

No. 17 of 2021.

Central Banking (Amendment) Act 2021.

Certified on : 22 DEC 2021



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Central Banking (Amendment) Act 2021.

ARRANGEMENT OF SECTIONS.

1. Purpose of the Act (Amendment of Section 2).
2. Interpretation (Amendment of Section 3).
3. Repeal and replacement of Section 7.

“7. OBJECTIVES OF THE CENTRAL BANK.”.

4. Repeal and replacement of Section 10.

“10. RESPONSIBILITY FOR FORMULATION AND IMPLEMENTATION OF MONETARY POLICY.”.

5. Repeal and replacement of Section 11.

“11. POLICY STATEMENTS.”.

6. Repeal and replacement of Section 14.

“14. LIAISON BETWEEN THE CENTRAL BANK AND THE DEPARTMENT RESPONSIBLE FOR TREASURY MATTERS.”.

7. New Section 14A.

“14A. LIAISON BETWEEN THE CENTRAL BANK AND THE MINISTER RESPONSIBLE FOR TREASURY MATTERS.”.

8. Repeal and replacement of Section 15.

“15. GOVERNOR.”.

9. Duties of the Governor (Amendment of Section 16).
10. Deputy Governor or Deputy Governors (Amendment of Section 19).
11. Conditions of engagement of Deputy Governor (Amendment of Section 20).
12. Repeal and replacement of Section 26.

“26. FUNCTIONS OF THE BOARD.”.

13. Repeal and replacement of Section 27.

“27. MEMBERSHIP OF THE BOARD.”.

14. Repeal and replacement of Section 28.

“28. TERM OF OFFICE OF MEMBERS OF THE BOARD.”.

15. Repeal and replacement of Section 32.

“32. MEETINGS OF THE BOARD.”.

16. New Sections 34A, 34B and 34C.

“34A. AUDIT AND RISK COMMITTEE.

34B. GOVERNANCE COMMITTEE.

34C. BUDGET AND INVESTMENT COMMITTEE.”.

17. Repeal and replacement of Section 44.

“44. ANNUAL REPORT AND ACCOUNTS.”.

18. Advances to the Government (Amendment of Section 55).

19. Repeal and replacement of Section 58.

“58. OFFICIAL VALUE OF MONETARY UNIT.”

20. Continuation of Board and staff (Amendment of Section 112).



No. 17 of 2021

AN ACT

entitled

Central Banking (Amendment) Act 2021.

Being an Act to amend the *Central Banking Act 2000*,

MADE by the National Parliament.

1. PURPOSE OF THE ACT (AMENDMENT OF SECTION 2).

Section 2 of the Principal Act is amended -

(a) deleting the full stop from Paragraph (d) and replacing it with the following by:

“; and;” and

(b) adding immediately after Paragraph (d) the following new paragraph:

“(e) make provisions in respect of banking services to the Government.”.

2. INTERPRETATION (AMENDMENT OF SECTION 3).

Section 3 of the Principal Act is amended by adding immediately after the definition of “liquid assets” the following new definition:

““meet virtually” means the entire meeting is held virtually or individual members may participate virtually;”.

3. REPEAL AND REPLACEMENT OF SECTION 7.

The Principal Act is amended by repealing Section 7 and replacing it with the following new section:

“7. OBJECTIVES OF THE CENTRAL BANK.

For the advantage of the people of Papua New Guinea, the objectives of the Central Bank are -

- (a) to formulate and implement monetary policy with a view to achieving and maintaining price stability and promoting employment and economic growth, especially of the non-mineral and non-petroleum sector; and
- (b) to formulate financial regulation and prudential standards to ensure stability and development of the financial system in Papua New Guinea; and
- (c) to promote an efficient national and international payments system; and
- (d) to provide efficient and responsive banking services to the Government.”.

Central Banking (Amendment)

4. REPEAL AND REPLACEMENT OF SECTION 10.

The Principal Act is amended by repealing Section 10 and replacing it with the following new section:

“10. RESPONSIBILITY FOR FORMULATION AND IMPLEMENTATION OF MONETARY POLICY.

(1) The Board is to formulate monetary policy and oversee its implementation consistent with the carrying out by the Central Bank of its objectives pursuant to Section 7(a).

(2) The responsibility of the Board includes, without limitation and in addition to any other powers conferred by this Act or any other law, the power to -

- (a) set the rate of interest payable on an instrument issued by the Central Bank or borrowing of the Central Bank; and
- (b) directions to buy, sell and otherwise deal in Kina in such volumes as determined by the Monetary Policy Committee; and
- (c) directions to buy, sell, discount and re-discount bills of exchange, promissory notes, treasury bills and other instruments; and
- (d) directions to buy, sell and otherwise deal in Kina, foreign currency, gold and other precious metals; and
- (e) directions on other operations in financial markets in line with the formulation of monetary policy.

(3) The Governor has power to do, in the country or elsewhere, all things necessary or convenient to be done to implement monetary policy as formulated and overseen by the Board.”.

5. REPEAL AND REPLACEMENT OF SECTION 11.

The Principal Act is amended by repealing Section 11 and replacing it with the following new section:

“11. POLICY STATEMENTS.

(1) The Board shall at least twice a year issue a policy statement setting out the monetary policy of the Central Bank to achieve and maintain its objectives as defined in Section 7(a) for the following six month period.

(2) Without limiting the generality of Subsection (1), a policy statement issued under Subsection (1) shall contain -

- (a) details of directions and actions taken in accordance with Section 10; and
- (b) a report on the meeting of the Board held prior to the issuance of the monetary policy statement, summarising the views of voting members and noting any votes.

(3) The Governor shall -

- (a) deliver to the Minister; and
- (b) cause to be published in the National Gazette; and
- (c) cause to be published on the internet; and
- (d) promote informed stakeholder discourse and engagement in relation to each policy statement issued under Subsection (1) and Subsection (4).

Central Banking (Amendment)

(4) The Board must review and assess and consequently issue a report on the formulation and implementation of monetary policy every five years, starting the year after which this provision comes into effect.”.

6. REPEAL AND REPLACEMENT OF SECTION 14.

The Principal Act is amended by repealing Section 14 and replacing it with the following new section:

“14. LIAISON BETWEEN THE CENTRAL BANK AND THE DEPARTMENT RESPONSIBLE FOR TREASURY MATTERS.

(1) The Central Bank and the department responsible for treasury matters shall keep each other fully informed of all matters that concern the Central Bank and the department jointly.

(2) There shall be a Departmental Board Observer on the Bank Board, which shall carry out the role in the following manner:

- (a) the Secretary to the department responsible for treasury matters must ensure that the Secretary, a Deputy Secretary or First Assistant Secretary to that department is nominated to be the Departmental Board Observer; and
- (b) the Departmental Board Observer has the same rights to attend and speak at a meeting of the Board as a member but has no right to vote on any question before the Board and is not subject to the duties that apply to Board members; and
- (c) the nomination must be made by written notice to the Bank Governor (with a copy to the officer or employee if it is a person other than the Secretary to the department); and
- (d) the Departmental Board Observer must perform that role subject to any conditions that are agreed to by the departmental Secretary and the Governor, including matters relating to confidentiality and avoiding conflicts of interest; and
- (e) those conditions remain in effect until the departmental Secretary and the Governor agree to amend the conditions (regardless of changes to the person who holds any office or role); and
- (f) the departmental Secretary may, at any time and entirely at the Secretary’s discretion, replace the Departmental Board Observer by giving written notice to the Chairperson; and
- (g) the function of the Departmental Board Observer is to facilitate the flow of information between the Bank and the department responsible for treasury matters.”.

7. NEW SECTION 14A.

The Principal Act is amended by adding immediately after Section 14 the following new section:

“14A. LIAISON BETWEEN THE CENTRAL BANK AND THE MINISTER RESPONSIBLE FOR TREASURY MATTERS.

(1) The Bank shall keep the Minister informed of policies relating to its objectives.

(2) The Bank must supply to the Minister any reports or other information relating to the performance of its duties that the Minister requests.

Central Banking (Amendment)

(3) The reports or information must be supplied at the time and in the manner reasonably required by the Minister.

(4) The department responsible for treasury matters shall assist the Minister in carrying out the Minister's role."

8. REPEAL AND REPLACEMENT OF SECTION 15.

The Principal Act is amended by repealing Section 15 and replacing it with the following new section:

"15. GOVERNOR.

- (1) There shall be a Governor of the Central Bank who shall -
- (a) be appointed by the Head of State, acting on advice; and
 - (b) be appointed for such period, of four years; and
 - (c) be eligible for re-appointment for a total maximum of two terms; and
 - (d) not serve as Governor in total more than eight years; and
 - (e) subject to this Act, not be subject to the direction or control of any person.

- (2) To be eligible for appointment as Governor, the person shall be appointed from among persons of -
- (a) good moral standing; and
 - (b) generally recognised standing and professional experience in banking or financial matters."

9. DUTIES OF THE GOVERNOR (AMENDMENT OF SECTION 16).

Section 16 of the Principal Act is amended by repealing Subsection 2 and replacing it with the following new subsection:

"(2) The Governor and the Board have the authority as defined in this Act to exercise the Central Bank's powers for the purposes of achieving the objectives and functions of this Act and implementing the policies of the Central Bank."

10. DEPUTY GOVERNOR OR DEPUTY GOVERNORS (AMENDMENT OF SECTION 19).

Section 19 of the Principal Act is amended by repealing Subsection (1) and replacing it with the following new subsection:

"(1) The Board shall, after consultation with the Governor and Minister, by notice in the National Gazette, appoint -

- (a) a Deputy Governor; or
- (b) two Deputy Governors,

of the Central Bank."

11. CONDITIONS OF ENGAGEMENT OF DEPUTY GOVERNOR (AMENDMENT OF SECTION 20).

Section 20 of the Principal Act is amended by repealing Subsection (1) and replacing it with the following new subsection:

"(1) The Deputy Governor or the Deputy Governors, as the case may be, shall be appointed for a term of four years and may be re-appointed for a maximum of two terms, each up to four years. Any existing appointments will need to be re-appointed consistent with Section 19."

Central Banking (Amendment)

12. REPEAL AND REPLACEMENT OF SECTION 26.

The Principal Act is amended by repealing Section 26 and replacing it with the following new section:

“26. FUNCTIONS OF THE BOARD.

- (1) Subject to this Act, the Board of the Central Bank is responsible for -
- (a) determining the policies of the Central Bank, including the formulation and implementation of monetary policy and the regulation of the financial system; and
 - (b) the general administration of the affairs and business of the Bank and the approval of the budget and operating plan of the Bank; and
 - (c) oversight of the management of the Bank and keeping under constant review the performance of the Bank in giving effect to its objectives and carrying out its functions and the use of the resources of the Bank.
- (2) The Governor and Deputy Governors shall be accountable to the Board for their acts and decisions.
- (3) The Board has oversight of the integrity of the accounts and financial statements of the Bank, the effectiveness of the internal control system, the performance of the internal audit function, compliance with legal and regulatory functions, and the management of risks.
- (4) The Board may require the Central Bank to produce any book or document and shall have access to any information which is necessary or relevant for the carrying out of its functions under this Act.
- (5) For the purposes of carrying out its functions under this Act, the Board may issue by-laws as are necessary and expedient in relation to the administration, affairs and business of the Central Bank or in respect of any other matters as set out in this Act.
- (6) The Board shall, following consultation with the Minister, issue a Board Charter to prescribe its further working arrangements, consistent with this Act.
- (7) The Board Chair and the Governor shall jointly submit every three months to the Minister a report on the proceedings and resolutions of the Board and the steps taken, if any, in consequence thereof.
- (8) The Central Bank is required to publish via the internet economic data in a comprehensive and timely manner.”.

13. REPEAL AND REPLACEMENT OF SECTION 27.

The Principal Act is amended by repealing Section 27 and replacing it with the following new section:

“27. MEMBERSHIP OF THE BOARD.

- (1) The Board shall consist of nine members.

Central Banking

- (2) The membership of the Board shall comprise -
- (a) the Governor, *ex officio*; and
 - (b) one Deputy Governor, selected by the Governor, if there is more than one Deputy Governor; and
 - (c) five persons appointed by the Head of State, acting on advice, in consultation with the Board, by notice in the National Gazette being from among persons of -
 - (i) good moral standing; and
 - (ii) generally recognised standing and professional experience; and
 - (d) two persons appointed by the Head of State, acting on advice, on the recommendation of the Board, by notice in the National Gazette being from among persons of -
 - (i) good moral standing; and
 - (ii) generally recognised standing and professional Experience, among whom at least one will have international experience in central banking and not a resident of Papua New Guinea.

(3) With respect to the persons in (d) the Board shall, on the basis of the recommendations of the Board Governance Committee, make a recommendation to the Minister and the Minister shall transmit that recommendation to the National Executive Council to advise the Head of State, to appoint the candidate recommended by the Board.

(4) The validity of the acts of the Board will not be affected by any vacancy in its membership.

(5) Members of the Board shall not be subject to the direction or control of any person including the Government.”.

14. REPEAL AND REPLACEMENT OF SECTION 28.

The Principal Act is amended by repealing Section 28 and replacing it with the following new section:

“28. TERM OF OFFICE OF MEMBERS OF THE BOARD.

(1) Members referred to in Section 27(2)(c) and Section 27(2)(d) shall hold office for a term of four years.

(2) A member may at any time resign from office by notice in writing to the Governor.

(3) A member may be re-appointed to the Board no more than once.

(4) A member other than an *ex officio* member appointed the first time following the passage of the amendment of this section, the member appointed to the Board by the Head of State, acting on advice -

- (a) under Section 27(2)(c) shall have a first term of two years, and one of four years; and
- (b) one appointed under Section 27(2)(d) shall have a first term of one year and one of three years,

which is to be decided by the Board Chair.”.

Central Banking (Amendment)

15. REPEAL AND REPLACEMENT OF SECTION 32.

The Principal Act is amended by repealing Section 32 and replacing it with the following new section:

“32. MEETINGS OF THE BOARD.

(1) The Board of the Central Bank shall meet as often as the business of the Central Bank requires at such times and places as the Board determines, but in any event not less frequently than once every three months.

(2a) The Board shall select a Chair and Deputy Chair from among those external members.

(2b) At a meeting of the Board, the Chair, or in their absence the Deputy Chair shall preside.

(3) At meetings of the Board the quorum necessary for the transaction of business is five members, one of which must be the Chair or Deputy Chair.

(4) Decisions of the Board shall be made by a majority of the votes of the members present.

(5) The member presiding has a deliberative vote and in the case of an equality of votes has a casting vote.

(6) The Board shall cause minutes of its meetings to be kept.

(7) Subject to this section, the Board may regulate its own procedure.

(8) Meetings can be held virtually and members can participate in meetings virtually.”.

16. NEW SECTION 34A, 34B AND 34C.

The Principal Act is amended by adding immediately after Subsection 34 the following new subsections:

“34A. AUDIT AND RISK COMMITTEE.

(1) The Board shall establish an Audit and Risk Committee.

(2) The Committee shall, among other duties -

(a) assist the Board in its oversight of -

(i) the integrity of the accounts and financial statements of the Central Bank; and

(ii) the effectiveness of the internal control system of the Central Bank; and

(iii) the performance of the internal audit function of the Central Bank; and

(iv) the compliance by the Central Bank with legal and regulatory requirements; and

(v) the review and management of risks; and

(b) appoint the auditor and review the audited accounts.

Central Banking (Amendment)

34B. GOVERNANCE COMMITTEE.

- (1) The Board shall establish a Governance Committee.
- (2) The Committee shall, among other duties -
 - (a) recommend external members of the Monetary Policy Committee, and of the Board and Board subcommittees; and
 - (b) assist the Board in reviewing and finalising the annual report; and
 - (c) assist the Board to -
 - (i) review and approve Central Bank corporate strategies; and
 - (ii) review Bank performance against benchmarks; and
 - (iii) review performance and assist with appointment of the Governor and Deputy Governors; and
 - (iv) oversee the promotion of and compliance with ethical and respectful behaviour among the Central Bank staff and the provision of safeguards to whistle-blowers.

34C. BUDGET AND INVESTMENT COMMITTEE.

- (1) The Board shall establish a Budget and Investment Committee.
- (2) The Committee shall, among other duties -
 - (a) examine and recommend to the Board the budget and operating plan of the Central Bank for approval; and
 - (b) assist the Board in overseeing the implementation of the budget and operating plan; and
 - (c) assist the Board in its oversight of the Bank's investments.
- (3) In relation to the committees described in Subsections (34A), (34B) and this section -
 - (a) there shall be a membership of at least three and quorum of two; and
 - (b) meetings should be held at least four times a year; and
 - (c) decisions shall be made via consensus, with disagreements to be recorded; and
 - (d) the Board shall appoint a chair for each committee from external Board members; and
 - (e) at least two members who are not Central Bank employees shall sit on each Committee.
- (4) All Board Committees can meet virtually.”.

17. REPEAL AND REPLACEMENT OF SECTION 44.

The Principal Act is amended by repealing Section 44 and replacing it with the following new section:

“44. ANNUAL REPORT AND ACCOUNTS.

Within six months after the end of each financial year the Central Bank Board shall deliver to the Minister and cause to be published on the internet -

- (a) a report on the operations of the Central Bank during that financial year;
- And

Central Banking (Amendment)

- (b) audited financial statements for that financial year; and
- (c) the auditor's report on those financial statements; and
- (d) a statement of the projected income and expenditure for the next financial year.”.

18. ADVANCES TO THE GOVERNMENT (AMENDMENT OF SECTION 55).

Section 55 of the Principal Act is amended -

- (a) by repealing Subsections (2), (3) and (4) and replacing them with the following new subsections:

“(2) The Central Bank shall grant temporary advances to the Government in respect of temporary deficiencies of revenue due to cash flow mismatches at an interest rate or rates at the lower of the official monetary policy rate or the prevailing comparable rates payable by the Government on treasury bills or notes, or securities issued by the Government.

(3) If after that date on which repayment of advances is due any such financing remains outstanding, the power of the Central Bank to extend further advances shall not be exercisable unless and until the outstanding financing has been repaid.

(4) Subject to Subsection (6), the total amount of advances under Subsection (2) -

- (a) shall not at any time exceed 12 percent of the annual average total revenue and grants receipts (including donor grants and loans but not including one-off asset sales or their equivalent) averaged over the previous three years to the year in which advances are sought;
- (b) shall be repaid to the Central Bank as soon as practicable, but in any case, no later than the end of the financial year.”; and

- (b) by repealing Subsections (8) and (9) and replacing them with the following new subsections:

“(8) The Central Bank may, in the pursuit of its objectives, purchase and sell in the most economical way possible treasury bills or notes or securities issued by the Government at market-determined yields.

(8A) Central Bank holdings of treasury bills, notes or securities excluding the outstanding temporary advance under Section (2) may not exceed 25 percent of revenue (including foreign aid and loans but not including one-off asset sales or their equivalent) averaged over the last three years.

(8B) After that date on which repayment of securities is due, the power of the Bank to purchase further securities shall not be exercisable unless and until the outstanding financing has been repaid.

(9) If a national emergency is declared for the whole of Papua New Guinea consistent with the *Constitution* or an Act of Parliament, the limit on Central Bank holdings of government securities defined in Subsection (8A) above may be increased from 25 percent to 40 percent for the duration of the national emergency.”; and

Central Banking (Amendment)

(c) by adding immediately after Subsection (9) the following new subsection:

“(10) If such an increase is made for a national emergency, the old limit must be adhered to within two years of the ending of the national emergency.”.

19. REPEAL AND REPLACEMENT OF SECTION 58.

The Principal Act is amended by repealing Section 58 and replacing it with the following new section:

“58. OFFICIAL VALUE OF MONETARY UNIT.

(1) The official value of the monetary unit in terms of other currencies may be determined by the Board acting on, and in accordance with, policy statements issued pursuant to Section 11 and to achieve the objects of the Central Bank under this Act.

(2) The preferred Central Bank quoting of official values in terms of other currencies is to put the Kina first.”.

20. CONTINUATION OF BOARD AND STAFF (AMENDMENT OF SECTION 112).

Section 112 of the Principal Act is amended -

(a) by repealing Subsection (1) and replacing it with the following new subsections:

“(1) The persons who, immediately before the coming into operation of the amended Section 15(1)(b) held the position of Governor, shall, on the coming into operation of the amended Section 15(1)(b), notwithstanding the appointment process set out in this Act, be subject to the term limits set out in Section 15(1) as amended.

(1A) If that term limits under Section 15(1) have been exceeded, new appointments shall be made by the Head of State, acting on advice, such appointments to be made as expeditiously as possible.

(1B) For any existing Deputy Governor, the appointment process of Section 19 shall apply and any existing Deputy Governors shall re-apply for the position.

(1C) If the term limits under Section 15(1) have been exceeded, or if a Deputy Governor is not reappointed under new Section 19, the Governor or Deputy Governors will have any salary, remuneration or benefits paid from the ending of their term through to the original ending of the term.

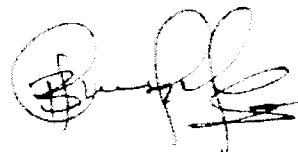
(1D) In the circumstance of the term limits being exceeded, Section 18(4) shall not apply.”; and

Central Banking (Amendment)

(b) by repealing Subsection (3) and replacing it with the following new subsection:

“(3) The terms of all current members of the Board of the Central Bank shall lapse and a new Board be appointed at the earliest possible time with the amended provisions of this Act.”.

I hereby certify that the above is a fair print of the ***Central Banking (Amendment) Act 2021***, which has been made by the National Parliament.



Acting Clerk of the National Parliament.

22 DEC 2021

I hereby certify that the ***Central Banking (Amendment) Act 2021***, was made by the National Parliament on 2 December 2021.



Acting Speaker of the National Parliament.

22 DEC 2021