



No. of 2015

Climate Change (Management) Act 2015

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¹ *Note:* that there was an oversight on numbering by the drafters. There are two Section 107As. One was inserted under the 2021 amendment and the other under the 2023 amendment.



No. of 2015.

AN ACT

entitled

Climate Change (Management) Act 2015,

Being an Act to provide for a regulatory framework to -

- (a) promote and manage climate compatible development through climate change mitigation and adaptation activities; and
- (b) implement any relevant obligations of the State under applicable rules of international law and international agreements related to climate change, including the United Nations Framework Convention on Climate Change (UNFCCC) and the Paris Agreement²;
- (c) establish Papua New Guinea's Designated National Authority or an equivalent entity for the purposes of the UNFCCC and the Paris Agreement and any such other or subsequent arrangements or agreements made under the UNFCCC and the Paris Agreement³, 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. – PREMILINARY.

Division 1. – Constitutional Requirements.

1. COMPLIANCE WITH CONSTITUTIONAL REQUIREMENTS, ETC.

- (1) This Act, to the extent that it regulates or restricts a right or freedom referred to in Subdivision IIL3.C (*qualified rights*) of the *Constitution*, namely -
 - (a) the right to liberty of the person conferred by Section 42; and
 - (b) the right to freedom from arbitrary search and entry conferred by Section 44; and
 - (c) the right to peacefully assemble and associate and to form or belong to or not belong to as associations conferred by Section 47; and
 - (d) the right to freedom of employment conferred by Section 48; and
 - (e) the right to privacy conferred by Section 49; and
 - (f) the right to freedom of information conferred by Section 51; and

² Amended under *Climate Change (Management) Amendment Act 2021*.

³ Repealed and replaced under *Climate Change (Management) Amendment Act 2021*.

(g) the right to protection from unjust deprivation of property conferred by Section 53,

of the Constitution is a law made pursuant to Section 38 of the *Constitution* taking into account the National Goals and Directive Principles, in particular the fourth goal on the sustainable use of natural resources and environment, in order to protect the rights and freedoms of others, and to make provision for cases where the exercise of one such right may conflict with the exercise of another, is a law made for and in relation to public purposes, public interest and public welfare.

- (2) This Act, to the extent that it causes or permits the compulsory taking of any property or of any interest in or right over Property referred to in Section 53 of the *Constitution*, is a law to which the property is required for the public purpose of, or the reason of facilitating or regulating all matters relating to climate change and any acquisition of such property is for a public purpose and reasonably justified in a democratic society that has proper regard for the rights and dignity of mankind.
- (3) This Act to the extent that it provides for consultation between persons or bodies, is a law made to give effect to Section 255 of the *Constitution* to ensure that all consultations are meaningful and allow for a genuine interchange and consideration of views.

2. **APPLICATION OF PROVISIONS OF *ORGANIC LAW ON PROVINCIAL GOVERNMENTS AND LOCAL-LEVEL GOVERNMENTS*.**

- (1) For the purposes of Section 41(2) of the *Organic Law on Provincial Governments and Local-level Governments*, it is declared that this Act related to a matter of national interest and importance.
- (2) For the purposes of Section 98 of the *Organic Law on Provincial Governments and Local-level Governments*, it is hereby declared that this Act establishes the Authority –
 - (a) responsible for determining the benefits and levies (if any) which are payable pursuant to Subsection (2) of that Section in respect of release of greenhouse gases into the atmosphere or sequestration of greenhouse gases from the atmosphere; and
 - (b) as the body which will determine the rates, management, sharing arrangement and application of such benefits and levies (if any); and
 - (c) as the body responsible for establishing and administering the trust funds referred to in Subsection (3) of that Section (if any) and for the controlling and distribution of the benefits and levies established (if any).
- (3) For the purpose of Section 99 of the *Organic Law on Provincial Governments and Local-level Governments* it is hereby declared that this Act establishes the principles by which the National Government will share with applicable Provincial Governments and Local-level Governments the revenues of the National Government generated from economic regulatory regimes for the sequestration or release of greenhouse gases (if any).
- (4) For the purpose of Section 116 of the *Organic Law on Provincial Governments and Local-level Governments* it is hereby declared that this Act establishes the consultation process on the atmospheric greenhouse gases consequences of the development required amongst stakeholders.

Division 2. – Interpretation.

3. INTERPRETATION.⁴

In this Act, unless the contrary intention appears -

“accredited climate finance entities” means State entities or private organisations, referred to in Section 14A, that are accredited to climate funds, including but not limited to the Trust Fund, that can be recipients and administrators of public or private contributions designated to be used for the implementation of measures for mitigation and adaptation to climate change with the approval of the Authority;

“adaptation” means adjustment in natural or human systems in response to actual or expected climatic stimuli or their effects which moderates harm or exploits beneficial opportunities;

“anthropogenic” means relating to, or resulting from, the influence of human beings on the natural environment;

“Authority” means the Climate Change and Development Authority established under Section 8;

“Baseline reference level” means Papua New Guinea's reference level for emissions in the baseline year established under Section 55;

“baseline year” means the year, specified by the Head of State, acting on the advice, of the National Executive Council, to be the baseline year for the purposes of this Act;

“best available science” means the best available, current information, including but not limited to ecosystem-based management, climate change targets, and international best practice as defined by the UNFCCC and the Paris Agreement;

“biofuel” means any fuel, whether solid, liquid or gas, produced from biomass;

“Board” means the National Climate Change Board established under Section 12;

“carbon” means a non-metallic chemical element found naturally abundant in many inorganics and all organic compounds;

“carbon credit” means an emission reduction, removal or avoidance unit generated as a result of a mitigation activity carried out under Regulation;

“carbon dioxide or CO_2 ” means the gas having the molecular chemical compound composed of two oxygen atoms each covalently double bonded to a single carbon atom;

“carbon levy” means a tax that is applied per carbon content of fuel;

“carbon oxidation factor” means the ratio of carbon oxidised when combustion occurs;

“carbon sink” means a natural or artificial reservoir or location that sequesters or stores a greater amount of carbon dioxide than it releases;

“climate change” means a change of climate which is attributed directly or indirectly to human activity that alters the composition of the global atmosphere and which is in addition to natural variability over comparable time periods;

“climate change adaptation plan” means the climate change adaptation plans referred to in Section 74;

⁴ Repealed and replaced Principal Section 1 under *Climate Change (Management) Amendment Act 2021*. Repealed definitions for “Authorised Controller”, “carbon rights” and “forest” under *Climate Change (Management) Amendment Act 2023*. Inserted new definitions for “carbon”, “carbon credit”, “carbon levy”, “carbon oxidation factor”, “cubic metre”, “forest”, “fuel density”, “fuel levy”, “gigajoule”, “mitigation activity”, “Net Calorific Value or NCV”, “nitrogen levy”, “person”, “synthetic nitrogen fertilizer”, “Voluntary Carbon Market or VCM” under *Climate Change (Management) Amendment Act 2023*.

“climate change displacement” or “climate displacement” means the relocation and resettlement of people internally or across international borders due to the effects of climate change, including sudden and slow-onset climatic events and processes occurring either alone or in combination with other economic, social and political factors;

“climate change related project agreement” means an agreement between the Authority, any persons or entity related to climate change related project or activity, the customary owners of the land and forest resources and the project proponent relating to an Agreement on or other Voluntary Carbon Offset Projects and any future climate change emission reduction mechanisms agreed to by the government that will facilitate for sustainable development and reduction of greenhouse gas emissions;

“climate change related project or activity” means any project or activity that is undertaken in response to the effects of climate change, including but not limited to mitigation and adaptation projects or activities; to ensure climate resilience and carbon neutral pathway for climate compatible development;

“climate emergency” means a situation or event in which an existential threat to humanity is present requiring urgent action in Papua New Guinea to reduce or halt climate change and avoid potentially irreversible global environmental damage resulting from it;

“climate finance” means local, national or transnational financing-drawn from public, private and alternative sources of financing-that seeks to support mitigation and adaptation actions that will address climate change;

“Climate Finance Steering Committee” is the Committee set up under Section 14A of this Act;

“climate resilience” means the capability of communities, that built environment and ecosystems to respond to, withstand and recover from the adverse impacts of climate change;

“CMA” means the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement;

“Conference of the Parties” or “COP” means the supreme decision-making body of the UNFCCC;

“Constitution” means the Constitution of the Independent State of Papua New Guinea;

“cubic metre” means the standard metric unit of volume applied for all solid and gas fuels;

“Designated National Authority” means the Authority who is recognised by the UNFCCC and Paris Agreement to be the lead agency for dealing with climate change matters in Papua New Guinea;

“ecosystem services” means provisioning services such as food and water; regulating services such as regulation of floods, drought, land degradation and disease; supporting services such as soil formation and nutrient cycling; and cultural services such as recreational, spiritual, religious and other non-material benefits;

“emissions mitigation plan” means the emission mitigation plan referred to in Section 65;

“emissions reduction standard” means a standard or scheme under which emissions reduction programmes, projects and activities can be registered and generate verified emissions reductions and for which emissions reduction units are issued;

“emissions reduction unit” means a tradable certificate or permit that represents one tonne of carbon dioxide equivalent verified emissions reductions;

“emissions trading” means the emissions trading system established and operated under Part VIA and referred to in Section 78A;

“Environment Permit” or “EP” has the same meaning as defined under the *Environment Act 2000*;

“Environmental Impact Assessment” or “EIA” has the same meaning as defined under the *Environment Act 2000*;

“focal point” means an individual or entity appointed by the Managing Director to perform a function under various International Treaties, Agreements and Conventions that the State through the Authority, is party to;

“foreshore” means the area between the mean high-water springs level of the sea and the lowest astronomical tide;

“forest” shall have the same meaning as under the *Forestry Act*;

“free prior and informed consent or “FPIC” means a specific right that pertains to indigenous peoples and other land holders that allows them to give or withhold consent to a project or activity that may affect them or their property;

“fuel density” means the mass of fuel per unit volume;

“fuel levy” means a tax applied per volume of fuel;

“fuel standard” means the fuel standard referred to in Section 67;

“gigajoule” means a unit of measurement for energy consumption;

“Green Climate Fund” or “GCF” is a fund established within the framework of the UNFCCC as an operating entity of the financial mechanism to assist developing countries in adaptation and mitigation practices to counter climate change;

“hydrofluorocarbons” or “HFCs” means any of several simple gaseous compounds that contain carbon, fluorine and hydrogen;

“intangible property” means something that has no physical properties and is not itself intrinsically valuable, but that derives its value from what it represents or evidences and may include intellectual property, including traditional knowledge and expressions of culture;

“international reporting practice” means accepted practice in relation to reporting for the purposes of the protocols to the UNFCCC, the Paris Agreement or such other agreements or arrangements at international level as the Head of State, acting on the advice, of the National Executive Council, may specify by Regulation;

“Inter-governmental Panel on Climate Change” or “IPCC” means the United Nations body for assessing the science related to climate change;

“internationally transferred mitigation outcome” or “ITMO” are certified emission reduction units from the new mechanism for the international emissions trading between parties to the Paris Agreement in accordance with Article 6 of the Paris Agreement and includes -

- (a) Papua New Guinea Mitigation Outcome Units transferred internationally in accordance with Section 78A; and
- (b) emissions reductions generated outside of Papua New Guinea and approved for international transfer to the Government or entities operating within Papua New Guinea in accordance with this Act and the Regulations;

“just transition” means the framework that encompasses a range of social interventions needed to secure workers’ rights and livelihoods when economies are shifting to sustainable production in order to combat climate change and protect biodiversity by restructuring such sectors as energy, manufacturing, agriculture and forestry;

“Kyoto Protocol” means the protocol under the UNFCCC adopted at Kyoto, Japan, on 11 December 1997;

“land” includes -

- (a) the surface and any ground beneath the surface of the land; and
- (b) water; and
- (c) the foreshore, being that area between the mean high water springs level of the sea and the mean low water springs level of the sea; and
- (d) the waters of Papua New Guinea area being the seabed underlying the territorial sea from the mean low water springs level of the sea to such depth as admits of exploration for or mining of minerals and any interest in land;

“land holder” means -

- (a) persons having customary rights –
 - (i) of ownership or user rights over land or sea; or
 - (ii) of ownership or user rights over flora and fauna growing on land or sea; or
 - (iii) in relation to the use of land or sea; or
- (b) a person who is in occupancy of Government land by virtue of an agreement with the State; or
- (c) a person who is the owner or lawful occupant of land other than customary land or Government land;

“Managing Director” means the Managing Director appointed and holding office pursuant to Section 45;

“methane” or “CH₄” means a colourless, odourless, flammable and gaseous hydrocarbon that is a product of decomposition of organic matter and of the carbonisation of coal;

“Minister” means the Minister designated by the Prime Minister under Section 148 of the Constitution to be the Minister responsible for all matters related to Climate Change;

“mitigation” means efforts that seek to prevent or slow down the increase of atmospheric greenhouse gas concentrations by limiting current or future emissions and enhancing potential sinks for greenhouse gases;

“mitigation activity” means an activity or project undertaken in accordance with this Act for the purposes of achieving emissions reductions or removals;

“national forest reference level” means a national forests emission reference level or forest reference level expressed as tonnes of CO₂ equivalent per year for a reference period against which the emissions and removals from a results period are compared when implementing REDD+ activities;

“National Level Disbursement” is equal to or exceeds US\$50 million;

“national target” means the total amount for national net emissions of greenhouse gas by sources and removals by sinks, including sub-national targets, for each of the regulated sectors which are set as a percentage that may be converted into tonnes of carbon dioxide equivalents for each sector for a period determined in accordance with the UNFCCC, the Paris Agreement and the IPCC guidelines;

“nationally determined contribution” or “NDC” means efforts undertaken by Papua New Guinea to address climate change in accordance with Article 4 of the Paris Agreement;

“Net Calorific Value” or “NCV” means the specific amount of energy released as heat when a fuel undergoes complete combustion under standard conditions less the heat of vaporisation of any water formed;

“nitrogen levy” means a tax on import of synthetic nitrogen fertilisers types;

“nitrous oxide” or “ N_2O ” means a colourless gas that is used as an anaesthetic in dentistry and as a fuel and that is an atmospheric pollutant and greenhouse gas produced by combustion;

“Papua New Guinea emissions” can be referred to as the anthropogenic release of the targeted greenhouse gases (CO_2 , CH_4 , N_2O , HFCs) into the atmosphere by human activities (mining, logging, fossil fuel refining, agricultural development, tourism development, combustion of fossil fuel products, industrial processes and use of products etc.) over a specified area and period of time, referred to in Section 54;

“Papua New Guinea Mitigation Outcome Unit” means a certified emissions reduction unit issued in accordance with this Act and having a unique serial number;

“Papua New Guinea removals” can be referred to as any anthropogenic (human driven) method and technology (reforestation, afforestation, conservation, sustainable forest management, hydro-power, biofuel, solar initiatives, wind, geothermal wave, etc.) of removing carbon dioxide and the targeted GHGs from the atmosphere and sequestering it for a period of time in accordance with the guidelines referred to in Section 54;

“Paris Agreement” means the Paris Agreement, ratified by Papua New Guinea on September 21, 2016 and which entered into force on November 4, 2016;

“payments for environmental or ecosystem services” or “PES”, means payments for the provision of services from ecosystems, including but not limited to carbon sequestration or storage with benefits provided to land holders in the form of compensation, incentive funds, grants, donor money and other funding derived from national and international sources.

“perfluorocarbons” or “PFCs” means any of various hydrocarbon derivatives in which all hydrogen atoms have been replaced with fluorine and that include blood substitutes used in emulsified form;

“person” means a natural person or a legal person;

“PGK” means Papua New Guinea Kina;

“Public Service” means the service engaged under the *Public Services (Management) Act 1995* and as amended from time to time;

“REDD+” means policy approaches and positive incentives on issues relating to reducing emissions from deforestation and forest degradation in developing countries and the role of conservation, sustainable management of forests and enhancement of forest carbon stocks in developing countries as identified by the UNFCCC described by the Conference of Parties to the UNFCCC in Decision I/CP.16 in its sixteenth session and Decision 1/CP.21 in its twenty-first session and as amended from time to time;

“Registry” means the Papua New Guinea National Registry established under Section 78A;

“regulated sector” means an economic sector specified in Section 53 as a regulated sector;

“reservoir” means a component or components of the climate system where a greenhouse gas or a precursor of a greenhouse gas is stored, as defined in the UNFCCC;

“results-based payments” means financial incentives for developing countries for implementing REDD+ actions and achieving results estimated through the UNFCCC approved rules and reported as emissions reduction in carbon dioxide equivalent;

“sequestration” means any artificial or natural process, activity or mechanism which removes a greenhouse gas, an aerosol or a precursor of any greenhouse gas from the atmosphere;

“sink” means any process, activity or mechanism, including carbon sinks, which removes a greenhouse gas, an aerosol or a precursor of any greenhouse gas from the atmosphere;

“sulphur hexafluoride” or “SFP” means a colourless gas that is soluble in alcohol and a powerful greenhouse gas widely used in the electrical utility industry;

“Sustainable Development Goals 13 Roadmap Platform Committee” or “SDG 13 Roadmap Platform Committee” has the meaning given to it under Section 11(1)(o);

“synthetic nitrogen fertiliser” means all man-made fertiliser types containing the element nitrogen;

“tangible property” are physical articles (things) as distinguished from “incorporeal” assets such as rights, patents, copyrights and franchises that which may be felt or touched; it must necessarily be corporeal, but it may be real or personal;

“target” means the sectoral net emission and removals by sources and by sinks of greenhouse gas, for each of the regulated sectors, within the limits of the national target, which are set as a percentage that may be converted into tonnes of carbon dioxide equivalent for a period determined in accordance with the UNFCCC, the Paris Agreement and the IPCC guidelines;

“targeted greenhouse gases” or “GHGs” means carbon dioxide (CO_2), methane (CH_4), nitrous oxide (N_2O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), sulphur hexafluoride (SF_6) Or any other targeted greenhouse gas declared by the Head of State, acting on the advice, of the Minister under Section 5 as a targeted greenhouse gas for the purposes of this definition;

“this Act” refers to the *Climate Change (Management) Act 2015*, its subsequent amendments and the Regulations made under it;

“tonne of carbon dioxide equivalent” means one metric tonne of carbon dioxide or an amount of any other targeted greenhouse gas with an equivalent global warming potential (calculated consistently with international reporting practice);

“Trust Fund” means the Climate Resilience and Green Growth Trust Fund established under Section 37;

“UNFCCC” means the United Nations Framework Convention on Climate Change, ratified by Papua New Guinea on April 1994;

“verification report” means a report, prepared by a verifier, which verifies that a quantity of emission reductions have been generated by an emissions reduction project, programme or activity that is registered under that emissions reduction standard in accordance with the guidelines under the UNFCCC, as referred to in Section 60;

“verified carbon unit” or “VCU” is an emission reduction unit issued under the Verified Carbon Standard;

“verifier” means a person or entity who is certified under an emissions reduction standard to verify that the quantity of emissions reduction is in accordance with the verified emissions reduction standard including the UNFCCC guidelines, the Paris Agreement, international reporting practice and the processes or procedures before issuing an emissions reduction unit as referred to in Section 60;

“Voluntary Carbon Market” or “VCM” means a decentralised market for private actors to voluntarily buy and sell carbon credits;

“waters of Papua New Guinea” means internal waters, including river, stream, watercourse, reservoir, well, bore, tank, dam, canal, channel, lake, lagoon, swamp, open drain, surface and underground water and other waters over which Papua New Guinea exercises or claims jurisdiction or sovereign rights and includes the seabed and subsoil underlying those waters.

Division 3. – Application of the Act.

4. **ACT BINDS THE STATE.**

This Act binds the State.

5. **LIMITATION ON POWER TO INCLUDE NEW GREENHOUSE GASES.**

(1) The Head of State, acting on advice of the Minister may, by notice in the National Gazette, add any new gas to the definition of targeted greenhouse gas in Section 3 from time to time.

(2) The power under Subsection (1) may only be exercised if it appears to the Head of State that an agreement or arrangement at the international level recognizes that particular gas, that is to be added, is a gas that contributes to climate change.

(3) A regulation may provide for the procedure to give effect to this section.

5A. **DECLARATION OF CLIMATE EMERGENCY.⁵**

(1) The Head of State, acting on advice, shall make a declaration of the existence of a Climate emergency for the purposes of this Act.

(2) Declarations made under this section, shall be published in the National Gazette and notified to the public.

(3) The Minister shall present a report to Parliament at the next meeting of the Parliament following a Declaration.

(4) A Regulation shall prescribe the implementation of this section.

(5) For the avoidance of doubt, this Act is not an Emergency Law for the purpose of Part X of the *Constitution*.

6. **TERRITORIAL APPLICATION.⁶**

(1) This Act applies to all things done in, on, above or below -

- (a) any land or sea boundaries of Papua New Guinea as defined by Section 2 of the *Constitution* and the *Maritime Zones Act 2015*; and

⁵ Inserted new section 5A under *Climate Change (Management) Amendment Act 2021*.

⁶ Repealed and replaced Section 6 under *Climate Change (Management) Amendment Act 2021*.

- (b) over any waters of Papua New Guinea to which Papua New Guinea exercises or claims jurisdiction or sovereign rights and includes the seabed and subsoil underlying those waters as defined under the *Maritime Zones Act 2015*.
- (2) This Act applies to any person or entity who conducts business in a regulated sector within Papua New Guinea's territory, as defined under Subsection (1).

7. INTERNATIONAL TRANSPORTATION.⁷

- (1) Subject to Subsection (2), emissions of greenhouse gases from international aviation or international shipping do not count as emissions from sources in Papua New Guinea for the purposes of this Act.
- (2) A Regulation may prescribe emissions from international aviation and international shipping as sources of climate change to the extent that they do not interfere with any requirements under -
 - (a) the *Protection of the Sea (Shipping Levy) Act 2004*; and
 - (b) the *National Maritime Safety Authority Act 2003*; and
 - (c) the *Merchant Shipping Authority Act 2003*; and
 - (d) *Civil Aviation Act 2000*; and
 - (e) any other law enacted,for the purposes of regulating these industries.
- (3) The Head of State, acting on advice of the National Executive Council, may make Regulations, (including imposition of climate change levies or environmental levies where applicable), to authorise participation in schemes to regulate emissions from international aviation or international shipping.

PART II. – INSTIUTIONAL ARRANGEMENTS.

Division 1. – Establishment of the Climate Change and Development Authority.

8. ESTABLISHMENT.

- (1) The Climate Change and Development Authority is hereby established.
- (2) The Authority –
 - (a) is a corporation with perpetual succession; and
 - (b) shall have a seal; and
 - (c) may acquire, hold and dispose of property and other assets; and
 - (d) may sue and be sued in its corporate name.

9. CUSTODY AND USE OF THE SEAL.

⁷ Repealed and replaced Section 7 under *Climate Change (Management) Amendment Act 2021*.

- (1) The Seal of the Authority shall be kept in such custody as the Board directs and shall not be used except by resolution of the Board or in such other manner as is authorised by this Act.
- (2) All Courts, Judges and persons acting judicially shall take judicial notice of the Seal of the Authority affixed to a document and shall presume that it was duly affixed.

10. **PURPOSE.**⁸

The purpose of the Authority is to -

- (a) promote and manage the climate compatible development through climate change mitigation and adaptation activities; and
- (b) implement any relevant obligations of the State -
 - (i) under the UNFCCC and the Paris Agreement; and
 - (ii) under any other relevant applicable rules of international law regarding climate change; and
 - (iii) to give effect to national commitments of Papua New Guinea, on a voluntary basis or otherwise; and
- (c) be Papua New Guinea's Designated National Authority or equivalent entity or complementary or superseding entity and any relevant entity under the UNFCCC and the Paris Agreement; and
- (d) administer compensation or incentive funds, grants, donor money and other funding derived from national and international climate finance sources under the direction or the Board to assist in the development of climate compatible economic endeavours and climate adaptation and mitigation programs in Papua New Guinea.

11. **FUNCTIONS AND POWERS OF THE AUTHORITY.**⁹

- (1) In the discharge of its purpose, the Authority has the following functions:
 - (a) to develop, periodically update, publish and make available to the Conference of the Parties or CMA, in accordance with the UNFCCC and the Paris Agreement, the national inventory of anthropogenic emissions by sources and removals by sinks of all targeted greenhouse gases in accordance with international reporting practice; and
 - (b) to prepare, communicate and maintain a nationally determined contribution or "NDC" that Papua New Guinea intends to achieve, in accordance with the Paris Agreement, and to formulate, implement, publish and regularly update national measures to mitigate climate change by addressing anthropogenic emissions by sources and removals by sinks of all targeted greenhouse gases and measures to facilitate adequate adaptation to climate change; and
 - (c) to provide and cooperate in the development, application and diffusion, including transfer of technologies, practices and processes that control, reduce or prevent anthropogenic emissions of targeted greenhouse gases in all relevant regulated sectors; and
 - (d) to manage and ensure the promulgation of information regarding mitigation, adaptation and implementation requirements down to the community level and to

⁸ Repealed and replaced Section 10 under *Climate Change (Management) Amendment Act 2021*.

⁹ Repealed and replaced Section 11 under *Climate Change (Management) Amendment Act 2021*.

- (e) provide points of contact for communities and sub-national governments; and to require and facilitate sustainable management and cooperation in the conservation and enhancement, as appropriate, of sinks and reservoirs of all targeted greenhouse gases, including in biomass, forests and oceans; and
- (f) to cooperate with relevant bodies or persons in preparing and implementing plans and activities for adaptation to the impacts of climate change; and
- (g) to establish appropriate administrative offices, agents or consultants in Papua New Guinea and overseas or climate change attaches; and
- (h) to facilitate and cooperate in scientific, technological, technical, socio-economic and other research, systematic observation and development of data archives related to the climate system as a precautionary measure to reduce the uncertainties regarding the causes, effects, magnitude and timing of climate change; and
- (i) to provide for and cooperate in the full, open and prompt exchange of relevant scientific, technological, technical, socio-economic and legal information related to the climate system and climate change; and
- (j) to promote, facilitate and cooperate in education, training and public awareness related to climate change and encourage wide participation from individuals, groups, public and private bodies, donors and other relevant institutions; and
- (k) to establish, coordinate and manage any emissions trading schemes, or other mechanisms for GHG mitigation, for the purpose of limiting greenhouse gas emissions or encouraging activities that reduce such emissions or remove greenhouse gas from the atmosphere; and
- (l) to establish and manage Papua New Guinea's SDG 13 Roadmap Platform Coordination Committee to ensure implementation of the Sustainable Development Goals related to Climate Change and the NDC; and
- (m) to strengthen climate observation and support research towards proved understanding, modelling and prediction of the climate system and climate impacts; and
- (n) to carry out climate risk assessments that require environment permits pursuant to the *Environment Act 2000* and its associated Regulations, and study human and ecological systems to identify options to adapt to minimise the effects of climate change; and
- (o) to coordinate planning efforts on climate change adaptation initiatives to address loss and damage associated with climate change; and
- (p) to monitor, evaluate and revise adaptation projects, policies and programs, including their effectiveness, efficiency and overall utility; and
- (q) to monitor and review climate change related activities annually to strengthen coordination, accountability, drive innovation, enforce compliance and ensure implementation; and
- (r) to promote and enforce the rights of the land holder's by requiring equitable participation in the climate change related programs that affect their customary land including the coastal sea area; and
- (s) to promote, coordinate and deliver climate change projects or activities in communities; and
- (t) to promote, coordinate and deliver capacity building activities related to climate change within the regulated sectors; and
- (u) to promote and assist cross-sectoral collaboration, including cross- sectoral collaboration for enforcement of requirements under this Act through the creation of

- regulations as well as through direct consultations; and
 - (v) to submit and update periodically an adaptation communication, which may include Papua New Guinea's priorities, implementation and support needs, plans and actions, as appropriate; and
 - (w) to ensure the provision of a national inventory report of anthropogenic emissions by sources and removals by sinks of greenhouse gases; information necessary to track progress made in implementing and achieving Papua New Guinea's NDC; and information on financial, technology transfer and capacity-building support needed and received under the UNFCCC and the Paris Agreement; and
 - (x) to promote environmental integrity, transparency, accuracy, completeness, comparability and consistency, and ensure the avoidance of double counting, in accounting for Papua New Guinea's NDC; and
 - (y) to participate and promote Papua New Guinea's climate actions and commitments in global stock takes under the Paris Agreement; and
 - (z) to promote a just transition to low-carbon and climate-resilient development in the country; and
 - (aa) to coordinate, monitor, manage and address climate emergency, climate displacement and improve climate resilience in the country; and
 - (ab) publish statements, reports and guidelines relating to the performance of any of its functions; and
 - (ac) to perform any other or further functions or roles imposed on the Authority by this Act or any other law.
- (2) The Authority, in performance of the functions, shall consult and collaborate where necessary with other departments, instrumentalities and agencies of the State and other agencies as the Authority determines from time to time for the implementation of laws and the making and implementation of policies in accordance with law on behalf of the State.
- (3) The Authority has the power to do all things necessary or convenient to be done for or in connection with or otherwise incidental to the performance of its functions and to enable it to achieve its objectives.

Division 2. –National Climate Change Board.¹⁰

12. ESTABLISHMENT OF THE BOARD.

There is established the National Climate Change Board.

13. FUNCTIONS AND POWERS OF THE BOARD.

- (1) The Board -
 - (i) shall be responsible for providing general control and guidance over the exercise of the functions and powers of the Authority; and
 - (ii) may, on the recommendation of the Managing Director, make decisions on permits in accordance with this Act; and
 - (iii) shall undertake such other functions, and exercise such powers as may be conferred

¹⁰ Division repealed and replaced under *Climate Change (Management) Amendment Act 2023*.

- on it by this Act or any other law; and
- (iv) shall, in the exercise of its functions under this Act, act in accordance with any general or specified directions as to the policy.
- (2) The Minister may, after consultation with the Board, give to the Board directions as to policy and the Board shall give effect to such policy but any such direction as to policy shall not be inconsistent with the provisions of this Act.

13A. [Repealed].

14. MEMBERSHIP OF THE BOARD.

- (1) The Board shall comprise of the following eleven members:
- (a) the Managing Director of the Authority, or his nominee *ex officio*; and
 - (b) the departmental head of the department responsible for treasury matters, or his nominee *ex officio*; and
 - (c) the department head of the department responsible for financial matters, or his nominee *ex officio*; and
 - (d) the departmental head of the department responsible for national planning matters, or his nominee *ex officio*; and
 - (e) the Managing Director of the agency responsible for forestry matters, or his nominee *ex officio*; and
 - (f) the State Solicitor or his nominee *ex officio*; and
 - (g) the managing director of the agency responsible for conservation and environment protection matters, or his nominee *ex officio*; and
 - (h) the head of government agency responsible for energy matters, or his *nominee ex officio*; and
 - (i) the departmental head of the department responsible for higher education matters, or his nominee *ex officio*; and
 - (j) two *non-ex officio* members -
 - (i) one member representing the private sector appointed amongst the members of the Papua New Guinea Chamber of Mines and Petroleum *or* the successor entities; and
 - (ii) one member who shall be a known expert on climate change matters.
- (2) Any departmental head or head of agency who opts to designate a nominee under Subsection (1)(n) to (i) inclusive shall designate a senior officer in that department or agency of a level not less than First Assistant Secretary, or the equivalent, and he shall advise the Minister in writing of his nominee and any subsequent changes.
- (3) The persons referred to under Subsection (1)(j)(i) and (ii) shall be appointed in accordance with the *Regulatory Statutory Authorities (Appointment to Certain Offices) Act 2004*.
- (4) The persons nominated under Subsection (1)(j) shall -
- (a) be ordinarily resident in the country; and
 - (b) be appointed for a term of three years; and

- (c) hold office on such terms and conditions as are determined under the *Boards (Fees and Allowances) Act (Chapter 299)*; and
 - (d) be eligible for re-appointment.
- (5) The first meeting of the Board for the purpose of submitting names to the Minister for selection of a Chairman, shall be chaired by the Managing Director.
- (6) If the body referred to in Subsection (1)(j)(i) ceases to exist and is unable to nominate a person for membership to the Board, the Minister may appoint a person in their place who shall, so far as is practicable, be representative of the interests of the group comprised by the body.

15. CHAIRMAN AND DEPUTY CHAIRMAN OF THE BOARD.

- (1) The Board shall submit to the Minister the names of at least three persons from among its members, having at least ten years' experience in climate change management, science, or law, in another natural resource field or who possess equivalent qualifications or experience.
- (2) The National Executive Council shall appoint one of these persons to be Chairman of the Board upon the recommendation of the Minister.
- (3) The Chairman shall be appointed for a period of three years.
- (4) The Board shall elect a Deputy Chairman annually from amongst its members.

15A. ALTERNATE MEMBERS.

- (1) For each of the persons appointed under Section 14(1)(j), an alternate member shall be appointed in the same way and subject to the same conditions as the member for whom he is the alternate.
- (2) In the event of the inability to act of a member, the alternate member has and may exercise all his powers, and perform his functions, duties and responsibilities and this Act applies accordingly.
- (3) An alternate member may, unless the Board otherwise directs, attend all meetings of the Board but shall not, except where he is attending in the absence of the member for whom he is the alternate, take part in debate, vote on any matter or be counted towards a quorum.
- (4) An alternate member is entitled to receive independently all notices, papers, minutes of meetings and other relevant information to which members are entitled.

15B. LEAVE OF ABSENCE OF MEMBERS.

- (1) The Chairman may grant leave of absence to a member including the Deputy Chairman, on such terms and conditions as the Chairman determines.

- (2) The Minister may grant leave of absence to the Chairman on such terms and conditions as the Minister determines.

15C. VACATION OF OFFICE BE A MEMBER OF THE BOARD.

- (1) A member of the Board, other than an *ex officio* member, may resign his office by writing and signed by him, and delivered to the Minister.
- (2) If a member of the Board, other than an *ex officio* member –
 - (a) becomes permanently incapable of performing his duties;
 - (b) is absent, except with the written consent of the Minister or Chairman in accordance with Section 15B, from three consecutive meetings of the Board; or
 - (c) is absent, except with the written consent of the Minister, from three consecutive meetings of the Board; or
 - (d) fails to comply with Section 151; or
 - (e) becomes bankrupt, or applies to take the benefit of any law for the benefit of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit; or
 - (f) is convicted of an offence under this Act or an offence under any other law punishable by a term of imprisonment of one year or longer or by death, and, as a result of the conviction, is sentenced to imprisonment or death; or
 - (g) ceases to be ordinarily resident in the country, the National Executive Council shall terminate his appointment.
- (3) The Minister, may at any time, by written notice advise a member, other than an *ex officio* member, that he intends to terminate his appointment on any of the grounds specified under Subsection (2).
- (4) Within 14 days of the receipt of a notice under Subsection (3), the member may reply in writing to the Minister, who shall consider the reply, and, where appropriate, terminate his appointment.
- (5) Where the member referred to in Subsection (3) does not reply in accordance with Subsection (4), his appointment is terminated.

15D. VACANCY NOT TO AFFECT POWERS OR FUNCTIONS.

The exercise of a power or the performance of a function of the Board is not invalidated by reason only of a vacancy in the membership of the Board.

15E. CALLING OF MEETING.

- (1) The Board shall meet as often as the business of the Authority requires, and at such times and places as the Board determines, or as the Chairman, or in his absence, the Deputy Chairman directs, but in any event, shall meet not less frequently than once in every quarter.

- (2) Where he receives a written request to do so by the Minister or by not less than four members, the Chairman, or in his absence, the Deputy Chairman, shall convene a Special Meeting of the Board within 14 days, provided that at least three working days' notice has been given to every member of the Board.
- (3) For the purposes of Subsection (1), the Chairman, or in his absence the Deputy Chairman, shall give to every member, at least 14 days' written notice of the meeting.

15F. MEETINGS OF THE BOARD.

- (1) At a meeting of the Board -
 - (a) seven members, one of whom shall be the Managing Director, constitute a quorum; and
 - (b) the Chairman, or in his absence the Deputy Chairman, shall preside, and if both the Chairman and the Deputy Chairman are absent, the members present shall appoint, from among their own number, a Chairman for that meeting; and
 - (c) matters arising shall be decided by a majority of the votes of the members present and voting; and
 - (d) the person presiding has a deliberative vote and in the event of an equality of votes on any matter, also a casting vote.
- (2) The Managing Director may nominate a staff member of the Authority to attend any Board meeting and present any matter or introduce any item of business, but shall not be entitled to vote or counted towards a quorum.
- (3) The Board shall cause minutes of its meetings to be recorded and kept.
- (4) The Board may in its discretion at any meeting of the Board -
 - (a) invite persons to attend; or
 - (b) receive or hear submissions or information from any person.

15G. COMMITTEES OF THE BOARD.

- (1) The Board may, from time to time, establish such committees or sub-committees under terms and conditions specified by the Board, and in accordance with this Part, as it considers necessary in relation to its functions for the purpose of making reports and recommendations to the Board, and each sub-committee shall be comprised of Board members with equitable representation between ex officio and other Board members.
- (2) Any committee or sub-committee established by the Board under Subsection (1) may exercise the powers of the Board described in Section 15F(4), but shall not take any decisions for or exercise any functions of, or on behalf of the Board.

15H. BOARD TO DETERMINE MEETING PROCEDURES.

Subject to this Part, the Board may determine its own procedures for the conduct of its meetings.

15I. DISCLOSURE OF INTEREST BY BOARD MEMBER OF THE BOARD.

- (1) A member of the Board who has a direct or indirect or pecuniary interest in a matter being considered or about to be considered by the Board shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest at a meeting of the Board.
- (2) A disclosure under Subsection (1), shall be recorded in the minutes of the meeting of the Board, and the member -
 - (a) shall not take part, after the disclosure, in any deliberation or decision of the Board in relation to the matter; and
 - (b) shall be disregarded for the purpose of constituting a quorum of the Board for any such deliberation or decision.
- (3) Where a member who has an interest described in Subsection (1), has not made a disclosure in accordance with that subsection, his vote shall be null and void retrospectively from the time such interest is considered and determined by the Board, and the Minister shall terminate the appointment of such member other than an *ex officio* member or his nominee in accordance with Section 15C(2).

15J. PROTECTION OF MEMBERS OF THE BOARD, ETC.

No action is maintainable against the Chairman, Deputy Chairman or any member of the Board for anything which is done by him in good faith while acting as Chairman, Deputy Chairman or member, as the case may be.

15K. REPORTS.

- (1) The Board shall furnish to the Minister -
 - (a) on or before 15 March in every year, a report on the progress and performance of the Authority for the previous year; and
 - (b) such other reports in relation to the functions of the Authority as are requested by the Minister.
- (2) As soon as practicable after he has received the report referred to in Subsection (1)(a), the Minister shall present the report to the National Executive Council and shall also forward the report to the Speaker for presentation to the Parliament.

16 – 34. [Repealed]¹¹.

PART III. ADMINISTRATION.

Division 1. – Financial Management.

35. APPLICATION OF *PUBLIC FINANCES (MANAGEMENT) ACT 1995.*¹²

¹¹ Sections 16 to 34 repealed under *Climate Change (Management) Amendment Act 2023.*

¹² Amended under *Climate Change (Management) Amendment Act 2021.*

The *Public Finances (Management) Act 1995* and the *National Procurement Act 2018* apply to and in relation to the Authority.

36. **AUDITING PROCEDURES.**

- (1) The accounts of the Authority shall be audited in accordance with Part III of the *Audit Act 1989*.
- (2) The Board shall cause to be kept proper books and other records of account in respect of receipts and expenditure of the Authority in accordance with acceptable principles of accounting consistent with the *Public Finances (Management) Act 1995* and the *Audit Act 1989*.
- (3) The Trust Account and its component parts shall be subject to regular and open audit and reporting in accordance with the *Public Finances (Management) Act 1995* and the *Audit Act 1989*.
- (4) The Board shall, in each calendar year, engage an independent reputable external auditor to audit the accounts of the Authority.

37. **ESTABLISHMENT AND OPERATION OF THE CLIMATE CHANGE AND GREEN GROWTH TRUST FUND.** ¹³

- (1) The Climate Resilience and Green Growth Trust Fund is hereby established and vests in the Authority.
- (2) The Trust Fund established under Subsection (1) shall be administered by the Authority in accordance with the *Public Finances (Management) Act 1995* and this Act.
- (3) The Trust Fund established under Subsection (1) shall consist of the following trust accounts, namely:
 - (a) Climate Change Main Operating Trust Account; and
 - (b) Climate Change Small Grants Facility Trust Account; and
 - (c) Climate Change Mitigation Trust Account; and
 - (d) Climate Change Adaptation Trust Account; and
 - (e) Community Relocation Trust Account; and
 - (f) other related trust accounts established under law for the purpose of climate change shall be governed by the respective trust instruments.
- (4) The purpose of the Trust Fund is to -
 - (a) hold funding mobilised and administered from a variety of internal and external sources from resilient development initiatives related to climate disaster preparedness, response and recovery and low carbon development projects and programs in Papua New Guinea; and

¹³ Repealed and replaced Section 37 under *Climate Change (Management) Amendment Act 2021*.

- (b) finance resilient development initiatives related to natural disaster preparedness, response and recovery and low carbon development projects and programs in Papua New Guinea; and
 - (c) hold moneys to provide for grant and loan funding to finance -
 - (i) any natural disaster early warning systems or emergency preparedness, response and recovery and climate resilient programs and projects and related activities; and
 - (ii) community-based grant projects that have a climate change adaptation or climate change mitigation (including REDD+) focus; and
 - (iii) any climate change adaptation or climate change mitigation (including REDD+) project that supports women, children, vulnerable and displaced persons or persons with disability; and
 - (iv) public, *private*, academic and civil society climate change adaptation or climate change mitigation initiatives (including internationally funded projects) that support priority climate change adaptation and mitigation (including REDD+) initiatives, projects and programs.
- (5) The income from climate finance sources may be invested, disbursed as grants or loans or used to cover the Trust Fund's administrative expenses and operating costs under this Act.

38. **FUNDING LEVY ARRANGEMENT**.¹⁴

- (1) For the purposes of this section -
- “Carbon Emission Factor” means the assumed emission factor of a fuel based on the carbon content of the fuel type; and
- “NPK” means the ratio of nitrogen (N), phosphorus (P), and potassium (K) in fertilisers.
- (2) Subject to the approval of the National Parliament, the Authority shall, in consultation with the department responsible for treasury and customs and any relevant government agency, impose levies on the domestic production or importation -
- (a) of synthetic nitrogen fertilisers; and
 - (b) of fuel; and
 - (c) of coal; and
 - (d) of other goods, which may contribute to the emission of greenhouse gases.
- (3) The levies to be charged by the Authority for the purposes of Subsection (2) shall be in respect of the fuel types and synthetic nitrogen fertilizers specified under Schedules 1 and 2.
- (4) Subject to Subsection (3), the fuel levy rate shall be calculated in accordance with the following formula and steps and prescribed in Schedule 1:

¹⁴ Amended under *Climate Change (Management) Amendment Act 2021*. Later repealed and replaced in *Climate Change (Management) Amendment Act 2023*.

Step 1. Calculation of the Carbon Emission Factor (CEF) -

$$\text{CEF} = \text{CC} \times \text{COF} \times \text{NCV} \times \frac{12}{44} \times \text{D}$$

Where -

- “CEF” is the carbon emission factor of fuel type in kilogram of carbon per litre or kilogram of carbon per cubic metre;
- “CC” is the default carbon content of fuel type in kilogram per gigajoule as referred to in the IPCC guidelines;
- “COF” is the default carbon oxidation factor as referred to in the IPCC guidelines;
- “NCV” is the default net calorific value of fuel type in gigajoule per kilogram as referred to in the IPCC guidelines;
- “12/44” is the ratio of carbon over the molecular weight of carbon dioxide;
- “D” is the density of fuel type in kilogram per litre or kilogram per cubic metre.

Step 2. Calculation of the Fuel Levy Rate (FLR) –

$$\text{FLR} = \text{CEF} \times \text{CLR}$$

Where -

- “FLR” is the fuel levy rate in toea per litre or toea per cubic metre;
- “CEF” is the carbon emission factor in kilogram of carbon per litre or kilogram of carbon per cubic metre;
- “CLR” is the carbon levy rate per carbon content of fuel type in toea per kilogram of carbon as referred to under Schedule 1.

- (5) Subject to Subsections (3) and (4), the income generated from the fuel levy shall be calculated in accordance with the following formula:

$$\text{I} = \text{FLR} \times \text{V}$$

Where -

- “I” is the income generated from fuel levy in PNG toea;
- “FLR” is the fuel levy rate in toea per litre or Toea per cubic metre;
- “V” is the volume of fuel imported or domestically produced in litres or cubic metre.

- (6) Subject to Subsection (3), the following formula shall apply to the calculation of income generated from import of synthetic nitrogen fertiliser bag(s) using the NPK ratio method and prescribed in Schedule 2:

Step 1. Calculation of Nitrogen mass in fertiliser bag(s) -

$$N_M = M_{\text{fertilizer}} \times P_N$$

Where -

N_M is the mass of nitrogen in kilogram (kgN);
 $M_{\text{fertilizer}}$ is the mass of fertiliser bag(s) in kilogram (kg);
 P_N is the per heritage of nitrogen in the fertiliser bag(s).

Step 2. Calculation of income generated in PNG Kina –

$$I = N_p \times NLR \times Q$$

Where -

I is the income generated from nitrogen synthetic fertiliser levy;
 N_v is the mass of nitrogen in kilogram;
 NLR is the nitrogen levy rate referred to under Schedule 2;
 Q is the quantity of nitrogen synthetic fertiliser bag(s).

- (7) Collection of levies shall be done by the Authority as and when import and domestic production data shows an amount due fortnightly, using the appropriate forms developed by the Authority.
- (8) All levies collected under this section shall be paid to the credit of a trust account to be established in consultation with the department responsible for financial matters.
- (9) A person who does not comply with this section commits an offence.

Penalty: A fine not exceeding K1,000,000.00 for a body corporate, or a fine not exceeding K250,000.00, or imprisonment for a term not exceeding 10 years, or both for a natural person.”.

38A. FEES AND CHARGES.¹⁵

- (1) The Authority shall determine or review the activities and services for which fees and charges shall apply, and the amount of those fees and charges, in accordance with this Act and other relevant laws as prescribed in Schedules 3 and 4.

¹⁵ Inserted Section 38A under *Climate Change (Management) Amendment Act 2021*, which was later repealed and replaced in *Climate Change (Management) Amendment Act 2023*.

- (2) Unless expressly stated, all fees and charges collected under this section shall be paid to the credit of a trust account to be established in consultation with the department responsible for finance matters.
- (3) A fee of seven percent shall be imposed on all proceeds from the net sales of carbon credits by persons carrying out all mitigation activities, and shall be paid to the Trust Fund.
- (4) A climate administration fee totalling a fifth of what accredited entities and development partners get as administration fee shall be imposed on all accredited entities and development partners who receive climate finance on behalf of the Independent State of Papua New Guinea, in consultation with the department responsible for National Planning matters.

39. **THE TRUST FUND TO HOLD MONEYS.**¹⁶

- (1) Payments into the Trust Fund shall consist of -
 - (a) monies or assets that may accrue to or vest in the Trust Fund by way of grants, subsidies, bequests, donations, gifts and subscriptions from the National Government or from a Provincial Government or from any other person; and
 - (b) climate finance and other related finance; and
 - (c) budgetary appropriations from the National Government, Provincial Government or Local-level Governments; and
 - (d) any fees, charges, levies, taxes and fines that are specifically prescribed to the Trust Fund by law or executive orders including those provided for under Sections 38 and 38A; and
 - (e) revenues from investments; and
 - (f) proceeds from the sale, lease or transfer of tangible and intangible property; and
 - (g) all monies appropriated by law for the purposes of the Trust Fund and for carrying out or giving effect to this Act; and
 - (h) all monies or assets as may accrue to or vest in the Trust Fund, whether in the course of the exercise by the Authority of its functions or powers or otherwise; and
 - (i) all monies received as a loan, grant or assistance from authorised institutions, as that is defined under Section 3 of the *Banks and Financial institutions Act 2000*, international agencies or organisation or foreign governments for the purposes of the Authority; and
 - (j) all fines payable under this Act; and
 - (k) equalisation or compensation payments to be made to Papua New Guinea by any government, supranational body, authority or person on account of national curtailment of targeted greenhouse gas emissions or its sequestration of targeted greenhouse gas emissions; and

¹⁶ Repealed and replaced Section 39 under *Climate Change (Management) Amendment Act 2021*. Amended Section 39 by repealing and replacing paragraph (o) and amending Subsection (2) in *Climate Change (Management) Amendment Act 2023*.

- (l) funds drawn from or on account of REDD+, such as results-based payments, for administration of particular activities approved under those schemes; and
 - (m) funds drawn from or on account of any targeted greenhouse gas reduction or mitigation or adaptation program howsoever arising where the government of Papua New Guinea has a responsibility for administration of a particular program in accordance with its terms; and
 - (n) accretions on such funds; and
 - (o) payments into the Trust Fund shall consist of seven percent which is imposed on all proceeds from the net sales of carbon credits by persons carrying out all mitigation activities shall be paid to the Trust Fund in accordance with a trust deed; and
 - (p) any other sources of revenues deemed appropriate to the Authority.
- (2) A person or an entity that contravenes Subsection (1)(o), is guilty of an offence.

Penalty: A fine not exceeding K1,000,000.00 for a body corporate, or a fine of K250,000.00 or imprisonment for a term of not less than 10 years or both for a natural person.

- (3) The Trust Fund shall hold monies to provide grant and loan funding to finance any climate change related activities or programs in Papua New Guinea including, but not limited to –
- (a) community-based small grant programs that have a climate change adaptation or mitigation, including REDD+ focus; and
 - (b) any climate change adaptation or climate change mitigation programs (including REDD+) that supports women, children, vulnerable and displaced persons or persons with disability; and
 - (c) public, private, academic and civil society climate change adaptation or mitigation initiatives including internationally funded programs through the Green Climate Fund and other funding sources, that support climate change adaptation, mitigation and REDD+ programmes; and
 - (d) the establishment and operation of climate change attaché posts in diplomatic missions overseas including participation in the international climate change negotiations under the UNFCCC and Paris Agreement

40. PAYMENTS FROM THE TRUST FUND.¹⁷

- (1) Unless expressly stated, payments from the Trust Fund shall only be approved by the Authority through the Board for -
- (a) purposes of the Trust Fund under Section 37(4); and
 - (b) grant or loan funding under Section 39(2); and
 - (c) the administrative expenses associated with the execution of the duties and responsibilities of the Authority and the management of the Trust Fund as approved by the Board; and
 - (d) the contracting of services for the routine, periodic and emergency actions of the Authority in the performance of its duties; and

¹⁷ Repealed and replaced Section 40 under *Climate Change (Management) Amendment Act 2021*.

- (e) the human and technological resources required by the Authority for enforcing particular regulations regarding the baseline reference level and targets any other payments necessary to give effect to this Act; and
- (f) the activities listed under Section 11 of this Act.

- (2) All decisions regarding payments from the Trust Fund shall have regard to any existing donor funding agreements in the process of administration of monies and disbursement of funding.
- (3) If the annual income from the Trust Fund together with any surplus income brought forward from a previous year is insufficient to meet the actual or estimated expenditure and commitments from the Trust Fund, the Treasurer, with the approval of Parliament, may make advances to the Authority and such advances shall be made on such terms and conditions, whether as to repayment or otherwise, as the Treasurer may determine.

41. **BANK ACCOUNTS.**¹⁸

- (1) The Authority shall open and maintain one or more bank accounts in accordance with the *Public Finances (Management) Act 1995*.
- (2) Subject to the arrangements with the sources of the funds if and where necessary, monies in the bank account may be lodged in term deposits with any reputable commercial bank or licensed financial institutions.

42. **INVESTMENT AND BORROWING BY THE AUTHORITY.**¹⁹

- (1) The Authority may invest any monies standing to the credit of the Trust Fund –
 - (a) in any securities of, or guaranteed by the State; or
 - (b) on deposit with an approved bank or a licensed financial institution approved by the Bank of Papua New Guinea; or
 - (c) in any manner authorised by the *Public Finances (Management) Act 1995* and any other law.
- (2) Any balance of monies in the Trust Fund at the end of each year shall remain to the credit of the Trust Fund and shall be used only in accordance with this Act.
- (3) Subject to Part VI of the *Public Finances (Management) Act 1995*, the Authority may obtain loans from a reputable financial institution or regional or multilateral organisation or any person as the Board determines for the purpose of this Act.
- (4) Subject to Subsection (2), any balance of monies in the operating accounts of the Authority at the end of each year shall be placed to the credit of the Trust Accounts and be used only for the purposes of this Act.

42A. **INCENTIVES FOR THE PROMOTION OF CLIMATE CHANGE INITIATIVES.**

¹⁸ Amended under *Climate Change (Management) Amendment Act 2021*.

¹⁹ Repealed and replaced Section 42 under *Climate Change (Management) Amendment Act 2021*.

- (1) The minister responsible for treasury matters, in accordance with the *Income Tax Act 1959*, grant to persons who -
 - (a) encourage and put in measures for the mitigation of climate change including reduction of greenhouse emissions and use of renewable energy; and
 - (b) put in place measures to adapt and improve Papua New Guinea's resilience to climate change; and
 - (c) are involved in the conduct of accredited training in programmes that are aimed at mitigating and adapting to climate change.
- (2) The minister responsible for treasury matters shall, if granting incentives to persons in accordance with Subsection (1), in regulations, set out the nature of the incentives, the conditions for the grant or withdrawal of such incentives and such other matter as may be necessary for the exercise of the power conferred under Subsection (1).
- (3) In granting incentives under Subsection (1), the minister responsible for treasury matters shall take into account international standards and best practice.

42B. ACCREDITED CLIMATE FINANCE ORGANISATIONS.

- (1) State entities or private organisations accredited to climate funds, including but not limited to the Green Climate Fund, can be recipients and administrators of public or private contributions designated to be used for the implementation of measures for mitigation and adaption to climate change with the approval of the Authority.
- (2) Administrators of the State entities or private organisations in Subsection (1) must monitor, evaluate, publish and communicate to the Minister and the minister responsible for treasury the results of their actions to address climate change and demonstrate the effectiveness and efficiency of their expenditure.
- (3) The minister responsible for treasury matters shall, with the support of the Authority, establish guidelines for the use of climate finance, to be applied by the State entities or private organisations in Subsection (1), in order to ensure strategic and complementary use of the funds that will be allocated for climate finance.

43. [Repealed].²⁰

Division 2. - Staff of the Authority.²¹

44. MANAGING DIRECTOR.

- (1) There shall be a Managing Director of the Authority -
 - (a) who is the chief executive officer of the Authority and the head of the staff of the Authority; and
 - (b) who is responsible for carrying out the functions, managing the affairs and exercising the powers of the Authority; and

²⁰ Repealed under *Climate Change (Management) Amendment Act 2021*.

²¹ Division repealed and replaced under *Climate Change (Management) Amendment Act 2023*.

- (c) who shall advise the Board or the Minister on any matter concerning the Authority referred to him by the Board or the Minister; and
 - (d) whose manner of appointment, suspension and dismissal shall be as specified in the *Regulatory Statutory Authorities (Appointment to Certain Offices) Act*.
- (2) The Managing Director shall be appointed for a term of four years and shall be eligible for reappointment.
- (3) While the National Executive Council believes that grounds exist for the dismissal of the Managing Director, it shall cause an investigation into the conduct, activities or performance of the Managing Director, and -
- (a) where the National Executive Council has caused an investigation into the conduct of the Managing Director, it may suspend the Managing Director; and
 - (b) where the National Executive Council has suspended the Managing Director, the National Executive Council shall make an acting appointment; and
 - (c) on receipt by the National Executive Council of the report on the investigation into the conduct of the Managing Director, it may -
 - (i) revoke the appointment of the Managing Director; or
 - (ii) reinstate the Managing Director to his substantive position.
- (4) Subject to the provisions of the *Salaries arid Remuneration Commission Act 1988*, the terms and conditions of employment of the Managing Director are as determined by the Head of State, acting on advice.
- (5) The Managing Director may, by written instrument, delegate to any officer or staff member of the Authority all or any of his powers or functions under this Act, except this power of delegation.
- (6) The Managing Director may appoint such advisory committees. under his direction and control, as he deems necessary to advise him on climate change matters and any other matter in relation to his responsibilities.

45. **FUNCTIONS OF THE MANAGING DIRECTOR.**

The functions of the Managing Director are -

- (a) to manage the operational matters and implement the functions, objectives and responsibilities of the Authority; and
- (b) to manage the Authority in accordance with the policy and direction of the Board; and
- (c) to advise the Board on any matter concerning the Authority referred to him by the Board; and
- (d) to carry out and perform the duties required of him under this Act and his contract of employment; and
- (e) to perform such other duties as the Board shall from time to time determine.

46. **DELEGATION.**

- (1) The Managing Director may, by instrument in writing, delegate all or any of his functions or powers to a person other than this power of delegation.

- (2) The Managing Director shall report any delegation under Subsection (1) without delay to the Board.

47. REPORTS.

- (1) The Managing Director shall, within three months after 1 January in each year, furnish to the Board a report on the progress and the performance of the Authority in relation to its functions during the year ending 31 December previously.
- (2) As soon as practicable after receiving the report referred to in Subsection (1), the Board shall forward the report to the Minister, who shall -
 - (a) present the report to the National Executive Council; and
 - (b) forward the report to the Speaker for presentation to the National Parliament; and
 - (c) forward a copy of the report to each provincial government.

48. GENERAL MANAGERS.

- (1) The Managing Director shall appoint General Managers, either of whom shall be appointed to act for the Managing Director in his absence, and who shall undertake such other responsibilities in accordance with this Act as may be required by the Managing Director.
- (2) The qualifications of any person considered for appointment as General Manager shall include -
 - (a) having the appropriate tertiary qualification; or
 - (b) relevant experience in climate change management; or
 - (c) economics; or
 - (d) science law; or
 - (e) another natural resource field; or
 - (f) having equivalent qualifications or experience; or
 - (g) having at least five (5) years' experience in a senior management position.
- (3) The Managing Director may appoint the General Managers on such terms and conditions as he may determine subject to the provisions of the *Salaries and Conditions Monitoring Committee Act 1988*.
- (4) The General Managers shall be appointed for a term of four years, and shall be eligible for reappointment.

49. APPOINTMENT OF EMPLOYEES.

The Managing Director may -

- (a) from time to time within the limits of funds lawfully available for the purpose, appoint such other employees as he thinks necessary for the purposes of the Authority; and
- (b) on such terms and conditions as he may determine,

subject to the provisions of the *Salaries and Conditions Monitoring Committee Act 1988*.

50. STAFF OF THE AUTHORITY.

- (1) The Managing Director, General Managers, and other employees appointed under this section shall constitute the staff of the Authority.
- (2) The Managing Director shall be responsible for directing the other staff of the Authority.

51. CONTRACT OF EMPLOYMENT.

The Managing Director and every employee of the Authority shall be employed under a contract of employment which, in the case of the Managing Director, shall be executed by the Head of State on behalf of the Authority and by the Managing Director, and in the case of an employee, shall be executed by the Managing Director on behalf of the Authority and by the employee concerned.

52. TEMPORARY AND CASUAL EMPLOYEES.

- (1) The Managing Director may appoint such temporary and casual employees as are necessary for the purposes of the Authority.
- (2) Employees appointed under Subsection (1) are not employees for the purposes of the *Salaries and Conditions Monitoring Committee Act 1988* and shall be employed on such terms and conditions as the Managing Director determines

52A. TECHNICAL ADVISERS.

The Managing Director or the Board may, from time to time -

- (a) within the limits of funds lawfully available for the purpose; and
 - (b) on such terms and conditions as are fixed by the Managing Director or the Board,
- appoint as short-term employees of, or contractors to the Authority, such technical advisers or consultants as, in the opinion of the Managing Director or the Board, are necessary for the functions and purposes of the Authority.

52B. PUBLIC SERVICE RIGHTS.

Where an officer or employee of the National Public Service is appointed to be the Managing Director or an employee of the Authority, his service as a Managing Director or as an employee of the Authority shall be counted as service in the National Public Service for the purposes of determining his rights (if any) in respect of -

- (a) leave of absence on the grounds of illness; and
- (b) furlough or pay in lieu of furlough including pay to dependents on the death of the officer or employee; and
- (c) any other related leave prescribed under the Public Service General Orders.

PART IV. – MEASURING, REPORTING AND VERIFICATION.

Division 1. – The Baseline Reference Level and Targets.²²

²² Heading amended under *Climate Change (Management) Amendment Act 2021*.

53. **REGULATED SECTORS.**²³

- (1) Subject to Subsection (2) –
 - (a) The Minister may, by notice in the National Gazette from time to time, establish economic activities into sectors in the national economy for the purposes of this Act; and
 - (b) The Minister shall establish these economic activities after consultation with the relevant sectors and may base decisions on the best available science; and
 - (c) A regulation may, from time to time, prescribe which sectors of the national economy are regulated sectors.

- (2) Until the Minister makes a determination pursuant to Subsection (1) and a regulation further prescribes the application of this Part, the following sectors of the national economy are regulated sectors for the purposes of this Act:
 - (a) agriculture and livestock; and
 - (b) electricity generation; and
 - (c) transportation of persons and goods by road, sea and air; and
 - (d) building materials for manufacturing, construction and infrastructure development; and
 - (e) forestry including land use and land use change and forestry; and
 - (f) petroleum, energy and natural gas production, refining and distribution; and
 - (g) minerals exploration, extraction, production and refining; and
 - (h) fishing and maritime resources include fishing shore based facilities or factories; and
 - (i) waste management, industrial processing and disposal; and
 - (j) any other sector which may be determined by the Minister and published in the National Gazette.

- (3) Regulated sectors shall comply with the targets set and actively achieve them.

- (4) Targets may be set as a percentage of the national target that may be converted into annual tonnes of CO_2 equivalents for each sector.

- (5) The tonnes of CO_2 equivalents may be allocated to each sector as targets in line with the NDC and the Authority -
 - (a) may require a specific project to produce an EIA under the *Environment Act 2000* in which the amount of CO_2 equivalents that are estimated to be emitted are disclosed; and
 - (b) may assess the estimated project specific emissions and deduct from the total amount of allowable emissions for the regulated sector in question; and
 - (c) may issue approval for a specific project in each regulated sector to commence or operate to meet its target.

²³ Amended under *Climate Change (Management) Amendment Act 2021*.

(6) A Regulation shall provide the requirements and guidelines on the issuance of licenses or permits.

(7) A person or body corporate who contravenes this section is guilty of an offence.

Penalty: A fine not exceeding K20,000.00 or imprisonment for a term not exceeding nine months or both for a natural person, or a fine not exceeding K500,000.00 for a body corporate

54. **MEASUREMENT.**²⁴

(1) For the purposes of this Act, targeted greenhouse gas emissions, reductions of such emissions and removals of targeted greenhouse gases from the atmosphere shall be measured or calculated in tonnes of carbon dioxide equivalent.

(2) The amount of Papua New Guinea emissions and Papua New Guinea removals of a greenhouse gas for a period shall be determined in accordance with international reporting practice under the UNFCCC, the Paris Agreement and the IPCC Guidelines.

(3) The net Papua New Guinea emissions for a period, in relation to a targeted greenhouse gas, means the amount of Papua New Guinea emissions of that gas for the period reduced by the amount for the period of Papua New Guinea removals of that gas.

(4) Measurement of the baseline reference level, the targets, emissions, removals and net Papua New Guinea emissions shall include sub-measurements to differentiate each regulated sector of the national economy as stated in Section 53, and the balance of all other sectors from the baseline measurements.

(5) All regulated sectors under this Part shall have baseline emission of carbon dioxide and targeted greenhouse gases.

(6) A Regulation may prescribe the standard format for requirements and methodologies for measurement and mandatory requirements for consultations in accordance with international reporting practice adopted and amended from time to time.

(7) All emissions shall be verified by an appropriately qualified, independent third party in accordance with Section 60.

55. **THE BASELINE REFERENCE LEVEL.**²⁵

(1) Subject to Subsection (2), the baseline reference level is the aggregate amount of -

- (a) net Papua New Guinea emissions of carbon dioxide for the baseline year; and
- (b) net Papua New Guinea emissions for each of the other targeted greenhouse gases for the baseline year,

each determined in accordance with Sections 56 and 57 and increased each *calendar* year following the

²⁴ Amended under *Climate Change (Management) Amendment Act 2021*.

²⁵ Amended under *Climate Change (Management) Amendment Act 2021*. Note that under the CCMA Amendment 2021, all references to “national” were repealed and replaced with “baseline”.

baseline year by the percent of growth in gross domestic product as determined by the Bank of Papua New Guinea or Department of Treasury or National Statistics Office.

- (2) The baseline reference level and any revisions or adjustments may be made in consultation with or by agreement among all relevant entities or bodies and be carried out in accordance with international practice or guidance under the UNFCCC, the Paris Agreement and IPCC Guidelines.

56. **REQUIREMENT FOR TARGETS.**²⁶

- (1) After this Act comes into operation and on this three anniversary and every five years after that, having fully and properly consulted with -
 - (a) the Minister responsible for Treasury matters; and
 - (b) the Minister responsible for Commerce and Trade matters; and
 - (c) the Minister responsible for Forestry matters; and
 - (d) the Minister responsible for Mining matters; and
 - (e) the Minister responsible for Petroleum and Energy matters; and
 - (f) the Minister responsible for Transport and Civil Aviation matters; ; and
 - (g) the Governor of the Bank of Papua New Guinea; and
 - (h) the Minister for Agriculture matters; and
 - (i) the relevant statutory entities; and
 - (j) the relevant private entities and industries; and
 - (k) the Board Members through public notices and advertisement of the consultation of the public; and
 - (l) such other persons or entities entitled to be consulted by law or as determined by the Board, as determined through sectoral mapping and best practice,and having regard to the matters set out in Section 53, the Board shall having regard to Papua New Guinea's NDC recommend to the Minister the baseline reference level and targets for baseline net carbon dioxide emission and baseline net emissions of targeted greenhouse gases for each year, including sub-targets for each of the regulated sectors.
- (2) Through the prescribed mechanisms the sectors shall work together through the departments and ministers to allocate sectoral emissions targets that shall be within the limit of the baseline target and be completed in accordance with international reporting practice and guidance under the UNFCCC.
- (3) The Head of State, acting on the advice, of the Minister, shall determine, and at set time intervals, in accordance with the UNFCCC and the Paris Agreement and any such other or subsequent arrangements or agreements made under the UNFCCC and the Paris Agreement, make a revision of the baseline targets for reducing emissions of carbon dioxide and targeted greenhouse gases.

²⁶ Amended under *Climate Change (Management) Amendment Act 2021*.

- (4) A determination by the Head of State, pursuant to this section shall be published in the National Gazette.

57. CRITERIA FOR DETERMINING AND REVISING THE TARGETS.

Before the Board, through the Minister, advises the Head of State on targets and revisions to targets pursuant to Section 56, it shall have regard to the following matters:

- (a) the best available science; and
- (b) the gross domestic product of Papua New Guinea, including levels of planned or projected changes in national gross domestic product over time; and
- (c) economic growth generally in Papua New Guinea, including levels of planned or projected changes in gross domestic product over time; and
- (d) the socio-economic and environmental development matters of Papua New Guinea; and
- (e) emission, mitigation and adaptation plans under Part V and Part VI, and further or other matters prescribed by Regulation; and
- (f) need to ensure targets be made progressively more ambitious through subsequent reporting cycles and conditional upon support as provided for under the Paris Agreement; and
- (g) when there is uncertainty, matters in Paragraph (a) may be given equal or greater weight to the other matters for consideration; and
- (h) Papua New Guinea's current NDC and other frameworks for sustainable development; and
- (i) available climate finance to achieve a balance between mitigation and adaptation.

Division 2. – Measuring and National Reporting.

58. OBLIGATION TO MAINTAIN RECORDS AND MEASURING.

- (1) Each person or entity that carries on an activity in a regulated sector shall keep records of
 - (a) the emission in the country of greenhouse gases into the atmosphere; and
 - (b) the removal of greenhouse gases to a sink in the country,and such further or other matters prescribed by regulation.
- (2) Each person or entity that carries on an activity in a regulated sector shall -
 - (a) submit such records for verification by a registered verifier; and
 - (b) submit those verified records annually to the Authority.
- (3) A person or entity to which this section applies shall collect or obtain and store climate change related data at no cost to the Authority.
- (4) A person or entity who contravenes this section is guilty of an offence.

Penalty: A fine not exceeding C10,000.00 or imprisonment for a term not exceeding six months or both for a natural person, or a fine not exceeding K500,000.00 for a body corporate.

- (5) A regulation may prescribe the standard format for record keeping requirements, reporting and methodologies for reporting.

59. **NATIONAL REPORTING.**²⁷

- (1) The Managing Director shall cause to be prepared and delivered to the Board for its review any revisions to Papua New Guinea's NDC and the national reports prescribed under Subsection (5).
- (2) Subject to Subsection (3), the Board shall -
- (a) start its review within one month of receiving the report and shall complete the review within three months of receiving the report; and
 - (b) once satisfied with the content, authorise the Minister to sign the national reports and forward them to the UNFCCC Secretariat in the discharge of its national obligations under the UNFCCC.
- (3) If the Board is not satisfied with a report, the Board may direct the Managing Director to review the report and resubmit the revised version for further deliberation by the Board in accordance with Subsection (2).
- (4) All reports prepared and delivered by the Board pursuant to this section shall also be delivered to the Parliament and tabled by the Minister at the next sitting of Parliament.
- (5) Papua New Guinea's -
- (a) national inventory report; and
 - (b) information required to track progress made towards Papua New Guinea's NDC; and
 - (c) information related to climate change impacts and adaptation; and
 - (d) information on financial, technology transfer and capacity-building support needed and received; and
 - (e) any other reporting provided for under the UNFCCC and the Paris Agreement,
- shall be prepared in accordance with international reporting practice under the UNFCCC, the Paris Agreement and relevant IPCC Guidelines.
- (6) A report produced under this section and after it has been presented in accordance with Subsection (2) or (3), whichever comes first, shall be deemed to be a Public document.

Division 3. – Verification.

²⁷ Amended under *Climate Change (Management) Amendment Act 2021*.

60. **NATIONAL AND INTERNATIONAL VERIFIERS TO BE REGISTERED.**²⁸

- (1) Any verifier under this Division shall comply with the rules prescribed under the UNFCCC and the Paris Agreement, international reporting practice and the processes or procedures prescribed under this Act and any other relevant law.
- (2) A person or an entity who performs verification report shall be registered with the Authority as a registered verifier subject to Section 61.
- (3) A person registered as a verifier should be an independent third party.
- (4) For purposes of projects registered to voluntary carbon markets and other emerging carbon markets not guided by the UNFCCC and the Paris Agreement, Subsections (2), (3) and (4) apply.
- (5) The roles and functions of a verifier shall be prescribed in a Regulation.

61. **REQUIREMENTS FOR REGISTRATION.**²⁹

- (1) A person or an entity may apply to the Managing Director for registration as a registered verifier if the person or entity -
 - (a) is a resident in Papua New Guinea or elsewhere; and
 - (b) meets the verifier accreditation criteria, requirements and technical capacity under the UNFCCC and the Paris Agreement; and
 - (c) has -
 - (i) provided sufficient evidence that the person or the entity has taken out professional indemnity insurance, in the amount prescribed by the Board, with an independent reputable insurance company; and
 - (ii) complied with the provisions of the *Workers' Compensation Act 1978*; and
 - (iii) registered as a tax payer and is issued with a current certificate of compliance by the Internal Revenue Commission as required by the *Income Tax Act 1959*; and
 - (iv) registered a business name or company under the *Business Names Act 2014* or *Companies Act 1997*; and
 - (v) paid an application or registration fee approved by the Board from time to time; and
 - (d) possesses qualifications appropriate to conduct verification in the relevant sector.
- (2) On receipt of an application, the Managing Director shall consider the application and prior to the next meeting of the Board, make a recommendation to the Board whether or not the applicant should be registered as a verifier for the purpose of this Act.

²⁸ Section 60 repealed and replaced under *Climate Change (Management) (Amendment) Act 2021*.

²⁹ Amended under *Climate Change (Management) (Amendment) Act 2021*.

- (3) On receipt of the recommendation of the Managing Director, the Board shall decide on the application for registration as a verifier and the Managing Director shall inform the applicant of the outcome of the application, including in the case of a refusal to grant of registration, the reasons for such refusal.
- (4) A person who is registered as a verifier under this section shall be issued a verifier certificate which shall expire on 31 December of each calendar year.
- (5) The Board may revoke or suspend or reinstate a verifier certificate issued under Subsection (4) as the Board determines necessary.
- (6) A regulation may, without limitation, prescribe further or other qualifications or requirements for registration as a registered verifier and fees payable for registration as a verifier.
- (7) A code of conduct for verifiers and a schedule of costs or fees may provide for the minimum standards of conduct for verifiers and fees they may impose on their customers or clients.

62. UNCERTIFIED VERIFICATION, ETC., PROHIBITED.

- (1) No person shall verify or purport to verify or publish any oral or written statement that appear to comprise a verification or rejection of, any rational record of -
 - (a) emissions of carbon dioxide and other greenhouse gases into the atmosphere; or
 - (b) removals of carbon dioxide and other greenhouse gases from the atmosphere to a sink in Papua New Guinea,

unless that person is authorised under this Act.

- (2) No person, except the Authority, shall issue a certificate of compliance and authenticity related to climate change matters under this Act or any other law.
- (3) A person who contravenes Subsection (1) or (2) commits an offence.

Penalty: A fine not exceeding K50,000.00 or imprisonment for a term not exceeding five years or both for a natural person, or a fine not exceeding K500,000.00 for a body corporate.

PART V. MITIGATION.

Division 1. – Application of this Part.

63. APPLICATION OF THIS PART.

This Part applies to persons, groups, organisations or bodies that carry on activities in a regulated sector.

64. SECTORS REQUIRED TO MITIGATE.

Each person, organisation, group or any such body which carries on an activity in a regulated sector is required, on and from the coming into operation of this Act, to implement a carbon dioxide emission and targeted greenhouse gas emission mitigation action in accordance with this Part.

*Division 2. – Immediate emission mitigation steps.*³⁰

65. EMISSIONS MITIGATION PLANS.

- (1) As at the coming into operation of this Act and for each year, each person, organisation, group or any other such body carrying on an activity in a regulated sector shall, taking into account Papua New Guinea's NDC and the Paris Agreement's global temperature goal, prepare a mitigation plan to -
 - (a) reduce its production of carbon dioxide and other targeted greenhouse gases; and
 - (b) increase the capture of carbon dioxide or other targeted greenhouse gases in a sink and identify ways the person, or organisation, group or any other such body might participate in climate change related activities.

- (2) The Authority shall make Regulations for the following activities that contribute to GHG emissions:
 - (a) Transportation; and
 - (b) Agriculture; and
 - (c) Forestry; and
 - (d) Energy generation; and
 - (e) Land use; and
 - (f) Waste disposal; and
 - (g) Industrial processes and product use; and
 - (h) Manufacturing processes; and
 - (i) any other related activities.

- (3) A person or an entity which contravenes Subsection (1) is guilty of an offence.

Penalty: A fine not exceeding K10,000.00 or imprisonment for a term not exceeding two months or both, for a natural person or a fine not exceeding K500,000.00 for a body corporate.

66. ENFORCED MITIGATION.

- (1) The Head of State, acting on the advice, of the Minister shall, within 12 months, make Regulations of the type and effect specified in Sections 64 and 65.

- (2) If mitigation measures and requirements based on a mandatory emissions mitigation plan are not adhered to, the Authority, in consultation with the Conservation and Environment

³⁰ Division 2 repealed and replaced under *Climate Change (Management) (Amendment) Act 2021*.

Protection Authority, may withhold, suspend or cancel the granting of an Environment Permit as prescribed by the *Environment Act 2000* subject to compliance.

Penalty: A fine not exceeding K10,000.00 or imprisonment for a term not exceeding two months or both, for a natural person or a fine not exceeding K500,000.00 for a body corporate.

67. FUEL STANDARDS.

- (1) A Regulation to be known as the Fuel Standards Regulation shall be adopted within 12 months of the date of coming into operation of this Act to -
 - (a) prescribe the standard of refining and maximum permissible content of sulphur and other targeted greenhouse gas pollutants in all fuel for use in land, sea and air transport and power generation; and
 - (b) contain provisions requiring refiners and distributors of fuel to take measures to control and eliminate contamination of fuel with water, sediments and other substances which would impede the clean combustion of fuel; and
 - (c) contain provisions on the use and standards of biofuel; and
 - (d) provide for other technical matters necessary or convenient to give effect to mitigation of emission of carbon dioxide and other targeted greenhouse gases from use of petroleum fuels.
- (2) A person who or an entity that contravenes this section is guilty of an offence.

Penalty: A fine not exceeding K10,000.00 or imprisonment for a term not exceeding two years or both, for a natural person or a fine not exceeding K500,000.00 for a body corporate.

68. CLIMATE BUILDING STANDARDS.

- (1) A Regulation to be known as the Climate Building Standards Regulation shall prescribe minimum environmental standards and performance levels to apply in the construction of all new buildings and in refurbishments which require regulatory approval under Section 11 of the *Building Act 1971*.
- (2) Without limitation, the Climate Building Standards Regulation may address the design and performance requirements for -
 - (a) insulation to be used in roof and external walls; and
 - (b) glazing systems; and
 - (c) cooling, heating and ventilation systems; and
 - (d) internal lighting and external security lighting; and
 - (e) energy efficiency technology; and
 - (f) certification of building designs as compliant with the Climate Building Standards Regulation,

and all other technical matters necessary or convenient to give effect to mitigation of emission of carbon dioxide and other targeted greenhouse gases from buildings.

- (3) The Climate Building Standards Regulation will be complementary with the existing Building Regulations and override the Building Regulations, only to the extent of any inconsistency between the two Regulations.
- (4) Where it is necessary or convenient for the purposes of any Act that a building or parts of a building or designs for a building be certified as being compliant with the Climate Building Standards Regulation, such certification may only be provided by a member of the Papua New Guinea Institute of Engineers or any other person authorised in accordance with the Climate Building Standards Regulation.
- (5) A person who or an entity that contravenes this section is guilty of an offence.

Penalty: A fine not exceeding K10,000.00 or imprisonment for a term not exceeding two years or both, for a natural person or a fine not exceeding K500,000.00 for a body corporate

68A. CLIMATE RESILIENT INFRASTRUCTURE.

- (1) In addition to Sections 66 and 69, all Ministers and other persons making decisions relating to proposals for new infrastructure must -
 - (a) direct that a climate risk and resilience assessment be conducted on the proposal with reference to any integrated risk scenarios developed in accordance with this Act and other relevant risk scenarios; and
 - (b) consider the climate risk and resilience assessment prepared in accordance with Paragraph (a) when deciding whether or not to approve the proposal; and
 - (c) make a decision to approve or not approve the proposal that promotes and is consistent with the climate risk and resilience assessment prepared in accordance with Paragraph (a).
- (2) For the avoidance of doubt, proposals for new infrastructure include proposals for infrastructure that must be replaced due to the impacts of natural disasters and the adverse impacts of climate change.
- (3) A Regulation to be known as the Climate Resilient Infrastructure Standards Regulation shall prescribe minimum environmental standards and performance levels to apply to all infrastructure.

69. OTHER DEVELOPMENT STANDARDS.

- (1) A person or entity, before undertaking any or more of the following developments activities:
 - (a) civil works; or
 - (b) mining, both land-based and seabed mining operations; or
 - (c) oil and gas, both land-based and seabed extraction operations; or
 - (d) agriculture and livestock; or
 - (e) industrial processes and product use; or

- (f) forestry; or
- (g) fisheries, both at sea and shore-based fishing operations; or
- (h) any related activities,

shall comply with the minimum climate mitigation and compatibility standards and performance levels.

(2) Within one calendar year of the date of coming into operation of this Act, a Regulation may be developed to prescribe climate mitigation and compatibility standards and performance levels applicable under Subsection (1).

(3) A person who or an entity that contravenes this section is guilty of an offence.

Penalty: A fine not exceeding K1 0,000.00 or imprisonment for a term not exceeding two years or both, for a natural person or a fine not less than K500,000.00 for a body corporate.

Division 3. – Future Mitigation Steps.

70. MITIGATION PLANNING COMMITTEE.³¹

(1) The Board shall establish a mitigation planning committee or any such existing working committee with participants from each regulated sector to plan the development of future regulatory arrangements to mitigate emissions of carbon dioxide and targeted greenhouse gases into the atmosphere and to promote the establishment, maintenance and use of greenhouse gas sinks.

(2) Each planning committee established under Subsection (1) shall, within 12 months of its appointment and after sufficient public consultation report to the Board –

- (a) a set of regulatory principles with intent to pursue, in accordance with the National Goals and Directive Principles, mitigation generally and to manage sector emissions performance within the targets; and
- (b) the costs, to the participants in the regulated sector of implementing mitigation in accordance with the regulatory principles; and
- (c) proposed means by which the participants will be compensated or the costs being borne within the national economy.

71. MAKING REGULATIONS REGARDING MITIGATION.³²

(1) Within one calendar years of coming into operation of this Act and again each five years after that, having regard to Papua New Guinea’s NDC, in particular its mitigation contribution to -

³¹ Amended under *Climate Change (Management) (Amendment) Act 2021*.

³² Amended under *Climate Change (Management) (Amendment) Act 2021*.

- (a) the regulatory principles, the costs of implementing mitigation and the means of compensation proposed and set out in the regulated sector planning committee report;
- (b) the national reference level (including as adjusted) and the targets set in accordance with this Act, and having further consulted with each of the parties described in Section 70,

the Minister shall publish a proposed mitigation regulation for each regulated sector.

- (2) The Minister shall allow an opportunity for public consultation on a proposed mitigation regulation published under Subsection (1).
- (3) The Head of State, acting on the advice of the Minister may make a regulation to provide for-
 - (a) mitigation actions; and
 - (b) compensation or economic allocation of the cost of such mitigation actions; and
 - (c) applicable fees, enforcement and Penalty mechanisms,

and any other matter or thing necessary reasonably required to be done to achieve mitigation in the regulated sector.

PART VI. – ADAPTATION.

Division 1. – Application of this Part.

72. APPLICATION OF THIS PART.

This Part applies to persons, groups, organisations or any other such bodies that carry on activities in a regulated sector.

73. SECTORS REQUIRED TO ADAPT.

Each person, organisation, group or any other such body who carries on an activity in a regulated sector is required, on and from the coming into operation of this Act, to implement a climate change and climate compatible adaptation action in accordance with this Part.

Division 2. – Immediate Adaptation Steps.³³

74. CLIMATE CHANGE ADAPTATION PLANS.

- (1) As at the coming into operation of this Act and for each year, each person, organisation, group or any other such persons or bodies carrying on an activity in a regulated sector shall prepare an adaptation plan using reasonable endeavors to -
 - (a) identifying priority areas of climate change vulnerability and risk, and to adapt to climate induced natural events including -

³³ Division repealed and replaced under *Climate Change (Management) (Amendment) Act 2021*

- (i) coastal flooding and sea level rise; or
 - (ii) inland flooding; or
 - (iii) landslides; or
 - (iv) vector-borne diseases; or
 - (v) changes in agricultural yields; or
 - (vi) changes in livestock production; or
 - (vii) food security; or
 - (viii) marine eco system health; or
 - (ix) climate induced migration; or
 - (x) climate impacts on cities and towns; or
 - (xi) water and sanitation,
- or any other related events; and
- (b) identify ways to participate in -
 - (i) coastal early warning system; or
 - (ii) community-based mangrove planting; or
 - (iii) coastal engineering protection; or
 - (iv) agricultural intervention; or
 - (v) human settlement and migration; or
 - (vi) protection of marine protected areas or marine reserves,or any other related activities or programs.

(2) A person who or an entity that contravenes Subsection (1) is guilty of an offence.

Penalty: A fine not exceeding K10,000.00 or imprisonment for a term not exceeding six months or both, for a natural person or a fine not exceeding K500,000.00 for a body corporate.

74A. NATIONAL PLANNED RELOCATION GUIDELINES.

- (1) The Authority shall prepare successive National Planned Relocation Guidelines.
- (2) The Authority shall operationalise the National Planned Relocation Guidelines developed under Subsection (1) through developing Standard Operating Procedures which enable proactive processes for addressing the risk of climate and disaster driven displacement.
- (3) The Authority shall review and amend the National Planned Relocation Guidelines and the Standard Operating Procedures when necessary but at a minimum, every 5 years.
- (4) A Regulation shall prescribe National Planned Relocation Guidelines under Subsection (1).

74B. RELOCATION OF AT-RISK COMMUNITIES.

- (1) The Authority, in consultation and coordination with relevant state entities and bodies, may relocate and support at-risk communities in accordance with the following objectives:

- (a) to allow for the orderly, respectful and dignified relocation of affected communities; and
 - (b) to provide for a minimum standard of protection and assistance to people at risk of, or affected by, disasters and climatic change; and
 - (c) for permanent relocations, provide a coordination mechanism to enable all affected stakeholders to participate in decisions affecting communities; and
 - (d) facilitate the use of clear, inclusive and comprehensive procedures for assessing and responding to climate risk and relocation; and
 - (e) to relocate at-risk communities only when other adaptation measures as set out in the NAP have been exhausted; and
 - (f) to relocate at-risk communities only with the full free and prior informed consent of the communities; and
 - (g) to ensure that relocation sites –
 - (i) are on land that is capable of supporting the at-risk community and any existing or host communities; and
 - (ii) have adequate housing, infrastructure, social infrastructure and other social and financial support systems, employment opportunities and can meet the development needs of both the existing or host community and the at-risk community that is to be relocated to that site; and
 - (h) if an at-risk community is relocated to land that supports existing communities, the rights and concerns of those existing or host communities are taken into account and respected; and
 - (i) where possible and desirable, infrastructure is relocated from the at-risk community to the relocation site; and
 - (j) relocation is to be non-discriminatory; and
 - (k) the adoption of approaches which are –
 - (i) human centered including prioritising community needs from the bottom up; and
 - (ii) livelihoods based; and
 - (iii) human rights based; and
 - (iv) pre-emptive; and
 - (l) requiring inclusive and gender responsive consultation and participatory processes.
- (2) Prior to the Authority, in consultation and coordination with relevant state entities and bodies, making a decision on relocating at-risk communities, it may -
- (a) consult with the affected persons or communities and communicate the rights of those persons or communities, the scientific and policy justification for the proposed relocation; and
 - (b) conduct a public hearing at the affected community whereby the affected persons or communities have the right to legal representation; and
 - (c) take the views of the affected persons or communities, and the public hearing, into account.

- (3) If the Authority, in consultation and coordination with relevant state entities and bodies, decide that the relocation of an at-risk community is necessary, the Authority with relevant state entities and bodies may take all reasonable steps to ensure the relocation takes place in accordance with the principles in Subsection (1).
- (4) The Authority with relevant state entities and bodies may consider whether it is necessary to develop further legal frameworks, policies and strategies to manage climate and disaster-induced displacement with the purpose of protecting human rights and reducing long term risks.
- (5) A trust account shall be established under Section 37 for the Planned Relocation of Communities in Papua New Guinea that are adversely affected by climate change.

74C. REGIONAL DISPLACEMENT IN THE PACIFIC.

- (1) The Minister may, in consultation with the minister responsible for foreign affairs and immigration, and any relevant entities, facilitate the necessary approval process for the acceptance of persons from small island developing states in the Pacific who have been permanently displaced, or are at risk of being permanently displaced, as a result of the adverse impacts of climate change, including sudden and slow-onset climatic events and processes.
- (2) The relevant laws in force shall apply notwithstanding Subsection (1).

75. ENFORCED ADAPTATION.

- (1) The Head of State, acting on the advice of the Minister, shall within 12 months make Regulations of the type and effect specified in Sections 73 and 74.
- (2) If a holder of a licence or permit issued under the *Environment Act 2000* contravenes adaptation measures and requirements based on a mandatory climate change adaptation plan, the holder of the licence or permit is guilty of an offence.

Penalty: A fine not exceeding K10,000.00 or imprisonment for a term not exceeding two months or both, for a natural person or a fine not exceeding K500,000.00 for a body corporate.

Division 3. – Future Adaptation Steps.³⁴

76. ADAPTATION PLANNING COMMITTEE.

- (1) The Board shall establish an adaptation planning committee or any such existing working committee with participants from each regulated sector to plan the development of future

³⁴ Sections 76, 77, 78 amended under *Climate Change (Management) (Amendment) Act 2021*.

regulatory arrangements to adapt to climate induced events and to promote the establishment, maintenance and use of eco-system friendly measures.

- (2) Each planning committee appointed under Subsection (!) shall, within 12 months of its appointment, and after sufficient public consultation, report to the Board –
 - (a) a set of regulatory principles to be pursued in accordance with the National Goals and Directive Principles, adaptation generally and to manage climate compatible and adaptative measures or activities; and
 - (b) the cost to the participants in the regulated sector of implementing adaptation programs in accordance with the regulatory principles; and
 - (c) the proposed means by which the participants will be compensated or the costs being from within the national economy; and
 - (d) any other report the Board determines from time to time.

77. DEVELOPMENT AND ADAPTATION STANDARDS.

- (1) In addition to Section 74 and further to any requirement under any other law, a person or entity, before undertaking any or more of the following developments:

- (a) building and civil works; or
- (b) mining, both land based and seabed mining operations; or
- (c) oil and gas, both land based and seabed extraction operations; or
- (d) agriculture and livestock; or
- (e) manufacturing; or
- (f) forestry; or
- (g) fisheries, both at sea and shore based fishing operations; or
- (h) energy; or
- (i) transport; or
- (j) any related activities,

shall comply with the minimum climate adaptation and compatibility standards and performance levels.

- (2) A Regulation shall prescribe climate adaptation and compatibility standards and performance levels and applicable fees under Subsection (1).
- (3) A person who or an entity that contravenes this section is guilty of an offence.

Penalty: A fine not exceeding K10,000.00 or imprisonment for a term not exceeding two years or both, for a natural person or a fine not exceeding K500,000.00 for a body corporate.

78. MAKING REGULATIONS REGARDING ADAPTATION.

- (1) Within two calendar years of the coming into operation of this Act and again, each five years after that, having had regard to -

- (a) the regulatory principles, the costs of implementing adaptation and the means of compensation proposed and set out in the regulated sector planning committee report; and
 - (b) having further consulted with each of the parties described in Section 76,

the Minister may publish a proposed adaptation regulation for each regulated sector.
- (2) The Minister shall allow an opportunity for public consultation on a proposed adaptation regulation published pursuant to Subsection (1).
- (3) The Head of State, acting on the advice of the Minister, may make a regulation to provide for
 - (a) adaptation actions; and
 - (b) compensation or economic allocation of the cost of such adaptation actions; and
 - (c) applicable fees, enforcement and penalty mechanisms,

and other matter or thing necessary or reasonably required to be done to achieve adaptation in the regulated sector.

PART VIA. – CARBON MARKETS.³⁵

78A. PAPUA NEW GUINEA NATIONAL REGISTRY.

- (1) This section establishes the Papua New Guinea National Registry.
- (2) The Authority may keep and maintain the Registry by electronic and other means.
- (3) The Authority may make the Registry publicly accessible online or by other means.
- (4) The purposes of the Registry are as follows:
 - (a) to be a Registry for emissions reduction projects, programmes and activities; and
 - (b) to be a Registry for Papua New Guinea Mitigation Outcome Units; and
 - (c) to be a Registry for VCUs and other emission reduction units issued under an approved international emissions reduction standard in relation to an emissions reduction project, programme or activity in Papua New Guinea; and
 - (d) to be Papua New Guinea's National Registry for any incoming ITMOs from another country or outgoing Papua New Guinea Mitigation Outcome Units to another country.
- (5) An account kept in the name of a person is to be known as a Registry account of the person.
- (6) Each Registry account is to be identified by a unique number, to be known as the account number of the Registry account.

³⁵ New Part Inserted under *Climate Change (Management)(Amendment) Act 2021*. Heading and Section 78B amended under *Climate Change (Management) (Amendment) Act 2023*. Section 78C inserted under *Climate Change (Management) (Amendment) Act 2023*.

- (7) A Regulation shall prescribe for the operation of the Registry, including
- (a) identification procedures that must be carried out by the Authority before the Authority opens a Registry account in the name of the person; and
 - (b) the voluntary closure of Registry account if requested by the person whose name the account is in; and
 - (c) the suspension of Registry accounts; and
 - (d) the unilateral closure of a Registry account by the Authority; and
 - (e) entries for Papua New Guinea Mitigation Outcome Units, ITMOs, VCUs or any other emission reduction units issued in accordance with approved international emissions reduction standards; and
 - (f) the holding, surrender, cancellation or transfer of Papua New Guinea Mitigation Outcome Units or ITMOs; and
 - (g) the holding of VCUs or other emission reduction units issued in accordance with approved international emissions reduction standards; and
 - (h) the voluntary cancellation of Papua New Guinea Mitigation Outcome Units or ITMOs; and
 - (i) correction and rectification by the Authority of clerical errors, obvious defects or unauthorised entries in the Registry; and
 - (j) the publication of information relating to Papua New Guinea Mitigation Outcome Units, ITMOs, VCUs or other emission reduction units issued in accordance with approved international emissions reduction standards; and
 - (k) compliance by Papua New Guinea with eligibility requirements relating to ITMOs and the international transfer of Papua New Guinea Mitigation Outcome Units under the Paris Agreement; and
 - (l) any other necessary arrangements to enable operation of the Registry.

78B. REDD+ TRANSACTIONS BY THE GOVERNMENT.

- (1) Where the Government participates in any transaction under international REDD+ programmes, including but not limited to the Green Climate Fund results-based payments programme, the Board is to be taken to have the authority of the land holder to sell and transfer all carbon sequestered by the forest including in the form of emissions reductions, Papua New Guinea Mitigation Outcome Units or carbon sequestration resulting from that programme provided that -
- (a) [Repealed]³⁶.
 - (b) the Government may compensate the customary land holders as PES, where relevant, and any other land holder with forest carbon included in the transaction under an approved benefits sharing plan subject to Section 93; and
 - (c) the Board has considered the market value of the emissions reductions or Papua New Guinea Mitigation Outcome Units at the time of evaluating the proposed transaction and the impact that such a transaction will have on Papua New Guinea's NDC; and

³⁶ Repealed under *Climate Change (Management) (Amendment) Act 2023*.

- (d) any other necessary arrangements with land holders are entered into.
- (2) The Board in consultation with the Minister responsible for forestry matters may approve a benefit sharing plan for any transaction under international REDD+ programmes.
- (3) Notwithstanding any other provisions in this Act, any transaction including PES carried out in accordance with this section is to be carried out on terms agreed between the parties to the transaction, provided that any such transactions or PES are recorded and accounted for in the Registry.
- (4) A Regulation shall prescribe the operations of this section.

78C. ESTABLISHMENT OF CARBON MARKETS.

- (1) The Authority shall establish a process for the issuance of permits for a person to undertake a mitigation activity for the purpose of achieving emission reduction or removal results and the subsequent sale and transfer of the carbon credits generated from those emission reduction or removal results.
- (2) A Regulation shall provide for the procedures relating to -
 - (a) the application and approval process for issuance of permits for mitigation activities that are intended to participate in carbon markets; and
 - (b) generation, sale, and transfer of carbon credits; and
 - (c) the framework for benefit sharing; and
 - (d) reporting requirements; and
 - (e) any other areas necessary for the operation of the carbon trading mechanism.

PART VII. – AUTHORITY TO INSEPCT AND COLLECT DATA.

Division 1. – Application of the Search Act 1977.³⁷

79. INTERPRETATION, ETC.

- (1) For the purposes of this Part, an “authorised officer” means an officer of the Authority duly appointed by the Authority to conduct search or obtain data or information related to all the activities that produces emissions and removals of the targeted Greenhouse Gases under Section 3 of this Act and any information related to climate change.
- (2) An authorised officer appointed under Subsection (1) shall produce a valid search warrant in the course of carrying out searches or related functions under this Act.

80. APPLICATION OF *SEARCHACT 1977*.

- (1) The *Search Act 1977* shall apply to searches conducted under this Act.

³⁷ Sections 79 and 80 amended under *Climate Change (Management) (Amendment) Act 2021*.

- (2) For the avoidance of doubt, an authorised officer shall not exercise search powers of police under the *Search Act 1977* other than for the purposes of this Act.

81. SEARCH, ETC.

- (1) A search may be conducted by an authorised officer for the purpose of, but not limited to
- (a) monitor and ensure compliance with this Act; or
 - (b) gather information about a suspected offence against this Act; or
 - (c) gather other information relevant to the administration or enforcement of this Act.
- (2) A person who or an entity which, without reasonable excuse, resists or obstruct or does not cooperate or fail to provide data to an authorised officer within a reasonable period of time to carry out an authorised activity under Subsection (1) is guilty of an offence.

Penalty: A fine not exceeding K50,000.00 or imprisonment for a term not exceeding one year or both, for a natural person or a fine not exceeding K500,000.00 for a body corporate.

Division 2. – Power of Entry and Collection of Data.

82. POWERS OF SEARCH.

In addition to those powers conferred by the Search Act 1977, an authorised office may –

- (a) enter land or premises and inspect the land or premises and any operations or activities conducted on the land or premises; or examine anything on the land or premises; or
- (b) take photographs, films or videos; or
- (c) carry out tests on machinery, facilities and equipment; or
- (d) take and remove samples; or
- (e) take and remove anything that may be evidence of non-compliance with this Act,

or do such other necessary thing in the circumstances for the purposes of this Act.

83. POWER TO GATHER INFORMATION.³⁸

- (1) An authorised officer may require a person who may be in a position to provide information relevant to any matter subject to an authorised investigation or data collection or for any such purpose under this Act -
- (a) to answer a question relevant to the investigation, including but not limited to name and address; or
 - (b) to take reasonable steps, within that person's power, to obtain information relevant to the investigation or data collection and to pass it on to the authorised officer.

³⁸ Amended under *Climate Change (Management)(Amendment) Act 2021*.

- (2) Where a person is required to answer a question under this section fails to answer the question to the best of the person's knowledge, information and belief within a reasonable time, he commits an offence.

Penalty: A fine not exceeding K10,000.00 or imprisonment for a term not exceeding two years or both, for a natural person or a fine not exceeding K500,000.00 for a body corporate.

84. PRODUCTION OF RECORDS.³⁹

- (1) This section applies to records relating to –
- (a) targeted greenhouse gas emissions by a person or entity in a regulated sector; or
 - (b) removals of targeted greenhouse gases to a sink by a person or entity in a regulated sector, or
 - (c) verification of any records under this Act; or
 - (d) mitigation plans, mitigation action or adaptation projects; or
 - (e) compliance with the Fuel Standards Regulation; or
 - (f) compliance with the Climate Building Standards Regulation
- or other matters relevant to the administration of this Act.
- (2) A person or an entity who has possession or control of a record to which this section applies shall, at the request of an authorised officer –
- (a) produce the record for inspection by the authorised officer, and
 - (b) answer any questions that the authorised officer reasonably asks about the record.
- (3) An authorised officer may retain records produced under this section for the purpose of making copies of them.
- (4) A person who or an entity which fails to comply with this section is guilty of an offence.

Penalty: A fine not exceeding K10,000.00 or imprisonment for a term not exceeding two years or both, for a natural person or a fine not exceeding K500,000.00 for a body corporate.

85. POWER TO RECORD INFORMATION.

- (1) The Authority shall, in respect of mitigation and adaptation, REDD+ and other climate related activities, keep such records or information as are determined by the Authority.
- (2) All records shall be kept in such manner as determined by the Board.

85A. OFFENCES IN RELATION TO AUTHORISED OFFICERS.

A person or entity who -

³⁹ Amended under *Climate Change (Management)(Amendment) Act 2021*.

- (a) hinders or obstructs an authorised officer in the execution of his duties; or
 - (b) fails to comply with a lawful requirement made by an authorised officer; or
 - (c) refuses an authorised officer entry to premises which the authorised officer may lazily enter; or
 - (d) impersonates an authorised officer,
- is guilty of an offence.

Penalty: A fine not exceeding K10,000.00 for a natural person or imprisonment for a term not exceeding two years, or both or a fine not exceeding K500,000.00 for a body corporate.

86. NON-DISCLOSURE OF INFORMATION.

- (1) Subject to Subsection (2), a member of the Board or an officer who, except for the purpose of the performance of his functions and duties under this Act, discloses to any person, business group, company, corporation or any other business association, any information in relation to the financial affairs, plant, equipment, mitigation, adaptation, REDD+ or any related climate change activities of a person acquired in the performance of the functions and duties of the member or officer, as the case may be, under this Act, is guilty of an offence.

Penalty: A fine not exceeding K10,000.00 or imprisonment for a term not exceeding six months.

- (2) Subsection (1) does not apply to a disclosure made in criminal proceedings in accordance with this Act.

PART VIII. – RECOGNITION OF LANDHOLDER RIGHTS.

Division 1. – Rights of Customary Landholder.

87. FREE, PRIOR AND INFORMED CONSENT.

In this Part consent of all landholders shall be obtained through the “free, prior and informed consent” process prescribed in the Regulation.

88. CUSTOMARY LANDHOLDERS.

The rights of the customary landholders shall be fully recognised and respected in all transactions affecting the customary land.

89. OBTAINING CONSENT OF CUSTOMARY LANDHOLDERS.⁴⁰

- (1) Where the Authority or any such entity or person desires to enter into a climate change related project agreement over customary land, the title of the customary landholders to that land shall be –

⁴⁰ Amended under *Climate Change (Management) (Amendment) Act 2021*.

- (a) vested in a land group or land groups incorporated under the *Land Groups Incorporation Act 2009*; or
 - (b) registered under a law providing for the registration of title to customary land.
- (2) Where it is impractical to give effect to the requirements of Subsection (1), a climate change related project agreement may be executed on behalf of customary groups who are customary land holders in respect of the land covered by the agreement, proven through the conduct of a social mapping and landowner identification study, provided that 85 percent of the adult members resident on the land of each such land group give consent in accordance with Section 87 to their group entering into the agreement.
- (3) Where the Authority or any person or entity intends to enter into a climate change related project agreement, the Board shall inform –
- (a) the Provincial Government for the province and the Local-level Government in which the area covered by the agreement is situated; and
 - (b) the member or members of Parliament for the province and the electorate or electorates in which the area covered by the agreement is situated,
- in relation to the intention of the Board to enter into the proposed climate change related project agreement.

Division 2. – Rights of Customary Landholders in Climate Change Project Agreements.

90. INCLUDING RIGHTS AND BENEFIT SHARING.⁴¹

- (1) A climate change related project agreement shall –
- (a) be in writing; in both English and Tok Pisin, and in the local language if requested by the customary land holders; and
 - (b) explain and define land holder, rights and benefits, including monetary or PES and other benefits, if any, to be received by the land holders, as prescribed under Part IX, in consideration for the rights granted; and
 - (c) specify the nature of project in the area covered by the agreement; and
 - (d) specify a term of sufficient duration in order to allow for proper project management measures to be carried out to completion to be determined based on the best available science and shall include provisions for review of the agreement appropriate for the length of the project; and
 - (e) be accompanied by a map showing clearly the boundaries of the area covered by the agreement; and
 - (f) specify any other climate compatible or green growth-related land use options, if any; and
 - (g) be accompanied by a stakeholder engagement and awareness plan specific to the project area land holders and land holder representatives.

⁴¹ Amended under *Climate Change (Management) (Amendment) Act 2021*.

- (2) An agreement under Subsection (1), in the prescribed format, shall be lodged with the Office of State Solicitor for necessary legal clearance before execution.
- (3) A copy of the duly executed agreement together with a copy of the legal clearance issued under Subsection (2) shall be lodged with the Authority.
- (4) The Board may, from time to time, determine appropriate lodgement fees in relation to the lodgement of copy of an agreement.
- (5) An agreement under Subsection (1) shall comply with the requirements under Subsections (2), (3) and (4) and failure to comply with any one or more of those requirements shall render the agreement under Subsection (1) invalid and unenforceable for all intents and purposes.
- (6) Climate change related projects shall use the updated versions of relevant Regulations or guidelines if none are available.

91. RIGHTS UNDER CLIMATE CHANGE RELATED PROJECT AGREEMENT.

Where the Authority or any person or entity enters into a climate change related project agreement—

- (a) subject to this Act and the terms and conditions of the agreement, the Authority or any person or entity may assign land-user rights, other than land ownership rights, acquired under the agreement to one or more other persons; and
- (b) for the purposes of exercising project rights, the Authority or any person or entity may, according to the terms of the agreement and in consultation with any relevant agencies —
 - (i) enter on land covered by the agreement; and
 - (ii) build, maintain and use roads, wharves, bridges, buildings and other infrastructure on land covered by the agreement.

Division 3. – Rights of State and Freehold or Fee Simple Landholders.

92. RIGHTS OF STATE AND FREEHOLD OR FEE SIMPLE LANDHOLDERS.

- (1) The ownership rights of the State and any freehold or fee simple landholders shall be respected when dealing with a climate change related project under this Part.
- (2) Sections 88 and 89 shall apply for and in relation to a dealing with a climate change related project on a land or resource owned by the State or freehold or fee simple landholders.

92A. CARBON RIGHTS AND OWNERSHIP.⁴²

- (1) The ownership of carbon rights may be identified, defined and regulated under this Act.
- (2) A Regulation may provide the safeguards, procedures and guidelines on -

⁴² Inserted under *Climate Change (Management) (Amendment) Act 2021*.

- (a) how carbon rights are defined; and
 - (b) landownership; and
 - (c) institutional arrangement,
- taking into account the principles of natural resource ownership in Papua New Guinea.

PART IX. – BENEFIT SHARING OR ALLOCATION OF INCENTIVES.⁴³

93. LANDHOLDER PARTICIPATION AND BENEFIT SHARING.

- (1) This Part applies to the participation and benefit sharing or allocation of incentives for climate change related projects and activities.
- (2) All affected landholders shall participate and benefit from the incentives of a climate change related project implemented on land or at sea.
- (3) Unless a law provides to the contrary, a Regulation shall provide for the participation and benefit sharing or incentive allocation mechanism under this Part.
- (4) For the purposes of Section 1(3) of the *Organic Law on Provincial Governments and Local-level Governments*, a Regulation shall prescribe the benefit sharing arrangement of revenues generated by the Authority and further define the processes and allowances for the collection of moneys for the purpose of Provincial and Local-level Governments (where necessary).

94. PROJECT REPORT.

- (1) The Authority or any person or entity who undertakes a climate change related project shall quantify the net income or net benefits (as the case may be) and present a project report at the completion of the project to the concerned landholders and the Authority and relevant provincial government.
- (2) An abstract or summary of the report under Subsection (1) shall be published at least twice in a daily newspaper circulated nationwide.
- (3) A project report produced under Subsection (1) is a public document for all intent and purposes.
- (4) Within one calendar year of the date of coming into operation of this Act, regulations may define the procedures for this section.

95. PENALTY PROVISION.

A person or an entity which contravenes any of the provisions under this Part is guilty of an offence.

⁴³ Sections 93, 94 and 95 amended under *Climate Change (Management) (Amendment) Act 2021*.

Penalty: A fine not exceeding K10,000.00 or imprisonment for a term not exceeding six months or both, for a natural person or a fine not exceeding K500,000.00 for a body corporate.

PART X. MISCELLANEOUS.

96. NO PERSONAL LIABILITY.

The Minister, Managing Director, or a servant or agent of the Authority properly acting under the direction of one of them or an authority designated to him under this Act, shall not be personally liable to an action, suit or proceeding or claim for damages for or in respect of an act or matter done or omitted to be done in good faith in the exercise or purported exercise of any power or authority conferred by this Act.

97. IDENTITY CARDS.

The Managing Director shall issue to each officer of the Authority an identity card –

- (a) stating the name of the authorised officer; and
- (b) containing a photograph of the authorised officer; and
- (c) stating that the person whose name and photograph appear on the card is an authorised officer for the purposes of this Act.

(2) If an authorised officer proposes to exercise powers under this Act against a person the authorised officer shall, if practicable, produce the identity card for inspection.

98. GIVING OF NOTICES AND SERVICE.⁴⁴

(1) A notice under this Act may be given by the Authority –

- (a) personally or at the registered office of the person or through electronic means to whom the notice is addressed; and
- (b) by publication in the National Gazette.

(2) A notice shall be given to or legal process shall be served on the Authority by personal service on the Executive Officer of the Managing Director or a person duly authorised by the Managing Director to accept services of legal process at any offices of the Authority.

99. EXTENSION OF TIME LIMITS.

(1) Subject to any requirement under any other law, within three months from the date of receipt of a request for an extension of time from a person or entity, the Managing Director may, after being satisfied on reasonable grounds, extend time limits fixed by or under this Act.

(2) Upon application by an aggrieved person or entity in regard to a decision made by the Managing Director or where there is an unreasonable delay by the Managing Director in

⁴⁴ Amended under *Climate change (Management)(Amendment) Act 2021*.

making a decision under Subsection (1), the National Court may, after being satisfied on reasonable grounds, extend time limits fixed by this Act.

100. SECRECY.

- (1) A person who is, or has been, employed in carrying out duties related to the administration of this Act shall not disclose confidential information acquired in the course, or as a result, of carrying out those duties except –
 - (a) in the course of carrying out official duties; or
 - (b) as authorised by the person to whom the duty of confidentiality is owed; or
 - (c) as authorised by law; or
 - (d) as required by a court or other lawfully constituted authority; or
 - (e) as authorised by the Minister after consultation (where practicable) with the person to whom the duty of confidentiality is owed.
- (2) A person who or an entity which contravenes this section is guilty of an offence.

Penalty: A fine not exceeding K25,000.00 or imprisonment of a term not exceeding one year or both for a natural person or a fine not exceeding K500,000.00 for a body corporate.

101. GENERAL PENALTY PROVISION.⁴⁵

- (1) Where a person is found guilty, according to law, of committing an offence under this Act and no specific penalty is provided, as a sentencing guide, a penalty of K2,500.00 each day that the offence has been committed up to a maximum penalty of K25,000.00 may be imposed for a natural person or a fine not exceeding K500,000.00 for a body corporate.
- (2) In addition to the penalty under Subsection (1) or any penalty prescribed elsewhere in this Act, the Authority may impose other penalties as the Authority determines appropriate from time to time.

102. AUTHENTICATION OF DOCUMENTS.⁴⁶

- (1) Where, for any purpose, it is necessary to provide the authenticity of a document or record held or issued by the Authority, it shall be sufficient if such document is issued under the Seal of the Authority.
- (2) Any person or entity that falsified any document or instrument or tampers with the authenticity of documents or takes any action that contravenes Subsection (1) is guilty of an offence.

⁴⁵ Amended under *Climate Change (Management)(Amendment) Act 2021*.

⁴⁶ Amended under *Climate Change (Management)(Amendment) Act 2021*.

Penalty: A fine not exceeding K10,000.00 or imprisonment for a term not exceeding two years or both for a natural person or a fine not exceeding K500,000.00 for a body corporate.

103. FUNCTIONAL AUDIT.⁴⁷

- (1) The Authority shall, conduct a functional audit, in line with the Corporate Plan, at least once every three years and submit it to the Minister.
- (2) The Authority shall engage a firm that is a Registered Company Auditor under the *Accountants Act 1996*, to conduct the functional audit and furnish to the Board a report of their findings in relation to that functional audit, within four months of being engaged.
- (3) The Board shall present a copy of the report referred to in Subsection (1) to the Minister as soon as possible following receipt and the Minister shall table a copy of the report at the first sitting of the National Parliament.
- (4) The Authority shall publish the report referred to in Subsection (1) within a reasonable period after the report is tabled in the National Parliament.

104. PROJECT AUDIT.⁴⁸

- (1) The Authority may, from time to time, appoint an independent reputable project auditor, on such terms and conditions as the Board determines, to audit any climate change related projects.
- (2) A project auditor appointed under Subsection (1) shall furnish to the Authority a report of its findings in relation to that project audit within a time specified by the Authority.
- (3) The Authority shall publish the report referred to in Subsection (2) within a reasonable period after the report is received by the Authority in accordance with Section 94.

105. DISPUTE RESOLUTION MECHANISM.⁴⁹

- (1) Any disputes or complaints related to climate change related project or activities shall, in the first instance, be resolved through the dispute resolution process in accordance with Subsection (3).
- (2) Any disputes on the interpretation or application of the Paris Agreement, shall be resolved through the provisions of the Paris Agreement.

⁴⁷ Section 103 of the Principal Act repealed and replaced under *Climate Change (Management)(Amendment) Act 2021*.

⁴⁸ Amended under *Climate Change (Management)(Amendment) Act 2021*.

⁴⁹ Amended under *Climate Change (Management)(Amendment) Act 2021*.

- (3) A Regulation shall provide for a dispute resolution process taking into account the principles of arbitration and dispute resolution practices within Papua New Guinea.

106. JURISDICTION OF COURT.

- (1) For any personal actions at law or equity, other than those actions prescribed under Sections 105 and 107, brought against the Authority or by the Authority for which Section 21 of the *District Court Act 1963* applies, the District Court may have jurisdiction.
- (2) Except for matters prescribed under Subsection (1) and Section 105 and the issuance of a search warrant under Part VII of this Act, where all Courts, except the Village Courts, have concurrent jurisdictions under the *Search Act 1977*, and any other matters prescribed under any other law, the National Court shall have jurisdiction for all matters arising under this Act.

107. PROSECUTIONS, ETC.

- (1) Subject to the approval of the Public Prosecutor, the Authority may prosecute any offence against this Act or any other Act the administration of which is the responsibility of the Authority from time to time.
- (2) A prosecution under Subsection (1) of this Act shall be made on indictment to the National Court.
- (3) Any fine or penalty or any default fine or penalty to be paid by a person or body corporate as a result of an action brought by the Authority is to be paid to the Authority and, in addition to any other remedy, may be recovered by the Authority as a debt due to the Authority.

107A. HOME OWNERSHIP POLICY AND SCHEME.⁵⁰

The Authority shall, at least once in each fiscal year, furnish to the Minister, for presentation to the National Executive Council, a report on any Home Ownership Policy and Scheme devised and operated by the Authority.

107A. STANDARDS, GUIDELINES AND MANUALS ETC.⁵¹

The Authority may develop standards, guidelines, manuals, forms and any other relevant documentation not inconsistent with this Act.

107B. BLUE CARBON POLICY.⁵²

The Authority is responsible for -

- (a) Papua New Guinea's Blue Carbon Policy and Strategy; and

⁵⁰ Inserted under *Climate Change (Management)(Amendment) Act 2021*.

⁵¹ Inserted under *Climate Change (Management)(Amendment) Act 2023*. Note: that there was an oversight on numbering by the drafters. There are two Section 107As. One was inserted under the 2021 amendment and the other under the 2023 amendment.

⁵² Inserted under the *Climate Change (Management)(Amendment) Act 2021*.

- (b) developing policies, procedures and safeguards for the implementation of blue carbon projects, programmes and activities; and
- (c) the development of a benefit sharing arrangement for blue carbon projects, programmes and activities; and
- (d) facilitating consultations with relevant entities, as appropriate; and
- (e) advising the Minister on the role of blue carbon in the NDC.

PART XI. – TRANSITIONAL PROVISIONS.

108. TRANSFER OF STAFF AND ASSETS.⁵³

- (1) The Minister responsible for Conservation, Environment and Climate Change matters shall, within 30 days from the coming into operation of this Act, sign an allocation statement identifying staff, assets and liabilities of the Public Service for transfer to the Authority.
- (2) Within 14 days of the date of signing of the allocation statement under Subsection (1), the Minister shall cause the allocation statement to be published in the National Gazette.
- (3) The Office of Climate Change and Development established by the National Executive Council shall be subsumed into the Authority, with necessary modifications or adjustments as the Board determines, and all the staff, assets, property, rights, obligations and liabilities which, immediately before the commencement date, were vested in or imposed on the Office of Climate Change and Development shall, on that date, continue to be vested in or imposed on the Authority.

109. SAVING OF CONTRACTS, ETC.

- (1) Subject to Subsection (2), all contracts, agreements, conveyances, leases, deeds, licenses and other instruments and undertakings entered into by, or made with or addressed to the Office of Climate Change and Development, whether alone or with any other person, before, and in effect immediately before, the commencement date, continue on that date, to the extent that they were previously binding on and enforceable against the Office of Climate Change and Development, to be binding and of full force and effect in every respect against or in favour of the Office of Climate Change and Development as if entered into, made with or addressed to the Authority.
- (2) Subject to Subsection (3), any climate change related agreement or project that was not directly dealt with or approved or sanctioned by the Office of Climate Change and Development is hereby declared void and unenforceable for all intent and purposes.
- (3) A person who or an entity which, carries on an activity dealing in relation to matters described under Subsection (2), without the prior approval of the Board within one year after this Act takes effect, is guilty of an offence.

⁵³ Amended under *Climate Change (Management)(Amendment) Act 2021*.

Penalty: A fine not exceeding K50,000.00 or imprisonment for a term not exceeding three years or both, for a natural person or a fine not exceeding K500,000.00 for a body corporate.

110. TRANSFER NOT TO AFFECT SERVICE.

The transfer of staff under this Part shall not invalidate, diminish or restart the period of service of any staff member and service with the Public Service will count as service with the Authority for all purposes and all accumulated entitlements of each staff member of the Office of Climate Change and Development who is transferred to the Authority shall be preserved and met by the Authority.

111. PUBLIC SERVICE RIGHTS.

Where –

- (a) an officer of the Public Service is appointed to be Managing Director, his service as Managing Director; and
- (b) an officer of the authority was immediately before his appointment, an officer of the Public Service, his service as an officer of the Authority, shall be counted as service in the Public Service for the purposes of determining his rights, if any, in respect of –
 - (i) leave of absence on the grounds of illness; and
 - (ii) furlough, or pay in lieu of furlough, including pay to dependents on the death of the officer.

112. EFFECT OF TRANSFER OF ASSETS AND LIABILITIES.

No stamp duty or goods and services tax is payable on the transfer of any asset or liability from the Public Service to the Authority under this Act.

113. INAUGURAL APPOINTMENT OR SCREENING COMMITTEE.

- (1) For the purposes of appointing inaugural *non-ex officio* Board members and the Managing Director, the inaugural five members of the Screening Committee, where at least one member shall be a female, shall be appointed amongst the officers of the Authority by the National Executive Council.
- (2) The appointment under Subsection (!) shall be made within three months from the date that this Act comes into operation.
- (3) This section shall apply after the full inaugural Board is established and the inaugural Managing Director is appointed.

114. REGULATIONS.

Without limiting specific powers to make regulations provided elsewhere in this Act, the Head of State acting on advice of the Minister may make regulations for the purposes of prescribing anything under this Act.

**SCHEDULE 1. – CARBON LEVY RATE AND FUEL LEVY RATE ON IMPORTS AND
LOCALLY PRODUCED FUEL TYPES.**

Act, Sec. 38(4)

Fuel Type	Carbon Levy Rate	Fuel Levy Rate
Motor spirit (gasoline) including aviation spirit	5 toea per kg carbon	1 toea per litre
Jet A1	5 toea per kg of carbon	1 toea per litre
Kerosene	5 toea per kg of carbon	1 toea per litre
Diesel	5 toea per kg of Carbon	1 toea per litre
Heavy Fuel, Oils	23 toea per kg of carbon	5 toea per litre

SCHEDULE 2. - NITROGEN LEVY OIL IMPORTS OF SYNTHETIC NITROGEN FERTILISERS.

Act, Sec. 38(6)

Synthetic Nitrogen Fertiliser Types	Nitrogen Levy Rate
Urea, whether or not in aqueous solution	5 toea per kg/content of Nitrogen
Ammonium sulphate	5 toea per kg/content of Nitrogen
Others*	5 toea per kg/content of Nitrogen
Ammonium nitrate, whether or not in aqueous solution	5 toea per kg/content of Nitrogen
Mixtures of ammonium nitrate with calcium carbonate or other in organic non-fertilising	5 toea per kg/content of Nitrogen
Sodium nitrate	5 toea per kg/content of Nitrogen
Double salts and mixtures of calcium nitrate and ammonium nitrate	5 toea per kg/content of Nitrogen
Mixtures of urea and ammonium nitrate in aqueous or ammoniacal solution	5 toea per kg/content of Nitrogen
Other, including mixtures not specified in the foregoing tariff item	5 toea per kg/content of Nitrogen
Containing by weight 35% or more of diphosphorus pentaoxide (P205)	5 toea per kg/content of Nitrogen
Mineral or chemical fertilisers containing the three fertilising elements nitrogen, phosphorus and potassium	5 toea per kg/content of Nitrogen
Diammonium hydrogen orthophosphate (diammonium phosphate)	5 toea per kg/content of Nitrogen
Ammonium dihydrogen orthophosphate (monoammonium phosphate) and mixtures thereof with diammonium phosphate)	5 toea per kg/content of Nitrogen
Containing nitrates and phosphates	5 toea per kg/content of Nitrogen
Others	5 toea per kg/content of Nitrogen
Mineral or chemical fertilisers containing and two fertilising elements phosphorus and potassium	5 toea per kg/content of Nitrogen
Others	5 toea per kg/content of Nitrogen

SCHEDULE 3. – CARBON MARKET FEES.

Act, Sec. 38A(1)

Types of Fees	Categories of Fees	Fees payable in PNG Kina
VCM Application Fee	All Categories	1,000
VCM Permit	VCM	154,600
SDM Application Fee	All	1000
SDM Permit	<15,000t CO ₂ eq	17,500
	15,000 – 50,000t CO ₂ eq	35,000
	51,000-100,000t CO ₂ eq	52,500
	101,000 – 200,000t CO ₂ eq	70,000
	>200,000t CO ₂ eq	105,000
VCM Permit Renewal Fee (Note: Half of permit cost)	All	77,000
SDM Permit Renewal (note: Half of permit cost)	<15,000t CO ₂ eq	8,750
	15,000 – 50,000t CO ₂ eq	17,500
	51,000-100,000t CO ₂ eq	26,250
	101,000-200,000t CO ₂ eq	35,000
	>200,000t CO ₂ eq	52,500

SCHEDULE 4. – GREEN FEES.

Act, Sec. 38A(1)

Types of Fees	Description of Fees	Fees payable in PNG Kina
Green Fee	International arrival only for all foreign passport holders	50