

No. 3 of 2023.

National Trade Act 2023.

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No. 3 of 2023.

An Act

entitled

National Trade Act 2023,

Being an Act to -

- (a) give effect to the National Goals and Directive Principles of the *Constitution* in development of the economy through trade; and
- (b) regulate domestic and international trade; and
- (c) provide for the establishment of the National Trade Office, and for related purposes.

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

PART I. - 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 expression conferred by Section 46; and
- (c) the right to freedom of employment conferred by Section 48; and
- (d) the right to privacy conferred by Section 49; and
- (e) the right to freedom of information conferred by Section 51; and
- (f) the right to freedom of movement conferred by Section 52,

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

(2) For the purposes of Section 41(2) of the *Organic Law on Provincial Governments and Local-level Governments*, it is declared that this Act relates to a matter of national interest.

(3) For the purposes of Section 41(6) of the *Organic Law on Provincial Governments and Local-level Governments*, it is declared that this Act is an Act of the Parliament on a matter specified in Section 42 or 44, and prevails over any law made under Section 42 or 44 to the extent of any inconsistency.

(4) For the purposes of Section 53(1) (*Protection from unjust deprivation of property*) of the *Constitution*, international trade purposes are hereby declared to be public purposes.

2. INTERPRETATION.

In this Act, unless the contrary intention appears -

- “Board” means the Board established by Section 8;
- “Chairperson” means the Chairperson of the Council appointed under Section 10;
- “Chief Trade Officer” means the Chief Executive Officer of the National Trade Office appointed under Section 22;
- “committees of the Board” means committees appointed under Section 17;

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- “Deputy Chairperson” means the Deputy Chairperson of the Board appointed under Section 10;
- “domestic trade” means buying and selling of goods and services within the domestic market and includes wholesaling and retailing of merchandises locally produced or imported for the local market;
- “employees” means trade officers and staff who are employed by the Office under Section 29;
- “goods” means the physical objects for which a demand exists, over which ownership rights can be established and whose ownership can be transferred from one institutional unit to another by engaging in transactions on markets;
- “international trade” refers to the transfer of ownership of a good or service across international borders, from a seller to a buyer in exchange for payment;
- “market access” means a condition or concession negotiated by trading partners for their goods and services;
- “member” means a member of the Board as listed under Section 9;
- “Office” means the National Trade Office established under Section 4 and is a statutory body pursuant to the *Public Finances (Management) Act 1995*;
- “trade” means the domestic and international transfer of ownership of goods or services, from a producer or a seller to a buyer, in exchange for money, goods or services;
- “trade compliance” means the process and system of understanding and adhering to the laws, policies or other requirements for the export and import of goods and services between PNG and other trading partners;
- “trade development” means the programs, initiatives, dialogues and other activities which are intended to develop domestic goods and services for trade;
- “trade facilitation” means the simplification, modernisation and harmonisation of export and import processes with the intention to remove barriers to trade;
- “trade negotiation” means the process of securing market access through the development of trade negotiations with trading partners;
- “trading partner” means a State or a territory of a State, regional integration organisations or other bodies that has trading relations with PNG;
- “trade policy” means a government policy with respect to trade and includes the National Trade Policy, as revised from time to time;
- “trade promotion” means the activities carried out in domestic or international markets to promote domestic goods.

3. APPLICATION OF THIS ACT.

- (1) This Act applies to all trade and related activities and any other matters covered by this Act.
- (2) This Act does not apply to or in relation to -
- (a) military or law enforcement goods as prescribed under law; or
 - (b) service and investment for Government consumption; or
 - (c) goods that are not for sale, trading or manufacturing purposes.
- (3) This Act has extraterritorial application.

PART II. - ESTABLISHMENT, FUNCTIONS AND POWERS, ETC., OF THE NATIONAL TRADE OFFICE.

4. ESTABLISHMENT OF THE NATIONAL TRADE OFFICE.

The National Trade Office is hereby established.

5. INCORPORATION OF THE OFFICE.

(1) The Office -

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

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

6. FUNCTIONS OF THE OFFICE.

The functions of the Office are -

- (a) to provide leadership and coordination in trade negotiations; and
- (b) to coordinate and negotiate market access offers and requests; and
- (c) to recommend trade agreements for signing and ratification; and
- (d) to coordinate and monitor trade facilitation; and
- (e) to regulate and advise on trade defences, including the development and implementation of the relevant laws; and
- (f) to develop the relevant trade policies in consultation with relevant stakeholders, and recommending improvements to trade policy as necessary to achieve the objectives of this Act; and
- (g) to oversee the implementation of international obligations under the Multilateral Trading System, including those obligations under the WTO and trade agreements; and
- (h) to ensure trade compliance with relevant standards, regulations or laws; and
- (i) to coordinate trade development, and trade promotion in consultation with the relevant stakeholders; and
- (j) to coordinate private sector engagement and other non-governmental stakeholder input in matters concerning trade; and
- (k) to provide appropriate support and advice to relevant stakeholders in the implementation of trade-related matters and other commitments; and
- (l) to coordinate trade-related assistance from trading partners, development partners and other international organisations; and
- (m) any other functions under this Act or any other law.

7. POWERS OF THE OFFICE.

(1) The Office has, in addition to the powers otherwise conferred on it by this Act and any other law, power to do all things necessary or convenient to be done for or in connection with the performance of its functions.

(2) Without limiting the generality of Subsection 7(1), the Office has power -

- (a) to ensure compliance with international trade obligations arising under any trade treaties, international trade agreements and arrangements which Papua New Guinea is or may become a party to; and
- (b) to ensure enforcement of trade rights and other trade related rights arising under trade treaties, international trade agreements and arrangements which Papua New Guinea is or may become a party to; and
- (c) to obtain trade related data and information from relevant agencies necessary to ensure trade compliance; and
- (d) to charge, where appropriate, administrative fees for trade related services in accordance with the *Public Finances (Management) Act 1995*; and

- (e) to prioritise and recommend trade negotiations and trade agreements for Papua New Guinea using relevant economic assessments and models with all stakeholders.

PART III. - THE BOARD.

8. THE BOARD.

There shall be a Board of the Office which shall carry out the functions and objectives, manage and direct the affairs and exercise the powers of the Office.

9. MEMBERSHIP OF THE BOARD.

(1) The Board shall consist of -

- (a) the Departmental Head of the Department responsible for international trade and investment matters or his nominee, *ex officio*; and
- (b) the Departmental Head of the Department responsible for justice matters or his nominee, *ex officio*; and
- (c) the Departmental Head of the Department responsible for planning matters or his nominee, *ex officio*; and
- (d) the Departmental Head of the Department responsible for treasury matters or his nominee, *ex officio*; and
- (e) the Departmental Head of the Department responsible for foreign affairs or his nominee, *ex officio*; and
- (f) the head of the Office responsible for Bougainville affairs or his nominee, *ex officio*; and
- (g) the Chief Trade Officer, *ex officio*; and
- (h) a representative from the Manufacturers' Council; and
- (i) a representative from the National Agriculture, Quarantine and Inspection Authority; and
- (j) a representative from the Papua New Guinea Customs Services; and
- (k) a representative from the National Institute of Standards and Industrial Technology.

(2) The *Regulatory Statutory Authorities (Appointment to Certain Offices) Act 2004* shall apply to and in relation to the appointment of the members referred to in Subsection (1)(f), (g), (h) and (i).

(3) The Board members -

- (a) shall be appointed for a term of three years; and
- (b) shall hold office on such terms and conditions as are determined under the *Boards (Fees and Allowances) Act* (Chapter 299); and
- (c) are eligible for re-appointment for three terms.

10. CHAIRPERSON AND DEPUTY CHAIRPERSON.

(1) The Chairperson and Deputy Chairperson of the Board shall be appointed by the National Executive Council upon recommendation by the Minister for a term of three years until the expiration of the period of their respective appointments as such or until they cease to be members, whichever first occurs.

(2) The Chief Trade Officer is not eligible for appointment as Chairperson or Deputy Chairperson.

11. ELIGIBILITY TO BE A MEMBER OF THE BOARD.

A person shall not be appointed or remain as a member of the Board if he -

- (a) is or has been bankrupt, or has applied to take the benefit of any law for the benefit of bankrupt or insolvent debtors, or has compounded with his creditors or made assignment of his remuneration for their benefit; or
- (b) is 70 years of age or over; or
- (c) is standing or to stand trial for, or has been convicted of, any offence punishable under a law by imprisonment; or
- (d) is prohibited from being a director or member or promoter of, or from taking part (in any way, whether directly or indirectly) in the management of a company under any law; or
- (e) is medically unfit.

12. LEAVE OF ABSENCE OF MEMBERS.

(1) The Chairperson may grant leave of absence to a member of the Board (other than the Deputy Chairperson) on such terms and conditions as the Chairperson determines.

(2) The Board may grant leave of absence to the Chairperson or Deputy Chairperson on such terms and conditions as the Board determines.

13. VACATION OF OFFICE.

(1) A member other than an *ex officio* member, may resign from his office by writing to the Chief Trade Officer.

(2) If a member of the Board, other than an *ex officio* member -

- (a) dies or becomes permanently incapable of performing his duties; or
- (b) resigns his office in accordance with Subsection (1); or
- (c) is absent, except with the written consent of the Board or is on leave of absence under Section 2, from three consecutive meetings of the Board; or
- (d) does not comply with Section 16; or
- (e) becomes a person who is not eligible under Section 9 to be appointed as a member of the Board; or
- (f) ceases to be ordinary resident in the country; or
- (g) is convicted of a criminal offence; or
- (h) commits an offence against this Act,

the Minister shall terminate his appointment.

(3) The Minister may at any time, acting on the advice and recommendation of the Board but not otherwise, by written notice, inform a member (other than an *ex officio* member) that he intends to terminate the member's appointment on the grounds of inefficiency, incapacity or misbehaviour.

(4) Within 14 days after receiving a notice under Subsection (3), the member may reply in writing to the Minister, who must consider the reply and, where appropriate, terminate the appointment by written notice to the member.

(5) Where the member referred to in Subsection (3) does not reply in accordance with Subsection (4), the Minister may terminate the member's appointment by written notice to the member.

14. VACANCY NOT TO AFFECT POWERS OR FUNCTIONS.

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

15. MEETINGS OF THE BOARD.

(1) The Board shall meet as often as the business of the Board requires, and at such times and places as the Board determines, or as the Chairman, or in his absence, the Deputy Chairman directs, but in any event shall meet once in every three months.

(2) The Chairman or the Deputy Chairman, as the case may be, shall give to every member at least seven days' notice of the meeting.

(3) An irregularity in the notice of a meeting of the Board is waived where all members of the Board entitled to receive the notice either attend the meeting without protest as to the irregularity or agree to the waiver.

(4) At a meeting of the Board -

- (a) subject to Subsection (6), the Chairperson or in his absence, the Deputy Chairperson and five other members, of which two shall be *ex officio* members and three shall be *non ex officio* members, constitute a quorum; and
- (b) the Chairperson, or in his absence, the Deputy Chairperson shall preside and if both the Chairperson and Deputy Chairperson are absent, the members present may appoint, from among them, a Chairperson for that meeting; and
- (c) subject to Paragraph (e), each member of the Board has one vote; and
- (d) subject to Subsection (3), matters arising shall be decided by a majority of the votes of the members present and voting; and
- (e) the person presiding has a deliberative, and if there is an equality of votes on any matter, also a casting vote.

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

(6) At the meeting of the Board at which consideration of the investigations, suspension or recommendation for termination of the Chief Trade Officer under Section 23 is made -

- (a) seven members of the Board, other than Chief Trade Officer, constitute a quorum; and
- (b) if the members present so permit, the Chief Trade Officer may be present, but may not vote or participate in any discussion or debate other than at a time determined by the members present to answer or defend any allegation against him; and
- (c) no other business or matter may be transacted, considered or dealt with.

16. DISCLOSURE OF INTEREST BY MEMBERS OF THE BOARD.

(1) A member who has a direct or indirect interest in a matter being considered or about to be considered by the Board shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest at a meeting of the Board and the discloser shall be recorded in the minutes of the meeting.

- (2) The Board member making the disclosure shall -
 - (a) not participate, after the disclosure, in any debate, deliberation, decision or vote of the Board in relation to the matter during the meeting at which the disclosure is made or at any other meeting of the Board; and
 - (b) be disregarded for the purpose of determining whether a quorum is present.

17. COMMITTEES OF THE BOARD.

(1) The Board may, from time to time, establish committees of the Board to advise the Board on such matters as the Board considers necessary.

- (2) The Board may establish -
 - (a) a Recruitment and Remuneration Committee; and
 - (b) an Audit Committee; and
 - (c) an Investment Committee; and
 - (d) any other committee it considers appropriate.

(3) In addition to the other members of a committee appointed under Subsection (4), the Board shall appoint at least one member of the Board to be a member of the committee.

- (4) In establishing a committee under Subsection (1), the Board may -
 - (a) appoint such persons as it considers necessary; and
 - (b) specify the purpose, functions and procedures of the committee.

- (5) The Board may -
 - (a) further instruct or direct the committee on such matters relevant to the purpose for which the committee was established; and
 - (b) revoke the appointment of any member of the committee or appoint such other persons to be members of the committee; and
 - (c) approve the engagement of any person to provide any required expert or technical assistance to the committee.

(6) A member of a committee who is not a member of the Board, an employee of the Corporation or an officer of the National Public Service may receive fees and allowances under the *Boards (Fees and Allowances) Act* (Chapter 299).

(7) For purposes of Subsection (5)(c), the Board shall remunerate any person who provides expert or technical assistance to the committee.

18. DELEGATION.

(1) The Board may, by instrument, delegate to any person, all or any of its powers and functions under this Act (except this power of delegation).

(2) Without limiting the generality of Subsection (1), the Board may delegate to either the Chairperson or the Chief Trade Officer the power to approve expenditure from the Fund or any moneys of the Board up to a limit prescribed by the Board.

19. REPORTS BY THE BOARD.

The Board shall furnish to the Minister, in addition to the annual report under Section 54, such other reports in relation to the functions of the Office as reasonably requested by the Minister from time to time.

20. FEES AND EXPENSES OF MEMBERS OF THE BOARD.

(1) As soon as practicable after the coming into operation of this Act, the Board shall recommend to the Minister an appropriate fee to be paid under the *Boards (Fees and Allowances) Act* (Chapter 299) to each member of the Board, other than an *ex officio* member, having regard to the functions, duties and responsibilities of the members under this Act.

(2) Each member of the Board, other than an *ex officio* member, shall be paid a fee as the Minister determines after considering the recommendation of the Board under Subsection (1).

PART IV. - STAFF OF THE NATIONAL TRADE OFFICE.

Division 1. - Chief Trade Officer.

21. CHIEF TRADE OFFICER.

(1) There shall be a Chief Trade Officer of the Office whose manner of appointment, suspension and dismissal are under the *Regulatory Statutory Authorities (Appointments to Certain Offices) Act 2004*.

(2) The Chief Trade Officer is -

- (a) the Chief Executive Officer of the Office; and
- (b) the Head of the staff of the Office; and
- (c) is responsible for carrying out the functions, managing the affairs and exercising the powers of the Office; and
- (d) responsible to the Board for the efficient carrying out of the functions of the Office; and
- (e) responsible to the Board and the Minister for the efficient carrying out of the functions of the Office under this Act.

22. APPOINTMENT OF THE CHIEF TRADE OFFICER.

The Chief Trade Officer -

- (a) shall be appointed for a term of four years and, subject to the *Salaries and Conditions Monitoring Committee Act 1988*, on such terms and conditions as are determined by the Head of State; and
- (b) is eligible for reappointment, but not for three consecutive terms.

23. TERMINATION AND SUSPENSION OF CHIEF TRADE OFFICER.

The Chief Trade Officer shall be terminated or suspended if he -

- (a) becomes incapable for any reason of performing or non performance of his duties; or
- (b) other than the written consent of the Board engages in any paid employment or carries on business outside the duties of his office; or
- (c) becomes bankrupt, applies to take the benefits of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his salary for their benefit; or
- (d) is convicted of an offence that is punishable under a law by imprisonment; or
- (e) commits a serious misconduct in office; or

- (f) ceases to be ordinarily resident in the country; or
- (e) commits an offence against this Act.

24. FUNCTIONS OF THE CHIEF TRADE OFFICER.

- (1) The functions of the Chief Trade Officer include, but are not limited to -
- (a) head of the staff of the Office; and
 - (b) manages the day to day affairs of the Office; and
 - (c) directs and controls the staff; or
 - (d) reports to the Board on matters concerning the Office; and
 - (e) performs such other functions determined under this Act or any other law.

- (2) The Chief Trade Officer -

- (a) shall carry out and perform the functions, powers and duties required of him under this Act and his contract of employment; and
- (b) has such other functions, powers and duties as the Board may determine from time to time.

(3) The Chief Trade Officer may, by instrument in writing, delegate all or any of his functions, powers (other than this power of delegation) or duties to any person and shall report any delegation to the Board in writing.

25. POWERS OF THE CHIEF TRADE OFFICER.

The Chief Trade Officer shall have the power -

- (a) to impose adequate trade defence measures and restrictions necessary to protect human, animal or plant life or health; and
- (b) to protect the national economy, national security, or the national interest in compliance with commitments stipulated in agreements that Papua New Guinea is a party to; and
- (c) to impose adequate trade retaliatory measures to promote reciprocity of trade benefits between Papua New Guinea and its trading partners; and
- (d) to recruit or hire, discipline, suspend and dismiss staff of the Office in accordance with Section 17(4).

26. INDEPENDENCE OF THE CHIEF TRADE OFFICER.

The Chief Trade Officer has the sole responsibility for deciding the procedures and methods employed or to be employed in performance of his functions and carrying out of his responsibilities in relation to trade.

27. ACTING CHIEF TRADE OFFICER.

- (1) Where the Chief Trade Officer -

- (a) is absent from the country; or
- (b) is for any reason unable to perform the duties of his office; or
- (c) where there is a vacancy in the National Trade Office,

the Head of State, acting on advice, may, by notice in the National Gazette, appoint a suitable person to act in the office of the Chief Trade Officer pursuant to Section 9 of the *Regulatory Statutory Authorities (Appointments to Certain Offices) Act 2004*.

(2) During the period of any absence, inability or vacancy, as the case may be, referred to in Subsection (1), the Acting Chief Trade Officer has, and may exercise and perform, all the powers and functions of the Chief Trade Officer.

28. DELEGATION.

The Chief Trade Officer may, by written instrument, delegate to any senior trade officer or staff member of the Office all or any of his powers or functions under this Act, except this power of delegation.

Division 2. - Staff of the Office.

29. STAFF OF THE OFFICE.

(1) The Chief Trade Officer may appoint persons to be employees of the Office, in accordance with procedures established and approved by the Board, for the purpose of giving effect to this Act and carrying out the functions of the Office.

(2) Subject to the *Salaries and Conditions Monitoring Committee Act 1988*, the employees of the Office appointed under Subsection (1) shall be appointed on terms and conditions as the Office determines.

(3) The Chief Trade Officer may dismiss any employee of the Office in accordance with procedures established and approved by the Board.

(4) The Chief Trade Officer and the employees appointed under Subsection (1) constitute the staff of the Office.

(5) The Chief Trade Officer shall direct and control the employees of the Office.

(6) The staff of the Office (including the Chief Trade Office) are not officers of the National Public Service.

30. CONTRACT OF EMPLOYMENT.

(1) The Chief Trade Officer and each employee of the Office shall be employed under a contract of employment.

(2) In the case of the Chief Trade Officer, the contract of employment shall be executed by the Head of State in accordance with Section 22 and Part II of the *Regulatory Statutory Authorities (Appointments to Certain Offices) Act 2004*.

(3) In the case of any other employee, the contract of employment shall be executed by the Chief Trade Officer on behalf of the Office and by the employee in accordance with procedures established by the Board

(4) The Board shall establish rules, manuals or procedures that govern the eligibility, qualification, appointment process, discipline, suspension and dismissal of the staff of the Office.

31. APPOINTMENT OF STAFF AS TRADE ATTACHÉS.

The Board shall appoint a staff of the Office as a trade attaché upon recommendation of the Chief Trade Officer.

32. TEMPORARY OR CASUAL STAFF.

The Chief Trade Officer shall engage temporary or casual staff as and when necessary to carry out the functions of the Office, on such terms and conditions as determined by the Chief Trade Officer in accordance with the *Salaries and Conditions Monitoring Committee Act 1988*.

33. PRIOR SERVICE.

Where an officer or employee of the Public Service is appointed to be the Chief Trade Officer or staff of the Office, his service as a staff of the Office shall be counted as service in the Public Service for the purpose of determining his terms and conditions (if any) under the *Public Services (Management) Act 1995*.

34. TECHNICAL ADVISERS.

The Chief Trade Officer may, from time to time -

- (a) within the limits of funds lawfully available for the purpose; and
- (b) on such terms and conditions as are fixed by the Chief Trade Officer,

engage short-term employees or short-term contractors to the Office, as technical advisers on any matter in relation to its functions as the Chief Trade Officer considers necessary, on terms and conditions which are determined by the Chief Trade Officer subject to the *National Procurement Act 2018*, *Public Finances (Management) Act 1995*, *Public Employment (Non-Citizens) Act* (Chapter 342) and any other relevant laws of Papua New Guinea.

35. REPORTS.

(1) The Chief Trade Officer shall, within three months after 1 January in each year, as and when required, furnish to the Minister a report on the progress and the performance of the Office in relation to its functions during the year ending 31 December previously.

(2) As soon as practicable after receiving the report, the Minister shall approve and forward the report to the Speaker for presentation to the National Parliament.

- (3) The Chief Trade Officer shall, after the presentation of the report in Parliament -
- (a) provide a copy of the report to relevant organisations as he determines; and
 - (b) publish a copy of the report for public consumption.

PART V. - FINANCES.

36. FUNDS OF THE OFFICE.

(1) The funds of the Office shall consist of any monies appropriated by law for the purpose of carrying out or giving effect to this Act and any monies received in accordance with law, including -

- (a) appropriation under the National Government budgetary allocation; and
- (b) all monies received by the Office by way of donations, aid for trade, grants, trade related assistance, and subscriptions; and
- (c) all monies received by the Office for services provided by it; and
- (d) all monies received in respect of rents, fees, levies and charters; and
- (e) all monies received in respect of domestic industry support including trade enforcement support; and
- (f) any monies received in respect of payments from administrative determinations or other settlements for trade offences, forfeited (market access) and other payments received; and
- (g) all monies received by the Office in respect of sale of real or personal property owned by the Office or monies received through trading activities or investments of the Office; and
- (h) all monies in trust funds held by the Office.

(2) The monies of the Office shall be expended only -

- (a) in payment or discharge of expenses, obligations and liabilities of the Office; and

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- (b) in payment of the remuneration of the staff of the Office and of sitting allowances to the members of the Board; and
- (c) in payment for training courses for employees, trade and market intelligence research and development; and
- (d) in payment for and in relation to the trade enforcement activities and in accordance with such requirements as may be prescribed; and
- (e) in payment for market access negotiation, trade facilitations, trade development and other trade related activities under this Act in accordance with such requirements as may be prescribed; and
- (f) in payment for deployment of trade attachés and all associated costs; and
- (g) for such other purposes as are consistent with the functions of the Office, as the Board shall, after consultation with the Chief Trade Officer, determine.

37. TRUST ACCOUNT.

(1) The Chief Trade Officer shall establish trust accounts and hold money in trust.

(2) The Chief Trade Officer shall directly manage trust accounts in accordance with the trust instruments made by the Minister responsible for finance matters.

(3) The trust accounts may be applied for any purposes provided under this Act.

38. BANK ACCOUNTS.

The Office shall open bank accounts to receive funds as provided for under this Act.

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

(1) The *Public Finances (Management) Act 1995* applies to the Office.

(2) For the purposes of the *Public Finances (Management) Act 1995*, the Chief Trade Office is a deemed Departmental Head.

40. EXPENDITURE.

(1) The Chief Trade Officer shall approve in advance of the commencement of each year a budget consisting of an estimate of expected revenues and expenditures for the Office.

(2) The Office is entitled to retain and utilise monies collected pursuant to Section 21(1) up to the level of the estimate of the expected expenditure approved by the Minister for achieving the efficient management of the Office and for the purpose of capital expenditure.

(3) Any excess of the expenditure shall be paid into the Consolidated Revenue Fund.

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

The *National Procurement Act 2018* shall apply to all expenditures by the Office.

42. APPLICATION OF THE *AUDIT ACT 1989*.

(1) The accounts of the Office shall be audited in accordance with the *Audit Act 1989*.

(2) Where an auditor, who is not the Auditor General, the *Accountants Act 1996* and the *Companies Act 1997* shall apply as applicable.

43. REPORTS.

(1) The Chief Trade Officer shall, within 60 days after the sixth month of a fiscal year, submit to the Board of the Department responsible for foreign trade matters to review the revenue and expenditure report for the first six months of the fiscal year of the budget and shall compare such revenue and expenditures with the budget approved under Section 40.

(2) The Chief Trade Officer shall prepare annually and the timeframe in which the report should be presented.

(3) The annual report shall contain, amongst other things, reports of the performance and management of the Office.

44. LIABILITY TO TAXATION.

For the purposes of Section 24(1) of the *Income Tax Act 1959*, the Office is a public authority constituted under this Act.

PART VI. - MISCELLANEOUS.

45. PROTECTION FROM PERSONAL LIABILITY.

A member of the Board or an employee of the Office is not personally liable for anything done or omitted to be done in good faith in the course of the operation of the Office or for the purpose of the Office.

46. REGULATIONS.

The Head of State may, acting on advice, 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.

47. INSTITUTIONAL ARRANGEMENTS.

(1) The Office may enter into institutional arrangements with relevant government agencies and other stakeholders to ensure the effective implementation of its functions under this Act.

(2) For the purposes of this section "stakeholders" includes trading partners, development partners, international organisations, private sector and other related stakeholders.

48. DUTY TO PROVIDE INFORMATION.

(1) The Office may request a government agency or stakeholder for information and data relevant to trade and the purposes of this Act, and the requested agency shall provide such information.

(2) The request for information under Subsection (1) is a matter of national interest.

(3) It is a defense that the provision of information requested will be contrary to national security.

(4) The Office shall ensure that all information is kept confidential.

PART VII. - TRANSITIONAL AND SAVINGS.

49. TRANSFER OF ASSETS.

All assets which immediately before the coming into operation of this Act were occupied, held or owned by National Trade Office or staff, and all obligations and liabilities of National Trade Office immediately before that coming into operation, are, on that coming into operation, transferred to and become the assets, obligations and liabilities of the equivalent Office.

50. SAVING OF CONTRACTS.

All contracts and agreements (other than contracts of employment) entered into, made with, or addressed to the National Trade Office, are, to the extent that they were, immediately before the coming into operation of this Act, binding on and of full force and effect against or in favour of National Trade Office on that coming into operation, binding on and of full force and effect against or in favour of the National Trade Office as fully and effectually as if, instead of National Trade Office, the equivalent Office had been a party to them or bound by them or entitled to the benefit of them.

51. TRANSFER OF OFFICERS.

(1) A person who, immediately before the coming into operation of this Act was the substantive occupant of National Trade Office shall, on that coming into operation, be deemed to have been appointed to an equivalent office under this Act.

(2) A person who, immediately before the date of coming into operation of this Act was acting in the National Trade Office shall, on and from that date of coming into operation, continue to act in the equivalent office under this Act.

52. ACTIONS, ETC., NOT TO ABATE.

Where, immediately before the coming into operation of this Act, any action, arbitration or proceeding was pending or existing by or against a person or body previously undertaken under the National Trade Office, it does not, on that coming into operation, abate or discontinue, and is not in any way affected by any provision of this Act, but it may be prosecuted, continued and enforced by, against or in favour of the person or body as if this Act has not been made.

53. SAVING OF EXISTING EXEMPTION, REGISTRATION, ETC.

Every notice, variation, cancellation, exemption or registration granted or made under the National Trade Office that are valid and in force immediately before the coming into operation of this Act, shall continue, on that coming into operation, to have full force and effect as if it had been granted or made under this Act.

54. APPLICATION OF OTHER ACTS.

Where under an Act or other law (other than this Act) any document or instrument wherever made or executed, contains a reference, express or implied, to domestic and international trade, that reference shall, on the coming into operation of this Act, except where the context otherwise requires, be read and construed and have effect as a reference to this Act.

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55. TRANSITION OF CHIEF TRADE OFFICER.

The person who, immediately before the coming into operation of this Act, held the Chief Trade Officer, shall, on that coming into operation, hold the equivalent office.

I hereby certify that the above is a fair print of the *National Trade Act 2023*, which has been made by the National Parliament.



Acting Clerk of the National Parliament.

29 MAY 2023

I hereby certify that the *National Trade Act 2023*, was made by the National Parliament on 19 January 2023.



Speaker of the National Parliament.

29 MAY 2023