

No. 5 of 2007

National Development Bank Act 2007

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INDEPENDENT STATE OF PAPUA NEW GUINEA.

No. of 2007.

National Development Bank Act 2007.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.

No. of 2007.

AN ACT

Entitled

National Development Bank Act 2007,

Being an Act to provide for the establishment of the National Development Bank and to define its powers and functions, 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 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) This Act, to the extent that it regulates or restricts the exercise of 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 expression and publication conferred by Section 46; and
- (c) the right to peacefully assemble and associate and to form or belong to, or not to belong to, political parties, industrial organisations or other associations conferred by Section 47; and
- (d) the right to freedom of choice of employment in any calling for which a person has the qualifications (if any) lawfully required conferred by Section 48; and
- (e) the right to reasonable privacy conferred by Section 49; and
- (f) the right of reasonable access to official documents conferred by Section 51, of the *Constitution*, is a law that is made (pursuant to Section 38 of the *Constitution*), taking account of the National Goals and Directive Principles and the Basic Social

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Obligations, in particular the National Goals and Directive Principles entitled –

- (g) national sovereignty and self reliance; and
- (h) natural resources and environment, for the purpose of giving effect to the public interest in public order and public welfare.

2. INTERPRETATION.

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

"Bank" means the company incorporated in accordance with Section 4;

"Board" means the National Development Bank Board established by Section 0;

"Chairman" means the Chairman of the Board for the time being appointed under Section 13;

"Deputy Chairman" means the Deputy Chairman of the Board for the time being appointed under Section 13;

"Managing Director" means the Managing Director appointed under Section 23;

"Minister" means the Minister with ministerial responsibility over the National Development Bank;

"Secretary" means the Secretary of the Board appointed under Section 17;

"this Act" includes any regulations made under it.

(2) A reference in this Act to any other Act includes –

- (a) any regulations made under that other Act; and
- (b) any Act that is substituted for or that replaces that other Act; and
- (c) any regulations made under any such substitute or replacement Act.

3. ACT BINDS THE STATE.

This Act binds the State.

PART II. - THE NATIONAL DEVELOPMENT BANK.

Division 1. – The National Development Bank.

4. INCORPORATION OF THE NATIONAL DEVELOPMENT BANK.

(1) For the purposes of this Act, there shall be an entity named the National Development Bank to be incorporated under the *Companies Act 1997* and having a constitution.

(2) The Bank –

- (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 and style.

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(3) All courts, Judges and persons acting judicially shall take judicial notice of the common seal of the Bank affixed to a document and shall presume that it was properly affixed.

5. FUNCTIONS OF THE BANK.

The functions of the Bank are –

- (a) to mobilise savings and provide credit and other banking and financial services to the people of Papua New Guinea; and
- (b) to carry out such other functions as are given to it under this Act or any other law; and
- (c) generally to do such supplementary, incidental, or consequential acts and things as are necessary or convenient for the Bank to carry out its functions.

6. POWERS OF THE BANK.

The Bank has, in addition to the powers otherwise conferred on it by this Act and any other law, power to do all things necessary or convenient to be done for or in connection with the performance of its functions.

7. BANK NOT A DEPARTMENT.

(1) The Bank is not a public body for the purposes of the *Public Services (Management) Act 1995*, and the provisions of the Act do not apply to the Bank.

(2) The provisions of the Salaries and Conditions Monitoring Committee Act 1998 do not apply to the Bank.

Division 2. – National Development Bank Board.

8. NATIONAL DEVELOPMENT BANK BOARD.

(1) There is established a board for the Bank to be called the National Development Bank Board.

(2) Subject to Section 6 the Board is to perform the functions, exercise the powers and manage and direct the administrative affairs of the Bank.

(3) In the exercise of its functions under this Act, the Board shall act in accordance with, and shall give effect to, any general or specific directions as to policy given to it from time to time by the National Government through the Minister provided the policy directions are lawful and are in the best interest of the Bank.

(4) Any direction as to policy given by the Minister under this Act shall not be inconsistent with the provisions of this Act.

(5) Notwithstanding anything in this Act, the Managing Director has the sole right and responsibility, to the exclusion of the Board, to supervise and direct the staff of the Bank in the exercise of all powers, functions and discretions in respect of the business of the Bank and the administration and enforcement of this Act.

9. MEMBERSHIP OF THE BOARD.

- (1) The Board shall consist of not more than nine members comprising -
- (a) the Managing Director, *ex officio*; and
 - (b) the Departmental Head of the Department responsible for treasury matters, or his nominee who must occupy a position in the National Public Service of a level no lower than Deputy Secretary, *ex officio*; and
 - (c) a person nominated by the Rural Industries Council who is a chief executive of an agricultural commodity board; and
 - (d) a person nominated by the Rural Industries Council who is a chief executive of a company whose main business undertaking is in the agricultural sector; and
 - (e) a person nominated by the Papua New Guinea Institute of Practising Accountants who is a chartered practicing accountant and a member of the Papua New Guinea Institute of Practising Accountants; and
 - (f) a person nominated by the Papua New Guinea Law Society who is a member of the Papua New Guinea Law Society; and
 - (g) a person with significant business management, accounting or financial experience nominated by the Papua New Guinea Chamber of Commerce; and
 - (h) two persons appointed by the Head of State, acting on advice, from the National Executive Council by notice in the National Gazette, from a list of six candidates with significant experience in the banking and finance industry nominated by the Board from applications solicited from the public by way of public advertisement.

(2) A person nominated under Section 9(c), (d), (e), (f) and (g) shall, unless he is ineligible for appointment as a member of the Board under Section 10, shall hold office as a member of the Board.

(3) Where a person nominated under Section 9(c), (d), (e), (f) and (g) is ineligible for appointment as a member of the Board under Section 10, the Chairman or the Secretary shall give notice to the nominating body advising that body to nominate another person to be a member of the Board.

(4) The Chairman or the Secretary shall publish a notice of appointment or termination of appointment of a member of the Board appointed under Subsection (2) in the National Gazette.

10. ELIGIBILITY TO BE A MEMBER OF THE BOARD.

No person shall be appointed as a member of the Board, under Section 9, if that person -

- (a) has been a professional adviser or consultant of the Bank or a Subsidiary within the last three years prior to his appointment; and
- (b) is a supplier of the Bank or a subsidiary; and
- (c) has contractual relationship with the Bank or a subsidiary, other than as a director of the Bank; and

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- (d) is not free from any interest and any business or other relationship which could, or could reasonably be perceived to, materially interfere with the director's ability to act in the best interests of the Bank.

11. TERM OF THE BOARD.

Once appointed all members of the Board shall serve a full term of four years and be eligible for reappointment for a second term. Directors can resign on their own accord or be terminated on the grounds provided under Section 12(1) of the Act.

12. DISQUALIFICATION OF MEMBERS OF BOARD.

(1) No person shall be appointed or reappointed as a member of the Board, if that person –

- (a) is a Judge; or
- (b) is a parent, child, sibling or cousin of a person who is a current member of the Board, or a parent, child or sibling of such a person; or
- (c) is or has been bankrupt, or has applied to take the benefit of any law for the benefit of bankrupt or insolvent debtors, or has compounded with his creditors or made an assignment for their benefit; or
- (d) is 70 years of age or over; or
- (e) is standing or to stand trial for, or has been convicted of, any offence punishable under a law by imprisonment; or
- (f) is subject of a referral to the Leadership Tribunal by the Ombudsman Commission; or
- (g) is prohibited from being a director or member or promoter of, or from taking part (in any way, whether directly or indirectly) in the management of, a company under any law of the State; or
- (h) has his affairs administered under any law relating to mental health; or
- (i) has previously been dismissed from public office by a Leadership Tribunal.

(2) The Board shall decide an appropriate fee to be paid having regard to the functions, duties and responsibilities of the members of the Board under this Act and shall recommend this fee to the Minister.

(3) Each member of the Board, other than an *ex officio* member or his alternate member, should be paid a fee as determined by the Minister after considering the Board's recommendation.

(4) The bank must pay each member of the Board reasonable travelling and other expenses incurred in carrying out their duties under the Act.

13. APPOINTMENT OF THE CHAIRMAN AND DEPUTY CHAIRMAN OF THE BOARD.

(1) Subject to this Act, the National Executive Council shall appoint a Chairman and Deputy Chairman from amongst the Board members appointed under Section 9 of this Act.

(2) The National Executive Council shall appoint a Chairman and Deputy Chairman from the list of names of Board members submitted to the National Executive Council by the Bank.

(3) The Managing Director is not eligible to be appointed as Chairman or Deputy Chairman.

14. GRANT OF LEAVE OF ABSENCE BY CHAIRMAN.

(1) The Chairman shall have the power to grant a leave of absence to a Board member on terms and conditions that the Chairman determines.

(2) The Board may grant leave of absence to the Chairman on terms and conditions that the Board determines.

15. SUSPENSION AND RESIGNATION OF BOARD MEMBERS.

(1) A member is deemed to be automatically suspended from the Board upon criminal proceedings being brought against him.

(2) The suspension is deemed to be lifted upon dismissal of the proceedings by the court upon the member's acquittal in the proceedings.

(3) A Board member, other than an *ex officio* member, may resign his office by tendering his written resignation to the Bank.

16. TERMINATION OF BOARD MEMBERS.

(1) A member's appointment to the Board can only be terminated in the event of any of the following -

- (a) death or permanent incapacity; or
- (b) tendering of written resignation; or
- (c) is convicted of a criminal offence; or
- (d) absence, without written consent of the Board, or leave granted by the Board or Chairman as the case may be, from three consecutive meetings; or
- (e) failure to disclose an interest; or
- (f) does not comply with the eligibility criteria identified in Section 10; or
- (g) ceases to be a resident of Papua New Guinea; or
- (h) if a lawyer, has his or her right to practice as a lawyer revoked by the Papua New Guinea Law Society; or
- (i) if an accountant, has his right to practice as an accountant revoked by the Papua New Guinea Institute of Accountants; or
- (j) ceasing to occupy the position that entitles him to the directorship, if an *ex-officio*; or

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- (k) upon the service to the Bank of a notice of objection by the Ombudsman Commission stating that the Director is not a fit and proper person to be a director of the Bank.

(2) The powers and functions of the Board are not to be invalidated by a reason of vacancy in the membership of the Board.

(3) The Bank must give written notice to the Minister if any person has become or ceased to be a director, the Managing Director, of the Bank within 14 days of the Bank becoming aware of the relevant facts.

17. SECRETARY OF THE BOARD.

The Board shall be required to appoint an employee of the Bank on recommendation from the Managing Director as Secretary, who will be responsible for the convening meetings, and recording minutes for the Board and undertaking other administrative and legal and statutory functions of the Board.

18. MEETINGS OF THE BOARD.

(1) The Board must meet not less than once every three months, or as often as the business of the Board requires.

(2) Each Board member in the country must be given at least 7 days notice of a meeting.

(3) The quorum of the Board shall be five members, with the Chairman presiding or in the Chairman's absence the Deputy Chairman or a member appointed as Chairman for that meeting if the Deputy Chairman is absent.

(4) Each member shall have one vote, with matters before the Board to be decided by a majority of the votes of the members present and voting.

(5) The person presiding at a meeting has a deliberative as well as a casting vote in the event of an equality of votes.

(6) The Board will be required to keep records, minutes and determine its own procedures.

(7) When the Board is required to consider the termination of the Managing Director, five members of the Board, other than the Managing Director, should be able to attend a meeting which discusses the termination of the Managing Director, except that he shall not be allowed to vote or participate in discussion or debate other than when determined by members present to answer or defend allegations against him.

(8) Where the termination of the Managing Director is being considered by the Board, no other business or matter may be transacted, considered or dealt with.

19. DISCLOSURE OF INTEREST.

(1) A Board member who has a direct or indirect interest in a matter being considered, or about to be considered by the Board, disclose the nature of the interest at a meeting as soon as he is aware of the relevant facts, such a disclosure should be noted in the minutes of meeting.

(2) The Board member making the disclosure should not participate in any debate, deliberation, decision or vote of Board in relation to the matter and would be disregarded for the purposes of determining whether a quorum is present.

20. ESTABLISHMENT OF COMMITTEES

(1) The Board shall establish committees to advise it on such matters as it considers necessary.

(2) The Board shall appoint people that it considers necessary to the committees and specify the functions and procedures of a committee and determine appropriate remuneration if required.

21. REPORTS.

The Board shall at the request of the Minister, reports in relation to the functions of the Bank, which would be in addition to the annual report.

22. INDEMNITY OF DIRECTORS.

A Director of the Bank shall not be liable for all actions, suits, proceedings, claims or demands in any jurisdiction arising out of any act, matter or thing done or omission, by that Director in good faith and without negligence for the purpose of carrying out or giving effect to the Act.

23. MANAGING DIRECTOR.

(1) The Managing Director appointed under this Act shall be the Chief Executive Officer of the Bank, the head of staff of the Bank and will be responsible to the Board for the efficient carrying out of the functions of the Bank.

(2) Subject to this section the Managing Director shall be appointed by the National Executive Council from a short list of candidates recommended by the Board to the Minister.

(3) The Managing Director shall –

- (a) possess at least a graduate degree in a related field to the activities of the Bank; and
- (b) be eligible for membership to the Papua New Guinea Institute of Directors; and
- (c) must have significant experience in banking, financial services or commerce.

(4) Prior to his appointment as the Managing Director, approval must be sought by the Ombudsman Commission that the Managing Director is a fit and proper person.

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- (5) The Managing Director shall be appointed for a term of four years and on such terms and conditions determined by the Board and is eligible for reappointment.
- (6) Where the Managing Director –
- (a) becomes incapable for any reason of performing his duties;
 - (b) other than with the consent of the Board, engages in any paid employment or carried on business outside the duties of his office;
 - (c) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his salary for their benefit;
 - (d) resigns his office in writing, signed by him and delivered to the Bank;
 - (e) is convicted of an offence that is punishable under a law;
 - (f) ceases to be a resident of Papua New Guinea;
 - (g) upon the service of objection to the Managing Director and the Ombudsman Commission stating that the Managing Director is not a fit and proper person to hold the Managing Director's position, his appointment shall be terminated.
- (7) The Managing Director may be terminated on such other grounds as are provided in his contract of employment.

(8) Any contract, arrangement or understanding under which the Managing Director may be entitled to any compensation or payment in respect of the termination of his appointment other than as provided for above is void and of no force or effect.

24. FUNCTIONS OF THE MANAGING DIRECTOR.

- (1) The Managing Director shall manage the Bank in accordance with the policy and direction of the Board.
- (2) The Managing Director shall advise the Board on any manner concerning the Bank referred to him by the Board and as otherwise specified in this Act and the constitution.
- (3) The Managing Director shall carry out and perform the functions, powers and duties required of him under this Act, the constitution and his contract of employment and any other such functions, powers and duties as the Board may from time to time determine.
- (4) The Managing Director, by instrument in writing to delegate all or any of his functions, powers (other than his power of delegation) or duties to any person, however, such delegation must be reported immediately to the Board in writing.

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(5) When the Managing Director is on vacation or absent from work with the consent of the Chairman, the Chairman may appoint a member of the staff recommended by the Managing Director to assume the powers of the Managing Director, including his powers as a Director of the Bank, until the Managing Director returns to work.

(6) The Managing Director may not accept appointment to the board of directors of a company which is not a wholly owned subsidiary of the Bank without first seeking the consent of the Board of the Bank.

25. STAFF OF THE BANK.

(1) The Managing Director may appoint employees of the Bank who he considers necessary for the purpose of giving effect to the Act and the constitution, in accordance with policies established and approved by the Board on such terms and conditions as the Board determines and he may dismiss any such employee in accordance with procedures established by the Board.

(2) The Managing Director shall direct and control the employees of the Bank.

(3) The staff of the Bank (including the Managing Director) are not officers of the Public Service and the Department of Personnel Management shall have no function or role in relation to the staff of the Bank.

(4) The Managing Director and each employee of the Bank must be employed under a contract of employment.

(5) The Managing Director's contract of employment must be executed by the Bank under its common seal attested by the Chairman and Deputy Chairman of the Board and by the Managing Director and in the case of any other employees to be executed by the Managing Director on behalf of the Bank and by the employee in accordance with procedures established by the Board.

PART III. - BANKS AND FINANCIAL INSTITUTIONS ACT.

26. APPLICATION TO APPLY FOR A LICENSE UNDER THE *BANKS AND FINANCIAL INSTITUTIONS ACT 2000.*

The National Development Bank may apply for a license from the Bank of Papua New Guinea under the *Banks and Financial Institutions Act 2000* to be able to mobilize public deposits and offer other banking and financial services where a license is required.

27. *PUBLIC FINANCES (MANAGEMENT) ACT 1995.*

(1) Subject to Subsection (3), for the avoidance of doubt, the Bank is not a public body for the purposes of the Public Finances (Management) Act 1995.

(2) Section 4 of the Independent Public Business Corporation Act 2000 is deemed not to apply to the Bank.

28. FUNDS, INVESTMENTS AND BORROWING.

- (1) The funds of the Bank include –
 - (a) moneys received from interest on credit provided to customers and fees charged to customers;
 - (b) all moneys appropriated by an Act to the Bank;
 - (c) funds received by way of grants and subscriptions;
 - (d) moneys received by the Bank from investments or borrowings;
 - (e) moneys received by the Bank for goods and services provided by it;
 - (f) all other moneys received by the Bank in the exercise and performance of its powers, functions and duties under this Act.

- (2) The Bank may retain or distribute any surplus funds in a given year as determined by the Board.

- (3) The Bank may only expend its funds in the following circumstances
 - (a) in the provision of credit and other banking services, including the taking of deposits, under this Act;
 - (b) in payment or discharge of expenses, obligations and liabilities of the Bank;
 - (c) in payment of the remuneration of the staff of the Bank and of allowances to the members of the Board, or members of any other committee of the Board;
 - (d) in making investments;
 - (e) for such other purposes as are consistent with the functions of the Bank as determined by the Board, in consultation with the Managing Director.

- (4) The Bank may invest money not immediately required by it as it sees fit.

- (5) The Bank may only borrow money for its purposes from the State or an authorised financial institution with –
 - (a) the approval of the Board, if the principle amount to be borrowed does not exceed 10% of the net assets of the Bank at the time of borrowing; and
 - (b) the consent of the National Executive Council, if the principle amount to be borrowed exceeds 10% of the net assets of the Bank at the time of borrowing, but any such borrowing may only be made after the Board satisfies itself that the Bank will not breach the solvency test as a result of the borrowing.

29. STATE GUARANTEE.

- (1) The State may guarantee or indemnify the Bank in respect of any asset or liability (including any overdraft or other financial accommodation) of the Bank, in the absence of any express guarantee, it should not be assumed that the State automatically guarantees an asset or liability of the Bank.

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(2) Where any guarantee or indemnity has previously been given by the State in respect of any assets or liabilities of the Bank, including assets and liabilities which have been assumed by, vested in or transferred to the Bank, such guarantee or indemnity will remain in full force and effect. This includes all assets or liabilities of the Bank as at the date this Act becomes operational.

30. LIABILITY TO TAXATION.

The Bank is liable to pay all taxes.

**PART IV - FINANCIAL REPORTING, ACCOUNTING
RECORDS, ANNUAL REPORT AND AUDIT.**

31. FINANCIAL STATEMENTS.

(1) The Board must ensure that the Bank produces financial statements that comply with generally accepted accounting practice and give a true and fair review of the matters to which they relate.

(2) The financial statements are to be signed on behalf of the Board by the Managing Director and the Board Chairman within 3 months of close of 31 December.

32. ACCOUNTING RECORDS.

(1) The Board must ensure that the Bank keeps accounting records that correctly records and explain the transactions of the Bank to be determined with accuracy and will enable the financial statements of the Bank to be readily and properly audited.

(2) The accounting records must contain entries of money received and spent each day and the matters to which that money relates and a record of assets and liabilities of the Bank.

(3) The Bank must keep accounting records for the current accounting period and for the previous seven completed accounting periods in a written form or form which is easily accessible and convertible into written form.

33. ANNUAL REPORT.

(1) The Board must prepare an annual report, which is to be furnished to the Minister during the previous accounting period by 31 March of each succeeding year.

(2) A copy of the annual report must be furnished to the head of the department responsible for treasury matters.

(3) The Minister must table the annual report in Parliament as soon as possible after he receives it.

(4) An annual report must contain as a minimum, the following details -
(a) a report on the performance and management of the operation and activities of the Bank during the accounting period;

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- (b) audited financial statements for the accounting period completed and signed;
- (c) describe any change in accounting policies made during the accounting period;
- (d) state particulars of any interest disclosed by a member of the Board during the accounting period;
- (e) state in respect of each member or former member of the Board (including the Managing Director and any former Managing Director), the total of the remuneration and value of other benefits received by that member or former member during the accounting period;
- (f) state the number of employees or former employees of the Bank, who during the accounting period, received remuneration and any other benefits in their capacity as employees the value of which exceeded K50,000 per annum, and is to state the number of such employees or former employees in brackets of K10,000;
- (g) state the total amount of any donations made or commissions paid by the Bank during the accounting period;
- (h) state the names of the persons holding office as members of the Board at the end of the accounting period and the name of any person who ceased to hold office as member of the Board during the accounting period;
- (i) be signed on behalf of the Board by the Managing Director and the Board Chairman.

(3) The annual report of the Bank should be classified as a public document and available to the public upon payment of an appropriate fee (not exceeding K10.00) or such other amount as may be prescribed from time to time.

34. AUDIT.

(1) The Bank shall appoint a reputable accounting firm ordinarily resident in the country who is a registered company auditor under the *Accountants Act 1996* to be the auditor of the Bank to audit the financial statements of the Bank from time to time.

(2) An auditor appointed under Subsection (1) shall be appointed for a term of one year and hold office on terms and conditions determined by the Board and is eligible for reappointment.

(3) The Board may appoint a qualified person or a firm to be the Bank's internal auditor, who should provide written audit reports as requested by the Board from time to time.

35. PROOF OF CERTAIN MATTERS, SERVICE AND APPOINTMENT OF ATTORNEYS.

(1) Any proceedings by or against the Bank proof is not required, unless evidence is given to the contrary of the Bank's constitution, of a resolution of the Board, the appointment of a member to the Board, the appointment of the Managing Director, or the presence of a quorum at a meeting of the Board at which a determination is made or an act is done.

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(2) Any notice, summons, writ or other process may be served on the Bank by being left at the Registered Office of the Bank.

(3) Any document which the Bank is required to authenticate shall be done with the Bank's common seal and affixed in accordance with this Act.

(4) The Bank should be able to appoint by instrument under its common seal, a person to act as its attorney for the purposes of doing anything that the Bank itself might lawfully do.

36. RECOVERY OF MONEY AND PROTECTION FROM LIABILITY.

(1) The Bank may recover any money owing to it as a debt.

(2) Any member of the Board, a committee of the Board or an employee or servant or agent of the Bank (including its Managing Director) must not be personally liable for any act or default of himself or the Bank done or omitted to be done in good faith in the course of the activities of the operations of the Bank or for the purposes of the Bank.

37. CONFIDENTIALITY.

(1) The Bank must take reasonable steps to protect itself from unauthorised use or disclosure, information given to it in confidence or in connection with the performance of its functions under the Act.

(2) Unauthorised use or disclosure of such confidential information by an employee or a director is an offence that should warrant the termination of the employee or dismissal of the director from the Board.

(3) The disclosure of any information required and permitted by any law or court is to be seen as an authorised use and disclosure of information.

(4) The disclosure of information by a person for the purposes of performing that person's functions as an employee of the Bank or as a member of the Board is also to be an authorised use and disclosure of the information.

38. TRANSFER OF ASSETS AND LIABILITIES.

(1) All assets held by and obligations and liabilities of the previous Bank immediately before the coming into operation of this Act are, on that coming into operation, transferred to and become assets, obligations and liabilities of the Bank.

(2) All assets held by and obligations and liabilities of the previous Development Bank immediately before the coming into operation of this Act are, on that coming into operation, transferred to and become assets, obligations and liabilities of the Bank.

39. APPLICATION OF ACTS.

(1) Any document or instrument wherever made or executed, contains a reference, express or implied, to the Bank, or the Rural Development Bank or the Agriculture Bank, that reference, on the coming into operation of this Act, is to be read and construed and have effect as a reference to the Bank.

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(2) In this section –

“previous Bank” means the Rural Development Bank Ltd established under the *Rural Development Act* (Chapter 139);

“previous Development Bank” means the *Rural Development Act* (Chapter 139) (repealed);

40. NO EFFECT ON PREVIOUS ACTS AND DECISIONS.

The validity of any act or decision done or made by the Bank before the coming into operation of this Act and every such act or decision will be taken to be valid and effectual and to have continuing effect as if those acts or decisions were made or done under this Act.

41. TRANSITIONAL TERM OF MANAGING DIRECTOR AND THE BOARD.

(1) The Managing Director of the Bank at the time this Act comes into operation, shall continue to hold office for a period of twelve months from the date this Act comes into operation and shall exercise all powers of Managing Director under this Act until a new Managing Director is appointed under this Act.

(2) A Director of the Bank at the time this Act comes into operation, shall continue to hold office for a period of 12 months from the date this Act comes into operation and shall exercise all powers of Director under this Act until a new Director is appointed under this Act.

42. REGISTRATION OF TITLE OF LAND.

(1) Where any property vested in the previous Bank is land registered under the *Land Registration Act* (Chapter 191), the Registrar of Titles shall, without formal transfer, on application by the Bank, enter or register the Bank in the register kept under that Act and on entry and registration, grant a certificate of title, lease or other instrument evidencing title to the land within that Act.

(2) Where any property vested in the previous Development Bank is land registered under the *Land Registration Act* (Chapter 191), the Registrar of Titles shall, without formal transfer, on application by the Bank, enter or register the Bank in the register kept under that Act and on entry and registration, grant a certificate of title, lease or other instrument evidencing title to the land within that Act.

(3) No stamp duty or other duty, tax or fee is payable on registration made under Subsections (1) or (2).

43. SAVINGS OF CONTRACTS, ETC.,

(1) All contracts and agreements (including for employment) entered into, made with or addressed to the previous Bank are, to the extent that they were immediately before the coming into operation of this Act binding on and enforceable against the previous Bank binding on and of full force and effect against or in favour of the Bank as fully and effectually as if the Bank had been a party to them or bound by them or entitled to the benefit of them.

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(2) All contracts and agreements (including for employment) entered into, made with or addressed to the previous Development Bank are, to the extent that they were immediately before the coming into operation of this Act binding on and enforceable against the previous Development Bank binding on and of full force and effect against or in favour of the Bank as fully and effectually as if the Bank had been a party to them or bound by them or entitled to the benefit of them.

44. ACTIONS, ETC., NOT TO ABATE.

Where, immediately before the coming into operation of this Act any arbitration, action or proceeding was pending or existing by, against or in favour of the previous Bank it does not, on that coming into operation, abate or discontinue, but it may be prosecuted, continued or enforced by, against or in favour of the Bank.

I hereby certify that the above is a fair print of the *National Development Bank Act 2006* which was made by the National Parliament.

Clerk of the National Parliament.

I hereby certify that the *National Development Bank Act 2007* was made by the National Parliament on 25 April 2007 by an absolute majority as required by the *Constitution*.

Speaker of the National Parliament.