

No. // of 2006.

National Capital District Commission (Amendment) Act 2006.

Certified on: 04 DEC 2006



INDEPENDENT STATE OF PAPUA NEW GUINEA.

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National Capital District Commission (Amendment) Act 2006.

ARRANGEMENT OF SECTIONS.

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3. Repeal and replacement of Section 6.
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INDEPENDENT STATE OF PAPUA NEW GUINEA.

AN ACT

entitled

National Capital District Commission (Amendment) Act 2006,

Being an Act to amend the *National Capital District Commission Act 2001,*

MADE by the National Parliament.

1. INTERPRETATION (AMENDMENT OF SECTION 2).

Section 2 of the Principal Act is amended by inserting in alphabetical order the following new definitions:-

“ “Deputy Governor” means the Deputy Governor of the National Capital District Commission appointed in accordance with Section 6A(3);

“Governor” means the person holding office as the Governor of the National Capital District Commission in accordance with Section 6A(2);”.

2. REPEAL AND REPLACEMENT OF SECTION 5.

Section 5 of the Principal Act is repealed and is replaced with the following:-

“5. MEMBERSHIP OF THE COMMISSION.

(1) The National Capital District Commission shall consist of 10 members being -

- (a) the Governor; and
- (b) the Deputy Governor; and

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- (c) the members of the National Parliament for the National Capital District electorate and for each other electorate within the National Capital District, who shall be *ex officio* members of the Commission, except that where one of such members is appointed as the Minister responsible for provincial government and local-level government matters, that person is not eligible to be a member of the Commission and his membership in the Commission shall remain vacant until he ceases to be Minister responsible for provincial government and local-level government matters or otherwise ceases to be eligible as a member of the Commission; and
- (d) four members who shall be appointed by the Governor, each one of whom shall represent one of the following interests so that each of the following interests is represented:-
 - (i) women;
 - (ii) youths;
 - (iii) trade unions;
 - (iv) settlement representative; and
- (e) the Provincial Administrator of the Central Province, *ex officio*; and
- (f) two members of the Motu Koitabu Council comprising -
 - (i) the Chairman of the Council, *ex officio*; and
 - (ii) one other members of the Council appointed by the Governor.

- “(2) The members referred to in Subsection (1)(d) –
- (a) shall hold office for a term of four years; and
 - (b) shall be persons who comply with the eligibility requirements specified in Section 8.

“(3) Where the Chairman of the Council does not comply with the eligibility requirements specified in Section 8, he is not eligible to be a member and the Head of State, acting on advice, shall appoint to be a member of the Commission such other member of the Council who complies with the eligibility requirements specified in Section 8 as he considers appropriate.

- “(4) Subject to Subsection (3), the Chairman of the Council -
- (a) shall only hold office as a member of the Commission whilst he holds office of the Chairman of the Council; and
 - (b) upon ceasing to hold the Office of Chairman of the Council, the person who is elected as Chairman of the Council under Section 45 shall be appointed as a member of the Commission.

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“(5) A person appointed under Subsection (3) shall only hold office as a member of the Commission -

- (a) whilst he holds office as a member of the Council; or
- (b) until the election of a Chairman of the Council who complies with the eligibility requirements specified in Section 8.

“(6) Section 10 of the *Regulatory Statutory Authorities (Appointment to Certain Offices) Act 2004* does not apply to the appointment, revocation or termination of persons appointed to the Commission pursuant to Subsection (1)(d) or (f)(ii).”

3. REPEAL AND REPLACEMENT OF SECTION 6.

Section 6 of the Principal Act is repealed and is replaced with the following:-

“6. CHAIRMAN AND DEPUTY CHAIRMAN.

(1) There shall be a Chairman and a Deputy Chairman of the Commission.

“(2) Subject to this Act, the Governor shall be the Chairman of the Commission and the Deputy Governor shall be the Deputy Chairman of the Commission.

“(3) Subject to this Act, the Chairman –

- (a) shall have general superintendence of the affairs and the management of the Commission and shall ensure that the Commission is fulfilling its functions and objectives; and
- (b) shall conduct meetings of the Commission in accordance with this Act; and
- (c) on behalf of the Commission, shall present recommendations to the National Government on matters pertaining to the powers and functions of the Commission; and
- (d) shall manage the Commission in the planning and implementation of development and investment programs including the planning of capital expenditure and the preparation of long term financial projections; and
- (e) shall manage and assist where necessary in the preparation of statutory or management accounts and the preparation of management of budgets, estimates of capital and revenue expenditures, cash flows and other financial data or information or accounting records; and

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- (f) in the discharge of his duties and in the exercise of his powers, shall conform with, observe and comply with all resolutions, regulations and directions from time to time made or given by the Minister; and
- (g) in consultation with the Board, may recommend to the Minister for his approval and certification proposed changes to the Commission's estimates of the receipts and expenditures for any financial year certified by the Minister under Section 32; and
- (h) shall review and, where necessary, order an investigation into the circumstances under which any transaction or deal involving any property or asset of the Commission was made; and
- (i) has such other functions as are specified in this Act; and
- (j) has such functions incidental to the functions specified in this subsection.

"(4) Where the Chairman or Deputy Chairman ceases to be a member of the Commission, he ceases to be Chairman or Deputy Chairman of the Commission, as the case may be.

"(5) Where the Chairman is -

- (a) on leave of absence; or
- (b) absent from the National Capital District; or
- (c) out of speedy or effective communication; or
- (d) otherwise unable to perform or is not readily available to perform the functions and responsibilities of Chairman,

the Deputy Chairman shall perform the functions and responsibilities of the Chairman of the Commission.

"(6) Where, for protocol or ceremonial reasons, there is a need for an Office of Lord Mayor, the Chairman or, in his absence, the Deputy Chairman shall be deemed to hold the Office of Lord Mayor for such purposes.

"(7) The Chairman, and in his absence the Deputy Chairman, are responsible to the Minister for the performance by the Commission of its functions."

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4. NEW SECTIONS 6A, 6B, 6C AND 6D.

The Principal Act is amended by inserting immediately after Section 6 the following new sections:-

“6A. THE GOVERNOR AND DEPUTY GOVERNOR.

(1) An office of Governor of the National Capital District and an office of Deputy Governor of the National Capital District are hereby established.

“(2) Subject to this Act, the member of the National Parliament representing the National Capital District Provincial Electorate shall be the Governor.

“(3) The head of the Motu Koitabu Council shall be the Deputy Governor.

“(4) The Commission may, by notice in the National Gazette, declare that the offices of Governor and Deputy Governor shall be known by such other title as to the Commission seems appropriate and where a declaration has been so made the Governor and Deputy Governor shall be known as and referred to by the titles specified in the declaration and all references in this Act to the Governor and Deputy Governor shall be read accordingly.”.

“6B. VACATION OF OFFICE OF THE GOVERNOR.

“(1) If the Governor –

(a) is appointed –

- (i) a Minister or a Parliamentary Secretary in the National Government; or
- (ii) the Speaker or Deputy Speaker of the National Parliament; or
- (iii) the Leader or Deputy Leader of the Opposition in the National Parliament; or
- (iv) the Chairman of the Permanent Parliamentary Public Works Committee; or
- (v) the Chairman of the Permanent Parliamentary Public Accounts Committee; or
- (vi) to an office which has powers and privileges equivalent to those of a Minister; or

(b) is otherwise disqualified by law or ceases to be a member of the Commission or of the National Parliament,

he shall be deemed to have vacated the office of the Governor.

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“(2) Where the Governor is a member of the National Parliament, other than the member of the Parliament representing the National Capital District provincial electorate, he shall be deemed to have vacated the office of the Governor, if he –

- (a) is appointed to any of the offices referred to in Subsection (1)(a); or
- (b) is otherwise disqualified by law or ceases to be a member of the Commission or of the National Parliament.

“(3) Where the Governor vacates his office in accordance with Subsection (1)(a) or (2)(a), he shall continue to hold office as a member of the Commission, but is not eligible to be appointed as the Governor for the balance of his term of office in the Commission.

“(4) Notwithstanding Subsections (1) and (2), the Governor shall continue in office until the election of the next Governor.

“(5) For the purposes of Subsection (1)(a)(vi), the Minister may determine whether an office is an office to which that subparagraph applies.”

“6C. ELECTION OF THE GOVERNOR IN THE EVENT OF VACANCY.

“(1) Subject to Subsection (3), if the Governor vacates his office in accordance with Section 6B(1), the Commission shall, from amongst the members of the Commission who are members of the Parliament, elect the Governor.

“(2) Subject to Subsection (3), if the Governor elected under Subsection (1) vacates his office in accordance with Section 6B(2), the Commission shall elect another member of the Parliament to be Governor.

“(3) Where –

- (a) a vacancy exists in the office of the Governor; and
- (b) all of the members of the Parliament –
 - (i) hold executive office in the National Government or the Parliament; or
 - (ii) are otherwise disqualified by law,

the Commission shall, from amongst the members referred to in Section 5(1)(b), (c), (d) and (e) elect the Governor.

“(4) Where the Governor elected under Subsection (3) is a representative from the Motu Koitabu Council, the Deputy Governor shall be elected from amongst the members referred to in Section 5(1)(b), (c), and (d).”

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“6D. POLITICAL AND EXECUTIVE RESPONSIBILITIES OF THE GOVERNOR AND DEPUTY GOVERNOR.

The Governor, or in his absence the Deputy Governor, shall –

- (a) be politically responsible to both the Commission and the National Parliament for the government of the National Capital District; and
- (b) be constitutionally responsible to the Minister.”.

5. STAFF (AMENDMENT OF SECTION 20).

Section 20 of the Principal Act is amended by repealing Subsection (3) and replacing it with the following:-

“(3) Where the Commission upon its own investigation or an assessment of any other information received by it that there has been inability, incompetence, incapacity, misbehaviour or negligence by the staff or employees of the Commission has resulted in -

- (a) mismanagement of the financial affairs of the Commission; or
- (b) a breakdown in the administration of the Commission; or
- (c) a failure on the part of the Commission to provide adequate services to the public,

the Commission may, in respect of such staff or employees of the Commission, take such disciplinary steps as are considered necessary including laying of a disciplinary charge, effecting of suspension or dismissal from employment in accordance with establishment procedure as applicable to staff or employees of the Commission.”.

6. MANAGER (AMENDMENT OF SECTION 21).

Section 21 of the Principal Act is amended by repealing Subsection (3) and replacing it with the following:-

“(3) Subject to the directions of Chairman, the Manager shall manage, and shall be the chief executive of, the staff of the Commission, and, in relation to policy, shall act in accordance with the directions of the Board or Chairman.

7. TRANSITIONAL.

(1) A person who, on the coming into operation of this Act, occupies an office of member of the Commission in accordance with Section 5(1)(b), (c) or (e) of the Principal Act repealed by Section 2, is, on that coming into operation, deemed to have vacated that office.

(2) A person who, on the coming into operation of this Act, occupies the office of Chairman in accordance with Section 6 of the Principal Act repealed by Section 3, is, on that coming into operation, deemed to have vacated that office.

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I hereby certify that the above is a fair print of the ***National Capital District Commission (Amendment) Act 2006*** which has been made by the National Parliament.

Clerk of the National Parliament.

I hereby certify that the ***National Capital District Commission (Amendment) Act 2006*** was made by the National Parliament on 28 November 2006.

Speaker of the National Parliament.