
Central Banking Act 2000

[Central Banking Act 2000 consolidated to No 17 of 2021]

INDEPENDENT STATE OF PAPUA NEW GUINEA.

No. 1 of 2000.

AN ACT

entitled

Central Banking Act 2000,

Being an Act to amend and consolidate the law constituting and relating to the Bank of Papua New Guinea as the central bank, and to repeal the *Central Banking Act* (Chapter 138) and other Acts and to amend various Acts 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 law relates to a matter of national interest.

(2) This Act to the extent that it regulates or restricts 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 of the *Constitution*; and
- (b) the right to freedom of employment conferred by Section 48 of the *Constitution*; and
- (c) the right to privacy conferred by Section 49 of the *Constitution*; and
- (d) the right to freedom of information conferred by Section 51 of the *Constitution*,

is a law that is made for the purpose of giving effect to the public interest in public welfare.

2. Purpose of the Act.

The purpose of this Act is to—

- (a) amend and consolidate the laws establishing the Bank of Papua New Guinea as the central bank, and to define its objectives and functions; and
- (b) confer upon the Bank of Papua New Guinea certain functions and powers including formulation and implementation of monetary policy and regulation of the financial system; and
- (c) make provision for and regulate Papua New Guinea currency;
- (d) make provisions in respect of foreign exchange and international reserves; and
- (e) make provisions in respect of banking services to the Government.

3. Interpretation.

In this Act, unless the contrary intention appears—

"bank", subject to Subsection (2), has the meaning given to it under the *Banks and Financial Institutions Act 2000*;

"the Board" means the Board of the Bank of Papua New Guinea established by this Act;

"Central Bank" means the Bank of Papua New Guinea;

"Deputy Governor" means a Deputy Governor of the Central Bank appointed under Section 19;

"direction" means a direction under Section 98;

"financial institution" has the meaning given to it under the *Banks and Financial Institutions Act 2000*;

"former Act" means the *Central Banking Act* (Chapter 138) and Acts repealed by this Act;

"the Governor" means the Governor of the Central Bank appointed under Section 15;

"liquid assets" in relation to a bank or financial institution, means—

- (a) Papua New Guinea currency; and
- (b) Treasury Bills or notes, or securities, issued by the Government or by a Government approved by the Minister, by notice in the National Gazette, on the recommendation of the Central Bank; and
- (c) balances with the Central Bank as defined by the Governor; and
- (d) other assets approved by the Governor, or any one or more of them or any other assets as determined by the Governor by direction;

"meet virtually" means the entire meeting is held virtually or individual members may participate virtually;

"monetary unit" means the monetary unit established in accordance with Section 57;

"officer of the Central Bank" means, other than for Part XI, the Governor, a Deputy Governor and an employee of the Central Bank;

"Papua New Guinea currency" means any currency that is legal tender in Papua New Guinea;

"the regulations" means any regulations made or deemed to be made under this Act;

"this Act" includes the regulations and directions.

(2) For the purposes of this Act, where a bank or financial institution has more than one office or branch in the country, all of those offices and branches are a single bank or institution.

PART II.—THE BANK OF PAPUA NEW GUINEA.

4. Bank of Papua New Guinea.

(1) Despite the repeal effected by this Act, the body corporate established by the *Central Banking Act* (Chapter 138) is preserved and continues in existence as a body corporate under and subject to the provisions of this Act, under the name Bank of Papua New Guinea, but so the corporate identity of the body corporate shall not be affected.

(2) The Central Bank—

- (a) is a corporation, with perpetual succession; and

- (b) shall have a seal; and
- (c) may acquire, hold and dispose of property and any other assets; and
- (d) may sue or be sued in its corporate name.

5. Branches and agencies.

The Central Bank may establish branches and agencies and appoint agents in Papua New Guinea or elsewhere.

PART III.—OBJECTIVES, FUNCTIONS AND POWERS OF THE BANK.

6. Central Bank.

The Bank of Papua New Guinea is to act as the central bank for Papua New Guinea.

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.

8. Functions of the Central Bank.

(1) In pursuance of its objectives the Central Bank may—

- (a) issue currency; and
- (b) act as banker and financial agent to the Government; and
- (c) regulate banking, credit and other financial services as empowered by this Act or by any other law of the Independent State of Papua New Guinea; and
- (d) manage the gold, foreign exchange and other international reserves of Papua New Guinea; and
- (e) perform any function conferred on it by or under any international agreement to which Papua New Guinea is a party; and
- (f) perform any other function conferred on it by or under any other law of Papua New Guinea.

(2) The Central Bank shall advise the Minister as soon as practicable where it considers that a body regulated by the Central Bank is in financial difficulty.

9. Powers of the Central Bank.

The Central Bank has all the powers of a natural person to do, in Papua New Guinea or elsewhere, all things necessary or convenient to be done for or in connection with the achievement of its objectives and the performance of its functions.

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.

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).
- (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.

12. Advice concerning the effects of monetary policy.

The Governor may advise the Minister of the effect, or likely effect, on monetary policy as a result of any policy or proposed policy of the Government.

13. Special reports on adverse conditions.

Where, in the opinion of the Governor, conditions exist that—

- (a) threaten or may threaten the monetary stability of Papua New Guinea; or
- (b) may be likely to affect adversely the formulation or implementation of monetary policy; or
- (c) may be likely to affect adversely the achievement of the financial and economic policies of the Government,

the Governor shall report to the Minister on the matter.

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.

14A. Liaison between the central bank and the department 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.
- (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.

PART IV.—MANAGEMENT OF THE CENTRAL BANK.

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.

16. Duties of the Governor.

- (1) It is the duty of the Governor to—
 - (a) ensure that the Central Bank carries out the functions imposed on the Central Bank by this Act or any other law of the Independent State of Papua New Guinea; and
 - (b) manage the Central Bank and direct its affairs and, in relation to the management of the Central Bank and the direction of its affairs, to act honestly and in good faith to achieve the Central Bank's objectives and policies; and
 - (c) inform the Minister on monetary, foreign exchange and other economic matters; and
 - (d) devote the whole of his professional time to the service of the Central Bank; and
 - (e) not—
 - (i) occupy or hold any other paid office or employment; or
 - (ii) directly or indirectly hold any shares or other pecuniary interest in any bank or financial institution; or
 - (iii) engage in the practice of any profession or business.
- (3) 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.

17. Delegation.

(1) The Governor may, by notice in the National Gazette, delegate to an officer of the Central Bank all or any of his powers and functions under this Act (except this power of delegation).

(2) Every delegation under Subsection (1) is revocable, in writing, at will, and no such delegation affects the exercise of a power or the performance of a function by the Governor nor relieves the Governor of the primary duties and responsibilities imposed upon him under this Act.

18. Conditions of engagement of the Governor.

(1) The salary, allowances and benefits (financial and otherwise) of the Governor shall be fixed by the National Parliament following consideration of a recommendation by the Salaries and Remuneration Commission in accordance with Section 216A (*The Salaries and Remuneration Commission*) of the *Constitution*.

(2) The conditions of engagement of the Governor (including the matters referred to in Subsection (1)) shall be—

- (a) tabled at the first Board meeting; and
- (b) tabled by the Minister in the National Parliament at its first meeting,

after being made.

(3) No condition of engagement shall have effect where—

- (a) it is inconsistent with the Central Bank's objectives and functions or the autonomy of the Governor; or
- (b) it limits or prevents the Governor from ensuring that these objectives are carried out; or
- (c) it provides for any salary, remuneration or benefits to be paid to the Governor for any period following his disqualification or removal from office, but not so as to prevent payment to the Governor of any salary, allowances or benefits accrued in accordance with his conditions of engagement up until the date of his disqualification or removal from office.

(4) None of the conditions of engagement of the Governor may be changed to the disadvantage of the Governor during the Governor's term or terms of office.

19. Deputy Governor or Deputy Governors.

(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.

(2) A Deputy Governor—

- (a) shall devote the whole of his professional time to the service of the Central Bank; and
- (b) shall not—
 - (i) occupy or hold any other office or employment; or

- (ii) directly or indirectly hold any shares or any pecuniary interest in any bank or financial institution; or
- (iii) engage in the practice of any profession or business.

20. Conditions of engagement of Deputy Governor.

(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.

(2) Subject to the *Salaries and Conditions Monitoring Committee Act 1988* the conditions of engagement of a Deputy Governor, including remuneration, shall be determined by the Governor.

(3) No condition of engagement shall have effect if it is inconsistent with any provision of this Act.

21. Vacancy in the office of Governor.

(1) Where—

- (a) the Governor resigns in writing prior to the expiry of his term of office; or
- (b) the office of the Governor becomes vacant for any other reason,

the Deputy Governor or where there are two Deputy Governors, a Deputy Governor designated by the Governor, or, in the absence of a Deputy Governor another officer of the Central Bank designated by the Governor, shall be the Acting Governor, and in the absence of an Acting Governor designated by the Governor, the Minister shall designate a Deputy Governor, or, in the absence of a Deputy Governor, another officer of the Central Bank as the Acting Governor.

(2) Where the Governor takes a temporary leave of absence from office for any purpose, a Deputy Governor designated by the Governor, or, in the absence of a Deputy Governor another officer of the Central Bank designated by the Governor, shall be Acting Governor and in the absence of an Acting Governor designated by the Governor, the Minister shall designate a Deputy Governor, or, in the absence of a Deputy Governor, another officer of the Central Bank, as the Acting Governor.

(3) The Acting Governor will have all the statutory authorities and responsibilities and perform all the powers and functions of the Governor for a period not exceeding six months or for the remainder of the Governor's term, whichever is less.

(4) As soon as practicable after the office of the Governor becomes vacant, the Head of State, acting on advice shall appoint a person to the office in accordance with the provisions of this Act.

22. Disqualification of Governor and Deputy Governor.

(1) No person shall be appointed or re-appointed, or continue to hold office, as Governor, or a Deputy Governor, if that person—

- (a) is a member of Parliament; or
- (b) is an officer, agent, member or employee of a bank or financial institution; or
- (c) is 70 years of age or over; or
- (d) is a Departmental Head, or an officer or employee of a Department, or an officer of the Public Service; or

- (e) is an insolvent who has not obtained a final order of discharge, or whose order of discharge has been suspended for a term not yet expired, or is subject to a condition not yet fulfilled; or
- (f) is a person who is convicted of any offence punishable by imprisonment; or
- (g) holds shares, or has any similar right (whether legal or beneficial), in a bank or financial institution; or
- (h) is a person who would be prohibited from being a director or member or promoter of, or in any way whether directly or indirectly taking part in the management of, a company under any law of the Independent State of Papua New Guinea; or
- (i) is or becomes a person whose affairs are administered under any law relating to mental health; or
- (j) is held by a Leadership tribunal to have breached the Leadership Code.

(2) The Governor, the Deputy Governor, or a Deputy Governor, as the case may be, shall be deemed to have resigned from office if that person is prohibited from continuing to hold office under this section and the Minister shall, as soon as possible after the occurrence of such an event, publish the reason for the vacation of the office in the National Gazette.

23. Removal of Governor from office.

(1) Subject to Section 22, the Governor may be removed from office only by the Head of State, acting on advice, in accordance with the provisions of this section.

(2) The Head of State, acting on advice, shall remove the Governor from office 21 days after a determination of the National Executive Council that the Governor should be removed from office where the determination is reached after the process and procedure specified in Subsections (3), (4) and (5).

(3) Where, in the reasonable opinion of the Board, the Governor is guilty of conduct prejudicial to the performance of his duties under Section 16, the Board may make a recommendation (which recommendation shall contain full reasons for the recommendation), to the Minister that the Governor be removed from office.

(4) The Minister upon receiving the recommendation and reasons of the Board pursuant to Subsection (3) shall—

- (a) place the Board's recommendation and reasons before the National Executive Council; and
- (b) advise the Governor that the Governor may by a particular date (such date being not less than 21 days from the date the Governor is advised of the Board's recommendation and reasons) submit reasons to the National Executive Council why the Governor should not be removed from office; and
- (c) provide the Governor with full copies of the Board's recommendation and the reasons for the recommendation.

(5) The National Executive Council shall on the earlier of the date it receives the Governor's submission or the date stipulated for such submission—

- (a) consider the reasons for the Board's recommendation and the Governor's submission, if any; and
- (b) where, in the National Executive Council's reasonable opinion—
 - (i) the Governor is not guilty of conduct prejudicial to the performance of his duties under Section 16; or

(ii) the Governor should not be removed from office,
the National Executive Council shall notify the Governor in writing and the Governor shall continue in office; and

(c) where in the National Executive Council's reasonable opinion—

(i) the Governor is guilty of conduct prejudicial to the performance of his duties under Section 16; and

(ii) the Governor should be removed from office,
the National Executive Council shall—

(iii) give the Governor written notice of its decision as soon as possible; and

(iv) not earlier than 21 days thereafter, or where, within such 21 days, a decision of the National Executive Council is reviewed or appealed under Subsection (6), until a decision is handed down, advise the Head of State to remove the Governor from office.

(6) A decision by the Board or the National Executive Council is a decision that may be fully reviewed (including on its merits) by any competent court.

24. Removal of Deputy Governor.

(1) Where in the reasonable opinion of the Governor, following consultation with the Minister, a Deputy Governor under this Act 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,

the Governor may remove him from office and replace him pursuant to this Act.

(2) Where the Governor intends to remove the Deputy Governor from office under Subsection (1), the Governor shall give the Deputy Governor written notice of his intention and not earlier than 21 days after the date of the notice, may remove the Deputy Governor from office.

(3) The Deputy Governor may, within seven days of the receipt of the notice under Subsection (2), give notice to the Board that he wishes to have the decision of the Governor reviewed by the Board.

(4) Where a Deputy Governor gives notice to the Board under Subsection (3) to review a decision under Subsection (1), the Board shall make a recommendation at the next Board meeting (which recommendation shall contain full reasons for the recommendation), to the Governor and Minister as to whether the Deputy Governor should be removed from office.

(5) The Governor and Minister shall, no later than 21 days after receiving the Board's recommendation, meet and consult each other over the issue.

(6) Following consultation with the Minister in accordance with Subsection (5), the Governor may either—

(a) revoke the notice under Subsection (2) to remove the Deputy Governor from office;
or

(b) remove the Deputy Governor from office.

(7) The Governor shall issue written notice of his decision to the Deputy Governor which takes effect upon receipt of the notice by the Deputy Governor.

25. Board of the Central Bank.

There shall be a Board of the Central Bank with the powers, duties and functions as set out in this Act.

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.

27. Membership of the Board.

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

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.

29. Considerations affecting appointment of members of the Board.

Except those persons who may hold *ex officio* positions on the Board, in considering the appointment or re-appointment of a person to the office of member of the Board, regard shall be had to—

- (a) that person's knowledge, skill, and experience; and
- (b) the likelihood of any conflict between the interests of the Central Bank and any interests which that person has or represents.

30. Extraordinary vacancies.

- (1) Where a member of the Board dies, or resigns or is removed from office, that office shall become vacant and the vacancy shall be deemed to be an extraordinary vacancy.
- (2) A member shall be deemed to have resigned from office where that Member—
 - (a) is prohibited by Section 31 from holding office as a member; or
 - (b) fails, without the Board's consent, to attend three consecutive meetings of the Board.
- (3) When the office of a Member becomes vacant, a person shall be nominated and appointed to fill the vacancy in the same way as the person whose office has become vacant was nominated and appointed.
- (4) A person who is appointed to fill an extraordinary vacancy shall be appointed for the residue of the term of the vacating member.
- (5) In the event of any dispute as to whether any of the persons appointed pursuant to Section 27(2)(d) no longer occupying those positions in the relevant institutions, the Governor may inform the Minister and the Head of State, acting on advice, may appoint another in his place pursuant to this Act.

31. Disqualification of members of the Board.

- (1) The provisions of this section do not apply to the Governor or Deputy Governors.
- (2) No person shall be appointed, or re-appointed, to the office of member of the Board, or hold that office, if that person—
 - (a) is a member of Parliament; or
 - (b) is an insolvent who has not obtained a final order of discharge, or whose order of discharge has been suspended for a term not yet expired, or is subject to a condition not yet fulfilled; or
 - (c) is 70 years of age or over; or
 - (d) is a person who is convicted of any offence punishable by imprisonment; or
 - (e) is a person who would be prohibited from being a director or member or promoter of, or in any way whether directly or indirectly taking part in the management of, a company under any law of the Independent State of Papua New Guinea; or
 - (f) is or becomes a person whose affairs are administered under any law relating to mental health.
- (3) A member of the Board shall be deemed to have resigned from office where that person is prohibited from continuing to hold office under this section and the Minister shall, as soon as possible after the occurrence of such an event, publish the reason for the vacation of the office in the National Gazette.
- (4) Where, in the reasonable opinion of the Minister, following consultation with the Governor, a member of the Board is—
 - (a) incapable of performing his duties; or
 - (b) in breach of his conditions of appointment; or
 - (c) guilty of conduct prejudicial to the performance of the duties of his office,the Head of State, acting on advice, may remove him from office and replace him under this Act.

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.

33. Disclosure of interest.

- (1) A member of the Board, who has a direct or indirect interest in a matter that is being considered or is proposed to be considered, by the Board, shall disclose the nature of his interest at the first meeting of the Board at which he is present after the relevant facts have come to his knowledge.
- (2) A disclosure under Subsection (1) shall be recorded in the minutes of the Board, and after the disclosure the member—
 - (a) shall not be present during any deliberation or decision of the Board with respect to the matter; and
 - (b) shall not take part in any deliberation or decision of the Board with respect to the matter; and
 - (c) shall be disregarded for the purpose of constituting a quorum for any such deliberation or decision.

34. Committees.

- (1) The Board may, from time to time, appoint committees of one or more members and may delegate any of its functions and powers, except this power of delegation, to such committees.
- (2) The Board may from time to time—
 - (a) discharge, alter, or reconstitute a committee; or
 - (b) discharge a member of a committee and appoint another member in that member's place.

(3) Subject to any direction given by the Board, the functions and powers delegated to a committee may be performed or exercised with the same effect as if they had been conferred by this Act and not by delegation.

(4) A committee purporting to act under delegation shall, in the absence of proof of the contrary, be presumed to be acting in accordance with the delegation.

(5) A delegation may be revoked by the Board at any time.

(6) A delegation does not prevent the Board from performing or exercising its functions and powers.

(7) A delegation to a committee shall continue in force even though the membership of the Board or the committee changes.

(8) Subject to this Act and to any directions given by the Board, a committee may regulate its own procedure.

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.

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.

35. Fees and expenses of members.

- (1) The Central Bank shall pay members such fees as the Minister, after considering any recommendation by the Governor, determines.
- (2) The Central Bank shall pay members reasonable travelling and other expenses incurred in carrying out their duties.

36. Oath and affirmation of office.

- (1) Before entering on the duties of his office, a member of the Board shall take an oath or make an affirmation in the form in Schedule 1.
- (2) The oath or affirmation shall be taken or made, and the declaration shall be made, before the Minister or a person appointed by the Minister for the purpose.

PART V.—THE SERVICE OF THE BANK.

37. Appointment of officers.

- (1) The Governor may appoint such officers as are necessary for the purposes of this Act or for the purposes of any other activities as may be conferred on the Central Bank under any other law.
- (2) The officers of the Central Bank constitute the Service of the Bank.
- (3) Where, immediately before his appointment, an officer of the Central Bank was an officer of the Public Service, his service as an officer of the Central Bank will 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 ground of illness; and
 - (b) furlough, or pay in lieu of furlough (including pay to dependants or personal representatives on the death of the officer).
- (4) The officers in the service of the Bank are officers to whom apply the provisions of the *Public Services (Management) Act 1995* relating to leave to serve under another Act.

38. Regulations for the service of the Central Bank.

Without limiting the generality of Section 97, regulations made under that section may make provision in relation to the Service of the Bank, and in particular may—

- (a) subject to the *Salaries and Conditions Monitoring Committee Act 1988*, prescribe the terms and conditions of employment of officers; and
- (b) make provision for the establishment of a superannuation scheme to provide benefits for officers of the Central Bank, on retirement.

39. Temporary and casual employees and consultants.

(1) The Governor may appoint such temporary and casual employees as are necessary for the purposes of this Act.

(2) Employees appointed under Subsection (1) shall be employed on such terms and conditions as the Governor determines.

(3) The Governor may appoint consultants from time to time to assist the Governor meet the objectives of the Central Bank in accordance with this Act.

(4) Notice of appointment and terms of the engagement of consultants under Subsection (3) shall be given to the Board by the Governor as soon as practicable.

40. Loans to officers.

(1) Subject to this section, the Central Bank shall not lend money to an officer of the Central Bank.

(2) The Central Bank may lend money to an officer of the Central Bank—

- (a) for the purchase, erection, alteration, renovation or enlargement of a home in which he resides or intends to reside; or
- (b) to discharge a mortgage, charge or encumbrance on such a home.

(3) In addition to and not in derogation of the powers conferred by Subsection (2), where the Central Bank is satisfied that special circumstances exist, the Central Bank may make a loan or loans to an officer of the Central Bank.

(4) A loan under Subsections (2) and (3) shall be on such terms and conditions as the Governor reasonably considers proper.

PART VI.—FINANCE.

41. Capital.

(1) The capital of the Central Bank for the purposes of this Part shall be the aggregate of—

- (a) the capital of the Central Bank immediately before the coming into operation of this Act; and
- (b) such other sums as are transferred to the capital of the Central Bank pursuant to this Act.

(2) The capital may be increased from time to time by the Minister, by order made on the recommendation of the Board.

(3) The capital or any increase in capital that is not met by a transfer under Section 42(2) shall be paid out of moneys appropriated by this Act for the purpose.

42. Reserve funds.

(1) The Central Bank may have reserve funds, to be called the Bank of Papua New Guinea Reserve Funds, consisting of such sums as are placed to their credit under Section 49.

- (2) There may be transferred from time to time from the Bank of Papua New Guinea Reserve Funds—
- (a) to the capital of the Central Bank such sums as the Board, with the approval of the Minister, determines; and
 - (b) such sums as the Board, with the approval of the Minister, determines are required to meet contingencies which arise in the course of the Central Bank's operations in carrying out its functions under this Act.

43. Financial year.

The Central Bank's financial year shall end on 31 December in each year or such other date as may be prescribed by law.

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
- (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.

45. Contents of financial statements.

- (1) The financial statements shall be prepared in accordance with generally accepted accounting practice and shall include—
- (a) a statement of the Central Bank's financial position at its balance date; and
 - (b) an operating statement reflecting the revenue and expenses of the Central Bank for that year by reference to the functions carried out by the Central Bank; and
 - (c) a statement of cash flows reflecting the Central Bank's cash flow for that year; and
 - (d) a statement of the Central Bank's commitments as at the balance date; and
 - (e) a statement of the Central Bank's contingent liabilities as at the balance date; and
 - (f) a statement of accounting policies; and
 - (g) such other statements as are necessary to give a true and fair view of the financial operations of the Central Bank for that year and its financial position at the end of that year; and
 - (h) comparative actual figures for the previous financial year for Paragraphs (a) to (e) and, where appropriate, Paragraph (g).
- (2) The financial statements shall show separately—
- (a) details of any payments made by the Central Bank under Section 47; and
 - (b) details of any payments made by the Central Bank under Section 48; and
 - (c) details of any material payments made by the Central Bank to consultants engaged under this or any other Act; and
 - (d) details of the loans made by the Central Bank to officers of the Central Bank under this Act; and

- (e) details of the employment packages and remuneration for the 10 most highly paid officers of the Central Bank including the Governor and any Deputy Governors; and
- (f) details of fees, allowances, remuneration and other expenses paid to members of the Board.

(3) For the purposes of this Act, the financial statements shall comply with generally accepted accounting practice only where the statements comply with—

- (a) applicable financial reporting standards for the relevant accounting period as determined by any law including as determined by the Accounting Standards Board established pursuant to the *Companies Act 1997*; and
- (b) in relation to matters for which no provision is made in applicable financial reporting standards and that are not subject to any applicable rule of law, accounting policies that—
 - (i) are appropriate to the circumstances of the Central Bank; and
 - (ii) have authoritative support within the accounting profession in Papua New Guinea.

46. Management statements.

The financial statements of the Central Bank shall be accompanied by a management statement signed by the Governor and each Deputy Governor stating that the financial statements give a true and fair view of the matters to which they relate.

47. Auditors.

(1) The Central Bank may, from time to time, appoint one or more persons (whether as individuals or as the members from time to time of any firm or firms), being persons qualified for appointment as auditors of a company under the *Companies Act 1997*, to be the auditor or auditors of the Central Bank.

(2) Every appointment shall be for a term not exceeding two years, but any person appointed as auditor shall continue in office until a successor comes into office.

(3) Any person appointed as auditor shall be eligible for reappointment.

(4) The auditor or auditors shall be entitled to receive from the funds of the Central Bank such fees as the Central Bank from time to time determines.

(5) The persons in office as the auditors of the Central Bank on the coming into operation of this Act shall continue in office as if they had been appointed under this section, until the expiry of the term of office for which they were appointed.

(6) The auditor or auditors shall have full access to all books and documents that are the property of or that are under the control of any person relating to the Central Bank or its affairs.

(7) The Governor, any Deputy Governors and any officer of the Central Bank shall provide the auditor or auditors with all information and comply with any request of the auditor or auditors to enable them to discharge their duties.

(8) The Central Bank is not subject to audit by the Auditor-General except in exercise of the Auditor-General's powers under Section 3(3) of the *Audit Act 1989*.

48. Performance audit.

(1) Where the Minister has reasonable cause, he may from time to time, following consultation with the Governor, appoint one or more suitably qualified persons (whether as individuals or as members from time to time of any firm or firms) to carry out an assessment of

the operational efficiency and performance by the Central Bank of the exercise by the Central Bank of its powers under this Act other than the formulation and implementation of monetary policy and the regulation of the financial system.

(2) As soon as practicable after completing an assessment the person appointed shall submit a report to the Minister setting out the results of that assessment.

(3) The report shall be, by virtue of this section—

(a) tabled by the Minister before the National Parliament; and

(b) referred to any committee of the Government responsible for the overall review of financial management in Departments and other public bodies.

(4) A person appointed to conduct an assessment under this section, for the purpose of conducting that assessment—

(a) shall have full access to all books and documents that are the property of or that are under the control of any person relating to the Central Bank or its affairs; and

(b) may require any officer of the Central Bank or any other person to answer any question relating to the Central Bank or its affairs; and

(c) may, by notice in writing to any person, require that person to deliver any books or documents relating to the Central Bank or its affairs in the possession or under the control of that person and may take copies of them or extracts from them.

(5) Nothing in Subsection (4) limits or affects Part VII.

(6) The fees of the person appointed to carry out an assessment under this section shall be paid out of the funds of the Central Bank.

(7) The Minister and the Governor shall confer over the results of the performance audit under this section.

(8) The Governor shall, as far as possible and practicable, implement the recommendations (if any) contained in the performance audit likely to improve the operational efficiency and performance of the Central Bank.

49. Dealing with profits.

(1) At the end of each financial year, the net profit of the Central Bank for that financial year shall be determined by the Board, after allowing for the expenses of operation and after making provision for—

(a) bad and doubtful debts; and

(b) depreciation of assets; and

(c) contributions to staff superannuation funds; and

(d) such other contingencies and accounting provisions as are customarily made by banking institutions in accordance with generally accepted accounting principles consistently applied.

(2) Subject to Subsection (4), the net profit of the Central Bank shall be dealt with as follows:—

(a) such amount as the Minister in consultation with the Board determines (after having regard to prudent financial management and provisions) shall be placed to the credit of the Bank of Papua New Guinea Reserve Funds; and

(b) the balance shall be paid into and form part of the Consolidated Revenue Fund.

(3) No amount shall be paid into the Consolidated Revenue Fund under Subsection (2)(b) where, in the opinion of the Central Bank, the assets of the Central Bank are, or after the payment would be, less than the sum of its liabilities and paid-up capital.

(4) For the purpose of Subsections (1) and (2), the net profit of the Central Bank shall exclude profits or losses arising under Section 50.

50. Determination of profits and losses.

- (1) Net profit arising from—
- (a) the revaluation of the Central Bank's assets and/or liabilities; and/or
 - (b) foreign exchange rate movements,

shall not be available to be distributed as a dividend to the Government or paid into the Consolidated Revenue Fund.

(2) Where at any time the Central Bank incurs a loss due to a change in the value of any asset or liability held by the Central Bank, that in the opinion of the Board may lead to a significant reduction in the reserve funds of the Central Bank, the Minister shall cause to be paid to the Central Bank out of the Consolidated Revenue Fund such amount as the Board reasonably considers necessary to avoid such a reduction.

(3) For the purposes of Subsections (1) and (2), the assets and liabilities of the Central Bank shall include all overseas assets and liabilities that the Central Bank has agreed to acquire or sell, or in respect of which it has entered into any form of indemnity relating to a change in the official value of the monetary unit.

(4) Notwithstanding anything contained in this Act or in the *Loans Securities Act* (Chapter 134) or in any other law the Minister may create and issue to the Central Bank non-interest bearing non-negotiable notes for an amount not exceeding any payment made by the Minister to the Central Bank out of the Consolidated Revenue Fund in accordance with Subsections (1) and (2).

PART VII.—RELATIONS WITH THE GOVERNMENT.

51. Central Bank as government banker and financial agent.

The Central Bank—

- (a) may act as banker and financial agent of the Government; and
- (b) subject to any arrangements made with the authority concerned, may act as banker and financial agent of a public authority.

52. Official depository.

(1) In its capacity as banker and financial agent of the Government, the Central Bank is the official depository of the Government, and shall accept deposits and effect payments for the Government.

(2) Subsection (1) does not prevent the Government from using the services of any other bank or financial institution.

53. General agency functions.

Where it can do so appropriately and consistently with this Act and its functions and duties as the Central Bank, the Central Bank shall act as agent for the Government in such matters as are agreed on between the Government and the Central Bank.

54. International financial institutions.

As required, the Central Bank shall serve as the depository and fiscal agency of, and the institution through which financial dealings may be conducted with, international financial institutions.

55. Advances to the government.

- (1) This section shall be read subject to the *Public Finances (Management) Act 1995*.
- (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.
- (5) The Central Bank shall ensure that advances to the Government referred to in Subsection (2), are fully repaid from Consolidated Revenue.
- (6) Advances by the Central Bank to the Government pursuant to the *Central Banking Act* (Chapter 138) and existing at the date of coming into operation of this Act—
 - (a) remain as a debt due and owing to the Central Bank on the terms and conditions applying to those advances; and
 - (b) are excluded for the purposes of determining aggregate outstanding advances pursuant to Subsection (4).
- (7) The Minister and the Governor shall consult with a view to agreeing on a strategy to ensure such existing advances referred to in Subsection (6) are repaid as soon as practicable.
- (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.

- (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.

PART VIII.—CURRENCY.

56. Interpretation of Part VIII.

For the purposes of this Part, a currency note or coin shall be deemed to have been tampered with if it has been defaced, disfigured or mutilated and, in the case of a coin, if it has been impaired, diminished or lightened in any way otherwise than by wear and tear.

57. Monetary units.

(1) The monetary unit, or unit or currency, of Papua New Guinea is the kina or such other unit as is prescribed.

(2) The monetary unit shall be divided into 100 toea or such other subsidiary units as are prescribed.

(3) The monetary unit may be designated by the abbreviation "K" or such other abbreviation as is prescribed, and the subsidiary unit may be designated by the abbreviation "t" or such other abbreviation as is prescribed.

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.

59. Right to issue currency.

The Central Bank has the sole right to issue currency notes and coins in and for Papua New Guinea.

60. Manufacture of currency.

The Central Bank shall—

- (a) arrange for the printing of currency notes and the minting of coins; and
- (b) issue, re-issue, exchange and withdraw currency notes and coins at the offices of the Central Bank and at such agencies as are established or appointed by the Central Bank; and
- (c) arrange for—
 - (i) the safe custody of unissued currency; and
 - (ii) the preparation, safe custody and destruction, as necessary, of plates and paper for the printing of notes and dies for the minting of coins; and
 - (iii) the safe custody, cancellation and destruction of withdrawn currency.

61. Characteristics of currency.

(1) Currency notes and coins issued by the Central Bank shall—

- (a) be in such denominations of the monetary unit, or fractions of the monetary unit expressed in the subsidiary units; and

- (b) be of such materials, forms and designs, and bear such inscriptions and devices, and have such other characteristics,

as the Central Bank determines.

(2) The Central Bank shall cause notice of the denominations and other characteristics of the currency notes and coins that it issues to be published in the National Gazette.

62. Calling in of currency.

(1) The Central Bank may, by notice in the National Gazette, call in any currency notes or coins issued by it, on payment of their face value.

(2) A notice under Subsection (1) takes effect on a date and for a period fixed in the notice for the purpose, not being less than three months after the date of publication of the notice.

63. Legal tender.

(1) Subject to Subsection (2), where they have not been tampered with—

- (a) currency notes issued by the Central Bank are legal tender at their face value for the payment of any amount; and

- (b) coins issued by the Central Bank are legal tender at their face value—

- (i) in the case of coins that have a denomination of K10.00 or more, up to an amount of their face value; and

- (ii) in the case of coins that have a denomination of 20t or of any value greater than 20t and less than K10.00, up to an amount not exceeding K10.00; and

- (iii) in the case of coins that have a denomination of less than 20t, up to an amount not exceeding K2.00.

(2) Subsection (1) does not apply to currency notes or coins that have been called in under Section 62 at the end of the period specified in the notice under Section 62(2).

64. Tampering with currency notes or coins.

A person who willfully tampers with a currency note or coin that is legal tender in Papua New Guinea is guilty of an offence.

65. Recovery of value of currency notes or coins that have been tampered with.

A person is not entitled to recover from the Central Bank the value of—

- (a) any lost or stolen currency note or coin; or

- (b) any currency note or coin that has been tampered with,

but the Central Bank may, in its absolute discretion, pay the whole or part of the value of any such currency note or coin.

66. Unofficial currency notes, tokens.

(1) Except as provided for by this Act, a person who issues—

- (a) currency notes, bank notes or coins; or

- (b) any documents or tokens payable to bearer on demand, that, in the opinion of the Central Bank, are likely to pass as legal tender,

is guilty of an offence.

(2) Subsection (1), does not apply to or in relation to customary currency.

67. Advertisements.

A person who makes on or attaches to a currency note or coin that is legal tender in the country an advertisement is guilty of an offence.

68. Reproduction or imitation of currency.

- (1) No person shall, without the prior consent of the Central Bank—
 - (a) make, design, engrave, print or in any way reproduce; or
 - (b) use, issue, advertise or publish,

any article or thing of any size, scale or colour resembling a currency note or coin or so nearly resembling or having likeness to a currency note or coin as to be likely to be confused or mistaken for it.

- (2) A person who contravenes Subsection (1) commits an offence against this Act.

(3) Where a person is convicted of an offence against this section, the Court may, in addition to any penalty imposed, order—

- (a) the article or thing; or
- (b) any copy of it; or
- (c) any plates, blocks, dies, or any other instrument used or capable of being used for printing or reproducing it,

in the possession of that person to be destroyed.

69. Assisting in law enforcement relating to counterfeiting.

(1) The Central Bank shall use its best endeavours to assist in the enforcement of any law relating to the counterfeiting of currency notes or coins.

(2) A certificate by an officer of the Central Bank authorized for the purpose that a purported currency note or coin is or is not counterfeit is prima facie evidence of that fact.

70. Transactions to be in Papua New Guinea currency.

- (1) Subject to Subsection (2)—
 - (a) every sale, bill of exchange, promissory note or security for money; and
 - (b) every other contract, agreement, deed, instrument, transaction, dealing, matter or thing relating to money, or involving the payment of or the liability to pay money,

that is made, executed, entered into or done shall, unless it is expressed to be made, executed, entered into or done according to the currency of some other country, be made, executed, entered into or done according to a currency provided for by this Part.

- (2) Subsection (1) does not—
 - (a) operate so as to invalidate a will or other testamentary instrument; or
 - (b) apply to or in relation to a transaction or thing intended to be carried out or done in terms of customary currency.

PART IX.—RELATIONS WITH OTHER BANKS AND FINANCIAL INSTITUTIONS.

71. Services for other banks.

(1) The Central Bank may act as banker for a bank or any other financial institution in accordance with its functions under this Act.

(2) Subject to this Act, the Central Bank may provide other services to banks and financial institutions, including:—

- (a) the provision of safe deposit facilities; and
- (b) facilities for inter-bank clearings; and
- (c) other services designed to ensure efficient and sound clearing and payment systems.

72. Monetary policy management.

(1) For the purpose of monetary policy management, the Governor may, by written notice to a bank or financial institution, determine—

- (a) the minimum amount, or minimum amounts, of liquid assets; or
- (b) the minimum amount, or minimum amounts, of specified classes of liquid assets; or
- (c) such other instruments or transactions or requirements,

that must be held or entered into or undertaken or satisfied by the bank or financial institution in relation to its deposits and other prescribed liabilities or specified classes of them.

(2) A determination under Subsection (1) may be expressed in the form of a percentage that the liquid assets or classes of liquid assets bear to the deposits and other prescribed liabilities to which the minimum relates.

(3) A notice under Subsection (1) takes effect on a date specified in the notice, not being less than 14 days after service of the notice on the bank or financial institution concerned.

(4) The Central Bank may impose on a bank or financial institution that fails to comply with a determination under this section a penalty not exceeding 0.1% of the amount of deficiency in liquid assets for each day for which the failure continues.

(5) A penalty imposed under Subsection (4) is a debt due to the Central Bank by the bank or financial institution concerned.

73. Control of margins.

Without limiting the generality of Section 98, the Governor may issue directions from time to time with respect to the control of margins, fees and/or charges of banks and/or financial institutions.

74. Supply of information.

(1) For the purpose of the exercise and performance of its powers and functions under this Act or any other law, the Central Bank may require a person to furnish such information as the Central Bank specifies.

(2) Information supplied under Subsection (1) shall be verified by the person concerned in such manner as is specified by the Central Bank from time to time, including without limitation verification by statutory declaration by a senior officer of the bank or financial institution concerned.

(3) The Central Bank may direct that the information provided by the person be verified by a suitably qualified third party approved by the Central Bank at the expense of the particular bank or financial institution.

(4) Subject to Section 83, the Central Bank may publish, in whole or in part and at such times and in such manner as it thinks proper, any information supplied under this section.

75. Appointment of agents.

The Central Bank may appoint another bank to act as its agent for the issue, re-issue, exchange and withdrawal of currency or for other purpose on such conditions as are agreed between the Central Bank and the other bank.

76. Loans and advances to banks and financial institutions.

Where the Central Bank—

- (a) considers it necessary to do so in order to safeguard monetary stability; or
- (b) otherwise considers it desirable to promote the smooth operation of payment systems and maintain a stable financial system,

it may make a loan or advance to a bank or financial institution on such conditions as it thinks proper.

PART X.—FOREIGN EXCHANGE AND INTERNATIONAL RESERVES.

77. Interpretation of Part XI.

In this Part—

"foreign currency" includes—

- (a) notes, coins, postal notes, money orders, bills of exchange, promissory notes, drafts, letters of credit and travellers' cheques payable or expressed otherwise than in Papua New Guinea currency; and
- (b) rights and instruments of title to any such foreign currency;

"foreign exchange" means foreign currency and foreign securities;

"foreign securities" includes—

- (a) securities the principal of or interest on which is payable or repayable in a country other than Papua New Guinea or in a foreign currency; and
- (b) securities the funds necessary for the payment or repayment of the principal of or interest on which are provided from a country other than Papua New Guinea; and
- (c) securities that are registered outside Papua New Guinea; and
- (d) securities that are situated outside Papua New Guinea; and
- (e) any debt due or accruing due to a person in Papua New Guinea by a person in another country; and
- (f) any right to receive payment of any amount of money in a country other than Papua New Guinea; and
- (g) any right to receive payment of any amount of foreign currency;

"Papua New Guinea currency" includes—

- (a) notes, coins, postal notes, money orders, bills of exchange, promissory notes, drafts, letters of credit and travellers' cheques payable or expressed in currency that is legal tender in Papua New Guinea; and
- (b) rights and instruments of title to any such Papua New Guinea currency;

"securities" includes—

- (a) shares, stock, bonds, debentures, debenture stock, unsecured notes, transferable or negotiable deposits, Treasury Bills, units or sub-units of a unit trust and policies of life or endowment assurance; and
- (b) deposit receipts in respect of the deposit of any such securities and of documents of title to any such securities; and
- (c) derivatives or other securities or interests that derive their value from another security, instrument or transaction.

78. International reserves.

The Central Bank shall at all times use its best endeavours to maintain an adequate level of international reserves, consisting of—

- (a) gold coin or bullion; or
 - (b) foreign exchange in the form of—
 - (i) currency, bank balances and money at call; or
 - (ii) documents and instruments customarily used for the making of payments or transfers in international transactions; or
 - (iii) securities of or guaranteed by foreign governments or international financial institutions; or
 - (c) other internationally-recognised reserve assets, including—
 - (i) the entitlement to make a gold tranche purchase in the General Account of the International Monetary Fund; or
 - (ii) the holding of Special Drawing Rights with the International Monetary Fund,
- or any of them.

79. Operations in foreign exchange and gold.

The Central Bank may—

- (a) import, export, buy, sell, hold or otherwise deal in gold; and
- (b) with respect to balances in foreign currencies—
 - (i) acquire such balances; and
 - (ii) transfer any such balances; and
 - (iii) hold any such balances with foreign central banks or with the Central Bank's agents or correspondents abroad including the Bank of International Settlements; and
 - (iv) invest any such balances in foreign marketable securities; and
 - (v) acquire, hold and transfer, and effect transactions of any kind in, foreign exchange and other internationally-recognised reserve assets; and
 - (vi) subject to Section 7, conduct accounts in the country for overseas customers.

80. Regulations relating to foreign exchange and gold.

(1) Notwithstanding any other law but subject to this Act, regulations made under Section 97 may provide for or relate to—

- (a) the control of foreign exchange; and

(b) the control of gold.

(2) In particular, and without limiting the generality of Subsection (1), regulations may relate to—

- (a) the appointment of authorized dealers in foreign exchange and gold and their powers, rights, duties and responsibilities, and the rates at which they may enter into transactions in foreign exchange and gold; and
- (b) the buying, selling, borrowing, lending or exchange of foreign currency or gold; and
- (c) any dealing or transaction having the effect of a purchase, sale, borrowing, loan or exchange of foreign exchange or gold; and
- (d) the taking or sending out of the country of Papua New Guinea currency, foreign currency or gold; and
- (e) transactions in Papua New Guinea currency with, or on behalf of, persons resident outside the country; and
- (f) requiring any person who has power to sell, or to procure the sale of, any foreign currency or gold to sell, or to procure the sale, of the currency or gold, in accordance with the regulations; and
- (g) the taking, sending, transmission or transfer out of the country of prescribed securities, and other dealings with or transactions in prescribed securities; and
- (h) the importation or exportation of goods; and
- (i) the creation of offences against the regulations; and
- (j) penalties for offences against the regulations.

81. Granting of authorities subject to taxation clearance.

(1) Where regulations made under this Act contain a provision prohibiting the doing of an act or thing without the authority of the Central Bank or an authorized dealer and an application is made to the Central Bank or the authorized dealer for the authority of the Central Bank or the authorized dealer to do that act or thing, then—

- (a) where the act or thing is of a kind specified in a notice in force under Subsection (2), the Central Bank or the authorized dealer shall not grant that authority unless there is produced to the Central Bank or the authorized dealer, in respect of that act or thing, a tax clearance certificate issued under Division IX.2 of the *Income Tax Act* in respect of that act or thing; or
- (b) in any other case, the Central Bank or the authorized dealer may refuse to grant that authority unless there is produced to the Central Bank or the authorized dealer such a certificate,

but this subsection shall not be taken as limiting the discretion of the Central Bank or the authorized dealer to refuse to grant authority on any other ground.

(2) The Governor may, by notice in the National Gazette, direct that acts or things of a kind specified in the notice are, on and after the date of publication of the notice or such later date as is specified in the notice, acts or things of a kind to which this section applies.

82. Further powers of the Central Bank.

In addition to its powers under this Part, the Central Bank may impose such restrictions and conditions as it thinks necessary on authorized dealers appointed under this Act or any other Act.

PART XI.—SECRECY.

83. Secrecy.

(1) In this Part—

"officer means—

- (a) the Governor, the Deputy Governor or any other member of the Board; or
- (b) an officer of the Central Bank; or
- (c) any other person engaged by the Central Bank to perform services for the Central Bank; or
- (d) any other person who, because of his employment, or in the course of that employment:—
 - (i) has acquired protected information; or
 - (ii) has had access to protected documents;

"produce" includes permit access to;

"protected document" means a document given, produced or obtained (whether before or after the coming into operation of this Act) under, or for the purposes of, this Act, and containing information relating to the affairs of any person, other than a document that, at the time of publication, has already been lawfully made available to the public;

"protected information" means information, data or forecasts disclosed or obtained (whether before or after the coming into operation of this Act) under, or for the purposes of, this Act, whether or not contained in a protected document, and relating to the affairs of any person, other than information that at the time of publication has already been lawfully made available to the public.

(2) Subject to this section, a person shall not, except for the purposes of this Act, directly or indirectly disclose to any person, any protected information or protected document acquired by that first-mentioned person.

(3) Subsection (2) does not prohibit a person from disclosing prohibited information, or producing a protected document, where the person to whose affairs the information or document relates and, if different, the person from whom the information or document was received, agrees in writing to the disclosure of the information or the production of the document, as the case may be.

(4) It is not an offence if the disclosure of protected information or the production of a protected document by a person occurs when the person is satisfied that the disclosure of the information, or the production of the document, will assist the Central Bank to perform its functions or exercise its powers.

(5) It is not an offence where the disclosure of protected information or the production of a document by the Central Bank occurs when the Central Bank is satisfied that the disclosure of the information or the production of the document—

- (a) will assist the Central Bank to perform its functions or exercise its powers; or
- (b) is to the Minister or to the relevant Department; or
- (c) will assist another financial supervisory agency, whether in Papua New Guinea or elsewhere, to perform its functions or exercise its powers, provided that the Central Bank is satisfied that the information or document is subject to a secrecy provision no less stringent than that set out in this Act.

(6) It is not an offence if the disclosure of protected information or the production of a protected document is under compulsion or obligation of law.

(7) Subsection (2) does not prohibit a person from disclosing protected information, or producing a protected document to the Central Bank.

(8) Subsection (2) does not prohibit a person from disclosing information, or producing a document, where the information, or the information contained in the document, as the case may be, is in the form of a statistical summary or collection of information that is prepared so that information relating to any particular person cannot be found out from it.

(9) A person who contravenes this Part commits an offence against this Act.

84. Secrecy, documents or information to which Section 83 does not apply.

(1) Subject to this section, an officer, agent or other person carrying on any business of the Central Bank shall not—

(a) permit a person to have access to, or give to a person copies of or extracts from, a document belonging to, or in the possession of, the Central Bank; or

(b) give to a person information relating to the business of the Central Bank,

where such document or information has not already lawfully been made public except by the direction or authority of the Governor or under compulsion or obligation of law.

(2) Subsection (1)(b) does not apply to the giving to a person of information with respect to matters of a customer of the Central Bank where the person is the customer or the information is given at the direction or request of the customer.

(3) A person who contravenes this section commits an offence against this Act.

PART XII.—MISCELLANEOUS.

85. Attorney.

The Central Bank may, by instrument under its seal, appoint a person (whether within or outside the country) to be its attorney and, subject to the instrument, a person so appointed may do any act or exercise or perform any power or function that he is authorized by the instrument to do, exercise or perform.

86. Offices, agents, etc.

In the exercise of its powers and the performance of its functions, the Central Bank may—

(a) establish offices and branches, within and outside the country, as it thinks necessary; and

(b) appoint agents and correspondents, within and outside the country.

87. Taxation.

(1) Subject to Subsection (2), the Central Bank is not liable to taxation.

(2) The Central Bank is subject to customs and excise duties (where applicable) under the relevant law.

88. Periodical returns.

The Central Bank shall furnish to the Minister such periodical statements as are prescribed.

89. Power to improve property any carry on business.

Where the Central Bank holds any property or business as a security for a loan or advance, and the property or business falls into the hands of the Central Bank, the Central Bank may maintain, repair or improve the property or carry on the business until the Central Bank, in its discretion, can dispose of the property or business in the best interests of the Central Bank.

90. Execution of contracts.

(1) Contracts on behalf of the Central Bank may be made, varied or discharged in accordance with this section, and any contract so made is effectual in law, and is binding on the Central Bank and on all other parties to the contract, their heirs, successors, assigns, executors and administrators.

(2) A contract that, where made between private persons, would by law be required to be in writing under seal may be made, varied or discharged in the name and on behalf of the Central Bank in writing under the seal of the Central Bank.

(3) A contract that, where made between private persons, would by law be required to be in writing and signed by the parties to be charged with it may be made, varied or discharged in the name and on behalf of the Central Bank in writing signed by a person acting with the express or implied authority of the Central Bank.

(4) A contract that, where made between private persons, would by law be valid although made by parol only may be made, varied or discharged by parol in the name and on behalf of the Central Bank by a person acting with the express or implied authority of the Central Bank.

(5) This section does not invalidate a contract executed on behalf of the Central Bank by a duly appointed attorney of the Central Bank if the contract would be valid if executed by the attorney on his own behalf.

91. Validity of acts and transactions of the Central Bank.

The validity of an act or transaction of the Central Bank shall not be called into question on the ground that any provision of this Act has not been complied with.

92. Enforcement agreements and co-operation.

(1) The Governor may enter into agreements with other regulatory bodies or authorities, whether in Papua New Guinea or not for the purpose of assisting the Governor or the Central Bank to carry out its functions under this Act or any other laws.

(2) An agreement referred to in this section—

(a) may deal with all or any of the following:—

- (i) matters pertaining to joint investigative efforts;
- (ii) reciprocal enforcement regimes;
- (iii) joint prosecution;
- (iv) gathering and sharing of information to the extent allowed by secrecy provisions of this Act or any other law;
- (v) development of financial efficiency;
- (vi) harmonisation of regional law;
- (vii) institutional strengthening and development of knowledge;
- (viii) such further or other matters as are expeditious for the proper discharge by the Central Bank of its legal obligations; and

(b) shall be made conditional on being:—

- (i) authorized by regulation or direction; and
- (ii) fully legally binding on the other parties to such agreement.

93. Authentication of documents.

Any document requiring authentication by the Central Bank is sufficiently authenticated without the seal of the Central Bank where signed by the Governor or a Deputy Governor.

94. Judicial notice.

All courts shall take judicial notice of—

- (a) the official signature of any person who holds or has held the office of Governor or Deputy Governor, and the fact that the person holds or has held that office; and
- (b) the official seal of the Central Bank.

95. Limitation of actions.

(1) Without derogating from the obligations of secrecy provided in this Act, no liability shall be incurred by the Governor, Deputy Governor, Members of the Board, officers or employees of the Central Bank or delegates of the Governor because of any disclosure or publication made concerning—

- (a) the supply of goods or services to the Central Bank; or
- (b) the commercial or business reputation of any person associated with the supply of goods or services to the Central Bank; or
- (c) the quality or standard of goods or services supplied by any person; or
- (d) a contravention or alleged contravention of this Act or the operation or enforcement of this Act or any other law.

(2) Without limiting Subsection (1), no liability for civil damages shall be incurred by the Governor, Deputy Governor, Members of the Board, officers of the Central Bank or delegates of the Governor for any act—

- (a) done; or
- (b) deliberately omitted to be done,

genuinely for the purposes of this Act or any other law and without negligence.

(3) Notwithstanding the provisions of Subsections (1) and (2), nothing in this section shall limit—

- (a) the exercise of prerogative remedies such as (without limitation) mandamus, certiorari and prohibition by a Court having power to make such prerogative orders; or
- (b) the liability of a person to disciplinary action pursuant to this Act or any other Act providing for disciplinary action.

96. Symbol of the Central Bank.

(1) The Central Bank shall have the exclusive right to the use of any symbol or representation it may select or devise and thereafter display or exhibit in connection with its activities or affairs.

(2) A person who uses a symbol or representation identical with that of the Central Bank, or which so resembles the symbol or representation of the Central Bank so as to deceive or cause confusion, or to be likely to deceive or cause confusion, is guilty of an offence.

97. Regulations.

The Head of State, acting on advice, may make regulations which—

- (a) are not inconsistent with this Act; and
- (b) prescribe all matters that by this Act are—
 - (i) required or permitted to be prescribed; or
 - (ii) necessary or convenient to be prescribed for carrying out or giving effect to this Act; and
- (c) provide that an offence may be prosecuted either summarily or on indictment; and
- (d) provide penalties for offences against the regulation of fines, not exceeding K500,000.00 or an amount equal to 25% of the total value of the funds or property involved whichever is the greater amount or of imprisonment for a term not exceeding five years, or both such fine and imprisonment; and
- (e) empower a court to order the forfeiture of any Papua New Guinea currency, foreign currency, securities, goods or gold in respect of which an offence has been committed against the regulations; and
- (f) empower a court to order the sale to, or the vesting in, the Central Bank of foreign currency, gold or property retained or obtained in contravention of the regulations.

98. Directions.

(1) The Governor may, by instrument in writing served on a person give that person such directions as—

- (a) are not inconsistent with this Act; and
- (b) may prescribe any matters that by this Act are—
 - (i) required or permitted to be prescribed by directions; or
 - (ii) necessary or convenient to be prescribed by directions for carrying out or giving effect to this Act.

(2) A person who refuses or fails to comply with a direction given under Subsection (1) is guilty of an offence.

99. Offences and penalties.

(1) A person convicted of an offence against any of the sections listed in Part 1 of Schedule 2 is liable to a fine not exceeding K100,000.00 or imprisonment for a term not exceeding two years, or both.

(2) A person convicted of an offence against any of the sections listed in Part 2 of Schedule 2 is liable to a fine not exceeding K500,000.00 or imprisonment for a term not exceeding ten years, or both.

100. General penalty.

(1) A person who contravenes any provision of this Act, or any regulations or directions made thereunder is guilty of an offence.

- (2) A person who commits an offence against this Act for which there is no specific penalty provided, is liable to a penalty of—
- (a) a fine not exceeding K500,000.00; or
 - (b) a term of imprisonment not exceeding five years; or
 - (c) both a fine not exceeding the amount specified in Subsection (2)(a) and a term of imprisonment not exceeding the term specified in Subsection (2)(b).
- (3) Where an offence against this Act is of a continuing nature, a person who is found guilty of that continuing offence is liable to a further default penalty of a fine, in addition to that prescribed in Subsection (2), not exceeding K5,000.00 per day for each day after conviction that the person continues to commit the offence.

101. Prosecutions.

- (1) The Central Bank may—
- (a) prosecute any offence by a person against this Act, by summary prosecution or by prosecution as an indictable offence as the case may be; and
 - (b) commence a civil action against a person for any form of civil relief which is available in respect to the matters constituting the offence.
- (2) A prosecution or action commenced by the Central Bank in relation to an offence committed under this Act shall be heard by the National Court.
- (3) Notwithstanding Section 524 of the *Criminal Code* (Chapter 262), following a committal for an offence under this Act the Central Bank is authorized to present an indictment against the accused.
- (4) A copy of any indictment under Subsection (3) shall be served on the Public Prosecutor and the Public Prosecutor may withdraw the indictment within 14 days of service of the indictment on him.
- (5) In any prosecution or action brought under this Act by the Central Bank or against the Central Bank, the Court may award costs against any party or claimant other than the Central Bank, which costs may be recovered by the Central Bank as a debt to the Central Bank.
- (6) In any action brought by the Central Bank under this Act, the Court may, on application by the Central Bank whether as interlocutory or final relief, order a person to cease any activity until further order.
- (7) Any order made by the Court under Subsection (6) shall be made on condition that the Central Bank is not responsible for any loss or income or profit which may be incurred by the enterprise as a consequence of that order.
- (8) Any fine, penalty or default fine or penalty to be paid by a person as a result of an action or prosecution by the Central Bank shall be paid to the Central Bank and, in addition to any other remedy, may be recovered by the Central Bank as a debt to the Central Bank.

102. Indemnity.

- (1) The Governor, any Deputy Governor(s), every member of the Board, and officers of the Central Bank shall be indemnified by the Central Bank in respect of any liability arising from the exercise or purported exercise of, or omission to exercise, any power conferred by this Act unless it is shown that the exercise or purported exercise of, or omission to exercise, the power was in bad faith.
- (2) Any money required for the purpose of this section shall be paid out of the funds of the Central Bank.

(3) The indemnity conferred by Subsection (1) extends to legal costs incurred in defending a proceeding.

(4) Within 12 days of the making of any payment under this section, the Governor shall provide to the Minister a report which shall contain details of the circumstances giving rise to the liability, the amount of the payment, the person to whom the payment was made and any other relevant matters.

PART XIII.—TRANSITIONAL PROVISIONS.

Division 1.—Repeals and Reaffirmation.

103. Repeal and amendment of Acts.

(1) Subject to this Part, the following Acts are hereby repealed:—

- (a) *Central Banking Act* (Chapter 138);
- (b) *Central Banking (Amendment) Act* 1991 (No. 9 of 1991);
- (c) *Central Banking (Amendment No. 2) Act* 1991; (No. 17 of 1991);
- (d) *Central Banking (Amendment) Act* 1993 (No. 36 of 1993);
- (e) *Central Banking (Budget Provisions) Act* 1994 (No. 30 of 1994).

(2) The *Public Finances (Management) Act* 1995 is amended in Section 2 in the definition of "public body" by adding the following subsection:—

"(d) the Bank of Papua New Guinea."

104. Saving of former provisions. [Repealed]

105. Saving of subsidiary legislation.

(1) Subordinate enactments, instruments, authorities, regulations and directions made under the *Central Banking Act* (Chapter 138) are deemed to be subordinate enactments, instruments, authorities, approvals, regulations and directions made under this Act and shall remain in full force and effect save in so far as they may be inconsistent with this Act.

(2) Without limiting the generality of Subsection (1) the following subordinate enactments and instruments under the *Central Banking Act* (Chapter 138) shall be deemed to be subordinate enactments or instruments under this Act as specified below:—

- (a) arrangements made with any authorities under Section 19(b) of the *Central Banking Act* (Chapter 138) shall continue in force as arrangements made under Section 51(b) of this Act; and
- (b) the approval of Governments made under Section 35(1)(b) of the *Central Banking Act* (Chapter 138) are deemed to be approvals of governments for the purposes of Subsection (b) of the definition of liquid assets in Section 3(1) of this Act; and
- (c) the approval of classes of deposits and of any other assets made under Sections 35(1)(d)(ii) and 35(1)(e) of the *Central Banking Act* (Chapter 138) are deemed to be approved assets for the purposes of Paragraph (d) of the definition of liquid assets in Section 3(1) of this Act; and
- (d) determinations of minimum liquid assets or classes of assets under Section 35(3) of the *Central Banking Act* (Chapter 138) shall continue in force as determinations under Section 72 of this Act; and

- (e) penalties imposed, and debts due to the Central Bank pursuant to Sections 35 and 36 of the *Central Banking Act* (Chapter 138) in force at the coming into operation of this Act continue in full force and effect; and
- (f) directives issued pursuant to Section 38 of the *Central Banking Act* (Chapter 138) shall continue in force as directions under Section 73 of this Act; and
- (g) requests issued pursuant to Sections 39 and 40 of the *Central Banking Act* (Chapter 138) shall continue in force as requisitions under Section 74 of this Act; and
- (h) appointments as agents pursuant to Section 41 of the *Central Banking Act* (Chapter 138) shall continue in force as appointments under Section 75 of this Act; and
- (i) on commencement of this Act the official value of the kina determined under Section 45 of the *Central Banking Act* (Chapter 138) then current is deemed to be the official value of the kina under Section 58 of this Act; and
- (j) currency issued under Section 46 of the *Central Banking Act* (Chapter 138) shall remain fully valid as if issued under Section 59 of this Act; and
- (k) the denominations and other characteristics of currency notes and coins issued by the Central Bank under Section 48 of the *Central Banking Act* (Chapter 138) are deemed to be the denominations and other characteristics of currency notes and coins issued by the Central Bank under Section 61 of this Act; and
- (l) the list of Authorised Dealers in Foreign Exchange made under Section 2(d) of the *Central Banking (Foreign Exchange and Gold) Regulation* (Chapter 138) remains in full force and effect; and
- (m) directions by the Minister under Section 61A(2) of the *Central Banking Act* (Chapter 138) shall continue in full force and effect as directions under Section 81(2) of this Act; and
- (n) restrictions and requirements by the Central Bank under Section 62 of the *Central Banking Act* (Chapter 138) shall continue in full force and effect as restrictions and requirements under Section 82 of this Act; and
- (o) the list of Countries to which Part II of the *Foreign Exchange and Gold Regulation* (Chapter 138) applies remains in full force and effect.

Division 2.—Transitional Provisions.

106. References to former Act, etc.

(1) A reference in any law or in any instrument made under or in relation to the former Act or a provision of the former Act shall, on and after the coming into operation of this Act, unless the context otherwise requires, be read and construed as a reference to this Act or to the corresponding provision of this Act.

(2) An express or implied reference in any document or instrument, whenever made or executed, to the Central Bank established under the repealed Act, except where the context otherwise requires, be read and construed and has effect as a reference to the Central Bank as re-established and continuing under this Act.

107. Actions not to abate.

Where immediately before the coming into operation of this Act, any action, arbitration or proceeding was pending or existing by or against a person or body under any of the repealed Acts, it—

- (a) does not, on the coming into operation of this Act, abate or discontinue or in any way be affected by a provision of this Act; and
- (b) may be prosecuted, continued and enforced by, against or in favour of the person or body as if this Act had not been made.

108. Accounts to continue.

- (1) All moneys immediately before the coming into operation of this Act standing to the—
 - (a) credit of; or
 - (b) debit of,

any account maintained by the Central Bank established under the repealed Act, either in its own accounts or the accounts of any other person at the time of repeal are to continue to the debit or credit of the Central Bank as re-established and continuing under this Act.

- (2) For the avoidance of doubt, in respect to any account to which Subsection (1) applies, such accounts shall not be closed and reopened, but shall continue.

109. Saving of existing permits, approvals, etc.

Save in so far as they may be inconsistent with this Act, all permits, approvals, authorities, licenses, undertakings, notices, directives, directions or other entitlements granted under repealed Acts or any subsidiary legislation thereunder shall continue in full force and effect.

110. Continuation of assets, rights and liabilities.

All assets, rights, obligations and liabilities which, immediately before the coming into operation of this Act were owned or held by the Central Bank or any person against the Central Bank under the repealed Acts, on the coming into operation of this Act, continue as assets, rights and liabilities of the Central Bank as re-established and continuing under this Act without the need for any conveyance, transfer, assignment or assurance.

111. Continuation of contracts.

All contracts and agreements entered into, made with or addressed to the Central Bank under the repealed Act are, to the extent that they were immediately before coming into operation of this Act, binding on and of full force and effect against or in favour of the Central Bank, and shall on the coming into operation of this Act to continue against the Central Bank as re-established and continuing under this Act.

112. Continuation of Board and staff.

- (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.

(2) Subject to Subsection (3), a person who, immediately before the coming into operation of this Act held an office or appointment under the repealed Act, shall, on the coming into operation of this Act, continue to hold a similar office or appointment under this Act—

(a) on the same terms and conditions; and

(b) with all entitlements which had accrued to that person prior to the repeal of the repealed Act.

(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.

SCHEDULES.

SCHEDULE 1.

Sec. 36.

OATH AND AFFIRMATION OF OFFICE.

Oath.

I, . . .do swear that I will give good and faithful service as a member of the Bank of Papua New Guinea Board.

So help me God!

Affirmation.

I, . . .do solemnly and sincerely promise and declare that I will give good and faithful service as a member of the Bank of Papua New Guinea Board.

SCHEDULE 2.

Sec. 99.

PENALTIES FOR OFFENCES AGAINST THIS ACT.

Part 1.—Sections which carry a Fine Not Exceeding K100,000.00 or Imprisonment For a Term Not Exceeding Two Years, or Both.

Section 64;

Section 67;

Section 83;

Section 84;

Section 98;

Part 2.—Sections which carry a Fine Not Exceeding K500,000.00 or Imprisonment For a Term Not Exceeding 10 Years, or Both.

Section 66;

Section 68;