

No. 49 of 2022.

*Rubber Industry Development Act 2022.*

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No. 49 of 2022.

AN ACT

entitled

***Rubber Industry Development Act 2022,***

Being an Act to establish and regulate the development of rubber industry, and for related purposes,

MADE by the National Parliament.

**PART I. - PRELIMINARY.**

**1. COMPLIANCE WITH CONSTITUTIONAL REQUIREMENTS.**

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

- (a) the right to freedom from arbitrary search and entry conferred by Section 44; and
- (b) the right to freedom of assembly and association conferred by Section 47; and
- (c) the right to freedom of employment conferred by Section 48(1); and
- (d) the right to freedom of privacy conferred by Section 49,

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) Insofar as this Act involves a compulsory taking of possession of property or a compulsory acquisition of an interest in or right over property within the meaning of Section 53 of the *Constitution* -

- (a) the purpose and reason for each such taking and acquisition are declared and described to facilitate efficient and economical development and operation of the Board and of the assets acquired by it so that the Board might thereby contribute to the advancement of the social and economic welfare of the people of Papua New Guinea; and
- (b) such purpose and reason are hereby also declared to be a reason that is reasonably justified in a democratic society that has proper regard for the rights and dignity of mankind; and
- (c) this Act is hereby expressed in the national interest for the purposes of Section 53 of the *Constitution* and for the purposes of any other relevant law.

(3) For the purposes of Section 41 of the *Organic Law on Provincial Governments and Local-level Governments*, this Act relates, in its entirety, to a matter of national importance.

**2. INTERPRETATION.**

In this Act, unless the contrary intention appears -

“Appeal Committee” means the Appeal Committee established by Section 57;

“asset” means any legal or equitable estate or interest (whether present or future or whether vested or contingent) in real or personal property of any description (including money) and includes shares and capital (uncalled or otherwise) in any, securities, choses in action and documents of any kind;

“Board” means the Rubber Industry Development Board established by Section 5;

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- “bounty” means a bounty payable in accordance with Section 69;
- “By-law” means a By-law of the Board made under Section 26;
- “Chairman” means the person appointed under Section 11;
- “classified rubber” means technically specified and laboratory tested rubber according to such standards as are approved by the Authority from time to time;
- “cup lump rubber” means unprocessed naturally coagulated latex in the latex cup or any suitable vessel;
- “dealer” means a rubber dealer registered under Section 39;
- “Department” means the Department responsible for agriculture and livestock matters as constituted immediately before the coming into operation of this Act;
- “exporter” means a person or a body licensed as an exporter of processed, graded and Papua New Guinea classified rubber;
- “extension service” means any service or function offered by the Authority and intended to assist, increase and promote the growing, preparation, extraction, processing, sale or export of Papua New Guinea classified rubber;
- “former Board” means the Rubber Board established under the repealed Act;
- “grade” means a type of grading of rubber adopted or prescribed by the Authority;
- “industry levy” means a rubber industry levy fixed under Section 67;
- “Inspector” means a Rubber Inspector appointed under Section 35;
- “licence” means a licence granted and issued under Section 43;
- “manufacturing facility” means a manufacturing facility registered under Section 45;
- “mark” means a mark or impression made or applied on rubber in accordance with this Act;
- “Members” means the collective members of Rubber Industry Development Board established by Section 10;
- “processing” means the preparation of rubber from the bark leaves or latex of rubber plant;
- “processing facility” means a rubber processing facility registered under Section 41;
- “producer” means a grower or extractor of latex, leaves or bark from a rubber plant for the purposes of processing;
- “raw or unprocessed rubber” means cup lumps;
- “repealed Act” means the *Rubber Act* (Chapter 222) repealed by Section 100;
- “research cess” means a research cess imposed under Section 72;
- “Research Fund” means the Papua New Guinea Research Fund established by Section 65;
- “rubber” means marketable rubber prepared from the leaves, bark or latex of a rubber plant, but does not include a manufactured article made wholly or partly from rubber.
- “Rubber Extension Fund” means the Papua New Guinea Extension Fund established by Section 69;
- “rubber extension levy” means the rubber extension levy imposed under Section 76;
- “Rubber Industry Development Fund” means the Rubber Industry Fund established by Section 58;
- “rubber plant” means -
- (a) *Hevea Brasiliensis* (Para Rubber); or
  - (b) *Manihot Glaziovii* (Ceara Rubber); or
  - (c) *Castilloa Elastica*; or
  - (d) *Ficus Elastica* (Assam); or
  - (e) any other plant declared to be a rubber plant under Section 3;
- “smallholder” means a producer of rubber plantings of a size not exceeding 10 hectare;
- “this Act” includes the regulations.

### **3. DECLARATION OF RUBBER PLANTS.**

The Minister may, by notice in the National Gazette, declare a plant to be a rubber plant for the purposes of this Act.

**4. APPLICATION OF THIS ACT.**

- (1) This Act is not limited in its application.
- (2) Notwithstanding Subsection (1), this Act binds the State and the Board.

**PART II. - ADMINISTRATION.**

*Division 1. - Rubber Industry Development Board.*

**5. ESTABLISHMENT OF THE RUBBER INDUSTRY DEVELOPMENT BOARD.**

- (1) The Rubber Industry Development Board is established.

- (2) The Board -

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

(3) All Courts, Judges and persons acting judicially must take judicial notice of the seal of the Board affixed to a document and is to presume that it was duly affixed.

**6. BOARD TO COMPLY WITH POLICY DIRECTIONS.**

- (1) In the exercise of its powers and functions under this Act, the Board must -
  - (a) have regard to the policy of the Government in relation to rubber production, development of the rubber industry and growth and promotion of the export and sale of rubber products; and
  - (b) comply with such directions relating to those policies given to it in writing by the Minister,

but only where the Members by a resolution are satisfied that those policies or directives are consistent with this Act and do not adversely affect the economic or other interests of the Board or the rubber industry in Papua New Guinea.

(2) The Board must develop, improve and increase the value, extent and quality of the rubber production, processing, export and sale industry in Papua New Guinea in accordance with the terms of this Act, Government policy and best practices in the rubber industry.

**7. FUNCTIONS OF THE BOARD.**

- (1) The functions of the Board are -

- (a) to promote and encourage investment in the growth, production, extraction, processing and sale of rubber; and
- (b) to promote and increase the domestic consumption of rubber or rubber products or derivatives produced or made in Papua New Guinea; and
- (c) to promote, develop and improve the quality of rubber and rubber production, extraction and processing; and
- (d) by itself or in co-operation with other persons to promote or engage in research and development programs for the benefit of the rubber industry; and
- (e) to promote and assist the rubber industry in improving quality, quantity, sustainability and consistency of rubber production; and
- (f) to promote and improve market access for producers and processors; and
- (g) to promote by such measures as it thinks fit the development of the rubber industry including, without limitation -
  - (i) undertaking, assisting or encouraging scientific technological and economic research; and

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- (ii) training farmers and growers on improved methods of planting, cultivation, manuring and spraying; and
- (iii) the supply or provision of technical advice to rubber growers; and
- (iv) improving the marketing of rubber; and
- (v) the collection of statistics and data from farmers, growers, dealers, exporters and manufacturers; and
- (vi) securing better working conditions and the provision and improvement of amenities and incentives for workers in the rubber industry; and
- (h) to promote rehabilitation of existing rubber plantations and smallholder plantings; and
- (i) to encourage, foster and promote involvement of private enterprise investment in the rubber industry; and
- (j) to impose and enforce rubber export standards and best practices intended to promote rubber production and processing; and
- (k) to promote modernisation of factories, plantations, facilities and infrastructure necessary for the development of a modern and efficient rubber industry; and
- (l) to promote and assist in the mobilisation of land for development and expansion of the rubber industry; and
- (m) to encourage and assist in the establishment and development of rubber plantations and processing or production facilities in all areas and, in particular, areas where rubber has not been grown, cultivated or produced; and
- (n) to identify and assist in extension and training services and related programs in co-ordination with other persons or agencies for the benefit of the rubber industry; and
- (o) to own, produce, import, acquire or supply assets or property intended to assist the Board to perform its obligations and functions; and
- (p) to compile statistical data on production, consumption, export and quality of imports of rubber in any and all forms and of production, processing and export trends in Papua New Guinea and internationally; and
- (q) to provide policy advice to the Government concerning rubber industry matters; and
- (r) to promote rubber integrated farming systems; and
- (s) when required to do so, to act as an agent for, and to carry out the obligations of the State in international forums or agreements relating to rubber or rubber production; and
- (t) to encourage and promote upstream and downstream processing of rubber in all forms and rubber products or derivatives; and
- (u) to implement all agricultural innovations that emanate from research into rubber; and
- (v) to rehabilitate and modernise assets and facilities owned or operated by the Board or the State to best practice standards of operation; and
- (w) to provide consulting, development, training and management services relating to any of its functions; and
- (x) to perform any other function or duty conferred on the Board by this Act or prescribed by regulations or policy made under this Act.

(2) In carrying out all or any of its functions, the Board may enter into such arrangements as it considers appropriate with any other person to ensure the performance of its functions.

(3) The Board shall consider the following principles when performing its functions conferred by this Act -

- (a) minimum regulatory intervention by the government; and
- (b) maximum co-operation between the industry and the government; and
- (c) performance-based risk management controls; and
- (d) proactive and competitive industry positioning; and
- (e) long term viability of the rubber industry; and

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- (f) a balanced approach to problems faced by participants in the rubber industry, in particular smallholders and rural farmers.

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

(1) The Board has, in addition to other powers conferred by this Act, power to do all things that are necessary or convenient to be done for or in connection with the performance of its functions and, in particular but without limitation, has power to -

- (a) require persons engaged in the rubber industry to supply to the Board such information in respect to their activities in the industry; and
- (b) enter into contracts; and
- (c) assist in the establishment of rubber co-operative societies; and
- (d) enter into partnerships or joint ventures with either or both State arms, agencies or authorities or other persons; and
- (e) erect and maintain buildings; and
- (f) acquire, mortgage or charge, let, hold and dispose of property; and
- (g) provide assistance to persons engaged in the rubber industry; and
- (h) impose and collect such levies, charges and fees necessary and reasonable to deliver services to any person engaged in the rubber industry development; and
- (i) issue licences to producers, buyers, processors, manufacturers and exporters and levy and collect licence fees in accordance with this Act; and
- (j) acquire and hold property or land which the Members deem necessary for the continuance and success of the Board; and
- (k) raise money by borrowing; and
- (l) do anything incidental to its powers.

(2) The Board has, in addition to its powers under Subsection (1), the following specific powers in relation to all activities permitted under this Act:

- (a) ensuring that the management and operation of all activities remain free from criminal influence or exploitation; and
- (b) ensuring that all activities are conducted honestly and in conformity with the requirements of this Act.

### **9. GENERAL OBJECTS OF THE BOARD.**

The principal object of the Board is to operate successfully and develop, improve and promote the rubber industry to be -

- (a) profitable and efficient in its activities; and
- (b) the promoter of rubber industry development in Papua New Guinea; and
- (c) employment avenue for technical and policy expertise of rubber industry; and
- (d) socially responsible by having regard to the interests of the community to which it operates or promotes smallholder estates.

### *Division 2. - Members of the Rubber Industry Development Board.*

### **10. MEMBERS OF THE BOARD.**

(1) The members of the Board shall consist of -

- (a) the Chief Executive Officer and the Managing Director of the Board, *ex-officio*; and
- (b) the head of the department responsible for treasury matters, or his nominee, *ex-officio*;
- (c) the head of the department responsible for agriculture and livestock matters, or his nominee, *ex-officio*; and
- (d) the head of the department responsible for commerce and industry matters or his nominee, *ex-officio*; and
- (e) the head of the National Agricultural Research Institute, or his nominee, *ex-officio*; and

- (f) a person representing rubber dealers, processors; and
- (g) a person representing rubber exporters; and
- (h) a person each representing rubber growers from -
  - (i) the Southern region; and
  - (ii) the Momase region; and
  - (iii) the New Guinea Islands region.

- (2) The members referred to in Paragraphs (f), (g) and (h) -
  - (a) shall be appointed in accordance with the *Regulatory Statutory Authorities (Appointment to Certain Offices) Act 2004*; and
  - (b) shall be citizens of Papua New Guinea; and
  - (c) shall be appointed for a term of four years; and
  - (d) are eligible for re-appointment but not eligible to hold office for more than two consecutive terms; and
  - (e) shall hold office on such terms and conditions as are determined under the *Boards (Fees and Allowances) Act* (Chapter 299).

(3) The members are responsible for the management and control of the business and affairs of the Board to which the performance of the functions and duties, and exercise of the powers of the Board relates.

#### **11. APPOINTMENT OF CHAIRPERSON AND DEPUTY CHAIRPERSON.**

(1) The Minister shall, from amongst the appointed Members, appoint by notice in the National Gazette, a Chairperson and Deputy Chairperson who must hold office as Chairperson and Deputy Chairperson respectively for the periods of their appointments as members of the Board.

- (2) The Chairperson -
  - (a) shall have general superintendence on the affairs and the management of the members and is to preside over members' meeting; and
  - (b) on behalf of the member, must present recommendations to the Minister on matters pertaining to the affairs of the Board; and
  - (c) in the discharge of his duties and in the exercise of his powers, shall conform with, observe and comply with all resolutions, regulations and directions given by the Minister.

- (3) Where the Chairperson is -
  - (a) on leave of absence; or
  - (b) out of speedy or effective communication; or
  - (c) otherwise unable to perform or is not readily available to perform the functions and responsibilities of Chairman,

the Deputy Chairperson shall perform the functions and responsibilities of the Chairperson.

- (4) The person appointed as the Chairperson shall -
  - (a) possess a minimum university qualification of a bachelor degree in management, public administration, agricultural science or an equivalent qualification; and
  - (b) have more than five years' experience in rubber production matters or ten years' experience in agriculture commodity matters; and
  - (c) be a person of reputable standing in his community.

#### **12. LEAVE OF ABSENCE OF MEMBERS.**

(1) The Minister shall grant leave of absence to the Chairperson, in his capacity as the Chairperson, on such terms and conditions as the Minister determines.

(2) The Chairperson shall grant leave of absence to a member on such terms and conditions as he determines.

**13. VACATION OF OFFICE OF A MEMBER.**

(1) If a member -

- (a) dies; or
- (b) becomes permanently incapable of performing his duties; or
- (c) resigns from the office by written notice to the Minister; or
- (d) is absent, except on leave granted in accordance with Section 12, for three consecutive meetings of the Members; or
- (e) fails to comply with the provisions of Section 16; or
- (f) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefits; or
- (g) is convicted of an offence punishable under law by death or imprisonment for one year or longer, and, as a result of the conviction, is subject to be sentenced to death or imprisonment, is under sentence of death or is undergoing imprisonment, or is under bond to appear for a sentence if called on; or
- (h) nominates for election to become a member of the National Parliament or of a provincial legislature,

the Minister, acting on advice of the Members, must terminate his appointment.

(2) The Minister may, upon a resolution of a direction by the majority of all the members eligible to vote, by written notice, advise a member of his intention to terminate the member's appointment for inability, inefficiency, incapacity or misbehaviour.

(3) Within 14 days of the receipt of a notice under Subsection (2), the member may reply in writing to the Minister, who must consider the reply, and, where appropriate, terminate the member's appointment.

(4) Where the member referred to in Subsection (2), does not reply in accordance with Subsection (3), the Minister is to terminate the member's appointment.

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

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

**15. MEETINGS OF THE MEMBERS.**

(1) The Members shall meet at such times and places as the Chairperson may determine but must meet at least once every four months.

(2) Subject to Subsection (3), the Chairperson shall, if requested to do so by not less than two members or directed by the Minister, call a special meeting of the Members as soon as practicable after receiving the request.

(3) The Chairperson shall give to all members at least one month notice of meetings of the Members of the Board.

(4) At a meeting of the Members -

- (a) not less than five members, of whom one is the Chairperson, is a quorum; and
- (b) the Chairperson or in his absence, the Deputy Chairperson shall preside; and

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- (c) unless otherwise prescribed, matters arising must be decided by a majority of the votes of members present and voting; and
- (d) the Chairman has a deliberative, and, in the event of an equality of votes on a matter, also a casting vote.

(5) A member may participate in a meeting by telephone, other means of verbal communication, or by virtually using information and communication technology platforms provided that -

- (a) the member so participating is audible to all members present; and
- (b) the member so participating is virtually visible to all members present and is able throughout the meeting, to hear the other members taking part and participating in the meeting; and
- (c) on any vote the member individually expresses his vote to the meeting, and, in this event, the member is conclusively presumed to have been present and to have formed part of the quorum at all times during the meeting.

(6) The members shall cause minutes of their meetings to be recorded and kept, and must be -

- (a) confirmed at the next meeting of the Members; and
- (b) signed by the Chairperson.

(7) The Members may, in its discretion, in any of its meeting -

- (a) invite a person of interest in the industry to attend; or
- (b) receive or hear submissions or information from any person.

(8) Subject to this Act, the procedures of the Members are as determined by it.

### **16. DISCLOSURE OF INTEREST BY A MEMBER.**

(1) A member who has, directly or indirectly, any pecuniary interest in -

- (a) any contract, arrangement or agreement made, entered into or proposed to be made or entered into, by the Members of the Board; or
- (b) the performance of any function or the exercise of any power by the Members of the Board; or
- (c) any other matter to be made or under consideration by the Members of the Board, shall, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of his interest at the meeting of the Members.

(2) A disclosure under Subsection (1), shall be recorded in the minutes of the Members meeting, unless the Members otherwise determines, and the member -

- (a) shall not take part or be present after the disclosure in any deliberation or decision of the Members with respect to the contract or matter; and
- (b) shall be disregarded for the purpose of constituting a quorum of the Members and any such deliberation or decision.

### **17. INDEMNITY OF MEMBERS.**

(1) No act or proceeding taken under this Act is to be questioned on the ground -

- (a) of the existence of any vacancy in the membership or defect in the appointment of any member; or
- (b) of any omission, defect or irregularity not affecting the merits of the case.

(2) No action or proceeding must be brought or instituted personally against -

- (a) the Chairperson or Deputy Chairperson; or
- (b) a member; or

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(c) a member of a committee,  
of the Board in respect of any act done in good faith in pursuance or execution or intended execution of this Act.

### **18. DELEGATION.**

The Board may, in writing under its seal, delegate all or any of its powers and functions other than -

- (a) the power of delegation; and
- (b) the power to borrow money, raise or give loans advance, subscribe to or underwrite the issue of stocks or debentures of business enterprises; and
- (c) the power to make By-laws.

### **19. COMMITTEES.**

(1) The Board may, from time to time, establish such committees as it considers necessary in relation to the powers and functions of the Board.

(2) A committee must report to the Chairperson in writing as soon as practicable.

### **20. AUTHENTICATION OF DOCUMENTS.**

The seal of the Board shall be authenticated by the signature of the Chairperson and by one member and such seal must be officially and judicially noticed.

### **21. ANNUAL REPORTS.**

(1) The Board shall, by 31<sup>st</sup> March in each year, furnish to the Minister -

- (a) a report on the operations of the Board during the year ending on the preceding 31<sup>st</sup> December; and
- (b) financial statements, in such form as the Minister responsible for financial matters approves, in respect of that year.

(2) As soon as practicable after the Minister has received the reports referred to in Subsection (1), the Minister must forward the report to the Speaker for presentation to Parliament.

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

### *Division 1. - Senior Officer of the Board.*

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

(1) There shall be a Chief Executive Officer and who is also the Managing Director of the Board whose manner of appointment, suspension and dismissal shall be in accordance with the *Regulatory Statutory Authorities (Appointment to Certain Offices) Act 2004*.

(2) The Chief Executive Officer is -

- (a) the Managing Director of the Board; and
- (b) the head of the staff of the Board; and
- (c) responsible for the general working and efficient conduct of the Board; and
- (d) responsible to ensure directives of meeting resolutions of the Members are implemented by the Board.

(3) The Chief Executive Officer shall -

- (a) be employed under a contract of employment which shall be executed by the Minister, acting on the advice of the National Executive Council; and
- (b) hold office on such terms and conditions as are determined from time to time by the Members, subject to the *Salaries and Conditions Monitoring Committee Act 1988*; and
- (c) be a citizen of Papua New Guinea.

**23. FUNCTIONS OF THE CHIEF EXECUTIVE OFFICER.**

The Chief Executive Officer shall -

- (a) manage and provide administrative oversight on the Board, the staff of the Board and in relation to policy, shall act in accordance with the directions of the Minister through the Board; and
- (b) advise the Board on any matters concerning the operations of the Board; and
- (c) report quarterly to the Members on the financial performance of the Board against annual budget; and
- (d) comply with and ensure that the Board in all its operations complies with all accounting and reporting standards and requirements required under this or any other Act or by prudent commercial practice and public sector management accounting principles; and
- (e) implement and maintain systems and controls over the financial, administrative and operational activities of the Board so as to ensure lawful and accountable operations; and
- (f) manage, direct and control staff of the Board including lawful engagement and termination of service engagement under a contract, agreement or any other law; and
- (g) provide policy and all relevant commercial information and advice to the Members; and
- (h) carry out and perform the duties required of him under this Act and his contract of employment; and
- (i) has such other functions as the Board, from time to time determines; and
- (j) be guided by Government policy relevant to the Board.

***Division 2. - Other Staff of the Board.***

**24. OFFICERS OF THE BOARD.**

(1) The Chief Executive Officer may, from time to time, within the limit of funds available, appoint to be officers and employees or temporary officers of the Board, such persons, as he considers necessary, for the purposes of giving effect to this Act.

(2) The Chief Executive Officer and officers appointed under Subsection (1) constitute the staff of the Board.

(3) An officer or employee appointed under Subsection (1) shall be -

- (a) appointed through open competition; and
- (b) subject to an evaluation and positive recommendation by a selection committee, one of whose members must be the direct hierarchical superior of the employee to be appointed, chaired by the Chief Executive Officer or a delegate of the Chief Executive Officer.

(4) The Chief Executive Officer shall direct and control the officers and employees of the Board and may dismiss any officer or employee in accordance with procedures established and approved by the Members.

**25. CONTRACT OF EMPLOYMENT.**

(1) Each officer and employee of the Board employed in accordance with this Division shall be employed on terms and conditions prescribed by the Board and hold office in accordance with the terms and conditions of written contracts of employment.

(2) A contract of employment shall be executed by the Chief Executive Officer and by the officer or employee.

*Division 3. - By-laws of the Board.*

**26. BY-LAWS.**

- (1) The members may make By-laws, not inconsistent with this Act, with respect to -
  - (a) the management, good governance and discipline of the Board; and
  - (b) the use and custody of the seal of the Board; and
  - (c) the persons who are to be regarded, for the purposes of this Act, as officers and employees of the Board; and
  - (d) the tenure of office and terms and conditions of employment of officers and employees of the Board; and
  - (e) the control and Regulation of rubber and rubber products; and
  - (f) the control and investment of the property of the Board; and
  - (g) the establishment of a superannuation or other retirement benefit scheme to provide benefits for officers; and
  - (h) the qualifications of private sector representatives on the membership; and
  - (i) the protection of intellectual property and patent rights resulting from Board research and development and the rights to publish the results of research; and
  - (j) the acquisition, use, sale, handling and security of genetic technology or other like products or technology; and
  - (k) generally, all other matters that are authorised by this Act or that are necessary or convenient for giving effect to this Act.
- (2) The By-laws may provide for empowering an authority, the Board or a staff of the Board to make rules or orders, not inconsistent with this Act or with any By-law, for -
  - (a) regulating any specified matter or class of matters of which By-laws may be made; and
  - (b) carrying out or giving effect to the By-laws.
- (3) Any rule or order made under Subsection (2), has the same force and effect as a By-law.
- (4) In the absence of any By-laws made under Subsection (1), the provisions of Regulations pertaining to the Public Service shall, insofar as applicable, apply.

**PART IV. - FINANCES, ETC.**

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

Unless prescribed by this Act to the contrary, Part VIII of the *Public Finances (Management) Act 1995*, applies to the Board.

**28. APPLICATION OF THE *NATIONAL PROCUREMENT ACT 2018*.**

The *National Procurement Act 2018*, applies to the Board.

**29. APPLICATION OF TAXATION, ETC., ACTS.**

- (1) Subject to Subsection (2), the income, property and operations of the Board are not subject to any taxes, duties, tariffs, levies, or imposts fixed, imposed or applied by the National Government or any Provincial or Local-level Government.
- (2) A body corporate to which the Board owns shares in whole or part, involving in an investment, project or carries on business venture must pay all taxes, duties, tariffs, levies, or imposts fixed, imposed or applied by law.

**30. APPLICATION OF THE *AUDIT ACT* 1989.**

The accounts of the Board shall be audited in accordance with Part III of the *Audit Act* 1989.

**31. FUNDING BY THE STATE, ETC.**

(1) The funds of the Board shall consist of all moneys appropriated by the State for the purposes of giving effect to this Act and any moneys received in accordance with law, including -

- (a) all moneys received by the Board for goods and services provided by the Board; and
- (b) all moneys received from commercial undertakings; and
- (c) fees, charges, rents, levies and other sums payable to or received by the Board in the performance of its functions under this Act or any other Act, Regulation, By-law or Rule; and
- (d) all funds received by the Authority from foreign governments or aid donors; and
- (e) all moneys owed to or received by the Board from partnerships or joint ventures; and
- (f) all moneys received by the Board in respect of the sale of real estate, rubber in all forms, rubber products or derivatives or other property owned in whole or in part by the Board or moneys received through activities or investments of the Board; and
- (g) all moneys, immediately before the coming into operation of this Act, at the credit of and on accounts opened or held by or on behalf of the Board; and
- (h) loans raised by the Board; and
- (i) all other moneys received by the Board in accordance with this Act or any other law and in the exercise and performance of its powers, functions and duties.

(2) The funds of the Board shall be expended only on any or all of the following:

- (a) payment or discharge of expenses, obligations and liabilities of the Board; and
- (b) remuneration of the Chief Executive Officer and staff of the Board in accordance with *Salaries and Conditions Monitoring Committee Act* 1988; and
- (c) payment of any allowances to the Members, or members of any committee in accordance with the *Boards Fees and Allowances Act* (Chapter 299); and
- (d) payment of fees and cost for professional services rendered to the Board; and
- (e) payment of any charges on any amount which may be allocated to the Board from loan funds; and
- (f) repaying any moneys borrowed under this Act and any interest payable; and
- (g) the disbursement of grants, loans or other financial assistance under this Act; and
- (h) making investments or developing projects and schemes authorised by this Act; and
- (i) such other purposes as are consistent with the functions of the Board after consultation with and approved by the Members.

**32. NATIONAL BUDGET CONSIDERATION.**

(1) The Board shall, consistent with the national budget cycle, submit to the Department responsible for treasury matters its operational budget, without limitation includes -

- (a) estimates of the receipts and expenditure of the Board for the next financial year; and
- (b) its proposed program (if any) for the next financial year, identifying expenditures under Section 32(2).

(2) For the avoidance of doubt, Section 51 of the *Public Finances (Management) Act* 1995 applies to the Board.

**33. LOANS BY THE STATE.**

(1) The Board may accept an offer by the State through the Minister responsible for financial matters, on behalf of the State, to loans it moneys for its purposes on such terms as are agreed between the Board and the Minister responsible for financial matters.

(2) The Board shall repay a loan made under Subsection (1) in accordance with the terms on which it was made.

**34. BANK ACCOUNTS.**

(1) The Board shall open and maintain such bank accounts for its exclusive use as are necessary for the exercise and performance of its powers and functions, and is to pay into them such moneys referred to in Sections 31 and 33.

(2) In respect of moneys advanced or borrowed under this Act or any other law, the Board is to maintain a separate account in respect of the moneys that are related to each such purpose and must cause proper entries of -

- (a) all moneys so advanced or borrowed for the particular purpose of the Board; and
  - (b) the purpose to which the moneys have been applied,
- to be made in the account maintained in respect of that purpose.

**PART V. - INSPECTION.**

**35. APPOINTMENT OF RUBBER INSPECTORS.**

The members may, by notice in the National Gazette, appoint persons to be Rubber Inspectors for the purpose of this Act.

**36. POWERS OF RUBBER INSPECTORS.**

(1) For the purposes of this Act, an Inspector may, at all reasonable times -

- (a) enter and inspect any place, factory, premises, aircraft, vehicle or vessel where rubber is kept, produced, treated, handled, packed, stored or transported; and
- (b) seize and detain, pending an order of a Court, any rubber in respect of which he has reasonable grounds for suspecting that an offence against this Act has been or is committed; and
- (c) take samples of any rubber; and
- (d) examine and take extracts from, or copies of any delivery docket, book or other document evidencing the purchase, sale, delivery, ownership, place of production and destination of rubber found in a place or factory or on any premises or aircraft, vehicle or vessel; and
- (e) require any person engaged or apparently engaged in the affairs of a business of buying, selling, exporting or processing of rubber to provide information relating to the affairs of that business.

(2) A person who is -

- (a) in charge of any place, premises, aircraft, vehicle or vessel; and
- (b) on any premises, aircraft, vehicle or vessel on which any rubber is kept, produced, treated, handled, packed, stored or transported,

and fails to give all reasonable assistance to an inspector for the purpose of exercising and performing the Inspector's powers, functions and duties under this Act, commits an offence.

- Penalty:
- (a) In the case of a natural person, a fine not exceeding K5,000.00 or imprisonment for a term not exceeding six months, or both; and
  - (b) In the case of a body corporate, a fine not exceeding K25,000.00.

(3) A person who, without reasonable excuse (proof of which is on him) -

- (a) hinders or obstructs an Inspector in the exercise or performance of the Inspector's powers and functions under this Act; or

- (b) fails or refuses, when requested by an Inspector, to provide any document in possession or under that person's control for examination by an Inspector under Subsection (1)(d); or
- (c) fails or refuses to provide information when required under Subsection (1)(e), commits an offence.

- Penalty:
- (a) In the case of an offence by a natural person, a fine not exceeding K5,000.00 or imprisonment for a term not exceeding six months, or both; and
  - (b) In the case of an offence by a body corporate, a fine not exceeding K25,000.00.

(4) Where, in the opinion of an Inspector, any place, factory, premises, vehicle, aircraft, container or ship on or in which rubber is handled, packed, kept or stored is or are unsuitable for that purpose, whether by reason of its or their construction or otherwise, he may order the owner or occupier to take such steps as are, in the opinion of the inspector, necessary to render it suitable for that purpose.

(5) A person who does not comply with the order in Subsection (4) but continues to use the place, factory, premises, vehicle, aircraft, container or ship for the production, treatment, handling, packing, keeping or storing of rubber, or permits it to be so used, commits an offence.

- Penalty:
- (a) In the case of an offence by a natural person, a fine not exceeding K5,000.00 or imprisonment for a term not exceeding six months, or both; and
  - (b) In the case of an offence by a body corporate, a fine not exceeding K25,000.00.

(6) An Inspector is not liable for any damage caused while carrying out the provisions of this Act in good faith unless the damage was caused maliciously or without reasonable cause.

### **37. MARKING OF RUBBER FOR EXPORT.**

(1) Rubber shall not be shipped for export unless it is -

- (a) classified into a prescribed grade; and
- (b) marked with the prescribed mark appropriate to its grade.

(2) An Inspector may, at any time by any means that are reasonable and will not cause damage to the rubber -

- (a) examine the rubber intended for export; and
- (b) classify it into a prescribed grade; and
- (c) mark it with the prescribed mark appropriate to its grade,

whether or not the rubber has previously been classified or marked by any other person.

(3) Where rubber that has been marked under this section is classified by an Inspector as being of a grade other than the grade denoted by the mark, the Inspector shall obliterate the mark and mark it with the prescribed mark appropriate to the grade into which he classifies it.

(4) A person who wilfully or negligently ships rubber for exports without marking as required by this section, the person who ships or the person who exports, commits an offence.

- Penalty:
- (a) In the case of a natural person, a fine not exceeding K5,000.00 or imprisonment for a term not exceeding six months, or both; and
  - (b) In the case of a body corporate, a fine not exceeding K25,000.00.

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(5) A person who, other than an Inspector, wilfully or negligently alters, defaces or obliterates a mark placed on rubber under this section, commits an offence.

- Penalty:
- (a) In the case of a natural person, a fine not exceeding K5,000.00 or imprisonment for a term not exceeding six months, or both; and
  - (b) In the case of an offence by a body corporate, a fine not exceeding K25,000.00.

(6) It is a defence to a charge of an offence against Subsection (5) if the defendant establishes that

- (a) the mark altered, defaced or obliterated was placed on the rubber inadvertently; or
- (b) the classification as a consequence of which the mark was placed on the rubber was incorrect.

### **38. DOWN-GRADING.**

Where an Inspector classifies rubber into a grade other than that denoted by the mark on the rubber, he shall furnish the owner or exporter or his agent with a written statement of the reasons why he so classified it.

## **PART VI. - REGISTRATION OF RUBBER DEALERS, ETC.**

### **39. REGISTRATION OF DEALERS.**

(1) The Board may -

- (a) subject to such conditions and restrictions as it thinks fit and as are endorsed on the certificate of registration; and
- (b) on payment of the prescribed fee,

register a person as a registered rubber dealer to buy or sell, buy and sell or trade in unprocessed rubber.

(2) The Board may refuse to register a person under this section on such grounds as it thinks fit.

(3) The Board may cancel the registration of a person under this section on such grounds as it thinks fit.

(4) A registered rubber dealer, who fails to comply with any or all of the conditions or observe any or all of the restrictions endorsed on the certificate of registration, commits an offence.

- Penalty:
- (a) In the case of a natural person, a fine not exceeding K5,000.00 or imprisonment for a term not exceeding six months, or both; and
  - (b) In the case of a body corporate, a fine not exceeding K25,000.00.

(5) Subject to Subsection (6), a person other than a registered rubber dealer, who conducts a business of buying or selling, buying and selling or trading in unprocessed rubber, the person commits an offence and is liable on conviction to a penalty -

- (a) in the case of an offence by a natural person, a fine not exceeding K5,000.00 or imprisonment for a term not exceeding six months, or both; and
- (b) in the case of an offence by a body corporate, a fine not exceeding K25,000.00.

(6) Subsection (5) does not apply to a rubber grower selling unprocessed rubber produced by him.

**40. REGISTRATION OF RUBBER EXPORTERS.**

- (1) The Board may -
  - (a) subject to such conditions and restrictions as it thinks fit, and as are endorsed on the certificate of registration; and
  - (b) on payment of the prescribed fee,register a person as a registered rubber exporter.
- (2) The Board may refuse to register a person under this section on such grounds as it thinks fit.
- (3) The Board must refuse to register a person or renew the registration of a person under this section if that person -
  - (a) has incurred a debt with the Board of an amount of K10,000.00 or greater; and
  - (b) has failed to make full repayment to the Board of that debt within 28 days of being requested by the Board to repay it.
- (4) The Board shall cancel the registration of a person under this section if that person -
  - (a) has incurred a debt with the Board of an amount of K10,000.00 or greater; and
  - (b) has failed to make full repayment to the Board of that debt within 28 days of being requested by the Board to repay it.
- (5) The Board may cancel the registration of a person under this section on such ground as it thinks fit.
- (6) A registered exporter, who fails to comply with any of the conditions or observe any of the restrictions endorsed on the certificate of registration, the registered exporter commits an offence and is liable on conviction to a penalty -
  - (a) in the case of an offence by a natural person, a fine not exceeding K5,000.00 or imprisonment for a term not exceeding six months, or both; and
  - (b) in the case of an offence by a body corporate, a fine not exceeding K25,000.00.

**41. APPLICATION TO REGISTER PROCESSING FACILITY.**

- (1) A person, who is the owner or occupier of premises or proposed premises used or is to be used for the processing of rubber, may apply to the Board for the registration of those premises or proposed premises as registered processing facilities.
- (2) The Board may refuse to register processing facilities under this section on such grounds as it thinks fit.

**42. ADDITIONAL PROCESSING FACILITY.**

Subject to this section, where the Board is satisfied that additional processing facilities are required by the owner or occupier of a registered processing facility and that such additional facilities are or is to be constructed, equipped and operated to the satisfaction of the Board, it may -

- (a) subject to such conditions and restrictions as it thinks fit and as are endorsed on the certificate of registration; and
  - (b) on payment of the prescribed fee,
- register those premises or proposed premises in which those additional facilities are or is to be constructed as registered processing facilities.

**43. CANCELLATION OF REGISTRATION.**

The Board may, by written notice to the owner and occupier, cancel the registration of any premises or proposed premises under this section on such grounds as it thinks fit.

**44. OFFENCES RELATING TO PROCESSING FACILITIES.**

(1) A person who erects or alters premises with the intention of using those premises as facilities for processing rubber other than rubber produced by him, commits an offence, unless the proposed premises, or the premises as proposed to be altered, as the case may be, have been registered under this Act as registered processing facilities.

Penalty: (a) In the case of an offence by a natural person, a fine not exceeding K5,000.00 or imprisonment for a term not exceeding six months, or both; and  
(b) In the case of an offence by a body corporate, a fine not exceeding K25,000.00.

(2) A person who does not process rubber in a registered processing facility, commits an offence.

Penalty: A fine of K5,000.00 or of such amount as is represented by K2.00 per kg of rubber processed, whichever is greater, or imprisonment for a term of six months, or both.

(3) The owner or occupier of registered processing facilities, who fails to comply with any of the conditions or observe any of the restrictions endorsed on the certificate of registration, commits an offence.

Penalty: (a) In the case of an offence by a natural person, a fine not exceeding K5,000.00 or imprisonment for a term not exceeding six months, or both; and  
(b) In the case of an offence by a body corporate, a fine not exceeding K25,000.00.

**45. APPLICATION TO REGISTER A MANUFACTURING FACILITY.**

(1) A person, who is the owner or occupier of premises or proposed premises used or proposed to be used for the manufacturing of rubber, other than rubber grown on his own property for his own domestic consumption, may apply to the Board for the registration of those premises or proposed premises as registered manufacturing facilities.

(2) The Board may refuse to register manufacturing facilities under this section on such grounds as it thinks fit.

**46. ADDITIONAL MANUFACTURING FACILITY.**

Subject to this section, where the Board is satisfied that additional manufacturing facilities are required by the owner or occupier of a registered manufacturing facility and that such additional facilities are or is to be constructed, equipped and operated to the satisfaction of the Board, it may -

(a) subject to such conditions and restrictions as it thinks fit and as are endorsed on the certificate of registration; and

(b) on payment of the prescribed fee,  
register those premises or proposed premises in which those additional facilities are or is to be constructed as registered manufacturing facilities.

**47. CANCELLATION OF REGISTRATION.**

The Board may, by written notice to the owner and occupier, cancel the registration of any premises or proposed premises under this section on such grounds as it thinks fit.

**48. OFFENCES RELATING TO MANUFACTURING FACILITIES.**

(1) A person, who erects or alters a premises with the intention of using that premises as a facility for manufacturing rubber other than rubber produced by that person, commits an offence.

- Penalty: (a) In the case of a natural person, a fine not exceeding K5,000.00 or imprisonment for a term not exceeding six months, or both; and  
(b) In the case of a body corporate, a fine not exceeding K25,000.00.

(2) It is not an offence under Subsection (1), if the premises erected or altered, have been registered under this Act as registered manufacturing facilities.

(3) Subject to Subsection (4), a person who manufactures rubber in manufacturing facility that is not registered in accordance with this Act, commits an offence.

- Penalty: (a) In the case of an offence by a natural person, a fine not exceeding K5,000.00 or an amount equivalent to K20.00 per kg of rubber manufactured, whichever is the greater, or imprisonment for a term not exceeding six months, or both; or  
(b) In the case of a body corporate, a fine not exceeding K25,000.00 or an amount equivalent to K20.00 per kg of rubber manufactured, whichever is the greater.

(4) This section does not apply to -

- (a) a rubber grower manufacturing rubber grown by him only for his own domestic consumption; or
- (b) a retail seller of provisions in relation to roasting or grinding rubber for the purpose of sale in retail quantities not exceeding 2kg at any one time; or
- (c) the owner or manager of a hotel, restaurant, club or other similar establishment roasting or grinding rubber for conversion by him into a beverage.

(5) The owner or occupier of a registered manufacturing facility, who fails to comply with any of the conditions or observe any of the restrictions endorsed on the certificate of registration, commits an offence.

- Penalty: (a) In the case of a natural person, a fine not exceeding K5,000.00 or imprisonment for a term not exceeding six months, or both; and  
(b) In the case of a body corporate, a fine not exceeding K25,000.00.

**PART VII. - LICENSING.**

**49. LICENSING.**

(1) No person shall -

- (a) buy, process, manufacture or export rubber in any form; or
- (b) export rubber cup lumps or semi-processed rubber,

unless licensed by the Board under this Part.

(2) The Board may, on recommendation of the members, grant or refuse an application for licence for any of the activities specified in Subsection (1).

**50. BOARD DEEMED TO BE THE HOLDER OF LICENCE.**

For the purposes of this Part, the Board is deemed to be the holder of a licence and may -

- (a) buy, process, manufacture or export rubber; and

- (b) export rubber cup lumps or semi-processed rubber; and
- (c) participate in any activity permitted by this Act.

**51. APPLICATION FOR LICENCE.**

- (1) A person may apply to the Board for a licence under Section 43 -
  - (a) to permit the licensee specified in the licence to carry out the activity or business specified in the licence; or
  - (b) to engage in the business of buying, processing, manufacturing or export of rubber.
- (2) The application must -
  - (a) be in the prescribed form; and
  - (b) contain particulars of the applicant's financial position and the proposal for which the application was made; and
  - (c) contain such other particulars as are prescribed; and
  - (d) be accompanied by the prescribed fee.

**52. BOARD TO CONSIDER APPLICATION.**

- (1) When the Board receives an application under Section 45, the Board shall consider the application and may, in its discretion -
  - (a) accept the application and grant the licence to carry out the business specified in the licence; or
  - (b) refuse the application.
- (2) Without prejudice to or limiting the Board's discretion under Subsection (1), the Board may refuse an application where, in its opinion -
  - (a) the applicant has inadequate finance; or
  - (b) the applicant has no facilities or lacks proper management systems for the proper or productive storage, processing or handling of rubber; or
  - (c) the Board considers that the application will not promote or develop the rubber industry or domestic processing or production of rubber.

**53. STATUS OF GRANTED LICENCE.**

- (1) A licence granted under Section 46 -
  - (a) is subject to such conditions and restrictions as the Board thinks fit and permits the licensee specified in the licence to carry out the activity or business specified in the licence; and
  - (b) shall remain in force, unless cancelled in accordance with this Act, in the case of -
    - (i) a buyer's licence or a period not exceeding 12 months; and
    - (ii) a processor's licence, for a period not exceeding 36 months; and
    - (iii) an exporter's licence, for a period not exceeding 36 months; and
    - (iv) a manufacturer's licence, for a period not exceeding 36 months; and
  - (c) is renewable; and
  - (d) is personal to the licensee and incapable of being transferred.

- (2) The Board may, by written notice at any time, vary or revoke any condition or restriction or impose new or additional conditions or restrictions on a licence.

**54. LICENCE FEES.**

The Board shall, in respect of a licence granted and issued under this Part, levy and collect the license fees as prescribed under this Act.

**55. ISSUE OF LICENCE.**

Where the Board grants the approval and upon payment of the prescribed fee in accordance with this Part, it shall issue a licence in the prescribed form and shall endorse on the licence any condition referred to in this Act.

**56. CANCELLATION OF LICENCE.**

The Board may cancel a licence where the Board is satisfied that -

- (a) the licence was obtained by -
  - (i) means of a false or misleading statement; or
  - (ii) partly by means of a false or misleading statement; or
  - (iii) fraud; or
  - (iv) other improper means; or
- (b) the licensee has been convicted of an offence under this Act; or
- (c) the licensee does not have, in the Board's opinion, adequate finance, facilities or organisation for the proper or productive storage, handling or processing of rubber or where the Board is of the opinion that a continuance of the licence would not be in the best interest of the rubber industry; or
- (d) the licensee is in breach of a condition of the licence.

**57. APPEAL COMMITTEE.**

- (1) There is an established Appeal Committee.
- (2) The Appeal Committee shall consist of -
  - (a) a person nominated by the Board, who shall be the Chairperson; and
  - (b) an officer of the Department responsible for agriculture and livestock matters nominated by the Department; and
  - (c) one person nominated by the Minister to represent the rubber industry,appointed by the Minister by notice in the National Gazette.
- (3) The Chairperson of the Appeal Committee shall determine -
  - (a) the time and place of; and
  - (b) subject to Section 51(3), the procedure to be followed at,meetings of the Appeal Committee.

**58. APPEALS.**

- (1) A person aggrieved by a decision of the Board -
  - (a) to refuse to grant an application under Section 46(1); or
  - (b) in relation to any conditions or limitations to which grant of a licence or registration is subject; or
  - (c) to cancel a licence under Section 50,may appeal in writing to the Appeal Committee.
- (2) As soon as practicable after receipt of an appeal under Subsection (1), the Appeal Committee shall meet and consider the appeal.
- (3) The procedure during the consideration of an appeal shall be informal but regard shall be had, at all times, to natural justice.
- (4) The decision of the Appeal Committee is final and shall be implemented as if it were a decision of the Board.

**59. REGISTER OF LICENCES.**

- (1) The Board is to establish and maintain a register of all licences granted, issued or cancelled by the Board.
- (2) Each register must be in such form and is to be kept in such manner as the Board determines.
- (3) All matters required by this Act to be licensed or registered shall be effected by the Board.
- (4) The production of a register, copy or an extract from the register certified by the Board to be a register, or a true copy of a register or a true extract from a register of licences is evidence of the matters contained in it.

**PART VIII. - SMALLHOLDERS AND RURAL GROWERS MARKETING SERVICES.**

**60. BOARD TO PROVIDE MARKETING SERVICES, ETC.**

The Board shall provide such advice, assistance and other development or extension services which may, promote the development and quality of farming, processing, management, marketing and export of rubber by smallholders and rural growers.

**61. OBLIGATION OF THE BOARD TO MAINTAIN SERVICES IN REMOTE RURAL AREAS.**

The Board shall, in respect of smallholders and rural growers -

- (a) assist in co-ordinating the production, processing and marketing of rubber from remote rural areas of the country in order to develop the rubber industry in all parts of Papua New Guinea; and
- (b) develop policies for subsidisation of the cost of freight and transportation of rubber from remote rural areas of the country; and
- (c) provide and ensure that the standard of marketing services enables the promotion, development and improvement in the production of rubber to producers in remote rural areas; and
- (d) promote, develop and maintain a suitable marketing strategy to ensure adequate marketing access and opportunities for rubber producers in rural areas; and
- (e) co-operate and liaise with all other national agencies responsible for research, extension, provision of agricultural credits, processing and marketing of rubber and effect expeditiously the modernisation of the smallholder and rural growers' sector; and
- (f) ensure the replanting and new planting of the smallholder and rural growers' sector with modern high yielding planting materials in a comprehensive and systematic manner; and
- (g) ensure that the smallholder sector is modernised in every sense to improve the economic well-being of the smallholders and rural growers; and
- (h) obtain and keep the necessary statistics relating to the smallholder and rural growers' sector and cause such information to be available to the Government; and
- (i) take part in such activities as the Minister determines, relating to the improvement and development of the smallholder and rural growers' sector; and
- (j) establish such fund accounts to enable the facilitation of loans to smallholders and rural growers for the purpose of improving the production of their rubber.

**PART IX. - FUNDS AND BOUNTY.**

*Division 1. - Management Levy.*

**62. MANAGEMENT LEVY.**

(1) For the purposes of the administration of the Board, a levy known as a management levy, may be payable at a prescribed rate on all rubber products intended for export or to be sold in the domestic market.

(2) Different rates of the management levy may be prescribed for different types and grades of rubber products.

(3) Subject to Section 57 the management levy shall be calculated, paid and collected as prescribed.

**63. BOARD MAY REDUCE, ETC., MANAGEMENT LEVY.**

Where, at any time, the Board is satisfied that it is in possession of more money than it requires for the performance of its functions or the exercise of its powers, it may -

- (a) acting on the advice of the Members, by notice in the National Gazette, reduce or suspend the obligation to pay the management levy imposed by Section 56 for the period specified in the notice; or
- (b) transfer such amount as it considers appropriate to the Fund.

*Division 2. - Rubber Industry Development Fund.*

**64. THE RUBBER INDUSTRY DEVELOPMENT FUND.**

(1) The Rubber Industry Development Fund is hereby established.

(2) The Rubber Industry Development Fund is not an asset of the Board, but the Board is to administer the Fund as a trustee.

(3) Separate accounts may be established within the Rubber Industry Development Fund for each rubber product.

- (4) The Board shall administer the Rubber Industry Development Fund with the object of -
- (a) assisting in establishing a rubber price stabilisation; and
  - (b) establishing credit facility for producers; and
  - (c) investment promotion,

within the industry.

(5) Although a person may have contributed to the Rubber Industry Development Fund, that person is not entitled -

- (a) to an interest in the Rubber Industry Development Fund; or
- (b) to a payment from the Rubber Industry Development Fund except in accordance with this Act.

(6) Payment from the Rubber Industry Development Fund shall not be made to any person except in accordance with this Act.

**65. APPLICATION OF PART IX IN RESPECT OF ACQUIRED RUBBER.**

(1) Subject to this section, the provisions of this Act relating to rubber products and the payment of the industry levy and the payment of the bounty in accordance with this Division apply to and in relation to rubber purchased or otherwise acquired by a licensed processor or exporter, or received into store by a licensed processor or exporter for manufacture into rubber products.

(2) The industry levy imposed, or the bounty to be paid, for rubber is to be determined by the Board, in accordance with the advice of the Members, by means of a formula by which the weight of the rubber is related to the equivalent weight of rubber product.

(3) A licensed processor or exporter who purchases or otherwise acquires rubber for manufacture into a rubber product must give to the supplier a docket in the prescribed form specifying the amount of industry levy collected or the amount of bounty paid, as the case may be, in relation to the rubber in accordance with this section.

(4) A person who fails to comply with Subsection (3), commits an offence.

- Penalty: (a) In the case of an offence by a natural person, a fine not exceeding K5,000.00 or imprisonment for a term not exceeding six months, or both; and  
(b) In the case of an offence by a body corporate, a fine not exceeding K25,000.00.

**66. PAYMENTS INTO THE RUBBER INDUSTRY FUND.**

The Board is to pay into the Rubber Industry Fund -

- (a) money received from the collection of the industry levy imposed under Sections 58 and 59; and
- (b) money received as interest from money standing to the credit of the Rubber Industry Fund; and
- (c) money received from the sale of rubber products purchased with money from the Rubber Industry Fund; and
- (d) money to be used for the purposes of the Rubber Industry Fund.

**67. INDUSTRY LEVY.**

(1) The Board may, from time to time, after consultation with -

- (a) the Minister responsible for financial matters; and
- (b) the Members,

by notice in the National Gazette -

- (c) fix a levy, known as the rubber industry levy, payable by licensed exporters on all rubber products exported; and
- (d) fix the rate of industry levy per tonne of rubber product; and
- (e) fix the date on and from which the industry levy is payable; and
- (f) specify the period for which the industry levy is payable.

(2) Different rates of industry levy may be imposed in relation to different types or grades of rubber products.

(3) An industry levy -

- (a) shall be payable on all rubber products exported; and
- (b) shall be collected and paid as prescribed.

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(4) A rubber product, in respect of which an industry levy has been fixed but has not been paid, is a prohibited export within the meaning of the *Customs Act* (Chapter 101).

### **68. PAYMENTS FROM THE RUBBER INDUSTRY FUND.**

The Board shall not expend money from the Rubber Industry Fund except -

- (a) in payment of bounty under Section 69; or
- (b) in payment of advances authorised under Section 70; or
- (c) with the Members' approval, to recompense the costs necessarily incurred by the Board in administering the Rubber Industry Fund.

### **69. PAYMENT OF BOUNTY FROM THE RUBBER INDUSTRY FUND.**

(1) The Board may, after consultation with -

- (a) the Minister responsible for financial matters; and
- (b) the Members by notice in the National Gazette, fix a bounty to be made payable to a smallholder, licensed processor or exporter of rubber products out of the Rubber Industry Fund.

(2) Different rates of bounty may be made payable in respect of different types or grades of rubber products.

(3) The bounty under Subsection (1) shall be paid as prescribed.

### **70. APPLICATION FOR ADVANCE AND BOUNTY.**

(1) An application for an advance authorised under Section 62(b) shall be in the prescribed form.

(2) An application by a smallholder, licensed processor or exporter for payment of bounty authorised under Section 62(a) is to be made in the prescribed form and be accompanied by such documents as the Members' in any particular case requires.

(3) An advance under Section 62(b) is to be accounted for in the manner and at the times prescribed, or as the Members', in any particular case, directs.

## ***Division 3. - Rubber Research Fund.***

### **71. RUBBER RESEARCH FUND.**

(1) The Rubber Research Fund is hereby established.

(2) Monies specified by this or any other Act relating to rubber research for rubber industry development shall be paid into the Rubber Research Fund.

(3) The Rubber Research Fund shall be administered by the Board but is not an asset of the Board.

(4) A person who pays research cess under Section 66 is not entitled by reason only of such payment -

- (a) to any interest in the Rubber Research Fund; or
  - (b) to receive any payment or benefit from the Rubber Research Fund,
- other than such benefit (if any) as derived from the rubber industry from any research undertaken in accordance with Section 7(1).

### **72. POSITION AND COLLECTION OF RESEARCH CESS.**

(1) A rubber product research cess shall be imposed on all rubber products.

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(2) The amount of research cess payable on rubber products shall be determined by the Board, acting on the advice of the members.

(3) The amount of research cess payable to the Board shall not exceed 10% of the price per ton of rubber product, or its equivalent, paid to producers and processors or exporters before the addition to or deduction of moneys from the Research Fund.

(4) Where a processor or an exporter purchases or otherwise acquires rubber products the person must -

(a) at least once each month; and

(b) at such other intervals as the Board requires,

remit to the Board the amount of research cess payable in respect of rubber product at the rate applicable under Subsection (3).

(5) A person who fails to comply with Subsection (4), commits an offence.

Penalty: (a) In the case of an offence by a natural person, a fine not exceeding K5,000.00 or imprisonment for a term not exceeding six months, or both; and

(b) In the case of an offence by a body corporate, a fine not exceeding K25,000.00.

### **73. PAYMENT INTO RESEARCH FUND.**

All moneys received from the collection of the research cess shall be paid into the Research Fund.

### **74. PAYMENT OUT OF RESEARCH FUND.**

No money shall be paid out of the Research Fund except for the purposes of research in accordance with Section 7(1).

## ***Division 4. - Extension Fund.***

### **75. RUBBER EXTENSION FUND.**

(1) The Rubber Extension Fund is hereby established.

(2) Monies specified by this or any other Act relating to rubber extension for rubber industry development shall be paid into the Rubber Extension Fund.

(3) The Rubber Extension Fund shall be administered by the Board but is not an asset of the Board.

(4) A person who pays extension levy under Section 69 is not entitled by reason only of such payment -

(a) to any interest in the Rubber Extension Fund; or

(b) to receive any payment or benefit from the Rubber Extension Fund,

other than such benefit (if any) as derives to the rubber industry pursuant to any extension services undertaken in accordance with Section 7(1).

### **76. IMPOSITION AND COLLECTION OF RUBBER EXTENSION LEVY.**

(1) The rubber extension levy shall be imposed on all rubber products.

(2) The amount of rubber extension levy payable on rubber products shall be determined by the Board acting on the advice of the Members.

(3) The amount of rubber extension levy payable to the Board, must not exceed 10% of the price per tonne of rubber, or its equivalent, paid to producers and processors or exporters before the addition to the deduction of moneys from the Rubber Extension Fund.

(4) Where a processor or an exporter purchases or otherwise acquires rubber, he shall -

(a) at least once a month; and

(b) at such other intervals as the Board requires,

remit to the Board the amount of rubber extension levies payable in respect of the rubber at the rate applicable under Subsection (2).

(5) A person, who fails to comply with Subsection (3), commits an offence.

Penalty: (a) In the case of an offence by a natural person, a fine not exceeding K5,000.00 or imprisonment for a term not exceeding six months, or both; and

(b) In the case of an offence by a body corporate, a fine not exceeding K25,000.00.

**77. PAYMENT INTO RUBBER EXTENSION FUND.**

All moneys received from the rubber extension levy shall be paid into the Rubber Extension Fund.

**78. PAYMENT OUT OF RUBBER EXTENSION FUND.**

No money is to be paid out of the Rubber Extension Fund except for purposes of extension in accordance with Section 7(1).

***Division 5. - Rubber Price Stabilisation Fund.***

**79. THE RUBBER PRICE STABILISATION FUND.**

(1) The Rubber Stabilisation Fund is hereby established.

(2) The Rubber Stabilisation Fund is not an asset of the Board but the Board is to administer the Fund as trustee.

(3) The Board shall administer the Rubber Stabilisation Fund with the object of establishing price stabilisation, price equalisation and stockholding arrangements within the rubber industry.

(4) Although a person may have contributed to the Rubber Stabilisation Fund, he is not entitled -

(a) to an interest in the Fund; and

(b) to payment from the Fund except in accordance with this Part.

**80. PAYMENT INTO THE RUBBER PRICE STABILISATION FUND.**

The Board is to pay into the Stabilisation Fund money -

(a) received from the collection of the stabilisation levy imposed under Section 75; and

(b) received as interest from money standing to the credit of the fund invested under Section 76; and

(c) received from the sale of rubber or rubber products purchased with money from the Rubber Price Stabilisation Fund in accordance with Section 77.

**81. RUBBER PRICE STABILISATION LEVY.**

(1) The Minister may, after consultation with -

(a) the Minister responsible for financial matters; and

(b) the Members,  
by notice in the National Gazette, impose a levy, known as the rubber price stabilisation levy, on rubber and rubber products intended for export by registered rubber manufacturers and exporters.

(2) Different rates of stabilisation levy may be imposed for different types or grades of rubber and for different types of rubber products.

- (3) A notice under Subsection (1) must specify -
- (a) the rate or rates of stabilisation levy; and
  - (b) the date from which the stabilisation levy is payable; and
  - (c) other related matters (if any).

(4) The stabilisation levy shall be calculated, paid and collected as prescribed.

(5) Rubber in respect of which the stabilisation levy has not been paid is a prohibited export within the meaning of the *Customs Act 1951*.

## **82. INVESTMENT OF MONEY IN THE RUBBER PRICE STABILISATION FUND.**

The Board, acting on the advice of the Members, may invest money in the Rubber Price Stabilisation Fund in such manner as the Minister responsible for financial matters approves.

## **83. PURCHASE OF RUBBER FOR STABILISATION OF PRICES.**

If the Board is of the opinion that for the purpose of stabilising or equalising prices within the rubber industry, it is necessary for the Board to purchase rubber or rubber products in accordance with any international agreement relating to rubber, it may do so with money in the Rubber Price Stabilisation Fund.

## **84. PAYMENTS FROM THE RUBBER PRICE STABILISATION FUND.**

(1) Subject to Subsection (1), no moneys shall be expended from the Rubber Price Stabilisation Fund except for the purposes of assisting rubber producers and for the purposes of this Act.

- (2) The Board shall not expend money in the Rubber Price Stabilisation Fund except -
- (a) in compliance with the Board's duty under Section 7; or
  - (b) for the purchase of rubber and rubber products in accordance with Section 77; or
  - (c) in payment of a bounty under Section 79; or
  - (d) to recompense the costs necessarily incurred by the Board in administering the Fund.

## **85. PAYMENT OF BOUNTY FROM THE RUBBER PRICE STABILISATION FUND.**

(1) The Minister may -

- (a) acting on the advice of the Members; and
- (b) with the approval of the Minister responsible for financial matters,

by notice in the National Gazette, make payable to rubber growers a bounty out of the Rubber Price Stabilisation Fund.

(2) Different rates of bounty may be made payable in respect of different types or grades of rubber.

- (3) A notice under Subsection (1) shall specify -
- (a) the rate or rates of bounty; and
  - (b) the date from which the bounty is payable.

(4) The bounty is to be calculated and payable as prescribed.

- (5) A person, before purchasing or acquiring rubber, must -
- (a) clearly display on the premises or place of purchasing or acquisition of the rubber a notice in a form approved by the Board; and
  - (b) show in the approved form the amount of rubber price stabilisation levy that applies on the day the rubber is purchased or acquired; and
  - (c) take such other steps as are necessary to ensure that vendors and suppliers of rubber are advised of the amount of stabilisation levy before the purchase or acquisition is completed.
- (6) A person who fails to comply with Section (5), commits an offence.

Penalty: (a) In the case of an offence by a natural person, a fine not exceeding K5,000.00 or imprisonment for a term not exceeding six months, or both; and

(b) In the case of an offence by a body corporate, a fine not exceeding K25,000.00.

#### **PART X - OFFENCES.**

##### **86. FAILURE TO SUPPLY INFORMATION OR SUPPLYING FALSE INFORMATION TO THE BOARD OR INSPECTOR.**

A person who fails to supply information, or supplies false or misleading information, to the Board or an inspector when required to do so under this Act, commits an offence.

Penalty: (a) In the case of an offence by a natural person, a fine not exceeding K5,000.00 or imprisonment for a term not exceeding six months, or both; and

(b) In the case of an offence by a body corporate, a fine not exceeding K25,000.00.

##### **87. INSPECTOR NOT TO EXCEED POWERS.**

An inspector who exceeds or abuses his power under this Act, commits an offence.

Penalty: A fine not exceeding K1,000.00 or imprisonment for a term not exceeding six months, or both.

##### **88. OBSTRUCTION OF AN INSPECTOR.**

A person, who, without reasonable excuse -

- (a) hinders or obstructs an Inspector in the exercise or performance of his powers or functions under this Act; or
- (b) fails or refuses, when requested by an Inspector, to provide any document in his possession or under his control for examination by the Inspector,

commits an offence.

Penalty: (a) In the case of an offence by a natural person, a fine not exceeding K5,000.00 or imprisonment for a term not exceeding six months, or both; and

(b) In the case of an offence by a body corporate, a fine not exceeding K25,000.00.

##### **89. PERSON GIVING FALSE INFORMATION.**

A person, who, for the purpose of obtaining a licence to buy, process, manufacture or export rubber, gives false or misleading information to the Board, commits an offence.

- Penalty: (a) In the case of an offence by a natural person, a fine not exceeding K5,000.00 or imprisonment for a term not exceeding six months, or both; and  
(b) In the case of an offence by a body corporate, a fine not exceeding K25,000.00.

**90. FAILURE TO COMPLY WITH STANDARDS, ETC.**

A person, who fails to comply with standards, conditions or requirements set by the Board, commits an offence.

- Penalty: (a) In the case of an offence by a natural person, a fine not exceeding K8,000.00 or imprisonment for a term not exceeding six months, or both; and  
(b) In the case of an offence by a body corporate, a fine not exceeding K40,000.00.

**91. EXPORT OR SALE OF RUBBER NOT IN ACCORDANCE WITH SAMPLE.**

A person, who -

- (a) sells for exports any rubber by sample or description grades in accordance with standards prescribed or set by the Board; and  
(b) subsequently, wilfully or negligently exports, sells for export rubber which does not substantially conform to that sample or description,

commits an offence.

- Penalty: (a) In the case of an offence by a natural person, a fine not exceeding K8,000.00 or imprisonment for a term not exceeding six months, or both; and  
(b) In the case of an offence by a body corporate, a fine not exceeding K4,000.00.

**PART XI. - TRANSITIONAL AND SAVINGS.**

**92. FORMER BOARD BECOMES MEMBERS, ETC.**

(1) The Rubber Board established under the repealed *Rubber Act 1953* (Chapter 222), and existed immediately before the commencement date, on commencement date, shall continue to exist and serve their term as Members of the Board established under this Act.

(2) The terms and condition of appointment of the former Board members under Subsection (1), continues to exist as if it was made under this Act.

(3) Unless this Act otherwise provide, members under Section (1), are to continue to perform all functions and exercise all powers of the former Board as members under this Act.

(4) Despite anything in this Act -

- (a) the Chairman of the former Board; and  
(b) the members of the former Board appointed and holding office, immediately before coming into operation of this Act -  
(i) continue to hold office, and is to exercise the powers and functions of the Chairman and as members of the former Board respectively, as if appointed under this Act; and  
(ii) are deemed to have been appointed under Section 10(1)(f), (g) and (h) for a period of three years.

(5) For the purposes of Section (1)(d), no appointment shall be made under Section 10(1)(f), (g) and (h) until the expiration of the terms of the office holders referred to in that subsection.

**93. EXISTING DEBTS OF FORMER BOARD.**

On and from the commencement date -

- (a) all rights, assets, properties; and
- (b) all obligations, debts, liabilities and court proceedings against and of the former Board, both actual and contingent, which existed immediately before the commencement date is deemed to be transferred to the Board and is to continue to exist under this Act.

**94. TRANSFER OF ASSETS TO THE BOARD.**

(1) The assets described in the Schedule (other than land held by the State), which, immediately before the coming into operation of this Act were occupied, held, owned or used by the Department, and all rights, obligations and liabilities of the Department immediately before the coming into operation, are, on the coming into operation, transferred to and become the assets, rights, obligations and liabilities of the Board.

(2) Any assets other than those described in the schedule that immediately before the coming into effect of this Act, were -

- (a) occupied, held, owned or used by the Department; and
  - (b) in the Members' opinion are required by the Board for the purposes of this Act,
- may by a written requisition to the Departmental Head of the Department transferred to the Board.

(3) A requisition shall not be made later than 12 months after the coming into effect of this Act.

(4) On receipt of a requisition under Subsection (2), the Departmental Head shall, as soon as practicable -

- (a) give possession and transfer title of the properties of the requisitioned asset to the Board; or
- (b) deliver to the Members and the Board a written objection to the requisition, stating the reasons for the objection.

(5) On receipt of a written objection under Subsection (4), the Minister must, as soon as practicable decide whether the requisitioned asset is to be transferred to the Board and issue a written direction to the Departmental Head to comply.

(6) If, an asset is transferred to the Board under Subsections (4) or (5), that asset must be registered in accordance with Subsection (7).

(7) For the purposes of asset registration under this Section, any asset registered in the name of the Department or a State agency, is deemed to be amended on the day this Act takes effect, by replacing the name of the Department with Board in any register maintained under any Act.

(8) The transfer to the Board of the assets, rights, obligations and liabilities of the Department under Subsection (1) is exempt from any stamp duty, fee, tax, charge or other duty payable under any Act.

(9) Where the asset transferred to the Board under this section is an interest over government land being a right previously granted to the Department to occupy the land, the Board shall, on the coming into operation of this Act, be deemed to have been granted the right of occupancy the land in accordance with the provisions of the *Land Act 1996*.

**95. EVIDENCE OF VESTING.**

(1) Where any property transferred to the Board is land registered under the *Land Registration Act* (Chapter 191), the Registrar of Titles shall, without formal transfer, on application in that behalf by the Board, enter or register the Board in the register kept under this Act and, on entry and registration, grant a certificate of title, lease or other instrument evidencing title to the land within that Act.

(2) Where any property transferred to the Board consists of shares in a company or other marketable security, the company secretary or other responsible officer of the company shall, without formal transfer on the application in that behalf by the Board, enter or register the Board in the register of members or security holders and upon the share certificate or other instrument evidencing title to the securities.

(3) No stamp or other duty, tax or fee is payable on a registration or transfer made under Subsections (1) and (2).

(4) The production or a copy of this Act certified by the Speaker of National Parliament as a true copy shall be conclusive evidence of the vesting in the Board of an asset, property and liability of the Board, in accordance with this Act.

(5) The vesting of an interest in land, by or under this section shall not -

- (a) constitute a purchase, creation, assignment, transfer, devolution, alienation, parting with possession, dealing with or other disposition of that interest, the purposes of any bill or instruments concerning that interest; or
- (b) give rise to the forfeiture or invalidate or discharge any contract or security or operate so as to merge any leasehold interest in the reversion expectant on it.

**96. APPLICATIONS OF ACTS, ETC.**

Where -

- (a) any Act or subordinate enactment other than this Act; or
- (b) any document or instrument whenever made or executed,

contains a reference express or implied to the former Board, that reference shall, after the commencement date and except where the context otherwise requires, be read and construed and has effect as a reference to the Board.

**97. INTELLECTUAL PROPERTY AND RIGHTS.**

(1) All intellectual properties and patents designed or derived from the work of the Board or by a person engaged by the Board under a contract, are the sole property of the Board.

(2) The Board has legal and sole right to protect its intellectual properties and patents and may take legal action against any person or organisation violating this right.

**98. PUBLIC SERVICE RIGHTS.**

(1) Where a person appointed under Division IV.1 was, immediately before his appointment, an officer of the Public Service, his service as an officer of the Board is to, if the employee so elects, for all purposes, be counted as service in the Public Service.

(2) An approved Public Service administrative structure established to provide administrative support to the Rubber Board, under the repealed *Rubber Act* (Chapter 222), shall be saved and continue to exist as it was made under this Act on its commencement date.

**99. LICENCES, APPROVALS, ETC., UNDER REPEALED ACT.**

(1) Subject to Subsection (2), all licences, permits, special permits, instruments, authorisations, approvals, permits and directions made and issued under the repealed Act for the carrying on of any activity under the repealed Act, to the extent that they -

- (a) were in operation immediately before the coming into operation of this Act; and
- (b) are not inconsistent with this Act,

are on that coming into operation, saved and continue in operation until -

- (c) they expire; or
- (d) where no expiry term is provided, until the first anniversary of the coming into operation of this Act; or
- (e) are otherwise terminated according to law.

(2) If any term or condition of a licence, permit, special permit, instrument, authorisation, approval or direction referred to in Subsection (1) conflicts with, or is inconsistent with, any provision of this Act, the provisions of this Act is to prevail and the term or condition, to the extent of any inconsistency, has no effect.

(3) Where the Board is of the opinion that a term or condition of a licence, permit, special permit, instrument, authorisation, approval or direction referred to in Subsection (1) granted, issued or made under a repealed Act, is at variance with the provisions of this Act, to an extent which makes it unacceptable or undesirable, the Board, by written notice is to -

- (a) advise the holder of the licence, permit, special permit, instrument, authorisation, approval or direction granted, issued or made; and
- (b) specify the variation in any term or condition required to ensure compliance with this Act; and
- (c) advise that the variation applies in respect of the licence, permit, special permit, instrument, authorisation, approval or direction with effect from a date specified in the notice; and
- (d) unless the Board receives notification from the holder of the licence, permit, special permit, instrument, authorisation, approval or direction that such variation is unacceptable, in which case the licence, permit, special permit, instrument, authorisation, approval or direction shall cease to have effect from the date specified.

**100. REPEAL.**

The *Rubber Act* (Chapter 222) is repealed.

**101. REGULATIONS.**

The Head of State acting on advice of the National Executive Council, may make Regulations not inconsistent with this Act, prescribing all matters that, by this Act, are required or permitted to be prescribed, or that are necessary or convenient to be prescribed for carrying out or giving effect to this Act, and in particular for prescribing -

- (a) the classification of rubber into grades and the methods of marking appropriate to each grade; and
- (b) prescribed or other distinguishing marks that may be placed on rubber or on containers containing rubber whether for export or not; and
- (c) the registration of prescribed or other distinguishing marks; and
- (d) the inspection of any place, factory or premises used in connection with the production, treatment, handling or packing of rubber for export; and
- (e) prescribe qualifying standards for rubber; and
- (f) the manner of sampling and classifying rubber; and
- (g) the standard of Papua New Guinea export rubber; and
- (h) the method of appealing to the Appeal Committee; and
- (i) requirements relating to export documentation; and

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- (j) information to be provided to the Board by persons engaged in the rubber industry; and
- (k) rates of fees, levies or charges payable to the Board and the manner in which that levy is to be calculated, paid and collected; and
- (l) the standards of quality, conditions and terms upon which new rubber stands or mixed rubber and other farming systems may be undertaken; and
- (m) forms required to be used under the Act; and
- (n) penalties of fines not exceeding K5,000.00 for offences against the Regulations.

I hereby certify that the above is a fair print of the ***Rubber Industry Development Act 2022***, which has been made by the National Parliament.



Clerk of the National Parliament.

12 SEP 2022

I hereby certify that the ***Rubber Industry Development Act 2022***, was made by the National Parliament on 21 April 2022, by an absolute majority in accordance with the ***Constitution***.



Speaker of the National Parliament.

12 SEP 2022