

No. 18 of 2021.

Connect PNG (Implementation and Funding Arrangements) Act 2021.

Certified on : 22 DEC 2021



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ARRANGEMENT OF SECTIONS.

1. Purpose of the Act.
2. Interpretation -
 - “Connect PNG Programme”
 - “Consolidated Revenue Fund”
 - “Director”
 - “Loan”
 - “National Budget”
 - “PNG Road Fund”
 - “PNG Road Fund Board”
 - “PNG Road Maintenance Trust Fund”.
3. Connect PNG minimum funding by the State.
4. Purposes for which moneys may be used.
5. Application of the ***Public Finances (Management) Act 1995*** and ***Road (Management and Fund) Act 2020***.
6. Establishment of Connect PNG Development Trust Fund.
7. Payments from the Connect PNG Development Trust Fund.
8. Procurement threshold level for the PNG Road Fund.
9. Offences against Connect PNG Programme Funds.
10. Defences.
11. Reporting requirements.
12. Protection from personal liability.
13. Regulations.



No. 18 of 2021.

AN ACT

entitled

Connect PNG (Implementation and Funding Arrangements) Act 2021,

Being an Act to commit the State to a multi-year financing plan for the financing of the Connect Papua New Guinea Economic Road Transport Infrastructure Development Programme and for related purposes,

MADE by the National Parliament to come into operation in accordance with a notice in the National Gazette by the Head of State, acting with, and in accordance with, the advice of the Minister.

1. PURPOSE OF THE ACT.

(1) The purpose of the Act is to commit the State through a multi-year financing plan to fund the Connect Papua New Guinea programme to connect Papua New Guinea by a national road network and its related facilities to materially improve national productivity or economic, environmental or social sustainability.

(2) For avoidance of doubt, this Act is not an appropriation for purposes of Section 209 of the *Constitution*.

2. INTERPRETATION.

In this Act, unless the contrary intention appears -

“Connect PNG Programme” means the Connect PNG Economic Road Transport Infrastructure Development Programme as endorsed by the National Executive Council;

“Consolidated Revenue Fund” means the fund established under the *Public Finances (Management) Act 1995*;

“Director” means a member of the PNG Road Fund Board established under Section 28 of the *Road (Management and Fund) Act 2020*;

“Loan” means any moneys borrowed by the State in accordance with or as authorised by this Act;

“National Budget” means the annual appropriation authorised by the Parliament under Section 209 of the *Constitution* and the *Public Finances (Management) Act 1995*;

“PNG Road Fund” means the PNG Road Fund established under Section 23 of the *Road (Management and Fund) Act 2020*;

“PNG Road Fund Board” means the Board of PNG Road Fund established under Section 28 of the *Road (Management and Fund) Act 2020*;

“PNG Road Maintenance Trust Fund” is the PNG Road Maintenance Trust Fund established under Section 50 of the *Road (Management and Fund) Act 2020*.

3. CONNECT PNG MINIMUM FUNDING BY THE STATE.

(1) Subject to Department of Treasury's economic and budgetary forecasts, the State shall commit a minimum funding level of five and six tenths percent (5.6%) of the annual national budget for each year to the Connect PNG Programme, but the total aggregate amount shall not exceed K20 billion for the life of the Connect PNG Programme.

(2) Subject to the Department of Treasury's economic and budgetary forecasts, the State may, from time to time, in accordance with the *Loans Securities Act 1960*, *Loans Assistance (International Agencies) Act 1971*, and the *Loans (Overseas Borrowings)(No. 2) Act 1976*, borrow moneys for the financing of the Connect PNG Programme on such terms and conditions as approved by the Head of State, acting on advice.

4. PURPOSES FOR WHICH MONEYS MAY BE USED.

Moneys borrowed under this Act shall be used only for the purposes of the construction, rehabilitation and maintenance of the road networks in the four regions to connect Papua New Guinea, declared by the National Executive Council to be part of the Connect PNG Programme, in accordance with any appropriations made for those purposes according to law.

5. APPLICATION OF THE *PUBLIC FINANCES (MANAGEMENT) ACT 1995* AND *ROAD (MANAGEMENT AND FUND) ACT 2020*.

The *Public Finances (Management) Act 1995* and the *Road (Management and Fund) Act 2020* applies to this Act.

6. ESTABLISHMENT OF CONNECT PNG DEVELOPMENT TRUST FUND.

A trust fund to be known as the Connect PNG Development Trust Fund is hereby established in accordance with the *Public Finances (Management) Act 1995* and shall vest in the PNG Road Fund.

7. PAYMENTS FROM THE CONNECT PNG DEVELOPMENT TRUST FUND.

All payments from the Connect PNG Development Trust Fund shall only be approved by the PNG Road Fund Board for -

- (a) expenditure incurred or to be incurred in the construction, improvement, extension, enlargement and replacement of works and the provision, acquisition, replacement of other capital assets required in respect of or in connection with the Connect PNG Programme; and
- (b) the acquisition of land and of any right or interest in or over land in connection to the implementation of the Connect PNG Programme; and
- (c) the carrying out of any survey, research or investigation preparatory to undertaking of any such purpose as referred to in Paragraph (a) for the formation of any plan or scheme for the development, improvement, conservation or exploitation of the resources in respect to implementation of Connect PNG Programme or of any part thereof; and
- (d) the payment of any charges or expenses incidental to or arising from the carrying out of any of the purposes referred to in Paragraphs (a), (b) and (c) including any operational expenses of any public body or corporation established in accordance with Section 14 of the *Road (Management and Fund) Act 2020* to implement the functions set out in Paragraphs (a), (b) and (c).

8. PROCUREMENT THRESHOLD LEVEL FOR THE PNG ROAD FUND.

(1) Subject to Subsection (2), the PNG Road Fund shall have the authority to procure goods and services in accordance with procurement procedures established by the PNG Road Fund Board.

(2) The procurement threshold level for PNG Road Fund is K10,000,000.00 to be approved by the Board and any amount exceeding that threshold level for a single act of procurement shall be subject to the procurement process under the *National Procurement Act 2018*.

Connect PNG (Implementation and Funding Arrangements)

9. OFFENCES AGAINST CONNECT PNG PROGRAMME FUNDS.

(1) For the avoidance of doubt, no funds shall be disbursed against the Connect PNG Programme unless such expenditure is approved by the PNG Road Fund Board.

(2) Where the PNG Road Fund Board approves funds to be disbursed against the Connect PNG Programme in contrary to this Act, each Director who has participated in taking such a decision to disburse the funds, commits an offence.

Penalty: A fine not exceeding K50,000.00 or imprisonment for a term not exceeding two years, or both.

(3) Any person acting in any capacity, either as an employee of PNG Road Fund or an agent or any other person, who disburses or attempts to disburse any funds against the Connect PNG Programme without the approval of the PNG Road Fund Board, commits an offence.

Penalty: A fine not exceeding K100,000.00 or imprisonment for a term not exceeding two years, or both.

10. DEFENCES.

(1) It is a defence for a Director who is charged with an offence under Section 9 in relation to a duty imposed on the PNG Road Fund Board where the director proves that -

- (a) the Board took all reasonable and proper steps to ensure that the requirements would be complied with; or
- (b) he took all reasonable and proper steps to ensure that the Board complied with the requirements of this Act; or
- (c) in the circumstances he could not reasonably have been expected to take steps to ensure that the Board complied with the requirements.

(2) It is a defence for a Director who is charged with an offence in relation to a duty imposed on the PNG Road Fund Board where the Director proves that -

- (a) PNG Road Fund Board took all reasonable and proper steps to ensure that the requirements would be complied with; or
- (b) he took reasonable steps to ensure that the PNG Road Fund Board complied with the requirements; or
- (c) in the circumstances he could not reasonably have been expected to take steps to ensure that the Board complied with the requirements.

11. REPORTING REQUIREMENTS.

(1) The PNG Road Fund shall, no later than 31 March in each year, give to the Minister for presentation to the National Parliament, a report on the progress and funding of the Connect PNG Programme during the preceding period of 12 months.

(2) The Minister shall report on the progress and funding of the Connect PNG Programme, to the National Executive Council no later than 30 June and 30 November each year.

12. PROTECTION FROM PERSONAL LIABILITY.

(1) A person who is an officer, employee or agent of the State or an instrumentality of the State is not personally liable for any act or default of the State or an instrumentality of the State in connection with the Connect PNG Programme.

(2) Subsection (1) does not protect a person from criminal liability for any act or default of the State or an instrumentality of the State if the act or default complained of, is committed with intent to gain financial or other favours in connection with the Connect PNG Programme.

Connect PNG (Implementation and Funding Arrangements)

13. REGULATIONS.

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

I hereby certify that the above is a fair print of the ***Connect PNG (Implementation and Funding Arrangements) Act 2021***, which has been made by the National Parliament.



Acting Clerk of the National Parliament.

22 DEC 2021

I hereby certify that the ***Connect PNG (Implementation and Funding Arrangements) Act 2021***, was made by the National Parliament on 25 November 2021, by an absolute majority in accordance with the ***Constitution***.



Acting Speaker of the National Parliament.

27 DEC 2021

