

No. **2** of 2016.

***Manam Resettlement Authority Act 2016.***

Certified on: **29 JUN 2016**



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No.        of 2016.

AN ACT

entitled

***Manam Resettlement Authority Act 2016,***

Being an Act to provide for the establishment of the Manam Resettlement Authority,

MADE by the National Parliament to be deemed to have come into operation on 1 January, 2015.

**PART I. - PRELIMINARY.**

**1. COMPLIANCE WITH CONSTITUTIONAL REQUIREMENTS.**

This Act, to the extent that it regulates or restricts a right or freedom referred to in Subdivision III.3.C (*qualified rights*) of the *Constitution*, namely -

- (a) the right to privacy conferred by Section 49; and
- (b) the right to vote and stand for public office conferred by Section 50; and
- (c) the right to freedom of information conferred by Section 51,

of the *Constitution*, is a law that is made for the purpose of giving effect to the public interest in public safety, public order and public welfare.

**2. INTERPRETATION.**

In this Act, unless the contrary intention appears -

- “appointed member” means a member of the Board other than an *ex officio* member or a member referred to in Section 9(1)(f);
- “Authority” means the Manam Resettlement Authority established by Section 3;
- “Board” means the Board of the Authority;
- “Chairperson” means the Chairperson of the Board;
- “chief executive officer” means the chief executive officer of the Authority appointed under Section 22;
- “Deputy Chairperson” means the Deputy Chairperson of the Board;
- “member” means a member of the Board;
- “Minister” means the Minister responsible for inter-governmental relations matters;
- “this Act” includes any regulations made under it.

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**PART II. - ESTABLISHMENT AND FUNCTIONS, ETC., OF THE MANAM  
RESETTLEMENT AUTHORITY.**

**3. ESTABLISHMENT OF THE AUTHORITY.**

(1) The Manam Resettlement Authority is established.

(2) The Authority -

- (a) is a body corporate with perpetual succession; and
- (b) is to have a seal; and
- (c) may acquire, hold and dispose of real and personal property; and
- (d) may sue and be sued in its corporate name.

(3) All courts, judges and persons acting judicially are to take judicial notice of the seal of the Authority affixed to a document and are to presume that it was duly affixed.

**4. FUNCTIONS OF THE AUTHORITY.**

The Authority has the following functions:

- (a) to identify and acquire land for the resettlement of displaced persons, including to negotiate with landowners in Anduram; and
- (b) to provide services and infrastructure for the resettlement area, including building access roads, an airstrip, schools, aid posts and ensuring a safe water supply; and
- (c) to provide for care centres and associated services, such as health care, education, food and a safe water supply, until such time as displaced persons are resettled; and
- (d) to liaise with donors and international organisations to ensure services to displaced persons are properly co-ordinated and satisfy generally acceptable international standards; and
- (e) to ensure that the human rights of displaced persons and the members of the host communities, being those people living in the Asuramba, Magem and Portsdam areas which host the care centres, are protected; and
- (f) to develop a process for displaced persons to apply for permission to return to Manam Island.

**5. POWERS OF THE AUTHORITY.**

(1) The Authority has power to do all things that are necessary or convenient to be done for, or in connection with, the performance of its functions referred to in Section 4.

(2) Without limiting Subsection (1), the Authority may -

- (a) enter into and oversee contracts; and
- (b) tender and award projects; and
- (c) purchase and take on hire, and dispose of, plant, machinery, equipment and other goods; and
- (d) engage consultants and other persons to perform works or services for the Authority; and
- (e) do anything incidental to any of its powers.

**6. MONITORING OF THE AUTHORITY.**

(1) The Department of Provincial and Local-level Government Affairs shall monitor the performance of the Authority.

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(2) The Department responsible for provincial and local-level government affairs may make recommendations or give advice, or both, to the Minister on how to improve the performance of the Authority.

### **PART III. - THE BOARD.**

#### **7. ESTABLISHMENT OF THE BOARD.**

The Board of the Authority is established.

#### **8. FUNCTIONS AND POWERS OF THE BOARD.**

(1) The functions of the Board are -

- (a) to ensure the proper, efficient and economical performance of the Authority's operations; and
- (b) such other functions as are conferred on the Board by or under this Act.

(2) The Board has power to do all things necessary or convenient to be done for or in connection with the performance of its functions.

(3) Anything done in the name of, or on behalf of the Authority by the Board, or with the authority of the Board, is taken to have been done by the Authority.

#### **9. MEMBERSHIP OF THE BOARD.**

(1) The Board shall consist of -

- (a) an eminent and respected person as Chairman who shall be appointed by the National Executive Council; and
- (b) the representative of churches nominated by the Madang Provincial Government; and
- (c) the Madang Provincial Administrator, representing the Madang Provincial Government, who shall be the Deputy Chairman; and
- (d) the Bogia District Administrator, who shall be the advisor and consultant; and
- (e) one landowner representative representing the landowners where Manam and Boisa people are resettled, nominated by the Bogia District Authority and appointed by the National Executive Council; and
- (f) a Manam Island Tenopwa or a recognised leader, nominated by the Manam and Boisa communities and endorsed by the Bogia District Authority and appointed by the National Executive Council; and
- (g) a representative from a recognised non-governmental organisation group which is established and recognised by the Manam and Boisa communities and endorsed by the National Executive Council; and
- (h) an officer from the Office of the Prime Minister, nominated by the Prime Minister and endorsed by the National Executive Council, who will report to the Prime Minister.

(2) A member, other than an *ex officio* member and a member referred to in Subsection (1)(g) -

- (a) subject to Section 11, shall be appointed for a period not exceeding three years; and
- (b) is eligible for re-appointment; and
- (c) is to be paid the remuneration, sitting fees and allowances approved, in writing, by the Minister; and
- (d) holds office on such other terms and conditions as are prescribed by the regulations.

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**10. CHAIRPERSON AND DEPUTY CHAIRPERSON.**

- (1) The member referred to in Section 9(1)(a) is the Chairperson of the Board.
- (2) The Provincial Administrator is the Deputy Chairperson of the Board.

**11. VACATION OF OFFICE OF APPOINTED MEMBERS.**

- (1) An appointed member may resign from his office by writing to the Chairperson.
- (2) A person ceases to be an appointed member, if he -
  - (a) dies; or
  - (b) becomes bankrupt, or applies to take the benefit of any law for the benefit of bankrupt or insolvent debtors, compounds with his or her creditors, or makes an assignment of his or her remuneration for their benefit; or
  - (c) is convicted of an offence punishable under a law by a term of imprisonment for one year or longer, or by death, and as a result of the conviction is sentenced to imprisonment or death.
- (3) The Minister may require an appointed member to show cause as to why he should not be terminated.
- (4) The National Executive Council, acting on the recommendation of the Minister, may terminate the appointment of an appointed member by notice in writing to the member if the National Executive Council is satisfied that -
  - (a) it is not in the best interest of the Authority for the member to continue as a member of the Board; or
  - (b) the performance of the member has been unsatisfactory for a significant period; or
  - (c) the appointed member is unable to perform his or her duties because of physical or mental incapacity.

**12. VACANCY NOT TO AFFECT POWERS OR FUNCTIONS.**

The performance of the functions, and the exercise of the powers of the Board and the Authority are not affected by reason only of vacancies in the membership of the Board and a vacancy in the membership of the Board must be filled as soon as practicable.

**13. DISCLOSURE OF INTEREST.**

- (1) A member who has a direct or indirect 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) The disclosure 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) is to be disregarded for the purpose of constituting a quorum of the Board for any such deliberation or decision.

**14. MEETINGS OF THE BOARD.**

- (1) All meetings of the Board shall be held in Madang and the Board shall not meet unless the Chairperson or the Deputy Chairperson, or both, are present at the meeting.

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(2) The Board shall meet at least once every four months, but may hold such other meetings at such times and places, in Madang, as the Chairperson, or in his absence the Deputy Chairperson, determines.

(3) In addition to the meetings referred to in Subsection (2), where the Chairperson receives a written request to do so by not more than three members, the Chairperson, or in his absence the Deputy Chairperson, shall convene a meeting within 21 days.

(4) The Chairperson shall preside at a meeting of the Board and in the absence of the Chairperson, the Deputy Chairperson shall preside at a meeting of the Board.

(5) At a meeting of the Board -

(a) four members form a quorum; and

(b) matters arising shall be determined by the majority of votes of the members present and voting; and

(c) the member presiding shall have a deliberative vote and, in the event of an equality of votes on a matter, also a casting vote.

(6) The Board shall cause minutes of its meetings to be recorded and kept and determine its own procedures.

(7) Any resolution made by the Board at a meeting shall be posted on a notice board, or another accessible location at the care centres or other locations near the care centres, within five days after the resolution was made.

#### **15. DELEGATION.**

The Board may, in writing, delegate to a member of the Board all or any of the Board's functions or powers, except this power of delegation.

#### **PART IV. - SUSPENSION OF THE BOARD AND MINISTER'S POWERS.**

#### **16. SUSPENSION OF THE BOARD BY THE NATIONAL EXECUTIVE COUNCIL.**

(1) The National Executive Council may, by notice published in the National Gazette, suspend the Board if the Council is satisfied that -

(a) the Authority is incapable of effectively performing its functions; or

(b) the Authority has conducted or is conducting its affairs in a grossly improper manner; or

(c) the Authority has misappropriated or is misappropriating funds.

(2) In deciding whether or not to suspend the Authority, the National Executive Council shall have regard to a report given to the Minister under Section 17.

(3) The National Executive Council may extend or revoke a suspension at any time.

#### **17. REPORT ON PROPOSED SUSPENSION OF THE BOARD.**

(1) The head of the department responsible for provincial and local-level government matters shall prepare a written report on the proposed suspension of the Board.



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(2) The head of the department shall give the Board concerned a copy of the report and the Board may, within 28 days after receiving the report, respond in writing to the report.

(3) The head of the department shall give the report, and any response received from the Board, to the Minister.

### **18. TRANSFER OF BOARD'S FUNCTIONS AND POWERS TO MINISTER.**

On the suspension of the Board, the functions and powers of the Board are transferred to the Minister until a new Board is constituted.

### **19. DIRECTIONS BY THE MINISTER.**

The Minister may give a written direction to the Board concerning the Authority's operations if the Minister is satisfied that the direction is necessary to ensure the proper performance of the Authority's functions, and the Board shall comply with the direction.

### **20. REQUEST BY THE MINISTER FOR ADVICE OR INFORMATION.**

The Minister may, in writing, request advice or information from the Board on any matter relating to the operations of the Authority, and the Board shall comply with the request.

### **21. ENTRY, SEARCH AND OTHER POWERS.**

- (1) This section applies if the Minister is satisfied on reasonable grounds that the Authority -
- (a) is incapable of effectively performing its functions; or
  - (b) has or is conducting its affairs in a grossly improper manner; or
  - (c) has or is misappropriating funds.

(2) A person authorised by the Minister may enter any premises of, or under the control of, the Authority if the occupier of the premises has consented to the entry and -

- (a) search the premises for, seize, inspect, examine, take extracts from, and make copies of, any documents relating to the affairs of the Authority; and
- (b) seize any other thing found during the course of the search that he or she believes on reasonable grounds is relevant to the affairs of the Authority; and
- (c) ask any member of the Board or a staff member of the Authority or any person at the premises to answer any questions relating to the affairs of the Authority.

## **PART V. - STAFF OF THE AUTHORITY.**

### **22. CHIEF EXECUTIVE OFFICER.**

(1) The Authority shall appoint a chief executive officer in accordance with the *Regulatory Statutory Authorities (Appointment to Certain Offices) Act 2004*.

(2) The chief executive officer is responsible for the day to day management of the Authority and the implementation of policies and decisions of the Authority.

(3) The Minister may authorise public servants at the national or provincial level to implement policies or decisions of the National or Provincial Government in relation to resettlement of displaced persons at care centres.

(4) Subject to Subsection (4), the Board shall determine the terms and conditions of appointment of the chief executive officer in accordance with the *Salaries and Remuneration Committee Act 1988*.

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(5) Any suspension or termination of the appointment of the chief executive officer shall be made in accordance with the *Regulatory Statutory Authorities (Appointment to Certain Offices) Act 2004*.

(6) The chief executive officer may, in writing, delegate any or all of his functions or powers to a member of the staff of the Authority, except this power of delegation.

### **23. STAFF OF THE AUTHORITY.**

(1) The chief executive officer is responsible for the appointment of the staff of the Authority following a merit based selection process.

(2) The chief executive officer shall approve the terms and conditions of appointment of the staff of the Authority in accordance with the *Salaries and Remuneration Committee Act 1988*.

## **PART VI. - FINANCES, ETC.**

### **24. APPLICATION OF THE PUBLIC FINANCES (MANAGEMENT) ACT 1995.**

Part VIII of the *Public Finances (Management) Act 1995* applies to the Authority.

### **25. FUNDS OF THE AUTHORITY.**

The funds of the Authority consist of -

- (a) all monies appropriated by an Act for the purpose of carrying out or giving effect to this Act; and
- (b) any other monies received by the Authority by way of donor funding or funding from any lawful source, including sources from outside Papua New Guinea.

### **26. EXPENDITURE.**

The monies of the Authority shall be expended only -

- (a) in payment or discharge of expenses, obligations and liabilities of the Authority; and
- (b) in payment of the remuneration, sitting fees and allowances of members of the Board; and
- (c) for such other purposes that are consistent with the functions of the Authority as the Board may determine.

### **27. BUDGET.**

(1) The Authority shall, before 31 March in each year, submit its annual budget for the next year to the Minister responsible for treasury matters for approval.

(2) A copy of the budget shall be provided to the provincial government.

## **PART VII. - MISCELLANEOUS.**

### **28. REPORTS.**

(1) The Board shall prepare an annual report on the performance of the Authority and shall give the annual report to the Minister on or before 31 March of the next year.

(2) The Minister shall table the annual report in the Parliament at the next sitting of the Parliament after 31 March.

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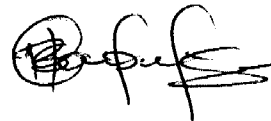
(3) In addition to the annual report, the Board shall for each quarter prepare a report on the performance of the Authority and shall give the report to the Provincial Executive Council within 28 days after the end of the quarter to which the report relates.

(4) The Minister shall, in writing, determine the form of the annual report and the quarterly report.

**29. REGULATIONS.**

The Head of State, acting on advice, may make regulations, not inconsistent with this Act prescribing all matters that are required or permitted to be prescribed by this Act, or that are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

I hereby certify that the above is a fair print of the *Manam Resettlement Authority Act 2016* which has been made by the National Parliament.



Acting Clerk of the National Parliament.

**29 JUN 2016**

I hereby certify that the *Manam Resettlement Authority Act 2016* was made by the National Parliament on 31 March 2016, by an absolute majority as required by the *Constitution*.



Speaker of the National Parliament.

**29 JUN 2016**