commerce, law or insurance and, where he considers it desirable, one of the persons so appointed shall be an actuary.

(3) A member appointed under this section holds office during the pleasure of the Minister.

(4) The performance of the functions or exercise of the powers of the Board shall not be affected by reason of there being a vacancy or vacancies in the membership of the Board or because of a defect in the appointment of a member.

**7. REMUNERATION OF MEMBERS.**

The terms and conditions of office of a member are as determined by the Minister from time to time.

**8. DECLARATION OF OFFICE.**

(1) Every member of the Board shall, before entering on his duties, make the Declaration of Office in the form prescribed in Schedule 3 to the *Constitution*.

(2) A Declaration of Office may be made before the Minister or a person appointed by the Minister for the purpose.

**9. CHAIRMAN AND DEPUTY CHAIRMAN.**

(1) The Minister shall appoint a member to be the Chairman and another member to be the Deputy Chairman of the Board for such period as the Minister determines.

(2) The Chairman or the Deputy Chairman of the Board holds office as Chairman or Deputy Chairman until the expiration of the period of his appointment or until he ceases to be a member, whichever first occurs.

**10. MEETINGS OF THE BOARD.**

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

(2) Where he receives a request to do so from not less than two members, the Chairman, or in his absence the Deputy Chairman, shall convene a meeting of the Board.

(3) At a meeting of the Board—

(a) a quorum is four members; and

(b) the Chairman, or in his absence the Deputy Chairman, shall preside; and

- (c) in the absence of both the Chairman and the Deputy Chairman the members present shall appoint a Chairman from among their own number; and
- (d) questions arising shall be decided by a majority of the votes of the members present and voting; and
- (e) 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 kept.

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

(6) 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.

## **11. DELEGATION.**

(1) The Board may, by resolution, delegate to the General Manager, an officer of the Corporation or any other person all or any of its powers and functions (except this power of delegation).

(2) A delegation under this section is revocable by resolution of the Board.

## **12. DISCLOSURE OF INTEREST.**

(1) A member who is directly or indirectly interested in a contract made, or proposed to be made, by the Board, on behalf of the Corporation otherwise than as a member of any incorporated company consisting of not less than 25 persons and in common with the other members of that company, shall disclose the nature of his interest at the first meeting of the Board at which he is present after the relevant facts have come to his knowledge.

(2) A disclosure under this section to the Board shall be recorded in the minutes of the Board, and after the disclosure the member—

- (a) shall not take part in any deliberation or decision of the Board with respect to that contract; and
- (b) shall be disregarded for the purpose of constituting a quorum of the Board for any such deliberation or decision.

**PART IV. – THE GENERAL MANAGER.****13. APPOINTMENT, ETC., OF GENERAL MANAGER, ETC.**

(1) There shall be a General Manager of the Corporation who–

- (a) shall be appointed by the Board with the prior approval of the Minister, by notice in the National Gazette; and
- (b) shall be appointed for such period as the Board determines; and
- (c) shall be the Chief Executive Officer of the Corporation; and
- (d) shall be the head of the Service of the Corporation.

(2) There may be a Deputy General Manager of the Corporation who–

- (a) shall be appointed by the Board with the prior approval of the Minister; and
- (b) shall be appointed for such period as the Board determines; and
- (c) during any absence from duty of the General Manager has all the duties, responsibilities, powers and functions of the General Manager.

(3) The salary and other terms and conditions of appointment of the General Manager and Deputy General Manager are as determined by the Minister from time to time.

(4) A member is eligible for appointment as the General Manager and the Deputy General Manager.

**14. VACATION OF OFFICE OF GENERAL MANAGER, ETC.**

(1) If the General Manager or Deputy General Manager–

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

the Board shall terminate his appointment.

(2) The Board, with the approval of the Minister, may, at any time, and shall, when directed to do so by the Minister, terminate the appointment of the General Manager or Deputy General Manager for inability, inefficiency, incapacity or misbehaviour.

**15. PUBLIC SERVICE RIGHTS OF GENERAL MANAGER, ETC., TO CONTINUE.**

(1) If an officer of the Public Service is appointed to be the General Manager or Deputy General Manager, his service as General Manager or Deputy General Manager, as the case may

be, 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 ground of illness; and
- (b) furlough or pay in lieu of furlough (including pay to dependents on the death of the officer).

(2)<sup>1</sup> <sup>2</sup>The offices of General Manager and Deputy General Manager are offices to which apply the provisions of the *Public Services (Management) Act 1995* relating to leave to serve under another Act.

## **16. FUNCTIONS OF THE GENERAL MANAGER.**

(1) The General Manager shall manage the Corporation and shall, in relation to the management of the Corporation, act in accordance with the policy and directions of the Board.

(2) In addition, the General Manager shall advise the Board on any matter relating to the Corporation referred to him by the Board.

(3) The General Manager shall, at any time that he is required by the Minister to do so, furnish to the Minister, through the Board, such information relating to the activities and undertakings of the Corporation as the Minister may require.

(4) The General Manager has such other functions as the Board from time to time determines.

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<sup>1</sup> Section 15(2) repealed and replaced by *Public Service (Management) (Consequential Amendments) Act 1986* (No. 29 of 1986), s63.

<sup>2</sup> Section 15(2) repealed and replaced by *Public Service (Management) (Consequential Amendments) Act 1986* (No. 29 of 1986), s63.

**PART V. – THE SERVICE OF THE CORPORATION.**

**17. APPOINTMENT OF OFFICERS.**

(1) The Board may, on the recommendation of the General Manager, appoint to be officers of the Corporation such persons as it thinks fit and necessary for the purposes of the Corporation.

(2) The General Manager, Deputy General Manager and the officers of the Corporation constitute the Service of the Corporation.

(3) Subject to this Part and to the regulations, officers hold office on such terms and conditions as the Board determines.

(4) If an officer appointed under this section was, immediately before his appointment, an officer of the Public Service, his service as an officer of 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 ground of illness; and
- (b) furlough or pay in lieu of furlough (including pay to dependents on the death of the officer).

(5)<sup>3</sup> <sup>4</sup>The offices of officers in the service of the Corporation are offices to which apply the provisions of the *Public Services (Management) Act 1995* relating to leave to serve under another Act.

**18. REGULATIONS FOR THE SERVICE OF THE CORPORATION.**

The regulations may make provision in relation to the Service of the Corporation and, in particular may–

- (a) prescribe the terms and conditions of appointment of officers; and
- (b) make provision for a superannuation or other retirement benefit scheme to provide benefits for the General Manager, Deputy General Manager and officers of the Corporation.

**19. TEMPORARY AND CASUAL EMPLOYEES.**

(1) The General Manager may, with the approval of the Board, appoint such temporary and casual employees as he thinks necessary for the purposes of this Act.

(2) Employees appointed under Subsection (1) shall be employed on such terms and conditions as the Board determines.

**20. USE OF OFFICERS, ETC., OF OTHER AUTHORITIES.**

The Corporation may, by agreement with the appropriate person or authority and on such terms and conditions as are agreed on, make use of the services of officers and employees, and of the resources, of the person or authority.

<sup>3</sup> Section 17(5) repealed and replaced by *Public Service (Management) (Consequential Amendments) Act 1986* (No. 29 of 1986), s64.

<sup>4</sup> Section 17(5) repealed and replaced by *Public Service (Management) (Consequential Amendments) Act 1986* (No. 29 of 1986), s64.

**PART VI. – POWERS AND FUNCTIONS OF THE BOARD.**

**21. FUNCTIONS OF THE BOARD.**

(1) The functions of the Board are–

- (a) subject to this Act and to any directions given by the Minister to manage and control the Corporation and the affairs of the Corporation; and
- (b) to determine the policy of the corporation; and
- (c) to develop and expand the business of the Corporation,

and the Board shall carry on the business of the Corporation for the purpose of performing those functions.

(2) The Board shall pursue a policy directed towards the Corporation making, in each financial year, a profit.

**22. POWERS OF THE BOARD.**

(1) The Board has the power to do all things necessary or convenient to be done for, or in connection with, the performance of its functions.

(2) A proposal by the Board–

- (a) to enter into or execute any contract on behalf of the Corporation for a consideration exceeding K10,000.00 other than a contract of insurance; or
- (b) for the Corporation to acquire–
  - (i) an interest, whether direct or indirect, in; or
  - (ii) any business or undertaking of,  
a company carrying on any business of insurance,

is subject to the approval of the Minister.

**PART VII. – FINANCE.****23. APPLICATION OF THE *PUBLIC FINANCES (MANAGEMENT) ACT 1995*.**

(1) Subject to Subsection (2), the *Public Finances (Management) Act 1995* applies to and in relation to the Corporation.

(2) Sections 52, 58, 57, 51, 59 and 61 of the *Public Finances (Management) Act 1995* do not apply to and in relation to the Corporation.

(3) The Corporation is a trading enterprise for the purposes of the *Public Finances (Management) Act 1995*.

**24. LIABILITY OF CORPORATION TO PAY RATES, TAXES AND CHARGES.**

(1)<sup>5</sup> The Corporation is subject to taxation under the laws of Papua New Guinea.

<sup>6</sup>(2) [Repealed by implication].

**25. INITIAL CAPITAL OF THE CORPORATION.**

The initial paid-up capital of the Corporation is K250,000.00.

**26. GENERAL RESERVE FUND.**

(1) The Corporation shall have and shall at all times maintain a general reserve fund to be known as the “Niugini Insurance Corporation General Reserve Fund” which shall consist of–

- (a) an initial amount of K1,250,000.00; and
- (b) such sums as are appropriated by Act for the purpose; and
- (c) such sums as are placed to the credit of the Fund under Section 28(1).

(2) The Fund shall be used for the development of the business of the Corporation and the establishment of reserves against contingencies arising from the general insurance business or the life insurance business transacted by the Corporation.

**27. APPROPRIATION.**

The sums referred to in Sections 25 and 26(1) (a) shall be paid out of the Consolidated Revenue Fund which, to the extent necessary, is appropriated accordingly.

**28. PROFITS OF THE CORPORATION.**

(1) The net profit of the Corporation in each year shall be first applied against any previous losses carried forward and the balance shall, subject to Subsection (2), be placed to the credit of the Fund.

(2) Out of its net annual profit remaining after its application against previous losses the Corporation shall pay into the Consolidated Revenue Fund such amounts as are determined from time to time by the Minister after receiving advice from the Board.

<sup>5</sup> amended by No. 41 of 1979.

<sup>6</sup> amended by No. 41 of 1979.

(3) In determining the net profit of the Corporation for the purposes of this Act, any amounts written off are subject to the consent of the Minister.

**29. BANK ACCOUNTS.**

(1) The Corporation–

- (a) shall open and maintain accounts within the country with such licensed bank or licensed banks as the Board thinks fit and shall at all times maintain at least one such account; and
- (b) may, with the approval of the Minister, open and maintain accounts outside the country with such banks or other financial institutions as the Minister approves.

(2) The Corporation shall pay all money received by it into an account referred to in this section.

**30. APPLICATION OF MONEY.**

Money of the Corporation shall be applied only–

- (a) in payment or discharge of the expenses, charges and obligations incurred or undertaken by it in the exercise of its powers and the performance of its functions under this Act; and
- (b) in payment of the remuneration of the members of the Board, the General Manager, the Deputy General Manager and the officers and employees of the Corporation; and
- (c) in making any other payments that it is authorized or required to make under this Act.

**31. INVESTMENT OF THE FUND.**

The Corporation may invest any money standing to the credit of the Fund–

- (a) in any securities of, or guaranteed by, the State; or
- (b) in any manner in which a trustee may, under the law for the time being in force in Papua New Guinea, invest trust money in his hands; or
- (c) on deposit in a licensed bank; or
- (d) in any other manner approved by the Minister.

**PART VIII. – MISCELLANEOUS.****32. ATTORNEY OF CORPORATION.**

The Corporation may, by instrument under its seal, appoint a person (whether within or outside the country) to be its attorney and a person so appointed may, subject to the instrument, do any act or execute any power or function that he is authorized by the instrument to do or execute.

**33. PAYMENTS GUARANTEED BY THE STATE.**

(1) Every policy or contract of insurance or indemnity issued or entered into by the Corporation under this Act is guaranteed by the State, and any liability arising under such guarantee shall, without further or other appropriation than this section, be paid out of the Consolidated Revenue Fund.

(2) Any amount paid out of the Consolidated Revenue Fund under Subsection (1)–

(a) shall be deemed to be an advance by the State to the Corporation; and

(b) shall be and shall remain a charge on the funds of the Corporation, other than the funds held in respect of the life insurance business and shall be repaid in full to the Consolidated Revenue Fund when funds are available.

**34. EXECUTION OF CONTRACTS.**

(1) Contracts on behalf of the Corporation may be made, varied or discharged in accordance with this section, and any contract so made is effectual in law, and is binding on the Corporation and on all other parties to the contract, their heirs, successors, assigns, executors and administrators.

(2) A contract that, if made between private persons, would by law be required to be in writing under seal may be made, varied or discharged in the name and on behalf of the Corporation in writing under the seal of the Corporation.

(3) A contract that, if made between private persons, would by law be required to be in writing and signed by the parties to be charged with it may be made, varied or discharged in the name and on behalf of the Corporation in writing signed by a person acting with the express or implied authority of the Corporation.

(4) A contract that, if made between private persons, would by law be valid although made by parol only may be made, varied or discharged by parol in the name and on behalf of the Corporation by a person acting with the express or implied authority of the Corporation.

(5) This section does not invalidate a contract executed on behalf of the Corporation by a duly appointed attorney of the Corporation if the contract would be valid if executed by the attorney on his own behalf.

**35. HOLDING OF PROPERTY.**

All property of the Corporation shall be held by the Corporation for and on behalf of the State.

**36. VALIDITY OF ACTS AND TRANSACTIONS OF THE CORPORATION.**

The validity of an act or transaction of the Corporation shall not be called in question on the ground that any provision of this Act has not been complied with.

**37. REGULATIONS.**

The Head of State, acting on advice, may make regulations not inconsistent with this Act, prescribing all matters that 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.

**PART IX.<sup>7</sup> – TRANSFER OF UNDERTAKING OF THE CORPORATION, ETC.****38. MINISTER TO APPOINT TRANSFER DATE AND NOMINATE COMPANY.**

<sup>8</sup>The Minister shall, by notice in the National Gazette—

- (a) appoint a day (hereinafter referred to as “the transfer date”); and
- (b) nominate a company or companies incorporated under the *Companies Act 1997* (hereinafter referred to as “the successor company”), for the purposes of this Part.

**39. SHARES IN SUCCESSOR COMPANY ON TRANSFER DATE.**

<sup>9</sup>(1) The successor company shall, on the transfer date, be wholly owned by the State.

(2) The shares in the successor company shall be held by the Minister on behalf of the State.

**40. TRANSFER OF ASSETS, ETC., OF CORPORATION TO SUCCESSOR COMPANY ON TRANSFER DATE.**

<sup>10</sup>On the transfer date—

- (a) all assets held by, and all obligations and liabilities imposed on, the Corporation are transferred to the successor company; and
- (b)<sup>11</sup> all contracts and agreements (including contracts of employment) entered into, made with or addressed to the Corporation are, to the extent they were immediately before the transfer date binding on and enforceable against the Corporation, binding on and of full force and effect against or in favour of the successor company as if the successor company had been a party to them or bound by them or entitled to the benefit of them; and
- (c) all licences held by the Corporation in connection with the undertaking of the Corporation are transferred to, and deemed to be held by, the successor company for the unexpired period of such licences; and
- (d) any arbitration, action or proceeding pending or existing by, against or in favour of the Corporation does not abate or discontinue, but may be prosecuted, continued or enforced by, against or in favour of the successor company.

**41. FORMAL TRANSFER OF LAND ETC., UNNECESSARY.**

<sup>12</sup>Where any asset falling to be transferred under Section 40(a) is land registered under the *Land Registration Act 1981*, the Registrar of Titles shall, without formal transfer and without fee, on application by the successor company, enter or register the successor company in the register kept under the Act and, on entry and registration, grant a certificate of title, lease or other instrument evidencing title to the land within that Act.

<sup>7</sup> Part IX inserted by *Insurance Corporation (Amendment) Act 1987* (No. 37 of 1987).

<sup>8</sup> Section 38 inserted by *Insurance Corporation (Amendment) Act 1987* (No. 37 of 1987).

<sup>9</sup> Section 39 inserted by *Insurance Corporation (Amendment) Act 1987* (No. 37 of 1987).

<sup>10</sup> Section 40 inserted by *Insurance Corporation (Amendment) Act 1987* (No. 37 of 1987).

<sup>11</sup> Section 40(b) amended by *Insurance Corporation (Amendment) Act 1997* (No. 27 of 1997), s1.

<sup>12</sup> Section 41 inserted by *Insurance Corporation (Amendment) Act 1987* (No. 37 of 1987).

**42. PAYMENTS GUARANTEED BY THE STATE.**

<sup>13</sup>(1) Where a policy or contract of insurance or indemnity issued or entered into by the Corporation is transferred to the successor company under this Part, the payments guaranteed by the State under Section 33 continue to be so guaranteed until the expiry of the policy or contract of insurance or indemnity, as the case may be.

(2) Any sum due by the State under Subsection (1) is to be paid by way of an advance repayable on demand at bank overdraft rate.

(3) The guarantee by the State under Section 33 does not extend to any policy or contract of insurance or indemnity issued or entered into by the successor company.

**43. MINISTER EMPOWERED TO SELL SHARES IN SUCCESSOR COMPANY.**

<sup>14</sup>The Minister is, on and in accordance with the terms of the direction of the National Executive Council, empowered to sell the shares of the successor company.

**43A. TAX AND DUTIES.**

<sup>15</sup>(1) For the purposes of the *Income Tax Act 1959*, the successor company shall be deemed to have acquired the assets, obligations and liabilities specified in at a value equal to their written down book value in the books of the Corporation as at the transfer date.

(2) The successor company shall be entitled to tax depreciation and to any other applicable tax deduction in respect of assets, obligations and liabilities specified in Section 40 as if the successor company had owned such assets, rights and liabilities since such assets, rights and liabilities were first acquired by the Corporation.

(3) Shares issued to the Minister responsible for finance matters on behalf of the State shall be deemed to have been fully paid and issued for valuable consideration other than cash.

(4) The transfer to the successor company of the assets, rights and liabilities specified in the allocation statement shall be exempt from any stamp duty, fee, tax, charges or other duty payable under any Act, including without limitation, the *Land Registration Act 1981*.

(5) No registration fee shall be payable in respect of the authorized capital of the successor company, and no tax or duty shall be payable on the issue of shares, to the Minister responsible for finance matters on behalf of the State.

**44. REPEAL.**

<sup>16</sup>On the transfer of the undertaking of the Corporation under this Part, this Act, except to the extent necessary to give effect to this Part, is repealed.

Office of Legislative Counsel, PNG

<sup>13</sup> Section 42 inserted by *Insurance Corporation (Amendment) Act 1987* (No. 37 of 1987).

<sup>14</sup> Section 43 inserted by *Insurance Corporation (Amendment) Act 1987* (No. 37 of 1987).

<sup>15</sup> Section 43A inserted by *Insurance Corporation (Amendment) Act 1997* (No. 27 of 1997), s2.

<sup>16</sup> Section 44 inserted by *Insurance Corporation (Amendment) Act 1987* (No. 37 of 1987).