

No. 53 of 2014.

*APEC Papua New Guinea 2018 Co-ordination Authority Act 2014.*

Certified on : **23 DEC 2014**



No.        of 2014.

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No. of 2014.

AN ACT

entitled

***APEC Papua New Guinea 2018 Co-ordination Authority Act 2014,***

Being an Act to provide for the establishment and incorporation of an Authority to be known as the APEC Papua New Guinea 2018 Co-ordination Authority 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. COMPLIANCE WITH CONSTITUTIONAL REQUIREMENTS.**

(1) For the purposes of Section 53 (*protection from unjust deprivation of property*) of the *Constitution*, the purposes of this Act are public purposes.

(2) 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.**

In this Act unless the contrary intention appears -

“APEC” means the Asia-Pacific Economic Cooperation;

“APEC Papua New Guinea 2018” means the Asia-Pacific Economic Cooperation meetings to be held in Papua New Guinea from 2014 to 2018;

“Authority” means the Asia-Pacific Economic Papua New Guinea Co-ordination Authority established under Section 3 of this Act;

“Chief Executive Officer” means the Chief Executive Officer of the Authority;

“Completion of the APEC Hosting” means at the expiration of twelve (12) calendar months after the closing of the Asia-Pacific Economic Cooperation Economic Leaders’ Week and Related Meetings (AELM) in 2018;

“Minister” means the Minister responsible for APEC Papua New Guinea 2018.

**PART II. - THE AUTHORITY.**

***Division 1. - APEC Papua New Guinea 2018 Co-ordination Authority.***

**3. ESTABLISHMENT OF THE AUTHORITY.**

The APEC Papua New Guinea 2018 Co-ordination Authority is hereby established.

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**4. STATUS OF THE AUTHORITY.**

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

(2) All courts, judges and persons acting judicial shall take judicial notice of the common seal of the Authority affixed to a document and shall presume that it was duly affixed.

**5. FUNCTIONS OF THE AUTHORITY.**

- (1) The functions of the Authority are -
- (a) to liaise and consult with the relevant government departments and State agencies and other stakeholders to ensure the efficient and successful running of the APEC Meetings 2018; and
  - (b) to enter into and perform contracts for the construction and rehabilitation of the APEC Papua New Guinea 2018 venues and ancillary works and services; and
  - (c) to do all things ancillary to the foregoing.

(2) The Authority shall, in consultation with other government departments and State agencies, organise all logistical matters to ensure that -

- (a) correct protocols are afforded to all delegates; and
- (b) all APEC related meetings are held on time; and
- (c) all meeting venues and accommodation meet world class standards; and
- (d) all infrastructure associated with the APEC meeting meet world class standards and are completed on time.

**6. INDEPENDENCE OF THE AUTHORITY IN OPERATIONAL MATTERS.**

- (1) The functions of the Minister are to -
- (a) receive and consider reports from the Authority to ensure that it complies with this Act; and
  - (b) ensure that the objectives of the Authority are being achieved in accordance with this Act.

(2) The Minister shall not give directions to the Authority, APEC Papua New Guinea Supply and Tenders Board, the Operations Taskforce or any committee established under this Act or third party engaged by the Authority, in relation to the discharge of powers and functions under this Act.

(3) Subject to Subsection (2), the Minister may give general or specific directions as to Government policy on APEC in the setting and attainment of milestones in the APEC Papua New Guinea 2018 Strategic Plan covering all integrated logistics planning.

**7. POWERS OF THE AUTHORITY.**

The Authority has, in addition to the powers otherwise conferred by this Act, power to do all things that are necessary or convenient to be done in connection with the performance of its functions.

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### **8. DELEGATION.**

The Authority may, in consultation with the Operations Taskforce, by instrument under the hand of the Chief Executive Officer, delegate to any person all or any of its functions and powers (other than the power of delegation).

### *Division 2. - Oversight of the Authority.*

### **9. OVERSIGHT OF THE AUTHORITY.**

(1) The APEC Operations Taskforce shall provide oversight of the Chief Executive Officer and the Authority to ensure that the respective functions are properly performed.

(2) The APEC Operations Taskforce comprises the Chief Secretary as Chairman and such other relevant departmental heads and heads of State agencies, including but not limited to -

- (a) the departmental head responsible for trade matters; and
- (b) the departmental head responsible for foreign affairs matters; and
- (c) the departmental head responsible for treasury matters; and
- (d) the departmental head responsible for justice matters; and
- (e) the departmental head responsible for police matters; and
- (f) the departmental head responsible for defence matters; and
- (g) the departmental head responsible for works matters; and
- (h) the Director-General of the National Intelligence Organisation,

and such other persons as determined by the National Executive Council.

### **10. MANAGEMENT OF AUTHORITY.**

The Authority shall be managed by the Chief Executive Officer.

### **11. CHIEF EXECUTIVE OFFICER.**

(1) The National Executive Council shall appoint a Chief Executive Officer of the Authority.

(2) The Chief Executive Officer shall be appointed for an initial period not exceeding one year, with mutually agreeable option of successive one year extensions until the end of 2018 through the merit-based appointment process undertaken by a competent recruitment agency, using the following procedures:

- (a) the advertisement of the vacancy in the office in the two daily newspapers, together with a minimum person specification for applicants to the position; and
- (b) the assessment of each applicant's curriculum vitae and their competency to perform the prescribed duties as measured against a minimum person specification for the position; and
- (c) a ranked ordered assessment of all applicants for the advertised position in terms of their relative competency to perform the prescribed duties; and
- (d) the merit-based assessment described in this section shall be the primary consideration of the Selection Committee in making a recommendation to the National Executive Council.

(3) The recruitment agency shall provide a ranked list of applicants to the Selection Committee which shall prepare a list, using the merit-based process, of not less than three suitable candidates in the order of preference either from the list submitted by the recruitment agency or from the original applicants to the position, and shall submit its recommendations to the National Executive Council.

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- (4) The National Executive Council may -
- (a) select one of the candidates recommended by the Selection Committee and make the appointment of the selected candidate to the position; or
  - (b) reject any recommendation for appointment in which case, the position shall be re-advertised.
- (5) The Selection Committee referred to in this section shall consist of -
- (a) the Chief Secretary as Chairman; and
  - (b) the departmental head responsible for trade matters; and
  - (c) the departmental head responsible for foreign affairs matters.

(6) The terms and conditions of employment of the Chief Executive Officer shall be determined by the National Executive Council and shall be contained in a written Contract of Employment signed by the Minister and the Chief Executive Officer.

(7) The salary, allowances and benefits (financial and otherwise) of the Chief Executive Officer shall be determined by the Salaries and Conditions Monitoring Committee.

**12. FUNCTIONS OF THE CHIEF EXECUTIVE OFFICER.**

The functions of the Chief Executive Officer are -

- (a) to be responsible for the day-to-day business of the Authority; and
- (b) to implement the decisions of the Operations Taskforce; and
- (c) to administer the staff of the Authority in an efficient and effective manner and in accordance with the Operations Plan 2018; and
- (d) to be responsible and accountable to the Government in relation to the above functions.

**13. REMOVAL.**

(1) The National Executive Council shall remove the Chief Executive Officer where in the reasonable opinion of the Operations Taskforce, the Chief Executive Officer is -

- (a) incapable of performing his duty; or
- (b) in breach of his condition of employment; or
- (c) guilty of conduct prejudicial to the performance of the duties of his office.

(2) The National Executive Council, upon receiving the recommendation and reasons of the Operations Taskforce, shall terminate the Chief Executive Officer's appointment.

**14. POWERS AND DUTIES.**

Subject to the terms and conditions of his Contract of Employment and this Act, the Chief Executive Officer shall have and exercise such powers and perform such duties and functions to achieve the functions of the Authority.

**15. REPORTS.**

(1) The Authority shall -

- (a) on 30 June and 31 December in each year; and
  - (b) at such other times as requested by the Minister or National Executive Council,
- furnish reports on the progress and performance of the Authority in relation to its functions.

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(2) The Authority shall furnish such other reports at such other times as may be required by the Minister and shall report periodically to the National Executive Council through the Minister.

### ***Division 3. - Staff of the Authority.***

#### **16. APPLICATION OF THE SALARIES AND CONDITIONS MONITORING COMMITTEE ACT 1988.**

The Authority is a public authority for the purposes of the *Salaries and Conditions Monitoring Committee Act 1998*.

#### **17. APPOINTMENT OF OFFICERS AND STAFF OF THE AUTHORITY.**

The Chief Executive Officer may engage -

- (a) such officers and employees as are necessary for the efficient performance of its functions; and
- (b) such temporary or casual employees as may be necessary from time to time.

#### **18. PUBLIC SERVICE RIGHTS.**

Where a person appointed under Section 17 was, immediately before his appointment, an officer in the Public Service, his service as a staff of the Authority shall be counted as service in the Public Service for the purpose of determining his rights (if any) in respect of -

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

### **PART III. - FINANCES.**

#### **19. APPLICATION OF PUBLIC FINANCES (MANAGEMENT) ACT 1995.**

Part VIII (other than Sections 54, 55 and 57) of the *Public Finances (Management) Act 1995* applies to and in relation to the Authority.

#### **20. ESTABLISHMENT OF A SUPPLY AND TENDERS BOARD.**

(1) The Minister responsible for finance matters shall establish the APEC Papua New Guinea 2018 Supply and Tenders Board.

- (2) The APEC Papua New Guinea 2018 Supply and Tenders Board shall consist of -
- (a) the Chief Secretary, who shall be Chairman or his nominee, *ex-officio*; and
  - (b) the State Solicitor or his nominee, *ex-officio*; and
  - (c) the departmental head responsible for finance matters or his nominee, *ex-officio*; and
  - (d) the departmental head responsible for treasury matters or his nominee, *ex-officio*; and
  - (e) the departmental head responsible for foreign affairs matters or his nominee, *ex-officio*.

(3) In the event of the absence of a member of the APEC Papua New Guinea 2018 Supply and Tenders Board from a meeting of the Board or his inability for any reason to act in relation to a matter, his alternate has and may exercise and perform all his powers and functions for the purpose of that meeting or in relation to that matter.



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(4) The APEC Papua New Guinea 2018 Supply and Tenders Board shall establish its own secretariat, to institute and implement the tender process.

**21. FUNCTIONS OF THE SUPPLY AND TENDERS BOARD.**

(1) Subject to Part VII of the *Public Finances (Management) Act 1995*, the APEC Papua New Guinea 2018 Supply and Tenders Board shall control and regulate -

- (a) the purchase and disposal of property and stores; and
- (b) the supply of works and services,

for and on behalf of the Authority.

(2) Tenders shall be publicly invited and contracts let for the purchase or disposal of property or stores or the supply of works and services, whose estimated cost exceed the prescribed amount of K500,000.00.

(3) In the exercise of its powers under Subsection (1), the Supply and Tenders Board may -

- (a) invite a tender for any amount; and
- (b) enter into a contract, executed by the Chairman of the Board, for any amount up to K1,000,000.00,

for and on behalf of the Authority.

(4) A tender for the purchase or disposal of property or stores or for the supply of works or services that exceed K1,000,000.00 shall be executed by the Head of State acting on the advice of the National Executive Council.

(5) A tender for the purchase or disposal of property or stores or for the supply of works or services that exceed K50,000,000.00 shall go before the Central Supply and Tenders Board and be executed by the Head of State acting on the advice of the National Executive Council.

(6) The APEC Papua New Guinea 2018 Supply and Tenders Board shall appoint, from amongst government agencies, officers with the relevant technical expertise to be members of its technical evaluation committees for the projects tendered.

(7) The departmental head responsible for finance matters may make rules not inconsistent with the *Public Finances (Management) Act 1995* prescribing -

- (a) the manner of purchase or disposal of property and stores or the supply of works and services whose estimated cost does not exceed the prescribed amount specified in Subsection (3)(b); and
- (b) the criteria to be applied in the exemptions from public tender and contract for the purchase or disposal of property and stores or the supply of works and services; and
- (c) the procedures for the meeting of the Board; and
- (d) the manner of inviting tenders publicly; and
- (e) the method of dealing with tenders; and
- (f) the criteria to be applied in the evaluation of tenders; and
- (g) the appointment, by the Board, of advisers in technical matters; and
- (h) the keeping, by the Board, of records of the performance of each successful tenderer; and
- (i) the method of obtaining and dealing with quotations for -
  - (i) the purchase and disposal of property and stores; and

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- (ii) the supply of goods and services; and
- (j) the manner of regulating the disposal of property and stores no longer required by the Authority.

(8) The departmental head responsible for financial matters may, from time to time, issue to the Board, policy directions as to the giving of preference to national tenderers and local manufacturers, and such directions shall be binding on the Board.

**22. BANK ACCOUNTS.**

(1) The Authority shall, consistent with the *Public Finances (Management) Act 1995*, open and maintain an account or accounts at a commercial bank or banks in Papua New Guinea, as the Authority determines and shall, at all times, maintain at least one such account.

(2) All moneys paid or received by the Authority shall be paid into or out of such accounts.

**23. FUNDS OF THE AUTHORITY.**

The funds of the Authority shall consist of -

- (a) sums appropriated from consolidated revenue; and
- (b) such sums as are received, whether by loan, gift or otherwise by the Authority in the course of the exercise or performance of its functions and powers under this Act, and may be applied only in payment or discharge of the expenses, obligations and liabilities of the Authority arising under this Act or any other law.

**24. PROBITY AUDITOR.**

The Authority shall appoint a Probity Auditor, at the cost of the Authority, who -

- (a) must be independent of -
  - (i) the Authority; and
  - (ii) any entity engaged by the Authority for works and services for the APEC Papua New Guinea 2018; and
- (b) shall have unfettered access to all documents, information, and meetings of the Authority until such time as the appointment is completed; and
- (c) shall advise the Authority and Chairman of the APEC Papua New Guinea 2018 Supply and Tenders Board on matters of transparency and probity.

**PART IV. - WINDING UP.**

**25. WINDING UP.**

(1) Subject to this Act, as soon as practicable after -

- (a) the completion of the APEC Papua New Guinea 2018; or
- (b) a decision to cancel the APEC Papua New Guinea 2018,

the Authority shall be wound up and their respective assets disposed of as provided by this Act.

(2) Subsection (1) does not prevent the Authority from entering into a contract or arrangement, or from incurring an obligation, which will or may continue after -

- (a) the completion of the APEC Papua New Guinea 2018; or
- (b) a decision to cancel the APEC Papua New Guinea 2018,

if, in the opinion of the Authority, it is necessary or desirable to enter into such a contract or arrangement, or incur such an obligation for the achievement of the purposes of this Act or for the proper winding-up of the Authority and the disposal of its property.

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**26. TRANSFER OF ASSETS.**

All assets of the Authority shall, upon winding up under Section 25, be transferred to and become assets of the State.

**27. DISCHARGE OF LIABILITIES, ETC.**

Upon winding up of the Authority, all liabilities of the Authority shall be transferred to the State to be discharged by the department responsible for finance matters.

**28. DISPOSAL OF SURPLUS.**

Where, after all liabilities of the Authority have been fully discharged, there are surplus funds or assets in the name of the Authority, the disposal Schedule of the Operations Plan 2018 is to be consulted for the disposal of assets.

**29. REPORT ON WINDING UP.**

(1) On the date of the winding-up of the Authority under this Act, the Authority shall furnish to the Minister a final report, to the satisfaction of the Minister, on the activities and performance of the Authority and on its winding-up.

(2) The report under Subsection (1) shall -

- (a) include an audit report of the Authority's financial statements prepared by a first tier firm of auditors and accountants with an office in Port Moresby; and
- (b) be tabled in the Parliament by the Minister during the first sitting of Parliament after the receipt of the report by the Minister.

**PART V. - MISCELLANEOUS.**

**30. CEASING TO HAVE EFFECT.**


This Act is repealed upon completion of Part IV of the Act.

**31. REGULATIONS.**


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

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I hereby certify that the above is a fair print of the *APEC Papua New Guinea 2018 Co-ordination Authority Act 2014* which has been made by the National Parliament.

  
Acting Clerk of the National Parliament.  
23 DEC 2014

I hereby certify that the *APEC Papua New Guinea 2018 Co-ordination Authority Act 2014* was made by the National Parliament on 26 November, 2014 by an absolute majority in accordance with the *Constitution*.

  
Acting Speaker of the National Parliament.  
23 DEC 2014