

No. **4** of 2015.

Independent Public Business Corporation of Papua New Guinea (Kumul Consolidated Holdings)(Amendment) Act 2015.

Certified on: **12 AUG 2015**



No. of 2015.

Independent Public Business Corporation of Papua New Guinea (Kumul Consolidated Holdings)(Amendment) Act 2015.

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“59B. KUMUL MINERALS HOLDINGS.

59C. KUMUL PETROLEUM HOLDINGS.”



No. of 2015.

AN ACT

entitled

Independent Public Business Corporation of Papua New Guinea (Kumul Consolidated Holdings)(Amendment) Act 2015,

Being an Act -

- (a) to amend the ***Independent Public Business Corporation of Papua New Guinea Act 2002***; and
 - (b) to amend the name of the ***Independent Public Business Corporation of Papua New Guinea Act 2002*** to the ***Kumul Consolidated Holdings Authorisation Act 2002***; and
 - (c) to change the name of Independent Public Business Corporation of Papua New Guinea to Kumul Consolidated Holdings; and
 - (d) to provide for improved management of Kumul Consolidated Holdings and Majority State Owned Enterprises with respect to the appointment of directors and the requirements for annual plans,
- 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 I. - PRELIMINARY.

1. REPEAL AND REPLACEMENT OF SECTION 1.

Section 1 of the Principal Act is repealed and replaced with the following:

“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) the right to freedom from arbitrary search and entry conferred by Section 44; and
- (b) the right to freedom of conscience, thought and religion conferred by Section 45; and
- (c) the right to freedom of expression conferred by Section 46; and
- (d) the right to freedom of assembly and association conferred by Section 47; and
- (e) the right to freedom of employment conferred by Section 48; and
- (f) the right to privacy conferred by Section 49; and
- (g) the right to freedom of information conferred by Section 51,

of the ***Constitution*** is a law that is made to comply with Section 38 of the ***Constitution***, taking account of the National Goals and Directive Principles and Basic Social Obligations, in particular the National Goals and Directive Principles, namely -

- (h) national sovereignty and self-reliance; and
- (i) national resources and environment,

for the purpose of giving effect to the public interest in public order and public welfare, to the extent that the law is reasonably justifiable in a democratic society having proper respect or regard for the right and dignity of mankind.

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(2) Insofar as this Act involves a compulsory taking of possession of property or a compulsory acquisition of an interest in or right over property within the meaning of Section 53 of the ***Constitution*** -

- (a) the purpose and reason for each such taking and acquisition are declared and described to facilitate the efficient and economical development and operation of the Independent Public Business Corporation of Papua New Guinea and each of its subsidiaries, and of the assets acquired by them so that the Independent Public Business Corporation of Papua New Guinea and each of its subsidiaries might thereby contribute to the advancement of the social and economic welfare of the people of Papua New Guinea; and
- (b) such purpose and reason is hereby also declared to be a reason that is reasonably justified in a democratic society that has proper regard for the rights and dignity of mankind; and
- (c) this Act is hereby expressed to be in the national interest; and
- (d) the undertaking of the obligations of the State, or the Independent Public Business Corporation of Papua New Guinea and each of its subsidiaries, as the case may be, in relation to each such taking or acquisition under this Act or any other Act, the conditions of any lease, licence or other tenement granted or issued under this or any other Act, or the terms of any agreement made in connection with such grant or issue and the terms of any such taking or acquisition as provided for in this Act, shall constitute compensation made in connection with that taking or acquisition,

for the purposes of Section 53 of the ***Constitution*** and for the purposes of any other relevant law.

(3) Insofar as this Act provides for a compulsory taking of possession of property or a compulsory acquisition of an interest in or right over property within the meaning of Section 53 of the ***Constitution*** of any person who is not a citizen, this Act is made pursuant to Subsection 53(7) of the ***Constitution***.

(4) This Act, to the extent that it creates or otherwise gives rise to rights, privileges, obligations and duties that are not the same as between citizens, is intended to be a law for the special benefit, welfare, protection and advancement of members of underprivileged and less advanced groups and residents of less advanced areas for the purposes of Section 55 of the ***Constitution***.

(5) For the purposes of Subsection 26(3) of the ***Constitution***, the position of Director (including Managing Director) is declared to be a public office to which Subdivision 3. 2 (*Leadership Code*) applies.

(6) For the purposes of Section 41 of the ***Organic Law on Provincial Governments and Local-level Governments***, it is declared that this Act relates to a matter of national interest.

2. INTERPRETATION (AMENDMENT OF SECTION 2).

Section 2 of the Principal Act is amended in Subsection (1) as follows:

- (a) in the definition of "Chairman" repeal the reference to "Section 12" and replace it with "Section 11"; and

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- (b) the definition of “Minister” is repealed and replaced with the following:

“Minister” means the Minister designated by the Prime Minister and published in the National Gazette with respect to the allocation of Ministerial duties and responsibilities of Ministers under Section 148 of the ***Constitution***, to be the Minister who shall be responsible for the administration of this Act;” and

- (c) the following new definitions are inserted in the correct alphabetical order:

““Corporation” means Kumul Consolidated Holdings, formerly named the Independent Public Business Corporation of Papua New Guinea;

“fit and proper person” means a person determined as such in accordance with this Act after taking into account the following considerations -

- (a) that person’s probity;
- (b) that person’s competence and soundness of judgment for fulfilling the responsibilities of the position;
- (c) diligence with which that person is fulfilling or likely to fulfil those responsibilities;
- (d) whether the interests of the Corporation and or its subsidiaries concerned are, or are likely to be, in any way threatened by that person being a member of the particular Board; and
- (e) that person’s conduct and activities in business or financial matters, including whether that person has -
 - (i) been engaged in or associated with any financial loss due to dishonesty, incompetence or malpractice; or
 - (ii) been engaged in any business practices which could be considered to be deceitful or oppressive or otherwise improper (whether unlawful or not) or which otherwise reflect discredit on that person’s method of conducting business or financial matters;

“National Executive Council” means the National Executive Council established under Section 149 of the ***Constitution***;

“NPCP” means NPCP Holdings Limited, Company No. I-100145, and upon coming into operation of the ***Kumul Petroleum Holdings Limited Authorisation Act 2015***, will be renamed Kumul Petroleum Holdings Limited;

“Petromin” means Petromin Papua New Guinea Holdings Limited, Company No. 1-59327, established under the ***Petromin Papua New Guinea Holdings Limited Authorisation Act 2007***, and which, upon the ***Kumul Minerals Holdings Limited Authorisation Act 2015*** coming into operation will be renamed Kumul Minerals Holdings Limited;

“recognised University” means The University of Papua New Guinea, Papua New Guinea University of Technology, Divine Word University, Pacific Adventist University, a university that is a member of the Association of Commonwealth Universities and any other recognised and reputable university;

“Sovereign Wealth Fund” means the Sovereign Wealth Fund established by Section 212A (*Sovereign Wealth Fund*) of the ***Constitution*** and the ***Organic Law on the Sovereign Wealth Fund***;

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“State” means the Independent State of Papua New Guinea; and
“subsidiary” has the meaning set out in Subsection 5(1) of the *Companies Act 1997*.”.

3. APPLICATION OF THE ACT.

Without limiting the application of this Act, this Act binds the State, the Corporation and each of the subsidiaries of the Corporation.

PART II. - CHANGE OF NAME OF PRINCIPAL ACT AND CORPORATION.

4. AMENDMENT TO THE TITLE OF THE PRINCIPAL ACT.

The title of the Principal Act is amended by repealing the words “Independent Public Business Corporation of Papua New Guinea” and replacing them with the words “Kumul Consolidated Holdings”.

5. CHANGE TO THE NAME OF THE CORPORATION.

(1) On the coming into operation of this Act, the name of the Corporation is changed from Independent Public Business Corporation of Papua New Guinea to Kumul Consolidated Holdings.

(2) For the avoidance of doubt, the change set out in Subsection (1) does not affect the identity of the Corporation and does not affect any legal proceedings by or against the Corporation.

6. CONSEQUENTIAL CHANGES TO THE PRINCIPAL ACT.

Where the reference to “the Independent Public Business Corporation of Papua New Guinea” or “Independent Public Business Corporation” appears anywhere in the Principal Act or any other law, that reference is a reference to “Kumul Consolidated Holdings”.

PART III. - AMENDMENTS TO THE PRINCIPAL ACT.

7. APPLICATION TO THE STATE (AMENDMENT OF SECTION 3).

The Principal Act is amended in Section 3 -

- (a) by inserting the numeral and bracket “(1)” in front of the word “This”; and
- (b) by inserting the following new subsection:

“(2) This section does not apply to limit, in any way, or prevent the State from exercising its rights under Subsection 4(1) of the *Kumul Minerals Holdings Limited Authorisation Act 2015* or the Corporation from meeting its obligation under, and giving effect to, that Subsection.”.

8. POWERS OF THE CORPORATION (AMENDMENT OF SECTION 9).

Section 9 of the Principal Act is amended -

- (a) in Subsection (2), by repealing the words “In its capacity” and replacing them with the words “Subject to the provisions of this Act, in its capacity”; and
- (b) in Subsection (3), by repealing -
 - (i) the reference “Section 9A” and replacing it with “Section 12”; and
 - (ii) Paragraph 3(s); and
- (c) by repealing Subsection (5).

9. REPEAL OF SECTION 9A.

Section 9A of the Principal Act is repealed.

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10. REPEAL AND REPLACEMENT OF SECTION 11.

Section 11 of the Principal Act is repealed and replaced with the following new section:

“11. DIRECTORS OF THE CORPORATION.

- (1) The Chairman and Directors shall be appointed in accordance with this section.
- (2) The Board of the Corporation shall be comprised of seven Directors.
- (3) One of the Directors shall be the Managing Director of the Corporation.
- (4) At least five of the Directors must be citizens of Papua New Guinea and not more than two of the Directors may be non-citizens of Papua New Guinea.
- (5) All of the Directors, other than the Managing Director, shall be appointed for a term of up to three years with such respective terms of office ensuring an orderly system of retirement, re-appointment and replacement as are determined from time to time by the National Executive Council.
- (6) In determining the respective terms of Directors necessary to satisfy the requirements of Subsection (5), the National Executive Council shall seek to ensure that not more than 50% of the Directors retire in any 12 month period.
- (7) In respect of the Board of the Corporation -
 - (a) no person shall be appointed to, or remain, on the Board if that person -
 - (i) is not a fit and proper person as determined by the National Executive Council; or
 - (ii) except in the case of the Managing Director, is an employee or other executive officer of the Corporation or any subsidiary of the Corporation; or
 - (iii) has been a Director for a maximum period of nine years in aggregate, provided that nothing in this subparagraph shall apply to a Managing Director; or
 - (iv) has turned 72 years of age; or
 - (v) does not, as a minimum, hold an undergraduate degree bestowed by a recognised University; or
 - (vi) is a member, or candidate for election as a member, of the National Parliament, or a Provincial Government or Local-level Government or is a member of a Local-level Government Special Purposes Authority appointed under Section 42 of the *Local-level Governments Administration Act 1997*; or
 - (vii) is an officer or employee of the public service or a statutory authority or agency; or
 - (viii) is an office-holder, or candidate for election as an office-holder, in a registered political party; and

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- (b) the requirements of Subparagraph (a)(v) may be waived by the National Executive Council in respect of no more than one Director who otherwise satisfies the remaining requirements of Paragraph (a) and who has at least 15 years senior management experience in any business or field that provides significant involvement with the operation or management of state owned enterprises and the person is so endorsed, for the purpose of the waiver, unanimously by all of the current Directors; and
- (c) except as may be provided in this or any other Act, a person who has held an office or position or who has been a candidate for election as referred to in Subparagraphs (a)(vi), (vii) and (viii), shall not be appointed as a Director until 12 months have elapsed following that person ceasing to hold the office or position or ceasing to be a candidate for election; and
- (d) a Director who intends to nominate to hold office as referred to in Subparagraph (a)(vi) shall resign as a Director no later than six months prior to such nomination.

(8) Without limiting Subsection (7), no person shall be newly appointed as a Director unless that person has at least ten years experience working in any business or field with significant involvement with the operation or management of State owned enterprises.

(9) The Directors shall be appointed by the National Executive Council as follows:

- (a) before any appointment is made, the Board shall inform the Minister and the National Executive Council of the number of vacancies to be filled and shall at the same time notify the Minister and the National Executive Council -
 - (i) of persons, including from among their own number, who in their opinion have the qualifications and experience meeting the requirements for Directors specified in this section and who are prepared to accept appointment as a Director; and
 - (ii) the details of those persons identified in Subparagraph (i), including their respective qualifications and experience; and
- (b) the National Executive Council shall appoint the requisite number of Directors duly qualified under this section from the persons notified by the Board under Paragraph (a); and
- (c) in making appointments under Paragraph (b), the National Executive Council shall not be limited to the persons initially advised under Paragraph (a) and may request the Board to provide further names of qualified persons under that paragraph until the National Executive Council has completed the making of those appointments; and

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- (d) during the first 12 months after the date on which the **Independent Public Business Corporation of Papua New Guinea (Kumul Consolidated Holdings) Amendment Act 2015** comes into operation, for the purposes of this Subsection (9), the procedures for nomination of Directors by the Board shall not apply and the National Executive Council shall appoint such persons who have the qualifications and experience meeting the requirements for Directors specified in this section and who are prepared to accept appointment as a Director, as the National Executive Council considers appropriate.
- (10) No Director shall be appointed as Chairman unless, for the purpose of satisfying the matters in Subsection (8), that Director has a minimum five years additional experience in those matters.
- (11) No Director shall be appointed Chairman while that Director holds the position of Chairman of NPCP or Chairman of Petromin.
- (12) The Chairman shall be appointed as follows:
- (a) before any appointment is made, the Board shall -
 - (i) identify those among their number having the qualifications and experience meeting the requirements specified in Subsections (7), (8) and (10) and who are prepared to accept appointment as Chairman; and
 - (ii) notify the Minister and the National Executive Council of those Board members as so identified and provide the Minister and the National Executive Council with details of their respective qualifications and experience; and
 - (b) the National Executive Council shall select the Chairman from the Board members so notified having regard to any recommendation of the Minister, and the Board shall appoint that person as the Chairman.
- (13) The Directors, apart from the Managing Director, shall be paid such annual remuneration and reasonable attendance allowances as are consistent with non-executive board appointments in companies managing similar enterprises in the private sector and, in that respect -
- (a) the Chairman shall from time to time recommend to the Minister and the National Executive Council an appropriate annual remuneration for the Directors; and
 - (b) the amount of that annual remuneration from time to time shall be determined by the National Executive Council having regard to any recommendation of the Minister, and in so determining that amount, the National Executive Council shall not be bound by the Chairman's recommendation.
- (14) A Director may be removed at any time by the National Executive Council after consulting with the Minister, however, that no more than three directors may be removed by the National Executive Council in any 12 month period.”.

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11. REPEAL AND REPLACEMENT OF SECTION 12.

Section 12 of the Principal Act is repealed and replaced with the following:

“12. DIRECTORS OF MAJORITY STATE OWNED ENTERPRISES.

(1) The Chairman and Directors of Majority State Owned Enterprises shall be appointed in accordance with this section.

(2) The Board of Directors of each Majority State Owned Enterprise shall be comprised of seven Directors.

(3) One of the directors shall be the Managing Director of the Majority State Owned Enterprise.

(4) At least five of the directors of each Majority State Owned Enterprise shall be citizens of Papua New Guinea and not more than two of the directors of each Majority State Owned Enterprise may be non-citizens of Papua New Guinea.

(5) All of the directors, other than the Managing Director, shall be appointed for a term of up to three years with such respective terms of office ensuring an orderly system of retirement, re-appointment and replacement as are determined from time to time by the National Executive Council.

(6) In determining the respective terms of directors necessary to satisfy the requirements of Subsection (5), the National Executive Council shall seek to ensure that no more than 50% of the directors retire in any 12 month period.

(7) In respect of the Board of each Majority State Owned Enterprise –

(a) no person shall be appointed to, or remain, on the board if that person -

- (i) is not a fit and proper person as determined by the National Executive Council; or
- (ii) except in the case of the Managing Director, is an employee or other executive officer of the Majority State Owned Enterprise or any subsidiary of the Majority State Owned Enterprise; or
- (iii) has been a director for a maximum period of nine years in aggregate, provided that nothing in this subparagraph shall apply to a Managing Director; or
- (iv) has turned 72 years of age; or
- (v) does not, as a minimum, hold an undergraduate degree bestowed by a recognised university; or
- (vi) is a member, or candidate for election as a member, of the National Parliament, or a Provincial Government or Local-level Government or is a member of a Local-level Government Special Purposes Authority appointed under Section 42 of the *Local-level Governments Administration Act 1997*; or
- (vii) is an officer or employee of the public service or a statutory authority or agency; or

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- (viii) is an office-holder, or candidate for election as an office-holder, in a registered political party; and
 - (b) the requirements of Subparagraph (a)(v) may be waived by the National Executive Council in respect of no more than one director who otherwise satisfies the remaining requirements of Subparagraph (a) and who has at least 15 years senior management experience in any business or field that provides significant involvement with the operation or management of state owned enterprises and the person is so endorsed, for the purpose of the waiver, unanimously by all of the current directors; and
 - (c) except as may be provided in this or any other Act, a person who has held an office or position or who has been a candidate for election as referred to Subparagraphs (a)(vi), (vii) and (viii), shall not be appointed as a director until 12 months have elapsed following that person ceasing to hold the office or position or ceasing to be a candidate for election; and
 - (d) a director who intends to nominate to hold office as referred to in Subparagraph (a)(vi) shall resign as a director no later than six months prior to such nomination.
- (8) Without limiting Subsection (7), no person shall be newly appointed as a director unless that person has at least ten years experience working in any business or field relevant to the operation or management of the Majority State Owned Enterprise.
- (9) The directors of each Majority State Owned Enterprise shall be appointed by the National Executive Council as follows:
- (a) before any appointment is made, the Board of the Majority State Owned Enterprise shall inform the Minister and the National Executive Council of the number of vacancies to be filled and shall at the same time notify the Minister and the National Executive Council -
 - (i) of persons, including from among their own number, who in their opinion have the qualifications and experience meeting the requirements for directors specified in this section and who are prepared to accept appointment as a director; and
 - (ii) the details of those persons identified in Subparagraph (i), including their respective qualifications and experience; and
 - (b) the National Executive Council shall appoint the requisite number of directors duly qualified under this section from the persons notified by the board under Paragraph (a); and
 - (c) in making appointments under Paragraph (b), the National Executive Council shall not be limited to the persons initially advised under Paragraph (a) and may request the board to provide further names of qualified persons under that paragraph until the National Executive Council has completed the making of those appointments.
- (10) No director shall be appointed as Chairman of a Majority State Owned Enterprise unless, for the purpose of satisfying the matters in Subsection (8), that director has a minimum five years additional experience in those matters.

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(11) The Chairman of a Majority State Owned Enterprise shall be appointed as follows:

- (a) before any appointment is made, the board of a Majority State Owned Enterprise shall -
 - (i) identify those among their number having the qualifications and experience meeting the requirements specified in Subsections (7), (8) and (10) and who are prepared to accept appointment as Chairman; and
 - (ii) notify the Minister and the National Executive Council of those Board members as so identified and provide the Minister and the National Executive Council with details of their respective qualifications and experience; and
- (b) the National Executive Council shall select the chairman from the Board members so notified having regard to any recommendation of the Minister, and the board shall appoint that person as the Chairman.

(12) The directors of a Majority State Owned Enterprise, apart from the Managing Director, shall be paid such annual remuneration and reasonable attendance allowances as are consistent with non-executive Board appointments in companies managing similar enterprises in the private sector and, in that respect -

- (a) the Chairman of each Majority State Owned Enterprise shall, from time to time, recommend to the Minister and the National Executive Council an appropriate annual remuneration for the directors; and
- (b) the amount of that annual remuneration from time to time shall be determined by the National Executive Council having regard to any recommendation of the Minister, and in so determining that amount, the National Executive Council shall not be bound by the Chairman's recommendation.

(13) A Director of a Majority State Owned Enterprise may be removed at any time by the National Executive Council after consulting with the Minister, provided however, that no more than three directors may be removed by the National Executive Council in any 12 month period.”.

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

Section 23 of the Principal Act is amended in Subsection (1) by repealing the words “Head of State, acting on advice, by notice in the National Gazette” and replacing them with the words “National Executive Council acting on the recommendation of the Minister.”.

13. ANNUAL PLAN OF THE CORPORATION (AMENDMENT OF SECTION 34).

Section 34 of the Principal Act is amended -

- (a) in the heading, by repealing the words “ANNUAL PLAN OF THE CORPORATION” and replacing them with the words “ANNUAL PLAN OF THE CORPORATION AND DIVIDEND DISTRIBUTION”; and
- (b) in Subsection (1), by repealing the word “Minister” and replacing it with the words “National Executive Council”; and
- (c) in Paragraph (1)(a), by repealing the words “to the consolidated revenue fund”; and

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- (d) in Subsection (3), by deleting the full stop at the end of Subsection (3) and inserting these additional words at the end of the subsection -

“and if an Annual Plan is duly approved by the National Executive Council, it shall, notwithstanding the date of that approval, be binding on the Corporation in all aspects from the commencement of the Accounting Period to which it relates.”; and

- (e) by inserting the following new subsections after Subsection (6):

“(7) The Corporation shall not incur any expenditure, or acquire or dispose of any assets during a financial year unless -

- (a) the expenditure or acquisition or disposal of assets is made pursuant to the plan referred to in Subsection (1); or
- (b) the expenditure or acquisition or disposal of assets is approved by the National Executive Council; or
- (c) the total expenditure and value of acquisition of assets in any financial year incurred by the Corporation does not exceed K10,000,000.00, or such other limit as may be determined by the National Executive Council and advised to the Corporation from time to time; or
- (d) the total value of disposal of assets in any financial year incurred by the Corporation does not exceed K10,000,000.00, or such other limit as may be determined by the National Executive Council and advised to the Corporation from time to time.

(8) The Corporation must, from time to time, declare dividends in accordance with Subsection (9) and may fix the time for payment of dividends, which shall be no later than two months after the end of each financial year.

(9) A dividend must be paid directly into the Sovereign Wealth Fund in accordance with the ***Organic Law on the Sovereign Wealth Fund*** in respect of each financial year equal to the amount of available reserves of the Corporation (being the accumulated realised earnings from prior periods and the profits earned in the current year) at the end of that financial year less any amount required to be held by the Corporation to meet the requirements of the approved plan referred to in Subsection (1).”.

14. REPEAL OF SECTION 46B.

Section 46B of the Principal Act is repealed.

15. GOVERNANCE OF MAJORITY STATE OWNED ENTERPRISES (AMENDMENT OF SECTION 46C).

Section 46C of the Principal Act is amended -

- (a) in Subsection (1), by repealing the words “Section 9A, or by the Corporation, pursuant to Section 9A(8)” and replacing them with “Section 12”; and
- (b) in Subsection (2), by repealing the word “Directors” and replacing it with the word “directors”.

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16. ANNUAL PLAN OF MAJORITY STATE OWNED ENTERPRISES (AMENDMENT OF SECTION 46E).

Section 46E of the Principal Act is amended -

- (a) in Subsection (1), by repealing the word "Corporation" and replacing it with the words "National Executive Council"; and
- (b) by repealing Subsections (2) and (3) and replacing them with the following new subsections:

“(2) If a plan referred to in Subsection (1) is duly approved by the National Executive Council, it shall, notwithstanding the date of that approval, be binding on the Majority State Owned Enterprise in all respects from the commencement of the financial year to which it relates.

(3) No changes to a plan referred to in Subsection (1) shall be acted on or considered valid or effective until approved by the National Executive Council.

(4) In the course of -

- (a) preparing the annual plan, in the case of a Majority State Owned Enterprise; or
- (b) considering approval for the annual plan, in the case of the National Executive Council,

regard must be had to the need for the Majority State Owned Enterprise and its subsidiaries to be able to meet their debts as and when they fall due.”.

17. REPEAL AND REPLACEMENT OF SECTION 46F.

Section 46F of the Principal Act is repealed and replaced with the following:

“46F. PERMITTED EXPENDITURE BY MAJORITY STATE OWNED ENTERPRISES.

A Majority State Owned Enterprise shall not incur any expenditure, or acquire or dispose of any assets, during a financial year unless:

- (a) the expenditure or acquisition or disposal of assets is made in accordance with the plan referred to in Section 46E(1); or
- (b) the expenditure or acquisition or disposal of assets is approved by the National Executive Council; or
- (c) the total expenditure and value of acquisition of assets in any financial year incurred by the Corporation does not exceed K10,000,000.00, or such other limit as may be determined by the National Executive Council and advised to the Majority State Owned Enterprise from time to time; or
- (d) the total value of disposal of assets in any financial year incurred by the Majority State Owned Enterprise does not exceed K10,000,000.00, or such other limit as may be determined by the National Executive Council and advised to the Majority State Owned Enterprise from time to time.”.

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18. REPEAL AND REPLACEMENT OF SECTION 46G.

Section 46G of the Principal Act is repealed and replaced with the following:

“46G. PAYMENT OF DIVIDENDS BY MAJORITY STATE OWNED ENTERPRISES.

(1) A Majority State Owned Enterprise must, from time to time, declare dividends in accordance with Subsection (2) and may fix the time for payment of dividends, which shall be no later than two months after the end of each financial year.

(2) A dividend must be paid in respect of each financial year equal to the amount of available reserves of a Majority State Owned Enterprise (being the accumulated realised earnings from prior periods and the profits earned in the current year) at the end of that financial year less any amount required to be held by the Majority State Owned Enterprise to meet the requirements of the approved plan referred to in Section 46E(1).

(3) A Majority State Owned Enterprise shall pay all dividends to the Corporation.”.

19. BORROWING POWERS (AMENDMENT OF SECTION 46H).

Section 46H of the Principal Act is amended by repealing the reference “Sections 46B, 46F and 46G” and replacing it with “Sections 46E and 46F”.

20. DIRECTIONS AND POLICIES (AMENDMENT OF SECTION 46I).

Section 46I of the Principal Act is amended by repealing the words “The Corporation may” and replacing them with the words “Following the approval of the National Executive Council, the Minister may”.

21. REPEAL OF SECTION 46J.

Section 46J of the Principal Act is repealed.

22. REPEAL OF SECTION 56.

Section 56 of the Principal Act is repealed.

23. NEW SECTIONS 59B AND 59C.

The Principal Act is amended by inserting the following new sections after Section 59A:

“59B. KUMUL MINERALS HOLDINGS.

(1) In this section -

“Kumul Minerals Company” and “Kumul Minerals Trust” have the meaning given to them in Section 2 of the *Kumul Minerals Holdings Limited Authorisation Act 2015*;

(2) On the coming into operation of the *Kumul Minerals Holdings Limited Authorisation Act 2015*, Sections 9, 9A and 50 of this Act shall have no application to -

- (a) the assets of any Kumul Minerals Company; or
- (b) any of the shares or rights in respect of shares of any Kumul Minerals Company; or
- (c) any assets of the Kumul Minerals Trust.

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59C. KUMUL PETROLEUM HOLDINGS.

(1) In this section -

“Kumul Petroleum Company”, “National Petroleum (Kroton)” and “Kumul Petroleum Trust” have the meaning given to them in Section 2 of the *Kumul Petroleum Holdings Limited Authorisation Act 2015*.

(2) On the coming into operation of the *Kumul Petroleum Holdings Limited Authorisation Act 2015*, Sections 9, 9A and 50 of this Act shall have no application to -

- (a) the assets of any Kumul Petroleum Company; or
- (b) any of the shares or rights in respect of shares of any Kumul Petroleum Company; or
- (c) any assets of the Kumul Petroleum Trust.”.

I hereby certify that the above is a fair print of the *Independent Public Business Corporation of Papua New Guinea (Kumul Consolidated Holdings)(Amendment) Act 2015* which has been made by the National Parliament.

Acting Clerk of the National Parliament.

12 AUG 2015

I hereby certify that the *Independent Public Business Corporation of Papua New Guinea (Kumul Consolidated Holdings)(Amendment) Act 2015* was made by the National Parliament on 5 June 2015, by an absolute majority as required by the *Constitution*.

Speaker of the National Parliament.

12 AUG 2015