

No. 22 of 2002.

Postal Services (Amendment) Act 2002.

Certified on : 10 . 05 . 02



INDEPENDENT STATE OF PAPUA NEW GUINEA

No of 2002.

Postal Services (Amendment) Act 2002.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.

No. of 2002.

AN ACT

entitled

Postal Services (Amendment) Act 2002.

Being an Act to amend the *Postal Services Act 1996*,

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.

1. INTERPRETATION (AMENDMENT OF SECTION 2).

Subsection 2(1) of the Principal Act is amended –

- (a) by repealing the definitions of "Community Service Obligations" and "Price Controller"; and
- (b) by inserting after the definition of "postmaster" the following new definitions :–

"regulated industry" has the same meaning as in the
***Independent Consumer and Competition
Commission Act 2002***;

"regulatory contract" has the same meaning as in the
***Independent Consumer and Competition
Commission Act 2002***;"

2. REPEAL AND REPLACEMENT OF SECTION 3.

Section 3 of the Principal Act is repealed and replaced with the following :–

"3. DECLARATION TO BE TAKEN BY OFFICERS.

(1) Every officer shall, before exercising the duties of his office, take and subscribe before a Commissioner for Oaths a declaration in the form set out in the Schedule.

"(2) A failure by an officer to comply with Subsection (1) –

- (a) shall not affect the officer's responsibility and obligation to act in accordance with the terms of the declaration set out in the Schedule; and

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(b) shall not invalidate any act or thing done by the officer in exercising the duties of his office.”.

3. REPEAL AND REPLACEMENT OF PART II.

Part II of the Principal Act is repealed and is replaced with the following :-

“PART II. – POST PNG AND ITS BOARD.

“4. POST PNG BOARD.

(1) There shall be a Board of Post PNG which shall consist of –
(a) the Chairman; and
(b) the Managing Director; and
(c) not more than four other directors.

“(2) In addition to the responsibilities conferred on the Board by law and by the Constitution of Post PNG, it is the role of the Board –
(a) to decide the objectives, strategy and policies to be followed by Post PNG; and
(b) to ensure that Post PNG performs its functions in a manner that is proper, efficient and, as far as practicable, consistent with sound commercial practice.

“(3) The Managing Director shall, subject to direction by the Board, manage Post PNG.

“(4) The Chairman and other Directors (other than the Managing Director) –
(a) shall be appointed by the shareholders of Post PNG; and
(b) shall be appointed for such period not exceeding three years as is specified in the instrument of appointment; and
(c) are eligible for re-appointment; and
(d) shall hold office on a part-time basis on such terms and conditions as are specified in the instrument of appointment.

“(5) The Managing Director –
(a) shall be appointed by the Board; and
(b) holds office during the Board’s pleasure; and
(c) holds office on a full-time basis;
(d) holds office on such terms and conditions as are determined by the Board.

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"(6) The Board shall not appoint the Chairman or a Director referred in Subsection (1)(c) as Managing Director.

"(7) In the event of the Managing Director being dismissed from office or otherwise ceasing to hold the office of Managing Director, the maximum amount payable by way of compensation, contractual entitlement or damages awarded by a Court, if any, shall not exceed an amount equal to 12 months' salary for the Managing Director.

"(8) In any action, whether instituted before or after the commencement of this section, claiming wrongful dismissal or other termination of appointment of a person as the Chairman, Managing Director or any other Director, the only remedy which may be awarded by a Court shall be in damages and shall not include any order requiring reinstatement or re-employment of the person taking such action."

"5. ANNUAL REPORT AND AUDITED ACCOUNTS.

(1) Post PNG shall, within six months after each year ending on 31 December, furnish to the Minister, for presentation to the Parliament, a report with respect to its operations in that year and including audited accounts for that year, certified by a qualified external company auditor.

"(2) In addition to the reporting requirements referred to in Subsection (1), Post PNG shall provide half-yearly financial reports to its shareholders.

"(3) If the annual report and audited accounts are not provided to the Minister, within the time specified in Subsection (1), the appointments of the Chairman, Managing Director and all of the other Directors, shall be automatically terminated from that date without any compensation being payable for early termination of those appointments.

"(4) In the event that the appointments of the Chairman, Managing Director and the other Directors are terminated in accordance with Subsection (3), the Departmental Head of the Department responsible for finance matters or his delegate shall assume the powers, functions and responsibilities of the Board and the Managing Director, until such time as new appointments to those positions are made in accordance with this Act.

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"5A. ACT TO PREVAIL OVER POST PNG CONSTITUTION.

In the event of any inconsistency between any provision of this Act, and a provision of the Constitution of Post PNG, the Act shall prevail."

4. OBLIGATIONS GENERALLY (AMENDMENT TO SECTION 6).

Section 6 of the Principal Act is amended by repealing Paragraph (a) and replacing it with the following :-

"(a) to provide a letter service within Papua New Guinea in accordance with Section 7; and"

5. REPEAL AND REPLACEMENT OF SECTION 7.

Section 7 of the Principal Act is repealed and replaced with the following :-

"7. POST PNG FUNCTIONS AND OBJECTIVES.

(1) Post PNG shall supply a letter service for the carriage within Papua New Guinea, by ordinary post, of letters that are standard postal articles.

"(2) It is the objective of Post PNG that in view of the social importance of the letter service, the service be made available to as many people in Papua New Guinea as is commercially practicable.

"(3) The letter service referred to in this section includes only delivery of a letter to the post office nearest to the recipient's address, for collection by the recipient or his agent from that post office and does not include any obligation to deliver the letter to the recipient's address or premises."

6. OTHER GENERAL OBLIGATIONS (AMENDMENT OF SECTION 9).

Section 9 of the Principal Act is amended -

(a) by repealing Subsection (2) and replacing it with the following :-

"(2) Unless otherwise advised to the contrary by the Minister acting in accordance with a National Executive Council directive, Post PNG shall -

(a) act as adviser to the Government of Papua New Guinea on all matters relating to postal activity in Papua New Guinea; and

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(b) represent Papua New Guinea as a member of, and actively participate in, international bodies concerned with the administration of postal services or in which Post PNG has an interest.”; and

(b) by inserting at the end of that section the following new subsection:—

“(3) Post PNG may, with the prior approval in writing by the National Executive Council, enter into international agreements relating to postal activities where such agreements are in the best interests of Papua New Guinea. “.

7. SERVICES RESERVED TO POST PNG (AMENDMENT OF SECTION 10).

Section 10 of the Principal Act is amended by inserting after Subsection (3) the following new subsection :—

“(4) Post PNG may license persons to provide the services reserved to Post PNG under Subsections (1), (2) and (3), on payment of such licence fees and on such terms and conditions as Post PNG shall determine.“.

8. EXCEPTIONS TO RESERVED SERVICES (AMENDMENT OF SECTION 11).

Section 11 of the Principal Act is amended by repealing Paragraph (m) and replacing it with the following new paragraphs :—

“(m) any service that is being provided, in accordance with the terms of its licence, by a person licensed by Post PNG under Section 10(4) to provide that service; and

(n) any service that, under the regulations, is not reserved to Post PNG.“.

9. NEW SECTION 11A.

The Principal Act is amended by inserting after Section 11 the following new section :—

“11A. INCIDENTAL BUSINESSES AND ACTIVITIES.

PNG Post may carry on any business or activity that is capable of being conveniently carried on –

(a) by the use of resources that are not immediately required in providing reserved services; or

(b) in the course of supplying postal services or operating post offices.“.

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10. TERMS AND CONDITIONS GENERALLY (AMENDMENT OF SECTION 18).

Section 18(1) of the Principal Act is amended by inserting after the words "Subject to" the following :-

"Section 19 and".

11. REPEAL AND REPLACEMENT OF SECTION 19.

Section 19 of the Principal Act is repealed and is replaced with the following:-

"19. POSTAL SERVICES IS A REGULATED INDUSTRY.

(1) The supply of postal services is declared to be a regulated industry for the purposes of the *Independent Consumer and Competition Commission Act 2002*.

"(2) Any determination of rates or charges made by Post PNG under Section 17 or Section 18 shall not be inconsistent with the provisions of any regulatory contract which is in effect in relation to Post PNG.

"(3) If any term or condition for the supply of goods or services by Post PNG conflicts with, or is inconsistent with, any term or condition of the regulatory contract relating to Post PNG, the provisions of the regulatory contract shall prevail and the terms and conditions determined by Post PNG, to the extent of any inconsistency, shall be of no effect."

12. REPEAL AND REPLACEMENT OF SECTION 20.

Section 20 of the Principal Act is repealed and is replaced with the following:-

"20. MINISTER MAY NOTIFY THE BOARD OF GENERAL POLICIES OF GOVERNMENT.

(1) The Minister may notify the Board, in writing, of general policies of the Government as approved by the National Executive Council, that are to apply to Post PNG.

"(2) Any notification under Subsection (1) shall be published in the National Gazette within 14 days of the notification being given.

"(3) Any general policies of the Government notified in accordance with this section shall not be inconsistent with or contrary to any of the provisions contained in any regulatory contract which is in effect in relation to Post PNG.

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"(4) If any general policy of the Government notified to the Board under this section is inconsistent with the regulatory contract referred to in Subsection (4), that notification shall, to the extent of the inconsistency, be of no effect.

"(5) The Board shall ensure that policies notified to it in accordance with this Section are carried out.

"(6) The Board shall not have regard to any notification or purported notification which does not comply with the requirements of this section."

13. REPEAL OF SECTION 21.

Section 21 of the Principal Act is repealed.

14. REPEAL AND REPLACEMENT OF SECTION 25.

Section 25 of the Principal Act is repealed and is replaced with the following:—

"25. ACTIONS IN RELATION TO MONEY ORDERS OR POSTAL ORDERS.

(1) Post PNG shall exercise reasonable care and diligence when paying the amount of a money order or a postal order in determining that the person presenting the money order or the postal order for payment is properly entitled to receive payment for the amount of that money order or postal order.

"(2) Subject to Subsection (1), an action or other proceedings shall not be maintainable against Post PNG or the Board, the Managing Director or an officer of Post PNG in respect of a money order or postal order after its payment to whomsoever presented it if it was paid without fraud or wilful misbehaviour."

15. PENALTY ON AN UNAUTHORIZED PERSON OPENING POSTAL ARTICLES (AMENDMENT OF SECTION 28).

Section 28 of the Principal Act is amended by inserting, after the words "A person, not being" the following :—

"the addressee or an officer or employee of the addressee or"

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I hereby certify that the above is a fair print of the ***Postal Services (Amendment) Act 2002*** which has been made by the National Parliament.

Clerk of the National Parliament.

I hereby certify that the ***Postal Services (Amendment) Act 2002*** was made by the National Parliament on 27 March 2002.

Speaker of the National Parliament.

