

No. 4 of 2006.

***Papua New Guinea Sports Foundation Act 2005.***

Certified on: 8/8/2006.



INDEPENDENT STATE OF PAPUA NEW GUINEA.



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INDEPENDENT STATE OF PAPUA NEW GUINEA.



AN ACT

entitled

*Papua New Guinea Sports Foundation Act 2005,*

Being an Act to establish the Papua New Guinea Sports Foundation, and for related purposes,

MADE by the National Parliament.

**PART 1. – PRELIMINARY.**

**1. INTERPRETATION.**

In this Act, unless the contrary intention appears –

“**Chairperson**” means the Chairperson of the Foundation appointed under Section 13;

“**Foundation**” means the Papua New Guinea Sports Foundation established by Section 3;

“**Commissioner**” means a Commissioner of the Foundation established by Section 12;

“**Deputy Chairperson**” means the Deputy Chairperson of the Foundation;

“**Director**” means the Director of the Institute;

“**Executive Director**” means the Executive Director of the Foundation;

“**Institute**” means the PNG National Sports Institute referred to in Section 8;

“**National Sports trust**” means the Company referred to in Section 9.

**2. LAW RELATES TO NATIONAL INTEREST.**

For the purposes of Section 42 of the *Organic Law on Provincial Governments and Local-level Governments* this law relates to a matter of national interests.

**PART 2. – ESTABLISHMENT, OBJECTS, FUNCTIONS AND POWERS OF THE FOUNDATION.**

**3. ESTABLISHMENT.**

(1) There is established by this Act, a Foundation by the name of Papua New Guinea Sports Foundation.

(2) The Foundation –

- (a) is a body corporate with perpetual succession; and
- (b) shall have a common seal; and
- (c) may sue and be sued.

(3) All courts, judges and persons acting judiciary shall take notice of the imprint of the common seal of the Foundation appearing on a document and shall presume that the document was duly sealed.

**4. OBJECTS.**

(1) The objects of the establishment of the Foundation are: –

- (a) to provide leadership in the development of sport in Papua New Guineans; and
- (b) to encourage increased participation and improved performance by Papua New Guineans in sport; and
- (c) to provide resources, services and facilities to enable Papua New Guineans to pursue and achieve excellence in sport which also furthering their educational and vocational skills and other aspects of their personal development; and
- (d) to improve sporting abilities of Papua New Guineans generally through the improvement of the standard of sports coaches; and
- (e) to foster co-operation in sport between Papua New Guinea and other countries through provision of access to resources, services and facilities related to sport; and
- (f) to encourage the private sector to contribute to the funding of sport to supplement assistance by the Government of Papua New Guinea.

(2) In this section, a reference to Papua New Guineans includes a reference to persons who are ordinary resident in Papua New Guinea.

**5. FUNCTIONS.**

(1) The functions of the Foundation are –

- (a) to advise the Minister in relation to the development of sport; and
- (b) to coordinate activities in Papua New Guinea for the development of sport; and



- (c) to develop and implement programs that promote equality of access to and participation in sport by all Papua New Guineans; and
- (d) to develop and implement programs for the recognition and development of:
  - (i) persons who excel in, or who have the potential to excel in sport; and
  - (ii) persons who have achieved, or who have the potential to achieve standards of excellence as sports coaches, umpires, referees or officials essential to the conduct of sports; and
- (e) to initiate, encourage and facilitate research and development in relation to sport; and
- (f) to undertake research and development related to sports science and sports medicine; and
- (g) to provide sports medicine services and sports science services to persons participating in programs of the Foundation; and
- (h) to establish, manage, develop and maintain facilities for the purposes of the Foundation; and
- (i) to collect and distribute information and provide advice on matters related to the activities of the Foundation; and
- (j) for the purpose of fostering cooperation in sport between Papua New Guinea and other countries, to provide access to persons from other countries to the resources, services and facilities of the Foundation; and
- (k) to raise money through the National Sports Trust or by other means for the purposes of the Foundation; and
- (l) to administer and expend money appropriated by the Parliament or raised in accordance with for the purpose of the Foundation; and
- (m) to consult and cooperate with appropriate authorities of the National Government of the Provinces and Local-level Government and with other persons, associations and organizations on matters related to the activities of the Foundation; and
- (n) to provide advice on matters related to the sport to the Papua New Guinea National Olympic Committee or other persons, bodies or associations; and
- (o) to cooperate with districts, provincial, national and international sporting organizations in aiming to foster a sporting environment that is free from the unsanctioned use of performance enhancing drugs and doping methods.

(2) The functions of the Foundation may be performed within or outside Papua New Guinea.

(3) The Foundation may perform any of its functions in cooperation with a district or provincial government for the purposes of encouraging sporting activities in the provinces or any person, association or organization.

(4) Subject to Section 10, the function of the Foundation under Paragraph (1)(n) may be performed at the discretion of the Foundation.

(5) The Foundation may perform its function to the extent only that they are not in excess of the functions that may be conferred on it by virtue of any of the legislative powers of the Parliament and in particular, may perform its functions –

- (a) by way of expenditure of money that is available for the purposes of the Foundation in accordance with an appropriation made by the Parliament; and
- (b) for purposes related to the collection of statistics; and
- (c) for purposes related to external affairs; and
- (d) for purposes in relation to Districts and Provincial Governments subject to the *Organic Law on Provincial Governments and Local-level Governments*.

(6) In this section, Papua New Guinea National Olympic Committee means Papua New Guinea Sports Federation Olympic Committee Incorporated, being an association incorporated under the *Associations Incorporation Act 1966*.

## **6. POWERS.**

(1) The Foundation has powers to do all things necessary or convenient to be done for or in connection with the performance of its functions and in particular may –

- (a) enter into contracts; and
- (b) acquire, hold and dispose of real or personal property; and
- (c) occupy, use and control any land or building owned or held under lease by the Government of Papua New Guinea and made available for the purpose of the Foundation; and
- (d) make grants or lend money and provide scholarships or like benefits; and
- (e) appoint agents and attorneys and act as an agent for other perform services for the Foundation; and
- (f) engage persons to perform services for the Foundation; and
- (g) accept gifts, grants, bequests and devises made to the Foundation (whether on trust or otherwise) and act as trustee of money or other property vested on the Foundation on trust; and
- (h) erect buildings and structures and carry out works; and

- (i) obtain commercial sponsorship for the Foundation and participate in marketing arrangements involving the endorsement by the Foundation of products and services associated with sports; and
- (j) obtain commercial sponsorship for the Foundation and participate in marketing arrangements involving the endorsement by the Foundation of products and services associated with sport; and
- (k) arrange manufactured of and distribute (whether by way of sales or otherwise), and article or thing bearing a mark, symbol or writing that is associated with the Foundation; and
- (l) provide (whether by sale or otherwise) goods and services to persons using, or otherwise attending at, facilities of the Foundation; and
- (m) despite Subsection 39(2), obtain goods and services on credit from any person or institution by the use of a credit card or official Foundation's Purchase Order of hire purchases facilities; and
- (n) may intervene and ensure good honest government, transparency and accountability in matters relating to sport, person, sporting organizations in the interest of sport and the Government of Papua New Guinea; and
- (o) do anything incidental to any of its powers.

(2) The Foundation may charge such fees or impose such changes as are reasonable in respect of –

- (a) access to or use of, any of the resources or facilities of the Foundation; and
- (b) the provision of programs, services, information or advice by the Foundation; and
- (c) the admission of persons to events and activities conducted by the Foundation.

#### **7. FORMATION OF FUND-RAISING CORPORATE BODY.**

The Foundation may incorporate a corporate body under the *Companies Act 1997* for the purpose of raising money for its operation, administration and management of its revenue generating projects.

#### **8. FOUNDATION TO OPERATE UNDER THE NAME "PAPUA NEW GUINEA NATIONAL SPORTS INSTITUTE" WHEN PERFORMANCE CERTAIN FUNCTIONS.**

The Foundation shall in connection with the performance of:

- (a) its functions under Paragraph (1)(d), (f), (g) and (h); and
- (b) such other of its functions (if any) as it considers appropriate, operate under the name "Papua New Guinea National Sports Institute".

**9. NATIONAL SPORTS TRUST.**

(1) As soon as practicable after the commencement of this Act, the Foundation may incorporate a corporate body known as “National Sports Trust” under the *Companies Act 1997* for the purpose of raising money for the development of sport in Papua New Guinea.

(2) After the establishment of a corporate body in accordance with Subsection (1) the corporate body is not authorized to change its name.

(3) The purpose of the National Sports Trust is to raise money for the development of sport in Papua New Guinea.

(4) Except to the extent necessary for the performance of its functions in relation to the Foundation, the corporate body referred to in Subsection (1) is not empowered to do anything that the Foundation is not empowered to do.

**10. DIRECTIONS TO FOUNDATION.**

(1) Subject to Subsection (2) the Minister may, by written notice, give directions to the Foundation with respect to the policies and practices to be followed by the Foundation in the performance of its functions, and the exercise of its powers, and the Foundation shall comply with the directions.

(2) The Minister shall not give a direction to the Foundation under the Subsection (1) unless the Minister –

- (a) has informed the Foundation, in writing, that the Minister is considering giving the direction; and
- (b) has given the chairperson an opportunity to discuss the need for the proposed direction with the Minister.

**11. ACCESS TO FACILITIES BY INDIVIDUALS AND COMMUNITY GROUPS.**

The Foundation shall, to the extent that it is practical to do so having regard to the objects for which it was established and its functions, allow individuals and groups within the community to have access to, and to make use of, the resources, services and facilities of the Foundation, whether or not for purposes related to sport.

**PART 3. – CONSTITUTION AND MEETINGS OF THE FOUNDATION.**

**12. CONSTITUTION OF THE FOUNDATION.**

(1) The Foundation shall consist of no more than ten Commissioners comprising: –

- (a) the Chairperson; and
- (b) the Deputy Chairperson; and
- (c) the Secretary of the Department of the Minister responsible for sport or his nominee; and
- (d) the Departmental Head of the Department responsible for Finance and Treasury matters, or his nominee; and
- (e) at least four and no more than six other persons generally to represent the community.

(2) The Commissioners referred to in Subsection (1)(a), (b) and (e) –

- (a) shall be appointed in accordance with the *Regulatory Statutory Authorities (Appointment to Certain Offices) Act 2004*;
- (b) shall be appointed for such period, not exceeding three years as is specified in the instrument of appointment; and
- (c) are eligible for re-appointment; and
- (d) shall hold office on such terms and conditions as are determined under the *Boards (Fees and Allowances) Act 1955*.

(3) A nominee referred to in Subsection (1)(c) and (d) shall be an officer at least of a level of Assistant Secretary or the equivalent.

**13. CHAIRPERSON AND DEPUTY CHAIRPERSON.**

(1) The Chairperson and the Deputy Chairperson shall be appointed in accordance with the *Regulatory Statutory Authorities (Appointment to Certain Offices) Act 2004*.

(2) The Chairperson and the Deputy Chairperson shall hold office for a period not exceeding three years on such terms and conditions as are fixed by the Head of State, acting on advice.

**14. LEAVE OF ABSENCE OF CHAIRPERSON, DEPUTY CHAIRPERSON AND COMMISSIONERS.**

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

**15. VACATION OF OFFICE.**

(1) The Chairperson, Deputy Chairperson and any Commissioner, other than an ex-officio Commissioners appointed under and , may resign his office by writing signed and delivered to the Minister.

(2) If the Chairperson, the Deputy Chairperson or a Commissioner –

- (a) becomes permanently incapable of performing his duties; or
- (b) resigns his office in accordance with ; or
- (c) is absent, except with the written consent of the Minister from three consecutive meetings of the Commission; or
- (d) fails to comply with ; or
- (e) becomes bankrupt, or applies to take the benefit of any law for the benefit 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 a term of imprisonment for (9 months) or longer, or by death, and as a result of the conviction is sentenced to imprisonment or death,

the Minister shall terminate his appointment.

(3) The Minister, may, at any time, by written notice, advice the Chairperson, Deputy Chairperson or a Commissioner that he intends to terminate his appointment on the grounds of inefficiency, incapacity or misbehaviour.

(4) Within 14 days of the receipt of a notice under Subsection (3), the Chairperson, Deputy Chairperson or a Commissioner may reply in writing to the Minister, who shall consider the reply, and, where appropriate, terminate the appointment.

(5) Where the Commissioner referred to in Subsection (2) does not reply in accordance with Subsection (4), his appointment is terminated.

**16. VACANCY NOT TO AFFECT POWERS OR FUNCTIONS.**

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

**17. DISCLOSURE OF INTERESTS.**

(1) The Chairperson, Deputy Chairperson or a Commissioner who has a direct or indirect pecuniary interest in a matter being considered or about to be considered by the Foundation shall, as soon as possible after the relevant facts have come to the Foundation's knowledge, disclose the nature of the interest at a meeting of the Foundation.

(2) A disclosure under , shall be recorded in the minutes of the meeting of the Foundation and unless the Minister or the Foundation otherwise determines, the Chairperson, Deputy Chairperson or a Commissioner shall not –

- (a) be present during any deliberation of the Foundation with respect to the matter; and
- (b) take part in any decision of the Foundation with respect to that matter.

## **18. MEETINGS OF FOUNDATION.**

(1) The Foundation shall hold such meetings as are necessary for the efficient performance of its functions.

(2) The Chairperson –

- (a) may, at any time, convene a meeting of the Foundation; and
- (b) shall, on receipt of a written request signed by not less than three other Commissioners convene a meeting of the Foundation.

(3) The Minister may, at any time, convene a meeting of the Foundation.

(4) The Chairperson shall preside at all meetings of the Foundation at which he is present.

(5) Where the Chairperson is not present at a meeting of the Foundation, the Deputy Chairperson shall preside, and where both the Chairperson and the Deputy Chairperson are not present, the Commissioners present shall elect one of their members to preside.

(6) Subject to this Act, the person presiding at a meeting may give directions regarding the procedure to be followed at or in connection with the meeting.

(7) At a meeting five members constitute a quorum and where a number of Commissioners that is not less than one-third of the number of Commissioners for the time being holding office, whichever is the greater number of Commissioners.

(8) All questions shall be decided by a majority of votes of the members present and voting and the foundation shall keep records of its meetings and of resolutions taken to have been passed at all its meetings.

(9) The person presiding at a meeting of Foundation has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

(10) Where, by reason of Section 17, a Commissioner is not present at a meeting of the Foundation during a deliberation of the Foundation with respect to a matter, but, if that Commissioner were present, there would be a quorum present, the remaining Commissioners present constitute a quorum for the purpose of any deliberation or decision of the Foundation at that meeting with respect to that matter.

(11) The Foundation may invite a person to attend a meeting of the Foundation for the purpose of advising or informing the Foundation on any matter.

## **19. COMMITTEES.**

(1) The Foundation may establish such Committees of its members as it thinks fit, and a Committee shall perform such functions as are directed by the Foundation.

(2) A Committee may co-opt a person (other than a Commissioner) to be an additional member of that Committee for the purpose of consideration of a particular matter.

(3) Where a Committee is constituted partly by a Commissioners and by other persons, the Chairperson of the Committee shall be a person who is a member of the Foundation.

(4) person who is a co-opt member under shall act in the advisory capacity only and is not entitled to remuneration or allowances.

(5) he number of members of a Committee required to constitute a quorum at a meeting of that Committee shall be as specified by the Foundation.

(6) Section 17 applies to a members of a Committee (including a member co-opt under as if: –

- (a) reference in that section to the Foundation were a reference to the Committee; and
- (b) reference in that section to a Commissioner were a reference to that member (whether or not that member is a Commissioner).

## **20. STRATEGIC PLAN.**

(1) The Foundation shall –

- (a) formulate a Strategic Plan setting out the manner in which the Foundation proposes to perform its functions on a continuing basis; and
- (b) from time to time, review and revise the Strategic Plan.

(2) A Strategic Plan, or a revision of the Strategic Plan, has no effect until approved by the Minister.

(3) The first Strategic Plan shall be submitted to the Minister within six months after the coming into operation of this Act.

(4) At any time when a Strategic Plan is in effect, the Foundation shall perform its functions otherwise then in accordance with its plan.

## **21. APPROVAL AND COMMENCEMENT OF STRATEGIC PLANS.**

A Strategic Plan prepared in accordance with Section 20 shall be submitted to the Minister for approval not less than 3 months, or such lesser period as the Minister, in special circumstances, allows, before the day of commencement of the period to which the strategic plan relates and shall come into force on:

- (a) the day on which it is approved by the Minister; or
- (b) the day of commencement of the period to which it relates, whichever is the later.



**22. VARIATION OF STRATEGIC PLANS.**

(1) The Foundation shall, from time to time, during the period in respect of which a strategic plan prepared in accordance with Section 21 is in force, consider whether a variation of the strategic plan is necessary.

(2) Where the Foundation considers that a variation of a strategic plan is necessary, the Foundation may, with the approval of the Minister, vary the strategic plan.

(3) Where a variation of a strategic plan is approved by the Minister the plan as so varied shall continue in force on and after the day on which the variation is so approved as if they plan had originally been approved by the Minister as so varied.

**23. ANNUAL OPERATIONAL PLAN.**

(1) The Foundation shall develop, and prepare in writing, in respect of each financial year ending after the commencement of this Act, an operational plan, setting out particulars of –

(a) the programs the Foundation proposes to carry out; and

(b) the resources the Foundation proposes to allocate to each such program,

during that year in giving effect to the strategic plan that relates, or the intended strategic plan that will relate, to a period that includes that year or a part of that year.

(2) If the Minister is of the opinion that an operational plan in relation to a financial year is inconsistent with the strategic plan relating to the period that includes that year or a part of that year, the Minister may, in writing, request the Foundation to revise the operational plan.

(3) The Foundation may, at any time, revise an operational plan, and shall revise the plan if the Minister requests it under to do so and gives written reasons for the request.

(4) An operational plan, or a revision of an operational plan –

(a) shall be submitted to the Minister as soon as practicable; and

(b) comes into force when it is approved, in writing, by the Minister.

(5) The Minister shall approve an operational plan, or a revision of an operational plan, unless the Minister is of the opinion that the plan, or the plan as propose to be revised, as the case may be, is inconsistent with the strategic plan.

**24. COMPLIANCE WITH PLANS.**

To the extent that it is practicable to do so and subject to this Act, the Foundation shall perform its functions and exercise its powers in a manner that is consistent with, and is designed to give effect to, any strategic plan and any operational plan that are in force.

**PART 4. – EXECUTIVE DIRECTOR.**

**25. FIRST EXECUTIVE DIRECTOR.**

(1) The person who, immediately before the coming into operation of this Act, held the office of Executive Director under the repealed Act, shall, on the coming into operation, continue to hold the office of Executive Director until an appointment is made under Section 26 of the Act.

(2) The person referred to in Subsection (1) shall hold office in accordance with the terms and conditions of employment of the office of Executive Director of the Foundation determined under the repealed Act until terms and conditions have been determined for the office of Executive Director at which time those terms and conditions shall apply.

**26. EXECUTIVE DIRECTOR.**

(1) There shall be an Executive Director of the Foundation, who shall be the Chief Executive Officer of the Foundation.

(2) The Chief Executive Officer shall be appointed for a period of 4 years, and is eligible for re-appointment.

**27. APPOINTMENT AND TERMS OF OFFICE.**

(1) The Executive Director shall be appointed, suspended or dismissed in a manner as specified in the *Regulatory Statutory Authorities (Appointment to Certain Offices) Act 2004*.

(2) Subject to Subsection (3), the Executive Director –

(a) shall hold office for such a period, not exceeding four years, and is determined by the Head of State, acting on advice; and

(b) is eligible for reappointment.

(3) A person who has attained the age of 60 years shall not be appointed or re-appointed as Executive Director and a person shall not be appointed or re-appointed as Executive Director for a period that extends beyond the date on which the person will attain the age of 60 years.

(4) The Executive Director holds office on such terms and conditions (if any) in respect of matters not provided for by this Act as are determined by the Head of State acting on advice.

**28. DUTIES OF EXECUTIVE DIRECTOR.**

(1) The Executive Director shall manage the affairs of the Foundation subject to the directions of, and in accordance with policies determined by the Foundation and the National Government.

(2) All acts and things done in the name of, or on behalf of, the Foundation by the Executive Director, for the purposes of this Act, shall be taken to have been done by the Foundation.

**29. OUTSIDE EMPLOYMENT.**

The Executive Director shall not engage in paid employment outside the duties of his or her office except with the approval of the Foundation or the Minister.

**30. REMUNERATION AND ALLOWANCES.**

Subject to *Salaries and Conditions Monitoring Committee Act 1988* the Executive Director shall be paid such remuneration and allowances as is determined by the Foundation.

**31. LEAVE OF ABSENCE.**

The Minister may grant leave of absence to the Executive Director on such terms and conditions as to remuneration or otherwise as the Minister determines.

**32. DISCLOSURE OF INTEREST.**

The Executive Director shall give written notice to the Minister of all direct or indirect pecuniary interests that the Executive Director has or acquires in any business.

**33. ACTING EXECUTIVE DIRECTOR.**

(1) A person (not being a commissioner) shall be appointed in accordance with the *Regulatory Statutory Authorities (Appointment to Certain Offices) Act 2004* to act as Executive Director –

- (a) during a vacancy in the office of Executive Director (whether or not an appointment has previously been made to the office); or
- (b) during any period, or during all periods, when the Executive Director is absent from duty or from Papua New Guinea or is, for any reason, unable to perform the functions of the Office of the Executive Director,

but a person appointed to act during a vacancy shall not continue so to act for more than 12 months.

(2) An appointment of a person under Subsection (1) may be expressed to have effect only in such circumstances as are specified in the instrument of appointment.

(3) The Minister in accordance with *Regulatory Statutory Authorities (Appointment to Certain Offices) Act 2004* may –

- (a) determine the terms and conditions of appointment, including the remuneration and allowances, of a person acting as Executive Director; and

(b) terminate such an appointment at any time.

(4) Where a person is acting on a position under Subsection (1)(b) and the Office of Executive Director becomes vacant while the person is so acting, then, subject to Subsection (2) the person may continue to act until –

(a) the Minister otherwise directs; or

(b) the vacancy is filled; or

(c) the expiry of a period of 12 months from the date on which the vacancy occurred,

whichever first happens.

### **34. STAFF OF THE FOUNDATION.**

(1) The staff required to assist the Foundation shall be persons appointed or employed by the Executive Director on such terms and conditions as the Foundation determines.

(2) The Executive Director of the Foundation has, in relation to the staff of the Foundation, all powers of, or exercisable by, a Departmental Head under the *Public Services (Management) Act 1995* in relation to officers or employees of the Foundation.

### **35. ASSETS, ETC, OF THE COMMISSION.**

All assets held or occupied by and all liabilities and obligations of the Papua New Guinea Sport Commission immediately prior to the coming into operation of this Act are, on that coming into operation, transferred to and become assets and liabilities and obligations of the Foundation.

### **36. STAFF.**

(1) The person who, immediately before the coming into operation of this Act, held the position of –

(a) Director of the National Sport Institute; or

(b) Director–Sport Coordination and Development; or

(c) Director-Cooperate Service; and

(d) Regional Managers – Momase and Southern Region,

under the repealed Act, shall, on that coming into operation, hold the position in an acting capacity under this Act and on the same terms and conditions until –

(e) his appointment expires or otherwise terminates according to law; or

(f) a new appointment to that position is made on terms and conditions determined under this Act,

whichever first happens.

- (2) A person who, immediately before the coming into operation of this Act –
- (a) held an office under the repealed Act; or
  - (b) was employed by the Papua New Guinea Sport Commission,

shall, on that coming into operation, hold a similar office in the secretariat under this Act and on the same terms and conditions, until –

- (c) his appointment expires or otherwise terminates according to law; or
- (d) an appointment is made to the office and terms and conditions determined under this Act,

whichever first happens.

### **37. TRANSFER OF OFFICERS.**

(1) A person who, immediately before the date of coming into operation of this Act was the substantive occupant of an office referred to in Section 36(1) shall, on that coming into operation, be deemed to have been appointed to an equivalent office under this Act.

(2) A person who, immediately before the date of coming into operation of this Act was acting in an office referred to in Section 36(2) shall, on and from that date of coming into operation, continue to act in the equivalent office under this Act.

### **38. SERVICE.**

All periods that were counted as service in the National Public Service in respect of the officers transferred under Section 36 shall be counted as service for the equivalent purpose under this Act.

### **39. CONSULTANTS.**

(1) The Foundation may engage persons having suitable qualifications and experience as consultants to the Foundation.

(2) The terms and conditions of engagement shall be determined by the Foundation and upon referral to Consultancy Steering Committee.

### **40. PUBLIC SERVICE RIGHTS.**

Where –

- (a) the Executive Director; or
- (b) a member of the staff of the Foundation,

was, immediately before the date of his appointment under this Act, an officer of the Public Service, his services as the Executive Director or as a member of the staff, as the case may be, shall for the purpose of determining his existing and accruing rights, be counted as service in the Public Service.

**PART 5. – FINANCE.**

**41. APPLICATION OF THE *PUBLIC FINANCES (MANAGEMENT) ACT 1995*.**

Part VIII of the *Public Finances (Management) Act 1995* shall apply to an in relation to the Board.

**42. APPROPRIATION OF MONEY.**

(1) There is payable to the Foundation such money as appropriated by the Parliament for the purposes of the Foundation.

(2) The Minister responsible for financial matters may give directions as to the amounts in which, and the times at which, money referred to in Subsection (1) is to be paid to the Foundation.

**43. ESTIMATES.**

(1) The Foundation shall prepare estimates, in such form as the Minister directs, of the receipts and expenditure of the Foundation, for each financial year and, if the Minister so directs, for any other period specified by the Minister, and the Foundation shall submit estimates so prepared to the Minister not later than such date as the Minister directs.

(2) The moneys of the Foundation shall not be expended, otherwise than in accordance with estimates of expenditure approved by the Minister.

**44. APPLICATION OF MONEY.**

(1) The money of the Foundation shall be applied only –

(a) in payment or discharge of the expenses, charges, obligations and liabilities incurred or undertaken by the Foundation in the performance of its functions and the exercise of its powers; and

(b) in payment of remuneration and allowances payable under this Act.

(2) Subsection (1) does not prevent investment of surplus money of the Foundation under Section 9(3) for the purpose of raising money for the development of sport.

**45. BORROWING FROM THE GOVERNMENT AND PAPUA NEW GUINEA.**

(1) The Minister responsible for financial matters may, on behalf of the Government, out of money appropriated by the Parliament for the purpose, to lend money to the Foundation at such rate of interest and on such terms and conditions as that Minister determines.

(2) The Foundation shall not borrow money except in accordance with Subsection (1).

(3) The Foundation may give security over the whole or part of its assets for the repayment of amounts borrowed under Subsection (1) and the payment of interests on amounts so borrowed.

**PART 6. – MISCELLANEOUS.**

**46. CONTRACTS.**

(1) The Foundation shall not, except with the written approval of the Minister –

- (a) enter into contract involving the payment or receipt by the Foundation of an amount exceeding K500,000.00; or
- (b) enter into lease of land for a period of 10 years or more.

(2) Paragraph (1)(a) does not apply to the investment of money by the Foundation in accordance with *Companies Act 1997* and Section 9(3).

**47. APPLICATION OF *PUBLIC FINANCES (MANAGEMENT) ACT 1995* .**

(1) It is hereby declared that the Foundation is a public authority to which Part VIII of the *Public Finances (Management) Act 1995* applies.

(2) The Foundation is a trading enterprise of Section 61 of the *Public Finances (Management) Act 1995*.

(3) For the purposes of Section 58 of the *Public Finances (Management) Act 1995* applies, tenders shall be publicly invited and contracts taken by the Foundation for all works, supplies and services the estimated cost of which exceeds K100,000.00 or such other figure declared by the Minister responsible for finance matters.

**48. TRUST MONEY.**

(1) The Foundation shall ensure that any money received or held by the Foundation or National Sports Trust on trust is paid into an account opened and maintained pursuant to the *Public Finances (Management) Act 1995* that does not, or accounts referred to in that section that do not, contain any money of the Foundation not held in trust.

(2) Money or other property held by the Foundation or National Sports Trust on trust shall be applied or dealt with only in accordance with the powers and duties of the Foundation and National Sports Trust as trustee.

(3) Money held by the Foundation and National Sports Trust on trust may be invested –

- (a) in a manner in which the Foundation and the National Sports Trust is authorized to invest that money by the terms of the trust; or
- (b) in a manner in which trust money may, for the time being, be invested under the Law,

but not otherwise.

**49. FOUNDATION EXEMPT FROM TAXATION.**

(1) Subject to Subsection (3) the income, (under Section 24 of the *Income Tax Act 1959*), property and transactions of the Foundation are not subject to taxation



under the laws of the National Government (other than laws relating to sales tax or of a Province).

(2) Subject to Subsection (3) sales tax (GST or VAT) is not payable by the Foundation, or by other person, on goods and services that are for use by the Foundation.

(3) The regulations may provide that Subsection (1) and Subsection (2) does not apply in relation to taxation under specified law.

**50. NATIONAL SPORTS TRUST EXEMPT FROM TAXATION.**

(1) Subject to Subsection (3) the income, (under Section 24 of the *Income Tax Act 1959*) property and transactions of the National Sports Trust are not subject to taxation under the laws of the National Government (other than laws relating to sales tax or of a province).

(2) Subject to Subsection (3) sales tax (GST or VAT) is not payable by the National Sports Trust, or by other person, on goods and services that are for use by the National Sports Trust.

(3) The regulations may provide that Subsection (1) and Subsection (2) does not apply in relation to taxation under specified law.

**PART 7. – DRUGS IN SPORT.**

**51. DEFINITIONS.**

(1) In this part, unless the contrary intention appears –

**“anti-Doping Policy”** means any current written policy of the Foundation or a sporting organization, in respect of performance enhancing drugs or doping methods;

**“doping method includes”:**

- (a) the manipulation or substitution of any of the following:
  - (i) any human biological fluid; and
  - (ii) any human biological tissue (whether alive or otherwise); and
  - (iii) any human breath; and
  - (iv) in a manner that is capable of concealing the use of a performance enhancing drug by a person concerned; and
- (b) the use of substance in a manner that is capable of concealing the use of a performance enhancing drug by the person concerned;

**“Sporting Organization”** means an organization of a particular country, or a part of a country, or an international organization that –

- (a) has control of one or more sports or sporting events; or
- (b) organizes or administers one or more sports or sporting events; or
- (c) accredits people to take part in sporting competition; or
- (d) provides team to compete in sporting competition; or
- (e) trans or provides finance for people to take part in sporting competition;

**“Sports Substance”** means a performance enhancing drug or a substance that is capable of concealing the use of a performance enhancing drug;

**“Competitor”** means any person engaged in the or unorganized sporting competition in a particular country, or a part of a country, or an international organization;

**“Foundation official means”:**

- (a) a member of the Foundation; or
- (b) a person employed by the Foundation under Section 34; or
- (c) a consultant engaged by the Foundation under Section 39; or
- (d) the Executive Director; or
- (e) the Director of the Institute; or

(f) the Medical Commission.

(2) A person who unlawfully supplies to or procures for any person anything knowing that it is intended to be unlawfully used to enhance results, is guilty of misdemeanour and subject to current written policy of the Foundation, or a sporting organization, in respect of performance enhancing drugs or doping methods.

**PART 8. – MISCELLANEOUS.****52. DELEGATION BY FOUNDATION.**

(1) The Foundation may, by resolution, delegate to:

- (a) a Commissioner of the Foundation;
- (b) the Committee established under Section 19;
- (c) the Executive Director;
- (d) Director – National Sports Institute;
- (e) Secretary-General – National Olympic Committee;
- (f) A person employed under Section 34,

all or any of the Foundation's powers under the Act, other than the Foundation's powers under Sections 19, 20, 22, 23, and 25(1), 26, 28(1) and 33(1) (including the Foundation's powers under Subsection 33(1)).

(2) The delegate is, in the exercise of a power so delegated, subject to any directions given by the Foundation.

**53. DELEGATION BY THE EXECUTIVE DIRECTOR.**

(1) The Executive Director may, by signed instrument, delegate to –

- (a) the Director of the National Sports Institute; or
- (b) a person employed under Section 34,

all or any of his or her powers under this Act.

(2) The delegate is, in the exercise of a power delegated under Subsection (1), subject to any directions given by the Executive Director.

**54. DELEGATION BY THE MINISTER.**

The Minister may, by signed instrument, delegate to:

- (a) the Foundation; or
- (b) a Commissioner of the Foundation; or
- (c) the Executive Director,

all or any of the Minister's powers under this Act, other than the Minister's power under Section 10, Subsection 12(2) and Sections 15, 21, 22, 23 and 46.

**55. PROTECTION FROM CIVIL ACTIONS.**

A Commissioner, the Executive Director, or the Director of the National Sports Institute is not liable to an action or other proceedings of damages for or in relation to an act done or omitted to be done in good faith in the performance or purported

performance any function, or in the exercise or purported exercise of any power of the Foundation.

**56. REPORTS TO MINISTER.**

The Foundation shall –

- (a) from time to time inform the Minister concerning the general conduct of its activities; and
- (b) furnish an annual report on its activities to the Minister every year.

**57. REGULATIONS.**

The Head of State, acting on advice, make regulations not inconsistent with the Act, prescribing matters –

- (a) required or permitted by this Act to be prescribed by regulations; or
- (b) necessary or convenient to be prescribed by regulations for carrying out or giving effect to this Act.

**58. BY-LAWS.**

(1) The Foundation may make by-laws, not inconsistent with that Act for the control, regulation and management of any sports complexes, land or building under its control.

(2) Notwithstanding anything in this Act or in any other law, a by-law made under Subsection (1) may –

- (a) authorize the making of charges for the admission of persons and vehicles to any sports complex, land or building under the control of the Foundation; and
- (b) impose penalties of fines not exceeding K2,000.00 for offences against by-laws.

(3) A by-law made under Subsection (1) is of no force and effect until –

- (a) approved by the Head of State, acting on advice; and
- (b) published in the National Gazette.

**59. STATUS OF THE FOUNDATION.**

(1) As soon as practical after the commencement of this Act, the Foundation shall become the supreme and controlling authority of all sports organizations in Papua New Guinea.

(2) It shall recognize the function of the National Olympic Committee established in 1974 to protect and promote the Olympic Movement in Papua New Guinea in accordance with the Olympic charter.

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(3) The National Olympic Committee while retaining its autonomy as required under the Olympic charter, will work in collaboration with the Foundation.

*See Schedule 1.*

**SCHEDULE 1**

*The amendments effected by Section 60 and this Schedule have been incorporated into the Papua New Guinea Sports Commission Act 1992.*

*Office of Legislative Counsel, PNG*