

No. 48 of 1996.

***Motor Vehicles Insurance (PNG) Trust (Administrative Arrangements) Act
1996.***

Certified on: / /20 .

INDEPENDENT STATE OF PAPUA NEW GUINEA.



No. 48 of 1996.

***Motor Vehicles Insurance (PNG) Trust (Administrative Arrangements) Act
1996.***

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INDEPENDENT STATE OF PAPUA NEW GUINEA.



AN ACT

entitled

***Motor Vehicles Insurance (PNG) Trust (Administrative Arrangements) Act
1996,***

Preamble

We, the representatives of our people in the National Parliament:

- (a) recognizing that the Motor Vehicles Insurance (PNG) Trust performs a valuable community service in compensating persons who suffer loss or damage as a result of death or bodily injury caused by or arising out of the use of motor vehicles in certain circumstances; and
- (b) recognizing also the need for the Motor Vehicles Insurance (PNG) Trust to operate efficiently in delivering the services it is required to provide under the *Motor Vehicles (Third Party Insurance) Act 1974* and other applicable legislation; and
- (c) recognizing also that the Motor Vehicles Insurance (PNG) Trust will benefit from the discontinuation of its financial reliance on licensed insurers under the *Motor Vehicles (Third Party Insurance) Act 1974* and the removal from that Act of the provision which requires the Motor Vehicles Insurance (PNG) Trust to distribute to participating licensed insurers any surplus in assets over liabilities in an annual pool; and
- (d) recognizing also that participating licensed insurers will benefit from the removal of the provision in the *Motor Vehicles (Third Party Insurance) Act 1974* which enables the Motor Vehicles Insurance (PNG) Trust to compel participating licensed insurers to make up any deficiency in assets over liabilities in an annual pool; and
- (e) recognizing that it is desirable that any uncertainty as to the entitlement of licensed insurers or other persons to accumulated surpluses of the Fund be resolved and that from the coming into operation of this Act the Motor Vehicles Insurance (PNG) Trust should

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not be entitled to seek re-imburement of deficiencies in the Fund from participating licensed insurers nor should it be required to distribute any surplus in the Fund to licensed insurers; and

- (f) recognizing also that the majority of licensed insurers are desirous of discontinuing their role as statutory underwriters of the Motor Vehicles Insurance (PNG) Trust's operations; and
- (g) taking account of the National Goals and Directive Principles (including, in particular, that Papua New Guinea should, among other things, be independent and economically self reliant) of the *Constitution*; and
- (h) taking account of the Basic Social Obligations (including, in particular, to safeguard the national wealth and to contribute to the revenues required to the advancement of the Nation);

Have resolved that the following Act should be passed—

Being an Act to make administrative arrangements in relation to the Motor Vehicles Insurance (PNG) Trust and to amend the *Motor Vehicles (Third Party Insurance) Act 1974* and for related purposes.

PART I. – PRELIMINARY.

1. INTERPRETATION.

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

“**annual pool account**” means an account established under Section 45 of the Principal Act;

“**eligible licensed insurer**” has the meaning given to it by Section 3;

“**final distribution**” means the final distribution from the Fund to eligible licensed insurers authorized by Section 2;

“**Fund**” means the Motor Vehicles Insurance Fund established under Section 32 of the Principal Act;

“**licensed insurer**” means a person licensed as an insurer under Section 18 of the *Insurance Act 1995*;

“**Pacific International Reinsurance Corporation Pty. Limited**” means Pacific International Reinsurance Corporation Pty. Limited, a company incorporated under the *Companies Act 1997*;

“**PIRC**” means the Pacific International Reinsurance Corporation Pty., Limited;

“**Principal Act**” means the *Motor Vehicles (Third Party Insurance) Act 1974*;

“**Trust**” means the Motor Vehicles Insurance (PNG) Trust incorporated under Section 3 of the Principal Act.

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(2) Unless otherwise defined in this Act, words and expressions which are given a certain meaning in the Principal Act are used in this Act with the same meanings.

PART II. – DISTRIBUTION FROM THE FUND TO CERTAIN LICENSED INSURERS.

2. DISTRIBUTION FROM THE FUND TO CERTAIN LICENSED INSURERS.

Notwithstanding the provisions of the Principal Act, the Trust shall make a final distribution from the Fund to eligible licensed insurers in accordance with this Part.

3. ELIGIBLE LICENSED INSURERS.

A person who–

- (a) immediately prior to the coming into operation of this Act–
 - (i) is a licensed insurer; and
 - (ii) participates in the Fund; and
- (b) within 90 days of the coming into operation of this Act makes written application to the Trust to be included in the final distribution; and
- (c) provides, together with the application under Paragraph (b), an executed deed under which that person, in consideration of that person's participation in the final distribution, releases the State and the Trust from all claims by that person arising out of that final distribution,

is an eligible licensed insurer.

4. FORM OF FINAL DISTRIBUTION.

(1) The final distribution shall be made in the form of an allotment of Class B fully paid shares in PIRC.

(2) The aggregate nominal value of the shares to be allotted under Subsection (1) shall be K21,600,000.00.

(3) Subject to Section 7, the allotment to an eligible licensed insurer shall be made within 180 days of the receipt by the Trust of the written application by that eligible licensed insurer to participate in the final distribution.

5. ENTITLEMENT OF ALLOTMENT.

(1) An eligible licensed insurer is entitled to be allotted the number of shares which bears the same proportion to the total number of shares available for allotment as that eligible licensed insurer's interest in the aggregated insurance premium pools bears to the aggregated interests of all the currently licensed participating insurers in the aggregated insurance premium pools immediately prior to the coming into operation of the Act.

(2) For the purpose of calculating the entitlement of an eligible licensed insurer under Subsection (1), the Trust may aggregate the results of all annual pools, and may omit surpluses or deficits for particular pools.

6. TRUST TO RETAIN AMOUNTS NOT DISTRIBUTED.

The Trust shall retain that part of the final distribution—

- (a) to which a licensed insurer, who fails to qualify as an eligible licensed insurer, would otherwise have been entitled; and
- (b) to which a person who previously was a licensed insurer would otherwise have been entitled.

7. TRUST MAY DEFER ALLOTMENT IN CERTAIN CIRCUMSTANCES.

Where the allotment of shares in PIRC in accordance with this Part would result in more than 49% of the allotted shares of PIRC being owned by non-citizens, the Trust may defer the allotment until the Trust has acquired sufficient additional shares in PIRC so that the allotment to an eligible licensed insurer will not cause non-citizen ownership of the allotted shares to exceed 49%.

8. TRUST TO PAY TAX LIABILITY.

(1) The Trust shall determine the gross distribution from the Fund and the share of each eligible licensed insurer.

(2) The Trust shall deduct income tax in accordance with Subsection (3) from the share of each eligible licensed insurer.

(3) Tax on each eligible licensed insurer shall be calculated as follows:—

- (a) in respect of resident insurers, 25% of their entitlement of the gross distribution; and
- (b) in respect of non-resident insurers, 48% of their share of the gross distribution.

(4) The Trust shall remit the tax deducted to the Commissioner General within 21 days of final distribution to an eligible licensed insurer.

(5) Any distribution received by an eligible licensed insurer under the provisions of this Act shall be exempt income for the purposes of the *Income Tax Act 1959* and shall not be taken into account in determining assessable income or losses for the purposes of Section 101 of that Act.

PART III. – AMENDMENTS TO *MOTOR VEHICLES (THIRD PARTY INSURANCE) ACT (CHAPTER 295).*

9 - 14. The amendments affected by these Sections have been incorporated into the Principal Act.

Office of Legislative Counsel, PNG