



# National Gazette

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*Public Finances (Management) Act, 1995*

## **APPROVAL AND ESTABLISHMENT OF A PROCEEDS OF CRIME - TRUST ACCOUNT**

I, HON. MIKI KAEOK, MP, Minister for Finance, pursuant to Section 15 of the *Public Finance (Management) Act 1995*:

### ***Approval & Establishment***

1. Approve the establishment of a Trust Account to be known by the name stated in Point 1 of the attached Trust Account Schedule and hereby establish the Trust Account by the execution of this Trust Instrument, which has been approved by the State Solicitor, that specifies the operational terms and conditions of the Trust Account.
2. This Trust account shall be controlled by the controlling public or statutory body of the Trust Account stated in Point 2 of the attached Trust Account Schedule.

### ***Trust Account Purpose***

3. The purpose of the Trust Account shall be to receive, hold and expend moneys on trust in order to meet the purposes stated in Point 3 of the attached Trust Account Schedule.

### ***Payments into Trust Account***

4. Subject to the following sub-Clauses, pursuant to Section 16 of the *Public Finance (Management) Act 1995* (as amended), the only moneys that shall be paid to the credit of the Trust Account are:
  - (a) public moneys appropriated for the purpose of this Trust Account; and
  - (b) moneys received from any dealing with any articles purchased or produced, or for work paid for, with moneys standing to the credit of this Trust Account; and
  - (c) moneys paid by any person for the purposes of this Trust Account; and
  - (d) public moneys appropriated as a Government contribution to the project which is partly funded by an international agency, whether by way of loan or grant.

**Approval and Establishment of a Proceeds of Crime - Trust Account—continued**

- 4.1 Transfers of funds into the Trust Account contrary to Clause 4 immediately revokes this Trust Account and all funds standing to the credit of the Trust Account shall be immediately transferred to the Consolidated Revenue Fund by the Finance Secretary.
- 4.2 Transfers of funds from the Consolidated Revenue Fund to this Trust Account are prohibited unless a special transfer is authorized by the *Appropriation Act*.
5. Public money, within the meaning of the *Public Finance (Management) Act 1995* (as amended), other than moneys referred to in Clause 4(a)-(d), shall not be paid into this Trust Account. Specifically, all:
  - (a) taxes, fees, levies, royalties or other charges;
  - (b) receipts from the sale of bonds, debentures, shares, securities, term-deposits or any other investments;
  - (c) proceeds from the sale or lease of any real or personal property;
  - (d) grants, loans, donations or gifts other than moneys paid by any person for the express purposes of this Trust Account; or shall be paid only to a bank account to the credit of the Consolidated Revenue Fund and to no other bank account.
- 5.1 Payment of public money or transfer of funds into the Trust Account, other than moneys referred to in Clause 4(a)-(d), contrary to Clause 5 immediately revokes this Trust Account and all funds standing to the credit of the Trust Account shall be immediately transferred to the Consolidated Revenue Fund by the Finance Secretary.

**Payments out of Trust Account**

6. Money shall be paid out this Trust Account only for the purposes of this Trust Account or as authorized by law. Salaries and wages shall not be paid out of this Trust Account unless they are specifically authorized by the trust account Schedule or a project document annexed to this Trust Instrument and with the express written authorization and approval of the Finance Secretary.
  - 6.1 Payment of funds out of the Trust Account contrary to Clause 6 immediately revokes this Trust Account and all funds standing to the credit of the Trust Account shall be immediately transferred to the Consolidated Revenue Fund by the Finance Secretary.

**Bank Accounts**

7. A bank account shall be opened with any approved bank, within the meaning of the *Public Finance (Management) Act 1995*, to be named or entitled with the name stated in Point 1 of the attached Trust Account Schedule.
8. With the written approval of the Finance Secretary, subsidiary bank accounts for use in the provinces of Papua New Guinea may be opened with any approved bank, within the meaning of the *Public Finance (Management) Act 1995*, to be named or entitled with the name stated in Point 1 of the attached Trust Account Schedule and the words — **Subsidiary Bank Account and the name of the Province (if applicable)**.
9. With the written approval of the Finance Secretary, if an international agreement requires, a bank account may be opened to separately hold donor funds with any approved bank, within the meaning of the *Public Finance (Management) Act 1995*, to be named or entitled with the name stated in Point 1 of the attached Trust Account Schedule and the words — **Donor Funds Account**.
10. Subject to the expiry provisions, two (2) signatories are required on all cheques and transfers from a bank account of a Trust Account, one is a mandatory signatory and the other is a countersigning signatory as stated in Point 4 of the attached Trust Account Schedule.

**Approval and Establishment of a Proceeds of Crime - Trust Account—*continued******Records, Reports etc***

11. The Departmental Head of the controlling public or statutory body of this Trust Account shall—
- (a) maintain all records relating to the operations of this Trust Account, as required by the *Public Finances (Management) Act 1995*, using the financial management, accounting and information systems as may be directed by the Finance Secretary by a Finance Instruction or otherwise;
  - (b) deliver, as required by the *Public Finances (Management) Act 1995*, to the Secretary of Finance:
    - (i) within seven (7) days from the end of each month bank statements and reconciliations for this Trust Account along with a statement of transactions against this Trust Account.
    - (ii) annual estimates of receipts and expenditure for this Trust Account, as and when directed by the Finance Secretary by a Finance Instruction or otherwise; and
    - (iii) within seven (7) days from the end of the fiscal year, provide a statement of the account for the preceding year.
- 11.1 Failure to comply with Clause 11 immediately revokes this Trust Account and all funds standing to the credit of the Trust Account shall be immediately transferred to the Consolidated Revenue Fund by the Finance Secretary.

***Expiration***

12. This Trust Account expires;
- (a) on the date stated in Point 5 of the attached Trust Account Schedule and shall be no more than 3 years from the date of the execution of this Trust Instrument; or
  - (b) in the case of a Trust Account established for the purpose of holding donor funds, the Trust Account expires in accordance with the terms of the loan or grant agreement between the donor and the Independent State of Papua New Guinea.
13. On reaching the expiration date, unless extended prior to the expiration by another Trust Instrument, the balance standing to the credit of the bank account of the Trust Account shall be paid:
- (a) to the Consolidated Revenue Fund, after all liabilities relating to the Trust Account have been settled; or
  - (b) in the case of a Trust Account established for the purpose of holding donor funds, the Trust Account expires in accordance with the terms of the loan or grant agreement between the donor and the Independent State of Papua New Guinea.