

Technical Assistance Consultant's Report

Project Number: 40260

April 2008

Papua New Guinea: Support for Public Expenditure Review and Rationalization Financed by the Japan Special Fund

Final Report

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I. Executive Summary

This section summarizes the Project outputs from project inception in November 2007 until completion in March 2008.

1. Analysis and assessment of public bodies reveals that the term 'public bodies' (statutory bodies) is defined very broadly and that public bodies take the form of either incorporated or unincorporated entities. There is no overall policy framework regulating the creation of public bodies and an ad hoc approach is taken to their establishment with each Minister having the right to ask the National Executive Council to approve legislation for that purpose. There are no overall guidelines that address the need for a proposed public body or require an explanation of its functions or powers, sources of funding or degree of government control. The powers and functions of public bodies are derived from their constituent Acts which also state the degree of state control exercised over the public body, and applicable financial accountability rules. Overall, the legislative framework applicable to public bodies strongly suggests that a 'whole of government approach' has been adopted toward public bodies.

2. The financial accountability regime applicable to all public bodies is located in Part VIII of the Public Finances (Management) Act 1995. The current regime is quite rigorous according to international standards but there are a number of weaknesses and deficiencies. The current regime applies a number of mandatory provisions to all public bodies but other provisions are merely discretionary and need not be applied unless the public body constituent Act so elects. This means that public bodies are, to a large extent, empowered to determine their own degree of accountability.

3. Despite the mandatory nature of five accountability provisions of Part VIII PFMA, constituent Acts have purported to disapply these provisions from certain public bodies thereby defeating the intention of Part VIII and rendering the accountability regime ineffective. Legal opinion should be sought on the validity of contradicting the mandatory provisions under constituent Acts and this issue is crucial in the future development of accountability.

4. In practice, whatever may be the legal position, unincorporated public bodies are not treated in the same way as incorporated bodies by the Department of Finance because the Department regards unincorporated bodies as components of a Department and treats them as part of government for budgetary purposes. This practice means that an accountability regime for public bodies need only focus on incorporated bodies.

5. The current accountability framework for public bodies is deficient in a number of ways:

- Non compliance with reporting provisions, financial measures, structures and policies;
- a lack of demonstrable service delivery improvements and outcomes;
- the operation of competitive programmes and strategies that undermine Government's public programmes and national priorities;
- dilution of policy control and direction in the management and protection of finances, key assets and natural resources;
- inconsistent human resource management practices leading to excessive remuneration and benefits, contributing to the loss of capacity – “brain drain”, from government departments;
- control failures by central agencies resulting in statutory authorities collecting and retaining increasing streams of public revenues and committing to unsustainable increases in year-on year expenditures; and,
- reduced governmental knowledge of the day-to-day performance and operations of statutory authorities.

6. It is suggested that a classification system be adopted for public bodies based on differentiating those, which are trading enterprises from those, which are not. This system would reiterate and elaborate on an existing distinction in the legislation between trading and non trading enterprises and would enable government to focus attention on a relatively small number of public bodies important for their capacity to raise revenue for the State.

7. It is suggested that the current accountability regime be strengthened by adding a number of new provisions to Part VIII as follows:

- Performance agreements to be negotiated and concluded between Ministers and a public body to promote greater interaction and assist in formulating national planning – one public body is already required to follow this process but it should be extended to others
- Adding new enforcement powers for the Minister for Finance so that non-compliance with Part VIII provisions can be more effectively policed and enforced. These powers comprise: a non compliance letter, possible suspension of board members and possible termination of board members employed in a graduated manner to enforce compliance
- Adding a short statement of the objectives of trading enterprises to link up with the proposed classification system
- Including in Part VIII a guideline applicable to all submissions seeking NEC approval to establish a public body. The guideline seeks to set out key questions that need to be addressed when considering if a statutory authority is the most appropriate body to perform new activities or functions.

8. It is vital that sufficient and adequately trained staff monitor the activities of public bodies. There are a number of major deficits in Government's current capacity to make informed decisions and provide clear direction to some

authorities as responsibilities for monitoring, evaluation and reporting of statutory authorities has fallen between the cracks.

9. The creation of a specialist unit, located within the Department of Finance is proposed. The unit will perform the functions of analysis, monitoring, evaluation and reporting on statutory authority performance and plans. It will coordinate the information needs and enquiries of both, the Department of Finance and Department of Treasury to avoid establishing duplicated functions in each Department.

10. With the establishment of this unit, there will be increased capacity building demands due to the development of a function that is not being formerly exercised within either Department. In addition, the recruitment of qualified personnel and development of information systems will need to occur.

11. A preliminary high-level implementation plan has been developed to provide some guidance to PNG officials when considering the steps necessary to implement approved recommendations in this report.

II. Introduction

1. Project Number 40260 supports the Public Expenditure Review and Rationalization Programme (PERR) comprising nine projects, including Project 9, for improving statutory public body governance.
2. The objective of PERR Project 9 is to improve the governance of statutory authorities by strengthening the accountability framework with the aim of improving expenditure control and realizing fiscal savings. A 2005 review of statutory authorities identified a number of governance issues including (i) the Public Finances (Management) Act (PFMA) provides for assessments of statutory authorities but these assessments are inadequate (ii) annual budgetary controls and other central controls apply in principle but not in practice (iii) the accountability framework varies significantly among statutory authorities (iv) PFMA regulations do not define clearly the actions to be followed in relation to accountability reports; and statutory public body managers are not held accountable for performance.
3. This is the draft final report on Project Number 40260 taking into account the inception report of December 2007 and activities during the period January – February 2008. It summarizes the key activities of the project team in terms of the work plan prepared during the inception report phase and the actual terms of reference governing the project.
4. Appendix A is a draft Policy Submission to the National Executive Council seeking legislative amendments for the changes to Part VIII of the PFMA.
5. Appendix B is the drafting instructions for amendments to Part VIII PFMA to accompany the Policy Submission.
6. Appendix C is a matrix of incorporated public bodies describing their relationship with the accountability provisions of the Public Finances (Management) Act and other related issues.
7. Appendix D is a review of comparative international laws and practice on statutory corporations and accountability regimes.

III. Review and Analysis of Statutory Authorities in Papua New Guinea

A. General

8. A statutory authority is a public sector entity, established under an Act of Parliament to perform specific functions of government. The characteristics of statutory authorities are not common to all. Differences may arise in the powers conferred upon the authority, its legal character, separation from the State and legislated financial management requirements. Its legislative framework defines the governance arrangement of a statutory body.

9. Governments create a range of public bodies to discharge specific functions assigned to the public sector. Each agency is required to meet a body of statutorily mandated accountabilities and performance outcomes. While the public sector has self-protective tendencies, it is prone to complicate and mystify its roles and functions, the reality is that the functions they perform, their relationship with government, the activities or services delivered and their legal character readily define agencies.

10. Statutory authorities are established to perform a role or function of government where it is determined from an efficiency or policy perspective, they will:

- operate with or provide objectivity and political neutrality;
- draw a sharp distinction between the specific function of the authority than that applying to the more general frame of reference of a department;
- separate policy functions from service implementation and delivery functions;
- perform regulatory functions; and,
- efficiently deliver a service or group of services.

11. It is important that the benefits of establishing a structure that places functions into a statutory authority separate from or at arms length from government, are sufficiently compelling to justify the creation of a statutory body. The creation of a statutory authority is accompanied by a corresponding diminution of ministerial capacity to supervise and verify the performance of the authority.

12. There are about 100 corporate and unincorporated entities existing under PNG laws and another 20 or so constitutional institutions and services established by the Constitution or the Organic Laws or under ordinary laws. Regulatory and advisory bodies are often established under omnibus laws that apply to an entire field of activity e.g. the Parole Board under the Probation and Parole Act, the Coasting Trade Committee under the Merchant Shipping Act

while other bodies are established to provide services to citizens on a commercial basis e.g. the Electricity Commission, or to provide education and training e.g. the three State universities and the National Training Council, or to take responsibility for the development and sale of commodities e.g. the Spice Industry Authority. Recently, there has been a tendency to dismantle public bodies and transfer their responsibilities to private companies incorporated under the Companies Act e.g. the Motor Vehicles Insurance Trust charged with providing third party insurance cover for all drivers was originally set up as a statutory corporation but its functions are now exercised by a private company.

13. In PNG, bodies that have been created to perform functions previously carried out by a Government Department or agency may in fact continue to perform basic functions of government, and are usually established as corporations. Appendix C lists and provides relevant information on incorporated statutory corporations. Here, as a matter of policy, it has been decided that the particular body should be separated from government with its own legal identity so that it can function as an autonomous entity. Sometimes the rationale for creating a particular corporation is not altogether clear. For example, while there may be sound policy reasons for placing significant resource sectors like mining, fisheries and forestry under the control of corporations created by statute, it is unclear why it was thought necessary to create a National Agriculture Quarantine and Inspection Authority tasked with the traditional government function of monitoring imports to ensure they are disease free.

B. General framework for statutory bodies

14. The current legislative framework for statutory bodies in PNG is located in:

- the Public Finances (Management) Act 1995 (PFMA) – Part VIII; and
- the constituent Act that establishes and regulates the statutory body concerned; and,
- in other laws that impact statutory bodies for purposes such as wage fixing, appointment to certain offices and other issues (discussed later).

15. The Constitution does not define the term ‘public body’ but does define ‘public office holder’ to include the holders of offices established by statute for administrative or governmental purposes. Conceptually, statutory bodies are termed ‘public bodies’ and a “public body” is defined by the PFMA to include a body, public body or instrumentality, corporate or unincorporated, established by or under an Act or a Constitutional law. It follows then that all bodies established by statute are public bodies and are subject to Part VIII of the Act. This very broad definition of a public body means that every board, committee and commission or other entity created by a law falls within the definition of a public body. On the face of it the definition includes all constitutional institutions, every Department and even committees and boards close to government that are clearly performing essential government functions under direct and unqualified

government control e.g. the National Security Advisory Committee, and the Central Agencies Co-Coordinating Committee (both established under the *Prime Minister and National Executive Council Act 2002*).

16. There is currently no framework legislation that categorizes public bodies according to function, whether commercial or non commercial or advisory or regulatory functions. The only 'categorization' recognized by the PFMA is a distinction between 'trading enterprises' and other enterprises and that differentiation is made only for the purpose of providing that a trading enterprise must keep its accounts and records in accordance with accounting principles generally applied in commercial practice (PFMA s.62(2)). Thus, regardless of their actual functions, proximity to core government functions or the scope and nature of their activities, the intent of the PFMA is that all public bodies are potentially subject to all or part of the provisions of Part VIII PFMA. So for example, in theory at least, the Medical Board established by the Medical Registration Act, charged with the registration and discipline of medical practitioners and others, and entirely funded by the State through the Department of Health is required to furnish the Minister with a performance and management report every year.

C. Constituent Acts

17. Public bodies that are not created as corporations and that take the form of a Committee, Board or Commission or the like, generally do not refer to the PFMA at all. This means that as a matter of law only the mandatory provisions of Part VIII apply to them because the remainder of Part VIII will only apply to a public body if the constituent Act specifically so provides. However, in practice the Department of Finance does not appear to require compliance with these mandatory provisions. The reason seems to be that these entities are regarded as carrying out functions and operations of a Department and so the Department Head becomes responsible for them under section 5 PFMA (which describes the responsibilities of each Department Head for financial administration) for a range of issues that relate to the accountability of these entities. In other words, these entities are in law and in practice subject to a comprehensive accountability regime regardless of Part VIII – the same regime that applies to government itself.

18. Reviewing the entire field of incorporated public bodies reveals a common legal structure, which has only recently become more complex. A good example is the Industrial Centers Development Corporation, which adopts the following model:

Establishment and incorporation of the corporation giving it legal personality
Functions of the corporation
Powers of the corporation – usually expressed as all necessary powers to perform its functions
Ministerial power to direct (if any)

Establishment of the Board to govern and administer the corporation

Membership of the Board (including any Ministerial appointment powers), resignation of members, leave of absence, termination of members, appointment of Chairman and Deputy (often by the Minister)

Meetings of the Board – sometimes minutes must be given to the Minister and in one formulation the Minister even approves the form of the minutes

Disclosure of interest by members of the Board – this is usually the only explicit fiduciary duty in the Act. Modern practice has considerably expanded the enumeration of such duties

Reports – the standard provision requires a report be presented to the Minister. The content of the report is not specified in any detail and the Minister is to present the report to Parliament

Staff of the corporation – usually a staff service is created along with a Managing Director or the like

Application of the PFMA – generally these Acts specify either the whole or parts of Part VIII apply to the corporation and often, where appropriate, there is a reference to it being a trading corporation. It should be noted that the only significance of this designation relates to section 62 PFMA which requires that the accounts and records of a trading enterprise be kept in accordance with the accounting principles applied in commercial practice.

Funds of the corporation – a statement of the sources of funds and the permitted expenditure purposes. There is usually a reference to moneys appropriated by Parliament for the purposes of the corporation.

Audit – sometimes there is a reference to the Audit Act as applying to the corporation.

19. Overall it can be said that this basic model may be entirely appropriate for a non trading corporation with limited functions such as an advisory public body or training institution, and it may even be appropriate for a small trading entity.

20. More recent legislation introduces more complex reporting procedures and processes in the form of performance agreements, (Civil Aviation Act) management statements (Central Bank) progress, performance and finance reports (Forests Authority, National Fisheries Authority, Gaming Control Board and others – the most common formulation), operating budget and proposed programme (Mineral Resources Authority) corporate plan over 3 years (National Maritime Safety Authority, National Road Safety Council, Tourism Promotion Authority) and strategic plan (Sports Foundation).

21. In contrast to the above some corporations are apparently not required by their constituent Acts to submit any reports and only the mandatory reporting provisions of Part VIII PFMA apply. These include: National Broadcasting Commission, Cocoa Board, Coffee Industry Corporation, Electricity Commission, ICCC, Niugini Insurance Corporation, National Airline Commission, National Council of Women, Waterboard, PANGTEL and the 3 universities. Given that standard reporting provisions require the Minister to present the reports to

Parliament thereby making them public documents, the absence of the 'standard' reporting provisions represents a significant lack of transparency in these statutes.

22. One perspective on financial accountability is to focus attention on incorporated public bodies on the basis that the intent of the PFMA is primarily to enforce a level of accountability on these bodies rather than on unincorporated bodies. As noted above there are clear distinctions in practice in the financial administration of boards, committees etc that are not incorporated and other entities that are. These can be summarized as follows:

- Although the mandatory provisions of Part VIII are supposed to be applied to unincorporated entities this does not happen in practice and the Department of Finance treats these unincorporated entities for budget purposes as if they were elements of Departments.
- Part VIII is consistently applied by law only to incorporated bodies and generally never applied by constituent laws to unincorporated bodies – this suggests strongly that policy makers see the intent of Part VIII PFMA as establishing a financial accountability regime for incorporated bodies only.
- Only incorporated bodies have a legal identity separate from the state – they can enter into contracts, etc because they have that legal status. Unincorporated bodies have no such right or status.
- A 'whole of government' approach would suggest that unincorporated entities are already regarded as government entities and that it is incorporated public bodies that need to forge closer links to government, consistent with that approach.

23. Following this approach would mean that a reformed financial accountability regime under Part VIII would focus on the 66 incorporated bodies contained in Appendix C.

24. It appears that the whole of Part VIII is applied by constituent Act to only 3 unincorporated bodies: the Board of Architects, the National Narcotics Control Board and the National Tripartite Consultative Council established under the Industrial Relations Act. In relation to incorporated bodies, Part VIII is applied to all of them except the National Council of Women, the National Provident Fund Board of Trustees, the Occupational Health and Safety Council, and the Parliamentary Members Retirement Benefits Board. It is suggested that the constituent Acts of these corporations should be amended to apply the whole or parts of Part VIII as judged necessary and appropriate. This would establish a consistent legislative approach to the application of Part VIII to public bodies as a whole.

25. The scheme of Part VIII of the PFMA is to apply certain provisions imposing duties to all public bodies and for other provisions to apply to a public body only

where the constituent Act itself incorporates them. Thus:

Sections 50, 60, 61, 63 and 64 PFMA apply to all public bodies regardless of the content of their constituent Act;

The remaining provisions of Part VIII apply only to a public body where the constituent Act of the public body expressly so provides.

D. Part VIII PFMA - Scope of mandatory accountability regime

26. It is necessary to fully understand the scope and content of the mandatory duties imposed on public bodies because those provisions collectively constitute a significant part of the accountability regime relating to public bodies (other laws also impact public bodies and are discussed later). In summary, the mandatory provisions of the PFMA require the following for all public bodies:

E. Performance and Management Plans (s.50)

- a) The chief executive shall, at intervals required by the Dept Head of the Dept responsible for financial management (DHFM) submit to the DHFM a performance and management plan for the public body.
- b) The DHFM shall specify the form and the information to be contained in the plan.
- c) If he thinks fit the DHFM may carry out a performance review of a public body.

27. It is noted that this duty is imposed on the chief executive and not on the Board or the public body as such. This right vested in the DHFM under this section can be contrasted with section 63 where a duty to provide a performance and management plan is placed on the public body itself. The reason for the differentiation is not clear but it seems that in practice this power may have never been exercised and the form and content of the plan may not have been prescribed.

F. Policy Directions on Tendering (s.60)

- d) The Minister may issue directions to public bodies and subsidiary corporations on policy concerning the giving of preference to national tenderers and local manufacturers in relation to tenders and contracts of public bodies.
- e) Such directions from the Minister bind the public body or a subsidiary corporation.

G. Approval Required for Certain Contracts (s. 61)

- f) A public body shall not, unless the Minister otherwise approves, enter into a contract involving the payment or receipt of a sum or of property to a value exceeding K100, 000.
- g) However, this rule does not apply and the payment is increased to a value of K500, 000 for those public bodies so declared by the Head of State on advice by notice in the Gazette.
- h) However, neither of these provisions will apply to a particular kind of contract namely, contracts relating to investment by a public body or a subsidiary corporation, where the Minister by notice in the Gazette declares a public body to be one that may without Ministerial approval invest moneys not immediately required provided that each investment, where a sale or purchase does not exceed a maximum of 3% of the total assets of that public body.

28. A number of constituent Acts purport to disapply this mandatory provision or even to modify it. Presumably it would be argued that an Act that is later in time has the capacity to do this but this may be doubted.

H. Reports and Financial Statements (s. 63)

- i) On or before 30 June every year, a public body must prepare and submit to the Minister, a performance and management report of its operations and financial statements for the preceding year ending 31 December – the purpose is to enable the Minister to present such reports to Parliament at its first meeting following receipt of the Auditor General's report to the Minister on that public body.
- j) The public body must also submit to the Minister 3 reports relating to investments:
 - o a quarterly report on all investment decisions
 - o by 28 February every year a detailed report on investment performance and return for the preceding year ending 31 December, and
 - o a 5-year investment plan (to be updated each year) describing investment policies, strategies and administrative systems to be pursued and providing forecasts of investment flows and returns.
- c) The financial statements must, in the case of a body declared by its constituent Act to be a trading enterprise be prepared in accordance with generally accepted accounting principles applied in commercial trading – in all other cases they must be in a form approved by the Minister in consultation with the Auditor General.

- d) a public body must first submit its financial statements to the AG.
- e) The Minister is to lay the report and financial statements and the report of the AG before Parliament at the first meeting after he receives the AG report
- f) Where reports or statements are published the AG report must be published with them
- g) Where a public body fails to provide reports and financial statements there are sanctions and the Minister may in consultation with the AG:
 - o withhold half or any of the grants appropriated to the public body for the next fiscal year after the year to which reports and statements relate; and
 - o refer the head of the public body to the Public Accounts Committee (PAC) for failure to comply with the requirement as to reports and financial statements

29. It is noted that under the PFMA the PAC may examine and report on the accounts of a public body but there seem to be no specific provisions that link up with the referral of the head of the public body to the PAC. Presumably therefore, the PAC, following a referral, is limited to conducting a public examination of the accounts of the public body and then reporting to Parliament.

I. Powers of Inspection of the Minister etc. (s.64)

- a) The Minister or the DHFM may, where there is reason to believe that a public body has or may have failed to implement the management plan submitted under section 50 above or has been or may have been in breach of the PFMA authorize the DHFM to conduct an investigation into or inspection of the records of the public body.
- b) Where an inspection or investigation is conducted the Minister and the DHFM have the right to free access to all accounts and records and to the accounts and records of subsidiary bodies that relate directly or indirectly to: collection, receipt, expenditure and issue of moneys of the public body and any subsidiary; and receipt custody, disposal issue or use of stores or property of the public body and any subsidiary.
- c) the DHFM may delegate in writing all or any of the powers under this provision in relation to all public bodies or specified public bodies or body.

J. Part VIII PFMA - Scope of discretionary accountability regime

30. It is worth noting the content of those provisions of Part VIII that are not mandatory and how public body constituent has applied those provisions Acts. The non-mandatory provisions relate to the following:

Particulars of Proposed Expenditure (s. 51) - submission of estimates of receipts and expenditure for next financial year and proposed works program to DHFM three months before end of each financial year.

Bank Accounts (s.52) - open and maintain bank accounts with approved banks and pay all moneys into such account.

Moneys Payable to Public Bodies (s. 53) – public body to receive moneys appropriated to it by Parliament; can be paid at time and in amounts determined by DHFM; appropriated moneys are conditional grant and if not expended for purpose appropriated may be required to be returned to Consolidated Revenue Fund.

Loans by State (s. 54) – public body may accept offer by Minister of a loan for purposes of public body and agreed terms; obligation to repay according to loan terms.

Private Treaty Loans (s.55) – with Minister's consent a public body may borrow money from a person on agreed terms and repayment must be made according to agreed terms.

Borrowing by Overdraft (s. 56) – with Minister's consent a public body may borrow by overdraft within limits approved by Minister.

Investment (s. 57) – states how moneys not immediately required may be invested in a range of securities; Minister may set guidelines and planning and reporting requirements for investment of moneys of approved public bodies up to 3% of total assets; public body and subsidiaries that invest under the 3% rule may not hold more than 10% of the equity of a company without prior Ministerial consent.

Application of Moneys (s.58) – moneys of public body to be applied only in payment of expenses, obligations, liabilities of the public body that arise under the PFMA or constituent Act.

Contracts for Works and Services (s.59) – tenders to be invited for all contracts which exceed specified sum declared by Minister or fixed by constituent law but this does not apply to works to be carried out by state or arms of state approved by the Minister or where the public body certifies that inviting tenders is impracticable or inexpedient.

Accounts, Records etc (s.62) – public body or subsidiary to keep proper records and accounts of transactions and ensure that all payments correctly made, authorized and that adequate control maintained over assets and liabilities but where constituent law or declaration of Minister determines that public body or subsidiary is a trading enterprise its accounts and records must be kept in accordance with accounting principles generally applied in commercial practice.

K. Application of mandatory and discretionary regimes in constituent laws

31. To what extent do public bodies incorporate all or any of these provisions (which under the PFMA made be applied directly or in a modified form – such modification to be decided by the public body alone)? The matrix in Appendix C reveals the following:

- a) the most common formulation is to apply all provisions of Part VIII to the corporation including the discretionary provisions;
- b) other formulations do not show any consistent pattern of application of the provisions (presumably they were carefully selected in the drafting instructions based on the needs of the corporation);and,
- c) the PFMA gives no guidance to a potential public body on the application of the discretionary provisions.

32. This overall elaboration of the degree of accountability of public bodies should be contrasted with section 3 of the PFMA, which renders the Minister responsible for ‘the supervision of the finances of public bodies’. The question arises: how is the Minister (the State) able to adequately discharge this legal duty when the legislation permits abrogation, in large part, to a public body, of the right to determine the degree of accountability to which it will be subject?

L. Sanctions for Non Compliance with PFMA

33. Part VIII PFMA provides two sets of sanctions for failure to comply with the mandatory provisions. The first is that for non-compliance with section 63 (provision of performance and management reports and financial statements) the Minister in consultation with the AG may:

- a) withhold half or any of the grants appropriated to the public body for the next fiscal year after the year to which reports and statements relate; and
- b) refer the head of the public body to the Public Accounts Committee (PAC) for failure to comply with the requirement as to reports and financial statements.

34. The second is found in section 64 (powers of inspection) which provides that where the Minister or the DHFM has reason to believe that a public body has or may have failed to implement the management plan submitted under section 50, or has been or may have been in breach of the PFMA, the DHFM may be authorized to conduct an investigation of that public body or an inspection of its records.

35. These sanctions seem somewhat impracticable and ineffective and have

never been employed. Withholding grants would seem to be a self-defeating measure because it will affect the operation and performance of a public body, might result in laying off of lower level staff and would not necessarily result in compliance because the public body could simply continue to operate at a reduced level of service and efficiency. Referring the head of the board to the PAC seems impracticable and ineffective because there is no guarantee that the PAC would take any action against the head or the public authority. In any event, there are no special provisions that link this provision with the powers or functions of the PAC, which suggest that it may not even have been discussed with the Chairman or members of the PAC before introduction.

36. In regard to the powers of inspection, while it may be useful to be able to access documents this will not produce the reports which the board has failed or refused to supply, and no amount of inspection will deliver the strategies, plans and objectives which are peculiarly within the knowledge of the board and the CEO of the public body. Also, it is doubtful that inspectors would enjoy any cooperation from staff, the CEO or board members in their attempt to uncover the state of affairs within the public body.

37. Rather than continuing to rely on these ineffective provisions which have never been used and are therefore unlikely to be used in the future, it is suggested that the Minister for Finance be given additional powers to act in cases of non compliance which are likely to be effective, provide a graduated response to non compliance and which are practical and easy to implement.

38. As noted above, every public body has a constituent Act and every Act provides for the appointment of a board or controlling authority for that public body. These appointment provisions often follow a standard form (although each Act must be carefully checked) that gives either the Minister responsible for the Act or the NEC or the Head of State acting on advice the power to terminate the appointment of members of the controlling authority. The standard formulation usually reads as follows:

(2) *If a member—*

- (a) *becomes permanently incapable of performing his duties; or*
- (b) *resigns his office in accordance with Subsection (1) and the resignation is accepted by the Minister; or*
- (c) *is absent, except with the written consent of the Minister, from three consecutive meetings of the Board; or*
- (d) *fails to comply with Section 16; or*
- (e) *becomes bankrupt, or applies to take the benefit of any law for the benefit of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit; or*
- (f) *is convicted of an offence punishable under a law by a term of imprisonment for one year or longer, or by death, and as a result of the conviction is sentenced to imprisonment or death,*
the Minister shall terminate his appointment.

(3) *The Minister, may, at any time, by written notice, advise a member that he intends to*

terminate his appointment on the grounds of inefficiency, incapacity or misbehavior.

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

(5) *Where the member referred to in Subsection (3), does not reply in accordance with Subsection (4), his appointment is terminated. (Industrial Centers Development Corporation Act)*

39. It seems clear that failure to comply with Part VIII PFMA could provide the foundation for a notice of intention to terminate an appointment on the ground of inefficiency or misbehavior. However, the power to take such action is vested in the Minister responsible for the particular constituent Act and not in the Minister for Finance. This situation could render termination action problematic.

40. It is suggested that the power to terminate the appointment of the head or a member of a controlling board of a public authority for non-compliance with the mandatory provisions of Part VIII ought to be vested in the Minister for Finance. Such a power would be a far more effective remedy than those provided now under Part VIII.

41. In addition to having the power to terminate the Finance Minister should also have the express power to suspend the head of the controlling authority or a member of it for a fixed period of time – 3 months is suggested, with or without remuneration, to encourage compliance. The suspension could not be extended or renewed and would represent one final chance for compliance.

42. Before suspending or terminating the head or a member of the board of a controlling authority the Finance Minister should send an official Letter of Non Compliance to the head and members of the board. The letter would state formally as follows:

- The public body is in breach of the PFMA in failing to furnish a performance and management report and financial statements as required by section 63 PFMA;
- The public body is required to comply with section 63 within 30 days; and,
- If after 30 days the public body remains non compliant the Minister may exercise the power to suspend or terminate the head of the board or members of the board.

43. It is also worth noting that the chief executive of a Regulatory Statutory Authority may be terminated from his or her employment under the *Regulatory Statutory Authorities (Appointment to Certain Offices) Act 2004*, by the Head of State on advice for misconduct and poor performance. Action to remove the CEO is initiated by the Board and termination requires a recommendation to that effect from the Public Services Commission. Thus action against board

members by the Finance Minister under Part VIII would likely precipitate action by the Board against the CEO to secure compliance.

M. Other Relevant Legislation Affecting Statutory Authorities

44. As noted above a public body's powers and functions are derived from its constituent laws. Other provisions affecting public bodies are located in Part VIII PFMA.

45. There are other laws that impact public bodies in relation to terms and conditions of employment, appointments to offices, the power of the State to direct their operations, policies and practices and the right to audit their accounts.

46. Under the Salaries and Conditions Monitoring Committee Act 1988 a 'public authority' (for some reason the term 'public body' has not been employed consistent with the PFMA), defined to include all bodies, corporate or unincorporated and created by law, may only determine or vary the salaries and conditions of employment of its employees in accordance with this Act.

47. The role of wage fixing is conducted by the Salaries and Conditions Monitoring Committee (SCMC) composed entirely of relevant Department Heads and the SCMC is tasked to 'ensure that the wages policy of the National Executive Council is implemented in all its conditions'. A determination or variation of the salaries and conditions of employment of an employee made otherwise than in accordance with the Act is void, and any agreement, written or oral, intended to give effect to such determination or variation is rendered unenforceable at law.

48. The Act establishes a procedure for public authorities that wish to vary salary conditions and the public authority can, in effect, appeal the decision of the SCMC to the National Executive Council. The SCMC Act provisions are stated to apply notwithstanding any other law. Thus a constituent public body Act does not need to refer to this Act for it to apply but some do, e.g. the Harbours Act says that subject to the Salaries and Conditions Monitoring Committee Act 1988, the General Manager is to be appointed on a written contract on such terms and conditions as are determined by the Minister after receiving recommendations from the Board.

49. The provisions of the SCMC Act are supplemented by the powers of the Salaries and Remuneration Commission created under section 216A Constitution (and elaborated by the Salaries and Remuneration Commission Act) tasked with recommending salary levels of constitutional and public office holders, including Departmental Heads and the Heads of 'all bodies set up by statute for governmental or official purposes'. The duty to recommend salary levels applies 'only if they are not provided for by law other than this provision' so it is unclear if this Commission has any role where a constituent Act provides for salary etc or where the SCMC Act applies.

50. The *Regulatory Statutory Authorities (Appointment to Certain Offices) Act* 2004 applies to the appointment, suspension and dismissal of the chief executive officer and the appointment of a non ex officio member of the Board of a public body specified under Part VIIA (Regulatory Statutory Authorities) of the Constitution and under the Act. The Regulatory Statutory Authorities are listed in the Act and procedures specified for appointment to the stipulated offices with the aim of ensuring that appointments are merit based. Reference to the Act has been incorporated by amendment into constituent public body Acts. Thus this legislation represents a policy approach that rejects the notion of 'political appointments' at the CEO level within public bodies and seeks to ensure that the only criteria are the merit of potential appointees. It is noted that even where this Act does not apply the Minister, or the NEC or the Head of State will often have appointing powers in relation to membership of the Board or Council under a constituent Act.

51. The *Prime Minister and National Executive Council Act* 2002, amongst other entities create the Central Agencies Co-coordinating Committee, which is given certain powers over public bodies (defined somewhat differently than in the PFMA). The members of the CACC are Department Heads from key Departments who are collectively tasked through the Committee with a range of functions including

- Implementing NEC decisions
- Formulating National Development Plans
- Coordinating formulating and implementing the National Budget including the Public Investment Programme
- Responsibility for performance management within the National Public Service and public bodies, including ensuring the timely preparation of annual reports by Departments and public bodies and their submission to the National Executive Council.

52. To assist the CACC perform its functions it is given power to enter premises of public bodies, question persons to obtain information, access documents and information and require the head of a public body to appear before it. Also, public bodies are enjoined to cooperate with the Committee. In policy terms, this legislation demonstrates a concern to implement a whole of government approach to the performance of public bodies. It should also be noted that a number of constituent Acts also empower Ministers or the NEC to give directions to public bodies on policy issues.

53. The *Audit Act* 1989 is frequently referred to in public body constituent Acts and implements those provisions of the Constitution concerned with the audit of the public accounts and the role and functions of the Auditor General. The Act defines a 'public body' as meaning any body, public body or instrumentality (corporate or unincorporate) established by or under an Act or a Constitutional

law, other than the Auditor-General or a body, public body or instrumentality incorporated under the Companies Act - the same definition for public bodies as appears in the PFMA. The Act sets out the powers of the AG in regard to public bodies but also gives the AG the discretion to dispense with all or part of a detailed audit of a public body. The role of the AG in auditing the accounts of public bodies should be seen in the context of the concern expressed in the Constitution for the proper management and safeguarding of the public monies and property of the State, including transactions involving public monies. In this sense the AG may be tracing transactions involving the appropriation of public monies to public bodies as well as state loans, guarantees and contracts involving such bodies. Again, this concern reflects a whole of government approach to public bodies.

54. The Public Accounts Committee is established by the Constitution and its powers and functions are further elaborated in the PFMA. The importance of the PAC lies in its capacity to make the accounts of public bodies transparent through examining the accounts and the officers of the public body. Often, the public examinations conducted by the PAC are published widely in the media and political reaction to the adverse comments and findings of the PAC is often immediate and sometimes effective. The concern that there has to be a point at which public money ceases to have that characteristic is evidenced by a provision that where an appropriation of funds is for a specific purpose, the examination of the accounts of the public body is limited to the application of the money appropriated or granted for that purpose, and does not authorize an examination of those accounts beyond what is necessary to that end.

55. Finally, it is noted that the Leadership Code contained in the Constitution and the Organic Law on the Duties and Responsibilities of Leadership applies to 'all heads of or members of the boards or other controlling bodies of statutory authorities' (again there is a difference in terminology with the concept of public body abandoned in favor of statutory body). The application of ethical and good conduct rules to officers of public bodies imposes a set of fiduciary duties and responsibilities upon heads and members of boards. Unfortunately, most constituent laws contain only limited provisions concerned with conflict of interest.

56. Overall, the above legislation tends to show, as a matter of policy, that in the fields of terms and conditions of employment, manner of appointment, fiduciary duties, audit of accounts and transparency of operations and accounts, and planning and performance management, the intention of the State is to exercise a degree of control over public bodies consistent with a whole of government approach. The legislative scheme therefore applies public sector rules to bodies that are public in nature.

IV. Failures and Weaknesses in Existing Financial Accountability Regime

57. By their very nature, statutory authorities demand a robust governance framework because they are less subject to day-to-day control and intervention by Ministers. They are also less obvious; a Minister will have less contact with the authority, as his or her primary contact will be with his or her portfolio department. For this, and other reasons, it is imperative that the functions, directions and performance of statutory authorities be clearly and unequivocally defined and agreed.

58 To deliver government's objectives, a statutory authority must be empowered and directed through a framework that explicitly states:

- government's purpose in establishing the authority;
- government's direction and objectives for and expectations of the authority;
- the performance measures and outcomes against which the authority is to be assessed and its success determined;
- the detail of its accountability and reporting framework and the standards to be observed by the authority;
- the roles and responsibilities of the Minister, portfolio department and the authority;
- levels of support to be provided to the Minister to enable ministerial governance responsibilities to be achieved; and,
- the organizational cultures and values expected to be evident in the authority's work and dealings.

A. Statutory Authorities – Opposing positions

59. There are opposing views in support of or opposition to statutory authorities. These views highlight the risks and benefits of this form of governmental function and service delivery.

60. The rationale for establishing statutory bodies has generally been argued on the merits of independence from government, which is said to provide:

- greater flexibility and capacity to respond to matters of service delivery and performance than is offered by a departmental structure;
- insulation for the agency from arbitrary cuts in budget allocations and political interference;
- increased efficiency and effectiveness through the application of improved and more relevant management practices and operating systems; and,
- agency freedom to function without "fear or favor" from political expectations and pressures.

61. The arguments in support of statutory authorities are based on the presumed capacity these agencies have to perform a specific function or service of government, at arm's length from government. They deliver these services more responsively than a government department, and function efficiently within their operating environments by rapidly and innovatively evolving to meet the needs of consumers; government departments do not have this degree of flexibility or capacity.

62. Correspondingly, the advantages of organizational autonomy are accompanied by an increased level of scrutiny and particularized reporting, intended to reflect the degree of risk posed to government by the particular agency and its activities.

63. The countervailing position proposes the exercise of governmental caution and restraint when considering the establishment of statutory authorities. It argues against anything but the most restrictive and rigorous approach to the creation of statutory authorities. As justification for this position, opponents highlight the implications and consequences of failed governance frameworks. Any laxity in government scrutiny and control is claimed to lead to the incremental erosion of accountability to government. This is accompanied by increasing government exposures to policy, financial and performance risks.

64. Weak or flawed statutory authority governance frameworks result in:

- inherent disruptions and delays in information flows and reporting to government, thereby disguising warning signs of deficient or aberrant performance and the need for prompt remedial action, and
- poor central agency scrutiny of statutory authorities and isolation permits statutory authorities to increase government's exposure to financial, performance and policy risk with implied impunity and adverse social consequences.

B. Statutory Authorities - Experience

65. The Departments of Finance and Treasury have provided analysis and evidence that suggests PNG's experience with statutory authorities is inconsistent with the commonly accepted PNG theory, which advocates for the practice of creating statutory authorities. This evidence is corroborated by other independent work¹. Evidence points to:

¹ Public Sector Rightsizing Working Group; Public Sector Rightsizing Report; PSRMU September, 2005

Review of Statutory Bodies Regulatory Framework – Information Paper; PSRMU April 2004
Deane. P.N; Improving Fiscal and Governance Oversight of non-Commercial Statutory Authorities in
PNG, Technical Assistance Report September 2005

- deficiencies in governance frameworks, accounting and financial management systems leading to compromised government financial measures, structures and policies;
- a lack of demonstrable service delivery improvements and outcomes;
- the operation of competitive programmes and strategies to the extent of undermining Government's public programmes and national priorities;
- dilution of policy control and direction in the management and protection of finances, key assets and natural resources;
- inconsistent human resource management practices leading to excessive remuneration and benefits, contributing to the loss of capacity – “brain drain”, from government departments;
- control failures by central agencies resulting in statutory authorities collecting and retaining increasing streams of public revenues and committing to unsustainable increases in year-on year expenditures; and,
- reduced governmental knowledge of the day-to-day performance and operations of statutory authorities.

66. The Departments of Treasury and Finance together with donor reports, point to substantial statutory authority non-compliance with existing accountability frameworks. Central agencies, and even statutory authorities have identified examples and causes of these deficiencies. It is not uncommon for statutory authorities to openly contest the question of their accountability to government. Conversely, powers vested in the Department of Finance by the PFMA to mandate certain types of reporting by statutory authorities are not exercised.

C. Deficiencies in Existing Reporting Structures

67. Examples of deficiencies in statutory authority reporting structures, include the failure to lay annual accounts before parliament and provide management plans and periodic financial reports to ministers or the Head of the Department of Finance have been routinely identified through the work of the Auditor General's Office (AGO), Public Sector Reform Management Unit (PSRMU), the Departments of Finance and Treasury (D of F/ D of T), and significantly, statutory authorities themselves. Various reports commissioned by international donors have highlighted these failures as matters of major concern.

68. An examination of the degree of compliance with Part VIII PFMA reveals either:

- little awareness of, and or observance of this part of the accountability framework; or
- disregard for, and contest of the application of the PFMA.

69. One of the most significant deficiencies of the accountability regime established under the PFMA is the lack of statutory authority reporting to government. Part VIII, among other things, at S63 deals specifically with reports

and financial statements. It provides a strong amplification of the intent and responsibilities expressed in S5 of the PFMA. Data shown below, collected from the AGO and DoF and DoFT, demonstrates broad failure to comply with S63.

70. It also demonstrates a significant lack of compliance and reporting in accordance with the other mandatory sections of Part VIII.

Statutory / Regulatory Reporting	Weakness / Failure	Extent to which Ministers & Agencies Comply
S50 Presentation of Performance and Management Plans.	the chief executive of the public body to prepare and submit a <i>financial management plan</i> and a <i>performance and management plan</i> if so required by Secretary for Finance	According to Department of Finance, in practice, this provision has never been employed
S60. Policy on directions tendering.	S60 provides for Ministers to issue directions to public bodies and subsidiary corporations concerning preference to national tenders and manufacturers in respect of tenders and contracts of public bodies. These directions are binding upon the public bodies and subsidiary corporations.	It seems likely that the provision has never been employed
S61. Approval for certain contracts.	Section 61 requires the Ministers approval for a public body to enter into a contract involving the expenditure or receipt of money or property exceeding K100, 000.	Although the PFMA states this is mandatory several constituent Acts purport to disapply it from public bodies – this situation requires legal clarification
S63. Reports and Financial Statements	Section 63 requires a public body to provide the Minister (for Finance) by 30 June each year; (1). a performance and	Data awaited from Auditor General on extent of non

Statutory / Regulatory Reporting	Weakness / Failure	Extent to which Ministers & Agencies Comply
<p>S64. Powers of Inspection of Minister</p>	<p>management report of its operations for the year ended 31 December together with financial statements, to be presented to Parliament, and where relevant,</p> <p>(2). A quarterly report on all investment decisions and detailed reports on investment performance and returns for the year ending 31 December, and</p> <p>(3). A five-year investment plan (update annually) setting out investment arrangements.</p> <p>There is little evidence of broad compliance with this provision.</p> <p>S63 (ss5) requires the management and financial reports referred to above to be laid before Parliament at it first meting following receipt of the report.</p> <p>Where the Minister believes that a public body has or may fail to implement the management plan required under S50 of the PFMA, he may conduct an investigation into or inspection of that public body's records;</p>	<p>compliance</p> <p>According to Department of Finance this provision has never been employed</p>

D. Causes of deficiencies

71. Despite the existence of specific powers and frameworks that mandate agency accountability and reporting to government, significant deficiencies in reporting frameworks have been allowed to flourish and persist for multiple reasons.

72. As Part VIII of the PFMA is not uniformly applied to all public bodies, many useful reporting sections are not applied. These allow certain public bodies considerable discretion in respect of their compliance with the Act; they have the discretion to interpret reporting and accountability requirements as they determine.

73. A permissive approach to the application of certain sections of the Act is tolerated and results in a widespread disregard for statutory compliance due to lax controls and ambiguity, undermining the integrity and authority of the PFMA. Any erosion of the capacity and integrity of a statute is a cause for deep concern. This outcome represents a major deficiency in the reporting systems of public bodies and is further exacerbated by the potential for the Minister responsible for finance to concede his power to determine reporting standards and requirements to the whim of individual agencies.

74. As noted earlier, under section 3 of the PFMA, the Minister responsible for financial management is held responsible for the supervision of the finances of the State, the supervision of the finances of public bodies and the formulation of the National Budget and its implementation. The Minister is also required to ensure that summary financial information is published in the National Gazette at the end of each quarter and detailed accounts are published annually in the National Gazette. The Minister's ability to faithfully discharge this reporting responsibility is weakened by the existing provisions of the PFMA. It is further eroded by the non-exercise of powers vested in central agencies; the power to demand the provision of reports and plans together with the ability to conduct an inspection of the records and books of account of a public body and its subsidiary/s were clearly designed to provide oversight and scrutiny of public bodies and their operations.

75. The absence of an explicit legislative framework that categorizes public bodies according to function, regardless of that function and relationship with government creates a further serious impediment to the operation of effective transparent governance frameworks. A framework that defines and categorizes all public bodies would establish clear governance and accountability paths, create reporting standards and remove the latitude many public bodies have to determine what and how they will report to government.

76. The PFMA is not ambiguous in regard to the powers vested in the Minister for Finance the Head of the Department of Finance. Both have considerable powers to demand reports, management plans and performance plans; if these are not made available, they have the power to conduct a review and inspection. The Department's failure to implement these powers has transferred the locus of control and information flows away from the Minister and Department to public bodies.

77. As an adjunct to the powers already available to them, central agencies, particularly the Department of Finance, have been reactive to the dynamic of public bodies. They have failed to develop and institute systems based monitoring,

evaluation and analytical capacity that would enable them to engage public bodies at their level. Central agencies have failed to establish their responsibility for and place in the scrutiny and assessment of the performance and service delivery of public bodies.

78. Central agencies have traditionally seen public bodies as opponents that have diluted their territorial control. The inability of central agencies to adapt to this changing environment has placed them at loggerheads with public bodies that appear to have lost respect for the role and function of central agencies.

79. The lack of legislative clarity, poor Ministerial and central agency control, combined with a disregard for the law and an attitude among statutory authorities that they are unaccountable to government, has entrenched serious deficiencies in public body reporting structures.

E. Impacts of Deficiencies in Reporting Systems

80. The Government of PNG has created approximately 100 corporate and unincorporated public bodies under various laws. A further 20 institutions have been established under the Constitution or Organic Laws. These bodies have been created to carry out a function or service of government that was previously performed by a department or is deemed to be beyond the scope of a department.

81. In PNG, public bodies are created independently of a defining context or policy framework that regulates their establishment and monitors their ongoing operations. Similarly, public bodies are not classified, either administratively or legislatively, into any functional categories.

82. There is no machinery of government to recognize factors such as whether a public body exercises commercial or non-commercial functions, its degree of independence from government direction and control, its receipt and use of public moneys through annual appropriations, its positioning within sectors of the economy or its performance. Critically, there is no single observed standard that defines or prescribes reporting frameworks for public bodies.

83. A lack of control and scrutiny of statutory bodies by central agencies has facilitated the unchecked growth of financial pressure through inferior cash and debt management, poorly investigated, structured and executed investments, inadequate and inappropriate financial policies, inflated payrolls, diversion of funds owed to consolidated revenue and creation of devices to enable retention of monies owing to government.²

84. Statutory bodies are described as typically “under-regulated”, being over

² Depending on the public body concerned, the PFMA and constituent Acts do not always require the remission of revenues to the Consolidated Revenue Fund.

staffed, provide excessive remuneration for like functions performed within the public sector, provide excessive non-cash and non-salary benefits, exercise poor managerial oversight, scrutiny of performance and have promoted a loss of capacity and knowledge within the public sector.

85. Statutory bodies are said to build empires and pursue their own priorities and objectives, often in opposition to government policies and national priorities. The prevalence of inferior operating systems, structures and internal policies aggravate inefficiencies; they create leakages and abuses, giving rise to the potential for corruption.

86. Statutory non-compliance, inaccurate and incomplete financial and performance reporting combined with uncompetitive and politically driven recruitment processes further denies operative effectiveness to government accountability frameworks.

87. Inefficiency and or dishonesty among officers is not readily addressed and compromises the security and use of critical natural resources and assets through deficient, poor and self-interested stewardship and management. Significantly, the public image of government services diminishes as the needs and satisfaction of users declines or remains unmet.

V. Remedial Strategies to Rectify Systemic Failures

88. Remedial strategies to redress the level of accountability should be derived from, if not be based upon prevailing international standards and practice, while incorporating the strength of existing institutional frameworks. This approach would leverage the development and experiences gained by other jurisdictions through the prior application and refinement of their frameworks and standards, and provide the opportunity for benchmarking future performance.

A. Strengthening Enforcement of the PFMA

89. As noted and discussed at page X the enforcement provisions of Part VIII can usefully be expanded to provide additional remedies where a public body fails to comply with the mandatory provisions of Part VIII. Hopefully, the recommended graduated response to non compliance that commences with a non compliance letter, progressing to suspension of the head or members of the board and finally offers the ultimate sanction of termination of the head or members of the board, will ensure that the chief executive officer and the board collectively discharge their statutory responsibilities.

B. Classification of Public Bodies

90. The creation of effective governance frameworks for public bodies through identifiable, transparent and consistent structures is a fundamental accountability and control mechanism for government. Effective governance requires machinery that applies consistent national structures, the uniform application of core principles, clear reporting standards at agency level and active monitoring by central agencies.

91. Internationally, governments have addressed the issue of establishing appropriate governance frameworks by categorizing agencies according to their legal personalities, functions and relationships with government. Categorization of government agencies is simply a process whereby public agencies that perform like or similar functions are, for the purposes of financial impacts, control and public accountability, allocated to a category of agencies that perform comparable functions and have comparable legal relationships with government.

92. Categorization of public bodies according to a defined methodology enables the alignment of structures with governance arrangements that are appropriate to a particular category of public body. It removes ambiguity and confusion, creates transparency and consistency and facilitates effective use of government machinery in pursuit of government objectives and priorities.

93. While governance arrangements for public bodies may vary slightly between entities, particularly for trading and non-trading entities, they will not vary sufficiently for any entity to escape categorization within a framework based on a

matrix of intrinsic characteristics and legal personalities that define the agency and its relationship with government.

94. The International Monetary Fund (IMF) has developed a methodological platform called Government Financial Statistics (GFS). It is an analytical tool that facilitates the defining of government structures for financial, budgeting and statistical purposes. The methodology filters agencies into one of three sector categories by applying a series of tests to allocate agencies as follows:

95. General Government Sector (GGS) – those agencies that are legal entities established by a political process and have a legislative, judicial or executive authority and:

- Provide goods and services to individuals and the community;
- Redistribute income and wealth; and
- Engage in non-market production, the benefits of which are provided free or at non-commercial cost to consumers and have a neutral impact on suppliers and consumers.

Typically, these entities include:

- Government controlled unincorporated enterprises that engage in some form of service delivery but do not qualify for quasi-corporation status due to the integration of their operations with other government units and do not maintain separate independent accounts.
- Government departments, non-commercial statutory authorities, and universities, which are generally subject to direct governmental control and direct financing.

96. GGS agencies are government departments and boards, commissions and authorities that perform non-commercial or non-trading functions for government. These bodies are primarily budget funded, generally receiving their funds directly from government. By virtue of their functions, proximity to government and direct control by government, GGS bodies require limited independence and therefore have a less complex governance framework.

97. **Public Non-Financial Corporations (PNFC)** – those agencies that are resident government controlled corporations and quasi-corporations generally engaged in the production of goods or non-financial services. In short, PNFCs are a governmental body corporate, outside the GGS that primarily conducts an approved trade or enterprise. PNFCs include PNG Power, Telikom, PNG Harbours and other bodies held by the Independent Public Body Corporation. These bodies require a particular governance framework that recognizes their distance from government control and the nature of their commercial or trading operations.

98. **Public Financial Corporations (PFC)** – those agencies that are resident government controlled corporations and quasi-corporations, mainly engaged in financial intermediation and the provision of auxiliary financial services. PFCs are a governmental body corporate, outside the GGS, dealing primarily with financial transactions and include the Bank of PNG, government owned superannuation (National Provident Fund) and pension funds and insurance companies.

99. These bodies require a governance framework that is appropriate to the nature of their functions, particularly where both regulatory and trading functions are undertaken. The co-existence of these functions calls for clearer and more distinct controls and reporting.

VI. International Responses to the IMF Methodology

100. The IMF methodology for categorizing government bodies and applying governance frameworks has gained widespread international acceptance. While countries have accepted the broad principles of the IMF methodology, they have also modified the structure to apply to their respective operating environments and jurisdictional issues.

101. The following table illustrates how various jurisdictions have formulated sector categories and sub-categories into which government bodies are allocated; defined governance frameworks, expressed through legislation, relate the functions of individual bodies directly to a category of like entities.

Jurisdiction	Governance Framework	Categories of Entities	Sub-categories of Entities	Comments
South Africa	<i>Public Finances Management Act 1999</i>	Major Public Entities Other Public Entities	National Public Entities (Non-commercial) Government Business Enterprises National Government Business Enterprises Provincial Public Entities Provincial Government Business Enterprises	South African governance frameworks impose very tight constraints over public entities.
Canada	<i>Financial Administration Act</i>	Crown Corporations		Canadian crown corporations are rigidly controlled by the state.
Gambia	<i>Public Enterprise Act 1990</i>	Public Enterprises		As above
Samoa	<i>Public Bodies (Performance</i>	Public Trading Body		

Jurisdiction	Governance Framework	Categories of Entities	Sub-categories of Entities	Comments
	<i>and Accountabilities) Act 2005</i>	Public Beneficial Body		
New Zealand	<i>Crown Entities Act 2004</i>	Statutory Entities Crown Entity Companies (Crown owned incorporated companies) School Boards of Trustees Tertiary Education Institutions established under an Act	Crown Entity Subsidiaries (incorporated companies controlled by the Crown)	As above
Victoria (Australia)	State Owned Enterprises Act 1992	State Body (corporate) State Owned Enterprises State Business Corporations	State Bodies & Subsidiary/s State business Corporation State Owned Company State Body State owned Company & Subsidiary/s State Body	As above
PNG	Public Finances (Management) Act 1995	Trading and non trading		

102. The table above highlights the approaches taken by national governments to establish governance frameworks based on the function and legal personality of their public bodies. It is important to note that while variations have been made to facilitate the implementation of the structures developed, the principle of differentiating agencies by function has not.

103. Distinguishing an agency by function is central to defining its personality and

the government sector, or category to which it belongs. The functions of an agency determine whether it is categorized as, for example, a department, statutory authority, commission, public non-financial corporation or public financial corporation. The function of an agency also determines whether it is further categorized as a trading or non-trading entity.

104. There are some additional key points to note about the approaches of different jurisdictions to the creation of statutory bodies and development of categorization structures.

105. The creation of statutory authorities occurs within a policy framework that dictates the process and rationale for such bodies. In most cases, governments have taken a conservative attitude towards creating statutory authorities, preferring to keep functions within departments or existing machinery of government. Where a decision is made to create a statutory authority, the body is subject to a prescribed legislative governance framework of the type outlined above. The establishment of a statutory authority appears to be the least favored approach. In contrast, PNG has adopted a more liberal approach to the creation of statutory authorities and their direction / control.

106. Where governments do establish a statutory authority, the authority is generally very tightly controlled. The Canadian government maintains very rigid controls over all aspects of the operations of its statutory authorities. Approval is necessary for any borrowings, entering into relatively minor contracts and various activities that in PNG, statutory authorities often undertake without question, or reporting in many instances. A similar philosophy is evident in Western Samoa and South Africa.

107. Most international jurisdictions recognize the need to maintain clear levels of control and accountability over their statutory authorities. There are good reasons for this approach. Governments direct authority activities towards the attainment of government policies and objectives, to control risks to government finances and expected outcomes and closely monitor authority performance and quality of service delivery.

108. Governments have actively resisted the creation of all but the most compelling of cases for new statutory authorities. Statutory authorities can promote the unnecessary growth and cost of the public service, particularly where functions are, or can be effectively performed within an existing government structure. With the establishment of each new statutory authority, the ability of government to control and influence policy implementation and objectives moves further away from central government. For this reason, in many jurisdictions, (NZ, South Africa, Canada) it is mandatory for Ministers responsible for statutory authorities to meet regularly with boards of management and senior executives. Ministers receive direct reports, debate implementation and performance outcomes and provide direction in respect of government's

performance and policy expectations.

109. Where rigorous government policy structures and governance frameworks have applied clear lines of accountability, control and reporting standards over the creation and operations of statutory authorities, superior performance results and social outcomes have generally been achieved (NZ). Clarity of expectation, purpose and direction creates an environment of certainty, minimizing opportunities for interpretation and drift away from policy objectives and intent. Importantly, it establishes a framework for success (CofA).

110. The IMF methodology for the categorization of government sectors is highly developed; it has been refined through successive iterations over several decades. It is an advanced system designed to capture and analyze data and information produced by relatively sophisticated systems that are consistently and uniformly applied to each government sector. It assumes a high level of underlying frameworks and structures and has adapted to meet the governmental, commercial and social environments within which progressive economies function.

111. In the context of the PNG environment, the IMF methodology could be regarded as disproportionately imbalanced. When weighed against the public sector's relatively low level systems and technological base, poorly applied and structured governance frameworks, limited human capacity and potential for reform, the introduction of an IMF methodology has the propensity to overwhelm sections of the public sector.

112. Importantly, the implementation of an IMF methodology that is unsuited to the current environment could impede, rather than promote the enhancements to governance and compliance sought by its introduction. Unintended consequences could undermine and adversely affect the integrity of future efforts to introduce such a methodology.

114. However, this is not an argument for doing nothing; an acceptable first step alternative can be developed from existing PNG structures.

115. The governance frameworks referred to above relate to public bodies, both incorporated and unincorporated, as defined by their relevant national statutes. They acknowledge and demonstrate the need for uniform and consistent legal structures and frameworks.

116. The PFMA establishes such a governance framework for public bodies in PNG; the functions of these authorities are comparable to those performed by their international counterparts.

117. Alternative categorization structures, based on principles of uniformity and consistency of function, are equally valid and operable. It is therefore possible to

devise a system of categorization that is relevant to statutory bodies in PNG. It is important that any categorization structure applied to PNG's statutory authorities be clear, can be readily implemented, simple, and to the extent possible, based on an amplification of existing statutory and governance frameworks.

118. The PFMA already provides some categorization of government agencies through its references to government departments and public bodies. Part VIII creates some further distinction of certain public bodies.

119. Of the 160 or so public bodies the PFMA directly applies to approximately 66 such bodies shown in Annex A. Of these, approximately 20 public bodies undertake commercial or trading functions of a material kind. These bodies, their activities, performance and outcomes should be of primary concern to government. Their consequential influence over, and impact on government policy, revenue streams and the security of national assets are a direct responsibility of government.

120. The PFMA facilitates the initial categorization of government bodies into the three categories defined by the IMF methodology - the general government sector, public non-financial corporations, and public financial corporations. As this work is only concerned with statutory authorities, statutory authorities may be classified by defining them according to a sub-category or their *trading* or *non-trading* functions.

121. Because PNG does not have an equivalent legislative framework that applies accountability regimes consistently and uniformly to all government agencies, the identification of sector categories for agencies is slightly more complex. There are instances of PNG regulatory bodies being established as trading entities, and entities that perhaps should be trading entities that are not so established. Organizational functions are central to achieving category clarity.

123. Using the function of "trading" as one criterion and "source of revenues" as a second, the existing frameworks provided by the PFMA may be supplemented with some assistance from the *Trading Act* (Ch234), to create the categories of "Trading and Non-Trading Enterprises". The *Trading Act* defines a trading entity as an "*entity carrying on the business of buying and or selling goods*". This definition could be adopted with the addition of a reference to 'services', thus a trading enterprise can be considered a public body that carries on the business of buying and or selling goods and services. A statutory authority may be designated a trading enterprise or a non-trading enterprise according to the nature of its "trading" functions and sources of revenues.

124. Under this simplified methodology, statutory authorities would be categorized as trading and non-trading enterprises. For example, the PNG Electricity Commission would be categorized as a *trading entity* because its core function is the generation, reticulation and selling of electricity. Equally, the PNG

Forest Authority would be a *non-trading entity* as its core function is the provision of advice to government and the regulation of the timber industry.

125. Classifying public bodies as trading or non-trading enterprises by reference to their functions and revenue sources represents a first step sector categorization process for PNG and enables international consistency and clarity to be achieved. It utilizes existing machinery of government and principles embedded in prevailing legislative and governance frameworks. This step integrates well accepted, replicable and readily understood principles into a system of structured governance frameworks and relevant reporting regimes.

126. Implementing a categorization of statutory bodies of the type described achieves an increased level of clarity and transparency between government and statutory authorities. It paves the way to remove ambiguity and discretionary or interpretative legislative elements that exist in current statutory and governance frameworks by the use of exiting machinery of government.

127. The categorization proposed enables a shift of ministerial and administrative focus and energy away from approximately 160 statutory authorities, to roughly 20 authorities of significance. Achieving a shift of attention of this magnitude opens opportunities for responsible Ministers to engage authorities on a more frequent and informed basis; Ministers may make enquiries of authorities that mirror those of their international counterparts, directing them in an informed manner and strengthening their personal accountability to parliament.

128. An engagement of this type by Ministers would be positive and deliver strong leadership. It would clearly establish the direction of these authorities, define government policies and priorities, set expectations and performance outcomes for the Board and management and facilitate a strong working relationship at the highest level. Creating clarity of purpose, directions and expectations for agencies sets their operating parameters and strengthens the chances of success.

129. Categorization of the type described will facilitate the development and refinement of consistent and uniform legislative and governance frameworks. These structures are fundamental to the effective management and accountability of statutory authorities. Without these structures, government will never have the information it needs to make informed decisions; it will never have a true picture of the operating state of its agencies, their performance and consequential impacts on the implementation of government policy.

130. Government's existing technical resource base is limited. It is important that existing capacity is used strategically to add most value to government's processes. Maintaining and building the capacity of this scarce skill-set is critical. The effectiveness of this resource is undermined by the absence of sound

governance frameworks and legislation. Implementing a system of categorization of statutory authorities will enable strategic use of resources, help identify and quantify capacity needs and stimulate existing personnel.

131. Central government agencies play a marginal role in the development of policy, management and coordination of statutory authorities. They do not have the level of detailed knowledge of statutory authorities ordinarily expected of central agencies. A greater integration and coordination of effort would be achieved by the categorization of statutory bodies. It would lead to a less diffuse application of resources and effort while providing government with more effective advice, control and knowledge.

132. The objective of categorizing government bodies is to facilitate clearly defined governance frameworks. It seeks to achieve an alignment between agency functions, the costs and risks of operation and the standard of governance requirements required of these bodies. It ensures accountability to the responsible Minister, who in turn must account to Parliament and the community. Creating a clear differentiation between types of public bodies and their appropriate governance frameworks facilitates sound reporting through uniformity, clarity and transparency. The proposed categorisation framework goes some way to achieving this outcome.

133. The concept of a trading enterprise currently relates only to accounting standards. It is proposed to add a short provision to the PFMA that will state the broad objectives of such bodies. This elaboration of the concept of a trading enterprise will signify the expectations of the State in classifying a body as a trading enterprise. A trading enterprise remains a public body and therefore the elaboration will also refer to the public responsibility of such bodies.

A. Annual Performance Agreements

134. An annual performance agreement between the responsible Minister, the Finance Minister and the board of each statutory authority is suggested as a mechanism to improve dialogue, compliance and the quality of reporting. The performance agreement is intended to establish a basis for ongoing annual discussions between the Ministers on one hand, and the board and its Chief Executive Officer on the other. Statutory performance agreements are not new to PNG; the Civil Aviation Act already contains such provisions. However, other constituent laws do not provide for similar agreements despite the fact that they represent a whole of government approach to public bodies, bring public bodies within the overall State planning process and permit and encourage an interactive process between government and a public body that ought to benefit the community through improved planning, properly negotiated strategies and transparency of public body operations. Performance agreements represent a mechanism for active and sustained cooperation between government and public bodies by strengthen public body accountability. International practice in both

developed and developing states favors the negotiation and conclusion of annual performance agreements.

135. The agreement will set out in detail, the Minister's expectations of the authority, its Board and senior management. Where necessary, it will detail the Minister's directions to the Board. In general terms, the performance agreement will provide a written context for the authority's operations for the coming year. It will include a detailed management plan setting out the authority's prioritized objectives for the year and relate these to its core functions and current government policy.

136. It will incorporate a line item budget that the board proposes to approve following consultation with the Ministers. The budget will match expenditures with activities intended to achieve service delivery obligations. The budget will also distinguish between operational / recurrent expenditures and new initiatives or project expenditures. The plan will identify any initiatives and plans that will be carried forward into subsequent funding years, including the projected costs, impacts and benefits of these projects. The plan will identify agreed performance targets and measures together with anticipated progress milestones. Monitoring and evaluation mechanisms will be identified and the content and structure of cyclic reporting to the Ministers will be documented and agreed.

137. The agreement will embody recognition for superior performance such as increased expenditure for the authority to pursue new initiatives or the reappointment to the board. Similarly, sanctions will result from failure or suboptimal performance. Penalties may include the reduction / withdrawal of funding for non-core discretionary funded initiatives and plans, reduction in remuneration of board members or the withholding of any increase in fees.

138. Ministers and the board would sign this performance agreement; it is expected that agreement would cascade down into the organization with the board signing a like agreement with the Chief Executive Officer. In turn, the Chief Executive Officer would establish related performance agreements with the authority's senior management.

139. The purpose of the performance agreement is to unequivocally commit each party to the pursuit and attainment of the same objectives. It establishes clear principles and expectations, minimizing deviations from objectives by incorporating mechanisms that progressively monitor and report progress towards agreed goals.

140. A year-on-year analysis of performance plans and outcomes achieved will provide a clear evidentiary performance trail. From this, government can determine the effectiveness of policy and its implementation, the capacity of the authority and its management to perform and identify any remedial action that

may be necessary. The achievement record would be highly influential in decisions relating to the reappointment of board members and the Chief Executive Officer.

141. The recommended form of performance agreement and associated procedures are contained in Appendix C - drafting instructions - and follow closely existing provisions appearing in the Civil Aviation Act.

B. Guideline for the Establishment of Statutory Authorities

142. As noted previously, there is currently no overall policy framework regulating the establishment of statutory bodies. An ad hoc approach has always been followed that leaves it to the discretion of every Ministry to advocate the creation of a statutory body and explain the relevant rationale. Until a coherent policy is evolved it is suggested that a guideline for the establishment of statutory bodies be followed by all concerned Ministries who would have to comply with the guideline before making any submission to the NEC for the creation of a statutory body. The guideline is based on responses to a series of questions that assist firstly in clarifying the function to be performed and secondly, in determining the type of structure appropriate and necessary to perform the function.

143. It seeks to emphasize the application of existing legislative frameworks and assumes that the legislative amendments recommended in this technical report are introduced.

What functions are to be performed:

The primary functions to be performed need to be defined. For example, will the functions performed be of a regulatory, administrative or commercial nature?

Is it necessary to form a new body:

Can an existing government body, such as a department, perform the proposed functions? A new function, power or activity should be vested within an existing department, or an existing body, unless a compelling case exists for the formation of a new body. If the case for a new body is compelling, a non-legislative structure within the existing PNG public sector should be the first consideration.

Legislative frameworks available:

The provisions of the PFMA should be applied to a body that is wholly or substantially reliant upon government budget funding or that raises money under a PNG law. Similarly, the implications of the *Public Services (Management) Act* should be considered.

Factors affecting governance arrangements:

The purpose of the entity or activity needs to be clearly and unambiguously expressed. Clear definition of the activity will minimize duplication of agency

effort, correctly assign accountabilities and determine the government sector into which the function is allocated.

Clarity of purpose and interactions / relationships:

Interactions between related and or associated entities need to be considered. Similarities and synergies between agencies may suggest that similar governance structures are appropriate to facilitate interactions. Equally, the existence of these common factors may point to a reconsideration of the need to establish the proposed agency.

Source of funding and materiality:

Consideration needs to be given to the source of funding for the body and the allocation of funding to key functions and activities of the enterprise. The sustainability of the enterprise must be considered in the context of the available funding, future allocations and government policy.

Will a governing board be effective:

Governing boards need the power and capacity to operate effectively. They need to be beyond political interference and influence and require high degrees of knowledge and skill, comparable to the enterprise's core business, to discharge their responsibilities.

How will personnel be employed:

The means of employing personnel is a major factor to be addressed. Staff to be employed by a Department would be employed under the *Public Services (Management) Act 1995*. In contrast, personnel appointed to a trading body would not normally be appointed under the same legislation.

How much independence is required:

The extent of independence necessary to perform the function or activity is important. It is inappropriate to establish and confer on agencies, levels of independence that are beyond the scope necessary to discharge their actual responsibilities. Conservative approaches to the granting of independence should be maintained.

Consultation with central and relevant agencies: When considering the creation of new body to perform functions new functions, central agencies need to be consulted. In addition, agencies that have or may have an interface with the new body need to be consulted and their views considered.

C. Institutional Reform and Capacity Building

1244. There is a need to consider the structure and capacity of central agencies to respond to the monitoring, evaluation and analysis of statutory authorities. Capacity and systems currently available are inadequate for a number of reasons.

145. A lack of capacity, both human and numerical, hinders the ability of central agencies, particularly the Auditor General and the Departments of Finance and Treasury, and to a lesser extent, the Department of Monitoring and National Planning, to conduct a meaningful and informed role in the ongoing operations of statutory authorities.

146. As the agents of government, these agencies should be highly engaged in the development of policy, coordination and management of the affairs of statutory authorities. This is especially so as many of these statutory authorities have a substantial impact on government revenues and policy. Central agencies would be expected to have an intensive informed involvement with priority agencies on an almost daily basis. This engagement does not occur due to insufficient technically trained personnel, inadequate institutional structures and under-developed technical systems.

147. Central agencies require additional skilled personnel to analyze statutory authority financial and performance reports and associated data, to establish performance-tracking systems, monitor and evaluate authority behavior and outcomes, and formulate specialist policy and advice to government in regard to specific sectors.

148. At the central agency level, knowledge of the affairs of statutory authorities is inadequate to effectively engage these bodies. Central agencies are generally unable to conduct a sustained debate with authorities on technical issues due to the poor inflow of information and the currency of information received. At this time, no meaningful coordination and use of information collected from statutory authorities by the Departments of Finance and Treasury occurs.

149. As noted above, the Department of Finance has powers under Section 64 of the PFMA that permit it to demand and receive certain information from statutory authorities. These powers also permit the Department to conduct the inspection of agency records. The strategic expanded use of these powers would provide the Department with a considerable increase in knowledge and awareness. However, these powers are circumscribed because, before invoking them, the Minister or Secretary must be satisfied that there exists a breach of the Act or a failure to implement a management plan.

150. The D of F structure includes a Treasury Operations unit, the program objectives of which are *“to ensure efficient cash management and achievement of Government budgetary targets on revenue and expenditure and proper implementation of Government fiscal policies; to facilitate revenue collection and improve revenue management in revenue collecting agencies”*.

151. Similarly, the Department of Treasury structure includes a Treasury Operations unit of 32 officers. The primary objective of the group is *“to minimize the cost of Government debt over the medium term, consistent with the*

Government's tolerance for financial risk; to develop an efficient market for Government securities; and to prevent, detect and investigate breaches of the Public Finances (Management) Act and fraud against the State".

152. These two units have the capacity to provide substantial financial and management information to both Departments. This information is the bedrock of financial and performance analysis. However, neither Department is conducting critical financial and performance analysis, long term planning or modeling based on available material. It is essential that central agencies possess a statutory authorities knowledge base that is comparable to that of the statutory authorities themselves.

153. There is a need for targeted capacity building to support the effective coordination, management and monitoring of statutory authorities by the Departments of Finance and Treasury. There is also a need for additional technical personnel. Capacity building is required in the areas of financial and performance analysis, monitoring and evaluation, systems development and planning. These areas encompass the key functions to be performed by the two Departments.

154. The Departments and Auditor General's Office require additional technical resources. Current resource numbers are insufficient to achieve government's objectives. Neither Department has the technical resources necessary to address the information and management gaps described above. In consultation with Departments, an additional 8 to 10 technical officers are required to establish an effective specialist statutory authority unit. The delays in undertaking and completing annual audits by the Auditor General's Office is compounding some problems experienced by central agencies and reporting to government. These delays hinder the exposure of remedial action necessary to address systemic problems across the sector. Again, an addition 10 qualified audit personnel are necessary to alleviate some of this backlog.

156. It is recommended that a specialized unit, dedicated to the statutory authority sector be established to provide the analytical capacity required by DoF and DoT. Ideally, the functions of this unit would be established within the Department of Finance. Direct responsibility for the undertaking of analytical, investigative, review, monitoring and evaluation functions would be assigned to this unit. The unit would undertake prioritized systematic analysis of statutory authority finances, performance and plans on behalf of the DoF and DoT, providing comprehensive reports to each agency. DoF and DoT would develop joint planning and prioritization of an annual work plan for this unit. This proposal would significantly reduce the current knowledge vacuum caused by the neglect of these functions by both agencies. The unit will strategically focus efforts to achieve a greater understanding of statutory authorities by coordinating and integrating the technical needs and effort of both Departments.

157. The unit will provide a statutory authority liaison and performance-monitoring function. It will use existing powers to ensure statutory authorities comply with the reporting provisions of the PFMA. The unit will provide regular reports to the Minister responsible for Financial Management and senior DoF and DoT management.

158. The definition and specification of information systems necessary to support this proposed unit and its functions will evolve as the Departments scope the dimension of knowledge and systems gaps to be bridged. It is not anticipated that any complex systems will be required to achieve the functions of the unit, although access to technology will be vital to its success and effectiveness.

159. The structuring of this unit to create a high degree of specialization and a clarification of functions will enable more effective and informed engagement with key statutory authorities. Existing territorial and reporting tensions between the key Departments and statutory authorities need to be minimized. This can only occur through informed dialogue that builds respect based on the quality and integrity of exchange.

160. Government has compelling incentives to strengthen reporting by statutory authorities. As referred to previously in this report, the achievement of national policies, security of natural resources and related assets, maximization of revenue flows and control of expenditures, the service delivery and efficient performance of a major sector of the economy are all affected by the category of statutory authority with which this report is primarily concerned. Without holding statutory authorities accountable for accurate, adequate and timely reporting, government will not have the accountability necessary to direct and monitor their performance.

161. Central agencies should be pursuing effective reporting by statutory authorities. It is the responsibility of central agencies to be in a position to provide informed, up-to-date contestable advice to government on the performance, current and future plans and management of these bodies. One of the major accountabilities of central agencies is to ensure full and complete reporting to government to protect the public interest and preserve the integrity of governance frameworks. These are significant incentives that should motivate central agency responses.

162. Statutory authorities also have good reason to report to government. Reporting to government provides them the opportunity to showcase and place on the formal record, their achievements and outcomes. Reporting to government enables the Minister to accurately report on compliance with government policy, highlight major achievements demonstrate the public good and outline future objectives. These opportunities assist in the gathering of a support base for the good work of statutory authorities. A failure to provide complete and accurate reporting creates suspicion, criticism and doubt.

D. Legal Clarification

163. As noted above, some constituent Acts have disapplied the mandatory provisions of the PFMA, presumably in the belief that it is possible to do this notwithstanding the mandatory nature of those provisions. The intent of the PFMA has always been to prescribe an accountability regime for public bodies that contains a number of key provisions intended to be applicable regardless of the constituent Act of a public body. If it is possible, as a matter of law, to circumvent provisions intended to be mandatory by simply disapplying them by an Act later in time this renders the intent of the PFMA fundamentally meaningless in the absence of political will to reject any attempts to disapply mandatory provisions (for example by rejecting submissions to the NEC that seek approval to legislation disapplying such provisions).

164. Initially, a legal opinion should be sought on this issue. If the advice is that constituent Acts later in time containing contrary provisions to those of the PFMA will always prevail over mandatory PFMA provisions then, legislative mechanisms should be sought to entrench mandatory provisions. For example, Parliament has the power to entrench laws by stipulating the manner and form to be taken by later legislation in order for it to be valid through procedures such as special and absolute majorities. Also, the PNG legal system comprises a hierarchy of laws so it is possible to entrench provisions by locating them in Organic Laws or even in the Constitution to which all other laws are subservient.

165. If no action is taken, the measures recommended in this report to strengthen the accountability regime will be ineffective as will the regime in its present form. This is clearly a crucial issue for policymakers and Ministers and should be addressed immediately.

E. Implementation Plan

166. A preliminary plan for the implementation of the recommendations or actions contained in this report has been developed.

F. Comments Received in Response to Draft Final Report

167. Following the dissemination of the Draft Final Report a number of comments were received from stakeholders. In this section we offer responses to those comments to clarify some issues and to assist generally in the advancement of the proposals in this final report.

168. The scope of the work required to be undertaken by the terms of reference was limited to statutory bodies (public bodies) and did not extend to consideration of issues affecting state owned enterprises that have been incorporated under the Companies law. Comments concerning three categories of entity should therefore be read in that light. It is correct that under PNG practice and law there are 3 types of government owned entity: non-incorporated

bodies; incorporated bodies established by legislation and given the status of a corporation; and state owned enterprises or companies incorporated under the Companies Act. The terms of reference required only consideration of the first two categories. It would not therefore be appropriate for the consultants to comment on the third category of entity beyond recognizing their existence because the consultants have not studied or reported on any issues relating to those entities.

169. The terms of reference call for the identification of a system of categorization of public bodies that is preferably consistent with the principles of the IMF's Government Financial Statistics methodology. The Draft Final Report (Paras 94-96) highlights the complexity and likely impracticality of this methodology when applied to its fuller extent to the PNG environment. The Draft Final Report also notes that while internationally, governments have adopted the principles of the IMF GFS, they have commonly modified the categorization system to more clearly meet the governance objectives of their national environments. These modifications have included the creation of sub-categories to facilitate appropriate governance structures, but at all times recognizing the imperative of transparent governance structures.

The Draft Final Report noted commentary by agencies regarding the perceived difficulty associated with the ambiguity of existing governance structures, a lack of government commitment to reform and the broader implementation issues of reforms to the governance structures of public authorities. Recognizing the potential opposition to governance reform, the Draft Final Report, using the public bodies to which the PFMA already applies and shown at Appendix A, suggests an initial step in the creation of a process to categorize agencies. This step is based on the utilization of existing governance frameworks provided by the PFMA, terminology in common use and the functions and risks associated with the operations of a sub-category of approximately 20 public bodies that are undertaking substantial commercial trading activities. The "trading" bodies are simply a sub-category of the public bodies already identified in Appendix A. They represent this first step in the introduction of a broader categorization process.

A simplified phased approach using existing structures, nomenclature and functions of the type described was believed to represent the best possible opportunity of successfully creating an initial categorization processes to which progressive expansion and refinements would be made. The sub-categorization of certain public bodies as "trading bodies" enabled this first step to be taken without excessive complication.

170. Precedence of the PFMA over other Acts – in paragraphs 163-165 the report recommends that as an initial step, a legal opinion be obtained from the appropriate authority on the issue of the precedence of the PFMA over other legislation that purports to disapply the PFMA. Once that opinion has been secured the way forward in terms of possible legislative amendment will be

clarified and Acts that require direct amendment can be identified.

171. Definition of public body – while there is much to be said for a review of the various definitions of a public body, public authority and statutory body to make the terminology more consistent, changing the scope of what amounts to a public body would require a very extensive policy review. Essentially, changes in definition and scope would come after a review that took into account not only this report but also any policy changes that might be desired in regard to the status of state owned enterprises set up under the Companies law. At that point the government might have decided to make radical changes in its accountability regime for public bodies so as to make the regime applicable to all categories of public bodies or only some of those categories, as is currently the case.

172. Whether all provisions of Part VIII should be mandatory – as it stands now only certain provisions of Part VIII are mandatory reflecting policy choices made in the past in establishing the accountability regime. We have not seen any evidence of a need to make discretionary provisions mandatory, rather the need is to enforce the existing mandatory provisions in an effective and timely manner.

173. Guidelines for the establishment of public companies – we have not commented on this response because it is outside the terms of reference of the report.

174. The creation of additional capacity within central agencies is critical to the successful reform of governance structures. It was noted that in 2006, a unit was established in the Accounting Framework Branch of the Department of Finance. This unit was, and has been insufficiently resourced and directed, thereby resulting in relatively ineffectual outcomes. Currently, the unit has eleven positions, seven of which are vacant. The establishment of a specialist unit as recommended in the Draft Final Report is predicated upon a commitment by agencies and government to the enhancement of effective governance structures.

The Department of Finance is considered to be the most appropriate location for the specialist unit described. This unit, and the current unit could be amalgamated, but cautious consideration of functions, purposes and objectives must precede any action. It is essential that steps be taken to fully define the role and function of the unit within the Department, and in relation to those of other interfacing agencies.

Ensuring the capacity of this unit and its contribution to enhanced compliance and transparency will demand a commitment from the Department and Minister to recruit and train appropriately qualified and experienced officers. These officers will require adequate technical support, remuneration, challenge and professional opportunity. It would be preferable that “fresh” personnel from outside the public sector be recruited to these positions rather than the simple

transfer or reassignment of existing personnel to fill the vacancies. This will provide a greater opportunity to entrench change and introduce new ideas and motivation to the task. The engagement of technical expertise capable of building on the job capacity and transfer relationship, planning, analytical and report writing skills will be crucial to the effectiveness of the unit. It is unlikely that a unit attempting to enhance compliance, reporting and governance standards among public bodies will achieve considerable success without strong guidance and direction. To ensure capacity and direction, it is most probable that an approach to donors will be necessary to facilitate the engagement (2-3 year) of a suitably experienced capacity building resource for the unit.

It will be important to “sell” the role and function of this unit if its effectiveness is to be maximized. The Minister and Department must regard the unit as an instrument of validation, quality assurance and continuous improvement; an indispensable adjunct to the performance and acquittal of their public responsibilities through its provision of credible, detailed and informed advice.

175. Revenues collected by public bodies – this has not been discussed beyond details provided in the matrix because this specific issue is outside the terms of reference. Generally, however, it is noted that while some Acts specify sources of revenue and provide for payments to consolidated revenue, many are silent on these issues and there is no overall consistency in the drafting of such provisions.

176. Enforcement powers – the opinion of the State Solicitor will need to be secured if the policy submission, including the suggested enforcement provisions is to advance. At that stage legal advice can be rendered on the power to suspend and dismiss. The consultants are not of course competent to offer legal advice on such issues.

Implementation Plan

Recommendation / Proposal	Action Required	Responsible Agency / Officer	Time frame
Legislative Reform	Obtain legal opinion regarding the application of the mandatory provisions of the PFMA (Part VIII). Review legislation of statutory authorities to determine agency-trading status. Take advice and	DoT - Agencies to advise DoF / DoT	Priority

Recommendation / Proposal	Action Required	Responsible Agency / Officer	Time frame
	<p>consider amending constituent Acts. Identify amendments necessary to the constituent Acts of public bodies. Consult central agencies on proposed policy reform, submit drafting instructions and policy submission to NEC. Consult priority statutory authorities affected by proposals.</p>		
Capacity Building	<p>Develop specifications and terms of reference for capacity building support. Develop a capacity building plan and programme. Identify suitable counterparts.</p>	DoF / DoT	
Human Resource	<p>Develop position descriptions and recruitment processes to staff statutory authority unit. Seek external / donor support to undertake recruitment. Appoint selection panel and identify</p>	DoF / DoT	

Recommendation / Proposal	Action Required	Responsible Agency / Officer	Time frame
	selection criteria.		
Institutional	<p>Consult with Departments on the creation of a statutory authorities unit.</p> <p>Develop unit structure and identify positions to be approved.</p> <p>Establish as a priority initiative to secure Ministerial commitment.</p> <p>Make joint DoF & DoT submission to DPM for approval and position numbers.</p> <p>Establish a service agreement between DoF and DoT to coordinate the functions and annual work programme of the unit.</p>	DoF / DoT	
Administrative	<p>Establish joint DoF & DoT working party to implement change as proposed.</p> <p>Review proposed statement of intent for the establishment of statutory authorities.</p> <p>Develop formats and procedures for the implementation of the Letter of Non-Compliance to</p>	DoF / DoT	

Recommendation / Proposal	Action Required	Responsible Agency / Officer	Time frame
	Boards. Establish new / revised procedures for the Finance Manual to provide guidance on new systems and procedures.		
Financial	Develop costing for new initiatives. Develop reform budget for approval.	DoF / DoT	
Systems / Technology	Identify technology requirements for the proposed unit. Identify any specialist software requirements. Consider mobility issues for unit staff when working away from base.	DoF / Dot	

VII. APPENDIX A - POLICY SUBMISSION



CONFIDENTIAL

**MINISTER FOR TREASURY
AND FINANCE**

DATE:

**POLICY SUBMISSION NO:...../2008
FOR MEMBERS OF THE NATIONAL EXECUTIVE COUNCIL**

**SUBJECT: AMENDMENTS TO THE PUBLIC FINANCES (MANAGEMENT) ACT
1995 TO STRENGTHEN THE FINANCIAL ACCOUNTABILITY OF PUBLIC BODIES**

A. PURPOSE

To seek the approval of the National Executive Council to amend the Public Finances (Management) Act 1995 in accordance with the attached drafting instructions in order to strengthen the financial accountability of public bodies.

B. FACTS AND CONSIDERATIONS

Background

1. A statutory authority is a public sector entity, established under an Act of Parliament to perform specific functions of government. The characteristics of statutory authorities are not common to all. Differences may arise in the powers conferred upon the authority, its legal character, separation from the State and legislated financial management requirements. Its legislative framework defines the governance arrangement of a statutory body. There is no overall policy framework that regulates the creation of statutory bodies and they have always been established on an ad hoc basis. There is no overall set of guidelines setting out the key questions that need to be addressed when considering if a statutory body is the most appropriate entity to perform existing or new activities or functions.

2. Statutory authorities are established to perform a role or function of government where it is determined from an efficiency or policy perspective, they will;

- operate with or provide objectivity and political neutrality;
- draw a sharp distinction between the specific function of the authority than that applying to the more general frame of reference of a department;
- separate policy functions from service implementation and delivery functions;
- perform regulatory functions; and,
- efficiently deliver a service or group of services.

It is important that the benefits of establishing a structure that places functions into a statutory authority separate from or at arms length from government, are sufficiently compelling to justify the creation of a statutory body. The creation of a statutory authority is accompanied by a corresponding diminution of Ministerial capacity to supervise and verify the performance of the authority.

3. There are about 100 corporate and unincorporated entities existing under PNG laws and another 20 or so constitutional institutions and services established by the Constitution or the Organic Laws or under ordinary laws. Bodies that have been created to perform functions previously carried out by a Government Department or agency may in fact continue to perform basic functions of government, and are usually established as corporations with a separate legal identity and the ability to enter into contracts.

Legal framework

4. The current legislative framework for statutory bodies in PNG is located in:

- the Public Finances (Management) Act 1995 (PFMA) – Part VIII;
- the constituent Act that establishes and regulates the statutory body concerned; and,
- in other laws that impact statutory bodies for purposes such as wage fixing, appointment to certain offices and other issues e.g. Salaries and Conditions Monitoring Committee Act 1988

5. Statutory bodies are termed 'public bodies' and a 'public body' is defined by the PFMA to include a body, public body or instrumentality, corporate or unincorporated, established by or under an Act or a Constitutional law. It follows then that all bodies established by statute are public bodies and are subject to Part VIII of the Act. This very broad definition of a public body means that every board, committee and commission or other entity created by a law falls within the definition of a public body. In practice however, the PFMA is applied only to bodies that are established as corporations. There are about 66 of these bodies.

6. There is currently no framework legislation that categorizes public bodies according to function, whether commercial or non commercial or advisory or regulatory functions. The only 'categorization' recognized by the PFMA is a distinction between 'trading enterprises' and other enterprises and that differentiation is made only for the purpose of providing that a trading enterprise must keep its accounts and records in accordance with accounting principles generally applied in commercial practice (PFMA s.62(2)).

7. A review of the entire field of incorporated public bodies reveals a common legal structure, which has only recently become more complex. More recent laws have introduced performance and management measures designed to increase the accountability of public bodies. Examples are: performance agreements (Civil Aviation Act) management statements (Central Bank) progress, performance and finance reports (Forests Authority, National Fisheries Authority, Gaming Control Board), operating budget and proposed programme (Mineral Resources Authority) corporate plan over 3 years (National Maritime Safety Authority, National Road Safety Council, Tourism Promotion Authority) and strategic plan (Sports Foundation).

8. The scheme of Part VIII of the PFMA is to apply certain provisions imposing duties to

all public bodies and for other provisions to apply to a public body only where the constituent Act itself incorporates them. Thus:

- Sections 50, 60, 61, 63 and 64 PFMA apply to all public bodies regardless of the content of their constituent Act; (mandatory provisions).
- The remaining provisions of Part VIII apply only to a public body where the constituent Act of the public body expressly so provides (discretionary provisions).

However, despite the intent of the PFMA that mandatory provisions are to apply to all public bodies, a number of constituent Acts have purported to disapply these provisions. Legal advice is being sought on the validity of 'legislating out' of mandatory provisions that exist to ensure proper accountability of public bodies. If mandatory provisions cannot be enforced, the accountability of public bodies is enormously weakened and the entire financial accountability regime is ineffective. For example, one mandatory provision requires that public bodies provide performance and management plans to the government every year. This is a valuable tool for planning purposes and a vital element of the accountability framework.

9. The mandatory provisions also give the Minister for Finance power to enforce their provisions by taking action against the funds or the head of the controlling board of a public authority. He is empowered to withhold one half of funds appropriated in the previous year and to refer the head of the board to the Public Accounts Committee. For a number of reasons these powers are not effective and need to be strengthened. Proposals to this effect are made in the drafting instructions. Where a public body is in breach of the PFMA, they empower the Finance Minister to issue a non compliance letter requiring the breach to be remedied within 30 days, suspension of the head or of board members for a period of 3 months, with or without remuneration, and, if the non compliance continues, the termination of the head or of board members. These powers can be used in this graduated manner to enforce compliance.

'Whole of Government' Approach

10. The legislative framework affecting public bodies is the outcome of policy decisions about the relationship between public bodies and the government. It is clear that the Government has taken a 'whole of government' approach to public bodies because the constituent Acts often given the responsible Minister the power to direct a public body, Ministers and the NEC are involved in appointing board members, funds are controlled by the government, salaries are conditions of employment are controlled by the SCMC, and appointments at the CEO level are regulated by law.

11. A whole of government approach emphasizes the sharing of objectives across organizational boundaries, as opposed to working solely within an organization. It encompasses the design and delivery of a wide variety of policies, programs and services that cross-organizational boundaries. In the case of public bodies such an approach links these bodies closely to government through participatory processes such as negotiations with government on performance and strategies. It sees public bodies not as separate entities from government but as cooperative units participating in the task of national development. In order to achieve this objective it is clearly vital for government to be aware of the proposed plans and strategies of public bodies, their sources of funding, commitments to be entered into etc. Part of whole of government for public bodies is the existence and enforcement, where necessary, of an adequate

accountability regime.

Weaknesses and Deficiencies in Accountability

12. By their very nature, statutory authorities demand a robust governance framework because they are less subject to day-to-day control and intervention by Ministers. They are also less obvious; a Minister will have less contact with the authority, as his or her primary contact will be with his or her portfolio department. For this, and other reasons, it is imperative that the functions, directions and performance of statutory authorities be clearly and unequivocally defined and agreed.

13. To deliver government's objectives, a statutory authority must be empowered and directed through a framework that explicitly states:

- government's purpose in establishing the authority;
- government's direction and objectives for and expectations of the authority;
- the performance measures and outcomes against which the authority is to be assessed and its success determined;
- the detail of its accountability and reporting framework and the standards to be observed by the authority;
- the roles and responsibilities of the Minister, portfolio department and the authority;
- levels of support to be provided to the Minister to enable ministerial governance responsibilities to be achieved; and,
- the organizational cultures and values expected to be evident in the authority's work and dealings.

14. Weak or flawed statutory authority governance frameworks result in:

- inherent disruptions and delays in information flows and reporting to government, thereby disguising warning signs of deficient or aberrant performance and the need for prompt remedial action; and,
- poor central agency scrutiny of statutory authorities and isolation permits statutory authorities to increase government's exposure to financial, performance and policy risk with implied impunity and adverse social consequences.

15. Finance and Treasury have provided analysis and evidence that suggests PNG's experience with statutory authorities is inconsistent with the commonly accepted PNG theory, which advocates for the practice of creating statutory authorities. This evidence is corroborated by other independent work. Evidence points to:

- deficiencies in governance frameworks, accounting and financial management systems leading to compromised government financial measures, structures and policies;
- a lack of demonstrable service delivery improvements and outcomes;
- the operation of competitive programmes and strategies to the extent of undermining Government's public programmes and national priorities;
- dilution of policy control and direction in the management and protection of finances, key assets and natural resources;
- inconsistent human resource management practices leading to excessive remuneration and benefits, contributing to the loss of capacity – "brain drain", from

- government departments;
- control failures by central agencies resulting in statutory authorities collecting and retaining increasing streams of public revenues and committing to unsustainable increases in year-on year expenditures; and,
- reduced governmental knowledge of the day-to-day performance and operations of statutory authorities.

16. The Departments of Treasury and Finance together with donor reports, point to substantial statutory authority non-compliance with existing accountability frameworks. Central agencies, and even statutory authorities have identified examples and causes of these deficiencies. It is not uncommon for statutory authorities to openly contest the question of their accountability to government. Conversely, powers vested in the Department of Finance by the PFMA to mandate certain types of reporting by statutory authorities are not exercised.

17. Examples of deficiencies in statutory authority reporting structures, include the failure to lay annual accounts before parliament and provide management plans and periodic financial reports to ministers or the Head of the Department of Finance have been routinely identified through the work of the Auditor General's Office (AGO), Public Sector Reform Management Unit (PSRMU), the Departments of Finance and Treasury (D of F/ D of T), and significantly, statutory authorities themselves. Various reports commissioned by international donors have highlighted these failures as matters of major concern.

18. Since Part VIII of the PFMA is not uniformly applied to all public bodies, many useful reporting sections are not applied. These allow certain public bodies considerable discretion in respect of their compliance with the Act; they have the discretion to interpret reporting and accountability requirements as they determine. A permissive approach to the application of certain sections of the Act is tolerated and results in a widespread disregard for statutory compliance due to lax controls and ambiguity, undermining the integrity and authority of the PFMA. Any erosion of the capacity and integrity of a statute is a cause for deep concern. This outcome represents a major deficiency in the reporting systems of public bodies and is further exacerbated by the potential for the Minister responsible for finance to concede his power to determine reporting standards and requirements to the whim of individual agencies.

19. Under section 3 of the PFMA, the Minister responsible for financial management is held responsible for the supervision of the finances of the State, the supervision of the finances of public bodies and the formulation of the National Budget and its implementation. The Minister is also required to ensure that summary financial information is published in the National Gazette at the end of each quarter and detailed accounts are published annually in the National Gazette. The Minister's ability to faithfully discharge this reporting responsibility is weakened by the existing provisions of the PFMA. It is further eroded by the non-exercise of powers vested in central agencies; the power to demand the provision of reports and plans together with the ability to conduct an inspection of the records and books of account of a public body and its subsidiary/s were clearly designed to provide oversight and scrutiny of public bodies and their operations.

Remedial Strategy to Address Deficiencies

20. Remedial steps must be taken to address current concerns and to ensure that, following a whole of government approach, public bodies are fully accountable to the State

and to the government of the day. I propose a number of measures:

Strengthening Enforcement of the PFMA

As noted above, the enforcement provisions of Part VIII can usefully be expanded to provide additional remedies where a public body fails to comply with the mandatory provisions of Part VIII. Hopefully, the recommended graduated response to non compliance that commences with a non compliance letter, progressing to suspension of the head or members of the board and finally offers the ultimate sanction of termination of the head or members of the board will ensure that the chief executive officer and the board collectively discharge their statutory responsibilities.

Classification of Public Bodies

The creation of effective governance frameworks for public bodies through identifiable, transparent and consistent structures is a fundamental accountability and control mechanism for government. Effective governance requires machinery that applies consistent national structures, the uniform application of core principles, clear reporting standards at agency level and active monitoring by central agencies.

Of the 120 or so public bodies the PFMA directly applies to approximately 66 such bodies. Of these, approximately 20 public bodies undertake commercial or trading functions of a material kind. These bodies, their activities, performance and outcomes should be of primary concern to government. Their consequential influence over, and impact on government policy, revenue streams and the security of national assets are a direct responsibility of government.

Using the function of “trading” as one criterion and “source of revenues” as a second, the existing frameworks provided by the PFMA may be supplemented by other laws concerned with trading to create the categories of “Trading and Non-Trading Enterprises”. A trading enterprise can be considered a public body that carries on the business of buying and or selling goods and services. A statutory authority may be designated a trading enterprise or a non-trading enterprise according to the nature of its “trading” functions and sources of revenues.

Classifying public bodies as trading or non-trading enterprises by reference to their functions and revenue sources represents a first step sector categorization process for PNG and enables international consistency and clarity to be achieved. It utilizes existing machinery of government and principles embedded in prevailing legislative and governance frameworks. This step integrates well accepted, replicable and readily understood principles into a system of structured governance frameworks and relevant reporting regime.

The categorization proposed enables a shift of ministerial and administrative focus and energy away from approximately 120 statutory authorities, to roughly 20 authorities of significance. Achieving a shift of attention of this magnitude opens opportunities for responsible Ministers to engage authorities on a more frequent and informed basis; Ministers may make enquiries of authorities that mirror those of their international counterparts, directing them in an informed manner and strengthening their personal accountability to parliament.

Annual Performance Agreements

An annual performance agreement between the responsible Minister, the Finance

Minister and the board of each statutory authority is suggested as a mechanism to improve dialogue, compliance and the quality of reporting. The performance agreement is intended to establish a basis for ongoing annual discussions between the Ministers on one hand, and the board and its Chief Executive Officer on the other.

Statutory performance agreements are not new to PNG; the Civil Aviation Act already contains such provisions. However, other constituent laws do not provide for similar agreements despite the fact that they represent a whole of government approach to public bodies, bring public bodies within the overall State planning process and permit and encourage an interactive process between government and a public body that ought to benefit the community through improved planning, properly negotiated strategies and transparency of public body operations.

Performance agreements represent a mechanism for active and sustained cooperation between government and public bodies by strengthen public body accountability. International practice in both developed and developing states favors the negotiation and conclusion of annual performance agreements. The detailed procedures associated with the negotiation and conclusion of these agreements are set out in the attached drafting instructions.

Guideline for the Establishment of Statutory Authorities

As noted previously, there is currently no overall policy framework regulating the establishment of statutory bodies. An ad hoc approach has always been followed that leaves it to the discretion of every Ministry to advocate the creation of a statutory body and explain the relevant rationale. Until a coherent policy is evolved it is suggested that a guideline for the establishment of statutory bodies be followed by all concerned Ministries who would have to comply with the guideline before making any submission to the NEC for the creation of a statutory body. The guideline is based on responses to a series of questions that assist firstly in clarifying the function to be performed and secondly, in determining the type of structure appropriate and necessary to perform the function.

Guidelines seek to emphasize the application of existing legislative frameworks and assumes that the legislative amendments recommended in this technical report are introduced. International practice is increasingly turning to guidelines of this nature to assist in making informed policy choices. The detailed content of the guidelines is set out in the attached drafting instructions.

Institutional Reform and Capacity Building

In line with these proposals there is a need to consider the structure and capacity of central agencies to respond to the monitoring, evaluation and analysis of statutory authorities. Capacity and systems currently available are inadequate for a number of reasons. A lack of capacity, both human and numerical, hinders the ability of central agencies, particularly the Auditor General and the Departments of Finance and Treasury, and to a lesser extent, the Department of Monitoring and National Planning, to conduct a meaningful and informed role in the ongoing operations of statutory authorities.

As the agents of government, these agencies should be highly engaged in the development of policy, coordination and management of the affairs of statutory

authorities. This is especially so as many of these statutory authorities have a substantial impact on government revenues and policy. Central agencies would be expected to have an intensive informed involvement with priority agencies on an almost daily basis. This engagement does not occur due to insufficient technically trained personnel, inadequate institutional structures and under-developed technical systems.

The Departments of Finance and Treasury and the Auditor General's Office require additional technical resources. Current resource numbers are insufficient to achieve government's objectives. Neither Department has the technical resources necessary to address the information and management gaps described above. I propose to consult with the Minister responsible for Personnel Management to ensure adequate staffing resources to manage and implement these reforms and with donors, if necessary, to engage specialist technical assistance to build our capacity.

21. I believe that a commitment to undertaking the strengthening measures noted in this submission will contribute greatly to the task of securing our whole of government approach toward public bodies. I envisage a situation where performance agreements can be negotiated and concluded, where non compliance with the PFMA will result in effective action to remedy breaches and provide the required reports and strategies, where institutional and individual capacity can be built to properly assess and analyze the performance of public bodies so they become fully involved in the process of nation building, and where a new public body will not be created without a full examination of all aspects of its proposed operations, governance structure and financing.

C. VIEWS OF THE PRIME MINISTER

To be sought.

D. VIEWS OF THE OTHER MINISTERS

To be sought.

E. FINANCIAL IMPLICATIONS

An adequate accountability regime would promote revenue flows from public bodies by ensuring that information is freely available to Government about the activities, plans and strategies of public bodies.

F. STAFFING IMPLICATIONS

The submission recommends a set of measures to strengthen accountability and existing staffing resources may need to be deployed to implement, monitor and assess the recommended measures. There will be a need for capacity development within the Departments of Finance/Treasury to ensure that officers charged with negotiating performance agreements and collating and analyzing reports and financial statements are able to adequately assess the contribution that a particular public body brings to government through revenue or as a participant in the national planning process generally.

G. EMPLOYMENT IMPLICATIONS

The views of the Minister for Labour will be sought.

H. LEGISLATIVE IMPLICATIONS

The State Solicitor will be asked to certify that legislation is necessary to give effect to

this submission.

I. CONSTITUTIONAL IMPLICATIONS

The view of the Department of Attorney General will be sought.

J. DECENTRALISATION IMPLICATIONS

The views of the Minister for Decentralization will be sought.

K. POLITICAL IMPLICATIONS

L. PLANNING IMPLICATIONS

The views of the Department of National Planning will be sought.

M. IMPLEMENTATION SCHEDULE

This is attached to the submission

N. ENVIRONMENTAL IMPLICATIONS

There are no environmental implications.

O. PREVIOUS POLICY REFERENCE

Previous policy submissions have established Part VIII of the Public Finances (Management) Act 1995 as the source of financial accountability for public bodies and amendments to the Act have incorporated limited Ministerial enforcement powers.

P. RECOMMENDATIONS

That the National Executive Council approves amendments to the Public Finances (Management) Act 1995 in order to strengthen the financial accountability of public bodies, in accordance with the attached drafting instructions.

VIII. APPENDIX B DRAFTING INSTRUCTIONS FOR AMENDMENTS TO PUBLIC FINANCES (MANAGEMENT) ACT 1995

Amend Part VIII of the Public Finances (Management) Act 1995 as follows:

Insert following provisions:

1. Performance Agreements

1.1 The Minister responsible for financial matters may by notice in the National Gazette under this Act determine that a public body enter into a performance agreement with the State in accordance with this section.

1.2. A performance agreement between the State and a public body shall be concluded in accordance with the following provisions:

1. Not later than three months before the commencement of each financial year, a public body shall submit to the Minister and the Minister for Finance a performance agreement setting out in respect of that year—
 - a) the proposed statement of objectives for that year; and
 - b) the methods (including financial and non-financial performance measures) by which the public body intends to access the extent to which it in fact meets those objectives during that year; and
 - c) how the public body intends to report on the extent to which it meeting those objectives for that year and the dates by which interim reports, if any, will be given to the responsible Minister; and
 - d) any new borrowings or financial leases or similar liabilities which the public body intends to incur for that year; and
 - e) financial forecasts for the two years following the year to which the performance agreement relates; and
 - f) a summary of the current and planned projects.
2. A draft performance agreement shall be accompanied by a statement of the public body's best estimate of—
 - a) both—
 - i) the various impacts the outputs described in the statement of objectives will have for; and
 - ii) the consequences of those outputs for,
 - iii) the operations of the public body during the year to which the draft performance agreement relates; and
 - b) the impacts of those outputs on, and consequences of those outputs for the operations of the public body for later years.
3. The public body shall not, without the prior approval of the Minister

responsible for finance matters, include in a performance agreement any provision specifying any liabilities which the public body intends to incur.

4. After receiving a draft performance agreement from the public body under Subsection (1) or an amended version of it under Subsection (5) (whether for the first time or any later time), the Minister for Finance in consultation with the responsible Minister shall—
 - a) subject to Subsection (3), approve it; or
 - b) refuse to approve it and return it to the public body with directions to the public body to amend it.
5. Where a draft performance agreement is returned to the public body under Subsection (4) (b), the public body shall amend it in accordance with the directions given by the responsible Minister and the Minister for Finance and shall return it to the Ministers.
6. The draft performance agreement approved for any year by the Ministers under Subsection (4) (a) shall constitute the performance agreement between the State and the public body for that year.
7. Where the public body fails to comply with Subsection (1), the draft performance Agreement shall, subject to Subsection (3), be prepared by the Ministers and that performance agreement shall constitute the performance agreement between the State and the public body for that year.
8. Where the public body fails within a reasonable time to comply with Subsection (5) to the satisfaction of the Ministers, the Ministers shall determine the amendment and shall approve the performance agreement as amended.
9. At any time during a financial year, the Ministers and the public body may, subject to Subsection (3), agree in writing to amend the performance agreement for that year.
10. At any time during a financial year, the Ministers may direct the public body subject to Subsection (3), to amend any provision of the performance agreement in respect of that year and the public body shall amend the performance agreement according to the directions given by the Ministers.
11. The performance agreement prepared under this section shall be deemed to be the performance and management plan required under Section 50 of the Public Finances (Management) Act 1995 to be delivered by the public body to the Departmental Head of the Department for financial management.

2. Non compliance with Part VIII

2.1 Where a public body fails to comply with the provisions of Part VIII of this Act the Minister responsible for financial matters may at any time following non compliance with the provisions of Part VIII of this Act, issue to the head and a member or members of the controlling authority of a public body a Letter of Non Compliance in accordance with this Part.

2.2 A Letter of Non Compliance shall:

- a. state that a public body has not complied with Part VIII of the PFMA, and identify the provisions of Part VIII with which there has been non compliance; and
- b. require a public body to comply with the provisions identified within 30 days; and
- c. state that if, after 30 days from the date of the Letter of Non Compliance, a public body remains non compliant, the Minister may exercise the power to suspend or terminate the head or a member or members of the controlling authority of a public authority.

2.3 Where a public body fails to comply with a Letter of Non Compliance the Minister responsible for financial matters may at any time by written notice suspend the head or a member or members of the controlling authority of a public body for a period not exceeding three months, with or without remuneration. The period of suspension may not be extended.

2.4 Where, following the termination of a period of suspension a public body remains in breach of Part VIII, the Minister responsible for financial matters may, at any time, by written notice, advise the head or a member or members of the controlling authority of a public body that he intends to terminate his or their appointment on the grounds of non compliance with Part VIII.

2.5 Within 14 days of the receipt of a notice under 2.4 the head or a member may reply in writing to the Minister, who shall consider the reply, and, where appropriate, terminate the appointment.

2.6 Where the head or a member referred to in 2.4 does not reply in accordance with 2.5, his appointment is terminated.

3. Trading Enterprise

3.1 The principal objective of a public body declared by the constituent law or by the Minister to be a trading enterprise is to perform its functions for the public benefit by –

- (a) operating its business or pursuing its undertaking as profitably and efficiently as possible consistent with prudent commercial practice; and
- (b) maximizing its contribution to the economy and well being of Papua New Guinea; and
- (c) exhibiting a sense of social responsibility by having regard to the interests of the community in which it operates.

4. Statement of intent to establish an incorporated public body

4.1 A submission to the National Executive Council seeking approval to the establishment of an incorporated public body shall be accompanied by the following information contained in a Statement of Intent:

- a. key background information concerning the proposed public body and its proposed operating environment;
- b. the nature and scope of the functions of the public body and its intended operations;
- c. the specific impacts, outcomes or objectives that the public body will seek to achieve or to contribute to, and, if the public body is to give effect to or have regard in any manner to government directions on policy, how those objectives might relate to any outcomes or objectives to be contained in any such direction;
- d. how it is intended that the public body will carry out its functions and conduct its operations to achieve those impacts, outcomes or objectives;
- e. how the public body will manage the organization and capability of the body and its governance structure;
- f. the main financial and non-financial measures and standards by which the future performance of the public body will be judged;
- g. the issues on which it is proposed that the public body will consult or notify the responsible Minister before making a decision, issues on which it will report to the responsible Minister and the frequency of such reports;

- h. for the first financial year of the proposed public body:
 - i. forecasts of financial statements prepared in accordance with generally accepted accounting principles; and
 - ii. a statement of forecast service performance, including measures and forecast standards of good and services to be produced or supplied against which actual delivery of classes of good and services to be produced or supplied will be audited and reported, and the expected revenue to be earned and proposed expenses for each class of good or services; and
 - iii. other measures and standards necessary to make an assessment of the performance of the public body at the end of the first financial year; and
 - iv. a statement of all significant assumptions underlying the forecast financial statements; and
 - v. additional information and explanations needed to fairly reflect the forecast financial operations and the financial position of the public body.

IX. Appendix C Review of International Practice on the Establishment and Regulation of Statutory Bodies

The following comparative analysis is not an exhaustive study of regulatory regimes affecting public bodies. It focuses on countries with similar systems of financial administration and legal systems, and with common concerns about the accountability of public bodies.

(a) **Queensland, Australia:** the *Statutory Bodies Financial Arrangements Act 1982* contains a framework that defines a statutory body for its purposes and names entities that are not statutory bodies. Further, and interestingly, an entity is not a statutory body if all or some of its income is paid into the consolidated fund or all or some of its expenses are paid out of the consolidated fund. This contrasts with the PNG legal approach where the Constitution contemplates that moneys will be appropriated to bodies that have some degree of autonomy.

The scheme of the Act is that statutory bodies may supplement their constituent Acts with the powers provided for by this Act e.g. in relation to investment, giving of guarantees etc but where the constituent Act is silent on a topic e.g. investment, the statutory body's powers in that activity are limited to those granted by this Act. This approach is somewhat similar to that of the PFMA which makes the constituent Act the determinative instrument but in PNG, where the constituent Act is silent, only the mandatory provisions of Part VIII will apply to that public body.

(b) **Victoria, Australia:** the recent *Public Administration Act 2004* is primarily directed at public service employment but contains some provisions affecting 'public entities' and has to be read with the *State Owned Enterprises Act 1992*. The 2004 Act sets out Governance Principles concerned with the accountability of directors of a public entity who must exercise their functions honestly, in good faith, with integrity, in a financially responsible manner and show a reasonable degree of care diligence and skill. Similarly, the board of a public entity is required to act in a manner consistent with a business or strategic plan, provide the Minister with information when requested, ensure that procedures are in place for assessing the performance of individual directors and for sanctioning poor performance, ensure that a code of conduct is in place, and that processes are in place to deal with conflicts of interest. A public entity may not make loans to director or his or her spouse.

The board of a public entity is said to be accountable to the Minister for the exercise of its functions and the Minister in turn is stated to be responsible to Parliament. As a statement of law and principle, this formulation of accountability is not found in PNG law. The Minister may apply to the court for an injunction restraining the entity or a director from engaging in conduct that would contravene the 2004 Act or the constituent Act of the entity. There are provisions

allowing illegal profits to be recovered from directors and for the removal of directors or for their suspension, which must comply with natural justice procedures. Overall there is much concern with fiduciary duties.

In regard to financial issues, the 2004 Act requires the board of a public entity to provide the Minister or the Treasurer with any financial information requested. A 'standard entity' must keep and make available to directors various documents including a copy of any corporate plan, business plan and financial statements. A 'small entity' must keep the documents described and 'advisory entities' are allocated a similar list of documents.

(c) **Victoria, Australia:** the *State Owned Enterprises Act 1992* is a comprehensive framework and regulatory law covering both statutory corporations and state owned companies and state business corporations. State owned entities are categorized into: state body (a body corporate); state business corporation, state owned company, state owned enterprise (a term that includes a state business corporation, a state owned company and a state body) a statutory corporation (includes a state body) and subsidiaries.

The scheme of the Act is that it prevails over any inconsistent provisions of any constituent Act of a statutory corporation, or state body or any Act that confers powers on a statutory corporation. Thus this Act will not prevail over an Act relating to a state business corporation.

The law differs from the PFMA in many respects and basically sets out a comprehensive regulatory code and a categorization of public bodies drawing a distinction in the regulation of commercial and non-commercial entities. As suggested above, this distinction could operate in practice in PNG between incorporated and non-incorporated public bodies.

The detailed provisions regulating state business corporations (that are statutory corporations) include a statement of objectives that the principal objective of each state business corporation is to perform its functions for the public benefit by operating efficiently consistent with prudent commercial practice and maximizing its contribution to the economy and well being of the state. As noted above, the significance of denoting a PNG public body as a trading enterprise lies only in the application of specified accounting principles.

It is possible to alter the functions of a state business corporation by Order published in the Gazette. Regulatory provisions include those relating to the appointment of directors and their terms and conditions of appointment, their removal from office (failing to attend 3 consecutive meetings of board, attains stipulated age, bankrupt, convicted of indictable offence), directors disclosure of interest, directors duties. In addition, the Minister may bring proceedings to recover illegal profits, and loans may not be made to directors or spouse or relatives. Again, there is a concern with fiduciary duties.

A state business corporation must prepare a corporate plan each year and this is to be submitted to the Minister and Treasurer on or before 31 May in each year. It must be in a prescribed form and include a business plan and financial statements. The Act envisages a process in which the board consults with the Treasurer and the Minister about the plan and the board is to make agreed changes to the plan. As well, a statement of corporate intent is to be prepared and contain information including the nature and scope of the corporation's activities, its accounting policies, performance targets and other agreed matters. The corporation must act only in accordance with its corporate plan. The Minister has the power to direct the corporation to perform non-commercial functions in the public interest even loss making functions in which case the corporation may be reimbursed as determined by the Minister.

The interaction between the Minister and the board in this legislation is found in PNG statutes only in the Civil Aviation Act. Consistent with a whole of government approach to public bodies in PNG, a policy of stipulating such interactions for certain public bodies would bring government and public bodies closer together in the development process. This ought to benefit planning and coordination of the national development effort and assist in breaking down barriers that might have established a 'them and us' relationship.

(d) **South Africa:** the *Public Finances Management Act 1999* categorizes public entities into Major Public Entities and Other Public Entities, the latter being subdivided into: National Public Entities (non commercial), National Government Business Enterprises, Provincial Public Entities and Provincial Government Business Enterprises. The scheme of the law is that every public entity must have an 'accounting public body'. Where the entity is controlled by a board that board is the accounting public body and where there is no controlling public body like a board, the CEO or other person in charge of the entity is the accounting public body.

A number of duties are placed upon the accounting public body including acting with integrity and honesty, protecting the assets and records of the entity, and disclosing all material facts to the executive public body responsible for that entity. There are provisions as to disclosure of interest and obtaining improper benefits representing rules about fiduciary duties. In regard to other responsibilities, the accounting public body of a public entity must comply with a broad set of responsibilities including maintaining a system of internal audit, collecting all revenue properly due, and responsibility for the submission of all reports and information. As well, the accounting public body must, in regard to public entities including business enterprises, submit to treasury at least one month before the start of its financial year: a projection of revenue, expenditure and borrowings in a prescribed format, and a corporate plan for the next 3 financial years for the entity and any subsidiaries.

For public entities that are not business enterprises the accounting public body

must submit to treasury at least 6 months before the start of the financial year an estimate of revenue and expenditure. The entity may not budget for a deficit or accumulate surpluses unless this is approved and expenditure must be in accordance with the approved budget.

There is a broad provision that any public entity must inform treasury of any one of a set of transactions before concluding it and must seek approval from government but if no response to its proposal is received within 30 days or a longer agreed period it may assume approval has been granted. The transactions are:

- Establishment or participation in the establishment of a company
- Participation in a trust, partnership, joint venture
- Acquiring or disposing of a significant shareholding in a company
- acquiring or disposing of a significant asset
- ceasing or commencing a significant business activity
- a significant change in the extent of an interest in a partnership, trust or joint venture or the like

The approach of the South African provisions in placing distinct duties on the accounting public body and at the same time requiring it to seek approval for a broad range of transactions differs from the PNG approach. The S. African provisions are however, somewhat weaker than those in PNG law in terms of actual government controls and reporting requirements.

(e) **New South Wales, Australia:** the *Public Finance and Audit Act 1983* lays down mandatory provisions that require statutory bodies to keep proper books and records, and prepare financial reports within 6 weeks after the end of a financial year to be submitted to the Minister and the AG. There is a specific provision that the treasurer may require a prescribed statutory public body to pay to the CRF an amount by way of dividend as notified by the treasurer. The scheme of the Act is to list statutory bodies by name (there seem to be no commercial entities listed). It is noticeable that there is no similar dividend provision under PNG PFMA and it could usefully be added to the Ministers powers.

(f) **Canada:** the *Financial Administration Act* contains provisions regulating a 'Crown corporation' meaning a corporation wholly owned directly by the Crown. The scheme of the Act is that a crown corporation must take steps to ensure that its articles and management are carried out in accordance with the Act and the provisions of the Act prevail over any other Act. There are a series of restricted transactions that cannot be concluded without the consent of Parliament such as disposing of shares in the crown corporation, or of all or substantially all of its assets, clearly directed at the ownership and financial viability of each crown corporation. There are detailed provisions concerning the appointment of directors to the boards of crown corporations and comprehensive provisions

covering fiduciary duties. Essentially, the Crown in Canada maintains quite rigorous control over its entities.

(g) **Gambia:** the *Public Enterprise Act 1990* gives the President power to appoint the board and the CEO of a public enterprise. The state may enter into a performance contract with a public enterprise and this will provide a formal statement of obligations for both the public enterprise and the government. It appears that public enterprises do not receive any funds from the national budget but the government does on lend funds to them. The main form of financial regulation is a requirement that financial statements be provided to the AG. The main government control is that major borrowing decisions must have approval from the office of the President.

(h) **Samoa:** the *Public Finance Management Act 2001* is in many respects similar to the PNG PFMA. Part XIII covers public bodies and applies to all public bodies (obviously Samoa has far fewer of these than PNG) and the Act also states that where there is a conflict between this Act and another law this Act will prevail. There is a list of public bodies in the Act but the law provides also that even if not listed, a corporation will be a public body if the government controls the composition of the board, or controls more than 50% of the voting power or holds more than 50% of issued share capital. Where a corporation comes within one of these categories it is deemed to be listed under this Act.

Like the PNG PFMA this Act requires public bodies to submit performance and management plans (a later amendment to this Act terms these documents corporate plan and budget) but in this Act it is required that plans be submitted within 3 months (later amended to 4 months) before the end of the public bodies financial year (the PNG Act says 6 months). The Act further specifies that where the public body seeks government assistance in the form of grants, subsidy, guarantee or otherwise it may be required to submit a plan for the following financial year also.

A public body is required to advise the Minister immediately it becomes aware of any information or event that may materially affect its financial position – a notice to this effect must specify the event and steps taken to rectify it.

The Act contains provisions on reports and financial statements and powers of inspection very similar to those in the PNG Act (Part VIII sections 63, 64).

Overall, the public body provisions appear less stringent than the mandatory PNG PFMA sections e.g. there is no provision giving preference to national tenderers and a public body may enter into contracts with no approval whatever subject to the limit in its empowering Act or in rules approved by the Board (but a later amendment to the Act gives the Financial Secretary power to issue binding guidelines on procurement). It is only where there are no rules that the Act will apply.

A later amendment to this Act brings in a 'whistleblower' protection provision stating that a person who in good faith alleges a breach of the Act to the Financial Secretary or to a responsible Minister shall be immune from civil suit and shall not be penalized in any way (whether the allegation is proved or not) because of the person's actions in reporting the matter.

(i) **Samoa:** the *Public Bodies (Performance and Accountability) Act 2001* as amended in 2005 extends the regulatory framework for public bodies. Bodies are now categorized into public trading bodies and public beneficial bodies. Trading bodies must exist mainly for the purpose of optimizing returns on the investment of public funds. A trading body has the principal objective of operating as a successful business but at the same time must show a sense of social responsibility. A beneficial body exists mainly for the provision of service to the community and may be directed to perform community service obligations. The scheme of the Act is that all public-trading bodies must register as a company under the companies' law except for mutual societies. Even if the provisions on community service seem inappropriate to PNG, as noted above, it is interesting to note that this developing country also states the objectives of trading bodies under the law.

The 2001 Act details the fiduciary duties of directors, and covers their appointment and removal. Shares in public trading bodies cannot be disposed of except by Cabinet approval. In terms of accountability a board must prepare a corporate plan before the commencement of each financial year the form of which is specified in the Act. The form of financial reports and information is also specified and there is a new provision giving the Minister or the Financial Secretary the power to require the AG to conduct a performance audit of a public body. (Under the PNG Audit Act the AG also has power to conduct a performance audit). If the audit shows that a director has failed to perform a duty or function required under the Act or the companies law the Minister may dismiss that director. As well, the Financial Secretary is given power to undertake an assessment of the performance of a public body and basically is given all powers necessary for this purpose.

In this legislation therefore Samoa has gone further than PNG in strengthening accountability by categorizing public bodies, imposing a wide range of fiduciary duties on directors, and in giving additional accountability powers to the government. It has also made a policy choice that all trading bodies should be incorporated under the Companies Act.

(j) **New Zealand:** the *Crown Entities Act 2004* represents a major reform of the law in this field running to some 200 sections plus schedules. The principal points of relevance to this study of PNG law are as follows:

- the law aims to provide for different categories of crown entities and for each to have its own governance framework including the degree to which

- an entity is independent of or required to give effect to, government policy.
- The law applies to a crown entity and will prevail over the Act of the entity except where the entity Act expressly provides otherwise.
 - There are two broad categories of entity: a statutory entity established by Act and that Act may supplement or modify or negate this Act; and a crown entity company incorporated under the companies law which may also have an Act.
 - There are 5 categories of crown entity: (1) statutory entities that are established by Act (2) crown entity companies – incorporated companies wholly owned by the Crown (3) crown entity subsidiaries – incorporated companies controlled by crown entities (4) school boards of trustees (5) tertiary education institutions established under the Education Act.
 - Schedules to the Act list the actual crown entities in the various categories and also set out procedures to be followed by statutory entity boards.
 - Members of a statutory entity are accountable to the responsible Minister for performing their duties as members – members are appointed by the Minister or by the GG in the case of an independent crown entity – there are disqualification provisions, qualifications for appointment, and provisions on term of office and for removal from office.
 - There is express provision that a member of a statutory entity is not entitled to compensation for loss of office.
 - Functions must be performed efficiently, effectively and consistent with a spirit of service to the public.
 - Fiduciary duties are clearly expressed in regard to the board and its members.
 - No Minister may sell or dispose of shares in a Crown entity company held in the name of the Minister or permit shares to be allotted to a person other than the shareholding Minister – subject to specific exception concerning reconstruction or merger.
 - The role and functions of the shareholding Minister in a crown entity company is clearly expressed – to oversee the interests of the Crown etc
 - There are specific provisions on the power to give directions to statutory entities and crown entity companies and even an autonomous crown entity must have regard to government policy if so directed by the responsible Minister but there must be consultation before such a direction is given.
 - One part relates to crown entity reporting and financial obligations and there are detailed provisions concerning the preparation of a statement of intent that must be prepared at or before the start of each financial year covering that year and the next 2 years. The purpose of this is to enable the Crown to take part in the process of deciding the intentions and undertakings of the entity and provide a baseline for performance measurement.
 - The content of the statement of intent includes: key background information, nature and scope of functions, specific objectives sought, how intends to perform functions, financial measures and standards by which

entity will be judged, and issues on which it will consult with the Crown. Financial information that must be provided is also specified in detail. Ministers may participate in determining the content of the statement and the process to be followed in delivering the statement to the Minister is also set out including time limits for comments and responses to comments. Amendments may be made to the statement and it is presented to Parliament. The statement of intent, appropriately adapted to PNG, provides a good model for a 'template' of issues that ought to be considered before the creation of a public body is authorized by the government.

- There is an obligation to present an annual report and its form and content are detailed. Also a statement of service performance must be prepared and annual financial statements and a statement of responsibility concerning preparation of the financial statements.
- Other provisions relate to keeping of bank accounts, restrictions on acquisition of securities and on giving guarantees and indemnities.
- Unless exempted, the Finance Minister may require a statutory entity or Crown entity company to pay any surplus funds to the Crown and impose a capital charge on net assets if the Minister so decides.

Overall this comprehensive legislation seems to focus especially on preventing abuse of office and poor performance because its process provisions and sets of rules about conduct are exhaustive and intended to put beyond doubt how crown entities and their boards and members are to conduct themselves and their businesses or activities.

Looking at the above comparative provisions overall it can be said that most laws contain a set of provisions that are similar in scope to the PNG mandatory and non mandatory requirements but in many respects financial accountability regimes seem at least as, and sometimes less rigorous than existing PNG provisions. Leaving aside laws that take a fundamentally different policy approach to public body governance involving a much higher degree of state control, there seem to be no comparable regimes that exceed the rigor of the PNG provisions. In regard to sanctions for breaches of accountability rules, all comparable laws seem to rely on the power to dismiss directors and offer no alternative sanctions or processes.

X. Appendix D: Comments in Response to Draft Final Report

Department Of National Planning and Monitoring Comments on Project 9

The Department of National Planning and Monitoring commend the ADB and Mr. James Baker and Mr. Gavin Robbins of PDP Australia in compiling the Draft Final Report (The Report) on the Review and Analysis of Statutory Authorities in the country as part of the PNG's support for the Public Expenditure Review and Rationalization (PERR).

1. First and foremost, the Department is aware of the sensitivity of the issues raised and the potential negative reaction to the proposed reforms by the Statutory Authorities or public bodies. This is with the view that they will attempt to retain their independence from Government especially from the Head of Department responsible for Finance and the Minister for Finance and as per the mandatory provisions in the PFMA Part VIII and choose to continue applying their various Constituent Acts. However, the Department has also realized that these agencies categorized as Statutory Authorities or public bodies have serious governance issues which should be addressed to make them more accountable to the State and be transparent in the way they do business through changes in the legislation, the Government financial systems and processes, and overall administration of their institutions, etc.

2. The Department of National Planning and Monitoring (DNPM) accepts the findings of the Report and the recommendations that the consultants have proposed as the way forward to addressing the issues raised on transparency and accountability, in the use of public funds by the Statutory Authorities/public bodies.

3. For example, in the case of project funding for these institutions it has been the norm that project funds are released to these entities and then these funds are deposited/credited into their Operating Accounts with the commercial banks. Considering that Government's monitoring systems are weak, the Department does not know the volume of funds (balance) carried forward to the next year. Therefore, apart from the normal appraisal of PIP projects, the project account balance is not considered when determining the next years' budget appropriation for those statutory organizations' projects. Examples of such entities are in the agriculture sector namely Fresh Produce Development Agency (FPDA) and the PNG Cocoa and Coconut Institution (PNGCCI).

4. Therefore, it is our view that the enactment of the provisions contained under the PFMA and relevant legislations with support through the institutional reforms and capacity building in the relevant agencies such as Auditor Generals'

Office and Department of Finance, will be tightened to improve monitoring and enforcement or compliance to make the Statutory Authorities more transparent and accountable.

5. The proposed reforms under Project (9) must be aligned to the overall reform of the public finance sector and there must be consistency with regard to the proposed reforms of the statutory organizations with that of the proposed Medium Term Financial Management Strategy and the design of the Integrated Financial Management System (IFMS). The IFMS system must be able to assist the Government to track the expenditures of the Statutory organization and hence, it will be necessary for the IFMS Implementation Team to be informed about the proposed changes and through the Departments of Finance, Treasury and National Planning and Monitoring to determine how the requirements for the Statutory organizations can be designed in the IFMS system.

6. Comments on the NEC Submission:

As per the preliminary NEC Submission outlined in the Report, the Department's comments are as follows:

a. PURPOSE

We propose for the following inclusions:

1. To inform NEC on issues highlighted in the Report;
2. Seek approval of NEC to amend the PFMA 1995 in accordance with the attached drafting instructions in order to strengthen and tighten up the financial accountability of public bodies (as in the draft); and
3. Seek NEC endorsement of the Whole of Government Approach and the relevant agencies that will be involved to oversee the implementation of the recommendations.

b. The Project 9 recommends for completely new ways of doing Government business and would attract opposition from entities or individuals who have benefited from a system of relaxed and unaccountable management and gross abuse of public monies. We support The Report's proposal for the Whole of Government Approach as the way to implement the reforms and we suggest that a team of agencies should be specified in the NEC Submission as the whole of Government committee members to provide oversight to the implementation of the proposed reforms. This would include Department of Treasury as the Coordinating Agency, Department of Finance as the Executing Agency and other agencies such as Auditor General's Office, Department of National Planning and Monitoring, PSRMU, Attorney Generals Office, and the various Departments responsible for each of the sectors (who will be engaged as and when needed). This is to establish a strong leadership and commitment and to ensure that there is a coordinated approach to the proposed reforms.

c. PLANNING IMPLICATIONS

The MTDS 2005-2010 is based on Government's Program for Recovery and Development and public bodies are the vehicles for assisting in improving service delivery and realizing its goal of improving living standards for both the rural and urban population. With the proposed reforms in Statutory Authorities/public bodies the Department will be more informed of the new requirements with regard to project funding, disbursement of funds and monitoring the use of the project funds. Having the relevant reporting and monitoring processes in place will enable the Department in making informed decisions on the annual appropriations to these agencies classified as public bodies. By having the relevant information such as financial statements and performance reports, the Department will be more strategic in making appropriations to agencies through their projects and prevent overspending on activities that have not delivered effectively towards achieving Government's overall development agenda.

d. RECOMMENDATIONS

We propose to include the following.

It is recommended that:

1. NEC note the issues highlighted in the Report;
2. NEC to approve the amendments to the PFMA 1995 in accordance with the attached drafting instructions in order to strengthen the financial accountability of public bodies (as in the draft);
3. Endorse the additional oversight and monitoring arrangements as well as staff requirements necessary for sustaining the enforcement and compliance, oversight and implementation of the proposed Governance reform of the Statutory Organizations.
4. NEC direct Department of Finance and Department of Treasury as the executing agencies to implement the recommendations in collaboration with other relevant agencies.

Consolidated Comments of PERR Project 9 Inter-Agency Team on Draft Final Report

25th March 2008

The Project 9 Inter-Agency Team appreciates the work of Mr. James Baker and

Mr. Gavin Robins in producing this substantial report. The Inter-Agency Team supports the findings of the report and sees the implementation of reforms in this area as a priority for improved governance of public bodies.

Prior to finalizing the report, the Inter-Agency Team would appreciate the Consultants clarifying the following points.

Classification of public bodies

- The proposed distinction between incorporated and unincorporated public bodies has generated some confusion. It appears that most of the public bodies listed under the category of incorporated public bodies (and therefore to comply with Part VIII of the *PFMA*) are not actually incorporated, but rather are simply corporatised entities. That is, they have a separate board and operating accounts but they are not actually incorporated under the *Companies Act*. This is an important distinction for the purposes of clarifying the governance arrangements to apply to particular categories of public bodies.
- This issue suggests to the Inter-Agency Team that there are actually three categories of public bodies that need to be identified: unincorporated, corporatised and incorporated bodies.
 - o The **unincorporated** bodies are those currently identified as being effectively part of a Government department. These bodies appear to be governed by the general provisions of the *PFMA* that apply to Departments. The list of these bodies should be included in the report.
 - o The **corporatised** bodies are largely those included in the matrix, with a few exceptions discussed below. These bodies are not incorporated under the *Companies Act*, but simply have a corporatised structure including a Board and separate operating account from Government. These bodies should come within Part VIII of the *PFMA*, and are predominantly the bodies listed in the matrix.
 - o The **incorporated** bodies are those actually incorporated under the *Companies Act*. These are generally State Owned Enterprises (SOEs) and other public companies, which are not currently considered in the report (with exception of some incorporated bodies listed in the matrix, such as PNG Banking Corporation and the Coffee Industry Corporation which are both incorporated under the *Companies Act*). Arguably a separate or slightly different set of governance arrangements should apply to these bodies.
- Whilst the third category mentioned above (public bodies incorporated under the *Companies Act*) are considered to be outside of the TOR for this study, it is essential that as a starting point for reform of the *PFMA* a clear framework for classifying public bodies is established. From such definitions, clearer governance arrangements for each category of public bodies can be developed, even if all are not fully developed in this study.

- The Inter-Agency Team would appreciate if the report could make comment on whether the proposed third category of public bodies ultimately needs to be included in the PFMA or require a separate Act (beyond the Companies Act) to address the need for greater governance of such entities.
- The report recommends an additional classification system relating to trading enterprises. It is not clear what the purpose of this classification is. The report does not propose to alter the governance arrangements of the trading enterprises (with the exception of some additional principles for the trading enterprise to act under) and it is not clear to how trading enterprises fit within the proposed categorization of incorporated and unincorporated bodies. The Inter-Agency Team is concerned that the recommendations relating to trading enterprises actually add ambiguity to the categories, rather than simplify them. If it is the case that trading enterprises are in fact the third category of public bodies (that is public companies as discussed above), then trading companies are perhaps better dealt with in the categorization of bodies, rather than as a part of Part VIII or as a means to prioritize reform of public bodies (as suggested in paragraph 6).
- The list of public bodies to comply with Part VIII should be included in the amended act as a schedule or regulation, and consequently in the Drafting Instructions.
- It would be beneficial if the report could include a list of enabling Acts that have been identified as requiring amendment to fit within the proposed application of the PFMA. Otherwise, it should be noted whether the PFMA needs to include a section, which states that the Act is to take precedence over other Acts?
- The report does not propose to review or amend the definition of a public body. Whilst the abovementioned framework is important, it does not necessarily overcome the existing issues with the broad definition of a public body contained in the PFMA, and differs from definitions contained in other Acts such as the Audit Act, Public Service Management Act, and CACC Act. It is the view of the Inter-Agency Team that the definition of public bodies needs to reflect the categorizations of public bodies developed as part of this framework.

Governance requirements of public bodies (mandatory or otherwise)

- As noted on page 14 of the report, it is inappropriate that public bodies can choose the extent to which some provisions of Part VIII apply. The Inter Agency Team would appreciate a recommendation of the Consultants as to whether all of Part VIII should be mandatory (rather than just some sections). Such a recommendation, if agreed, would need to be included in the drafting instructions and NEC submission.

IPBC

- The IPBC stands out as a particular anomaly in the framework. The report would benefit from a discussion of the risks associated with the current model of a corporatised public body. Holding significant State assets, being completely outside of any governance framework.
- Para 14 (page 10) – The IPBC should be added to the list of entities to which the PFMA does currently not apply, despite it being a corporatised public body. The *IPBC (Amendment) Act* passed by Parliament in June 2007 excludes the application of the PFMA. The matrix has been amended (in tracked changes) to reflect the latest version of the IPBC Act.

Process for establishing new public bodies

- Page 60 of the report proposes a process whereby NEC approval is required for any new public body. This is strongly endorsed by the Inter-Agency Team. It is proposed that the following additional information should also be required when proposing a new public body for NEC consideration:
 - o Details of whether the body will perform a new function. If not, details of where the function was previously performed, and whether those functions will cease if the new entity is established?
 - o If new functions, explain why it fails to fit into an existing structure
 - o Require details of the consultation undertaken in preparation of the proposed new structure and a discussion of the views of stakeholders.
- It would also be useful if the report could note the need for similar guidelines for the establishment of public companies.

Proposed specialist unit and capacity building

- The proposed unit to enforce compliance with the PFMA is a step towards addressing the current lack of monitoring and compliance with the PFMA, and is strongly supported.
- It should be noted in the report that a unit was established for this purpose in 2006 in the Accounting Framework Branch of the Department of Finance. This is considered to be the appropriate location for such a specialist unit. However the unit has not been sufficiently resourced, with currently only four officers and seven vacancies. The unit requires the filling of vacancies, strengthened capacity and technical support.
- The proposed unit to enforce the PFMA will require increased capacity, which is noted in the Report. The Report would benefit from a discussion of how the capacity of the specialist unit could be developed to ensure officers have (and retain) the technical and personnel skills to undertake

required duties. The need for Ministerial support of the work of this unit should also be noted in the report.

- There may also be a need for some capacity building in the relevant public bodies to comply, and the report would benefit from including options for delivering this assistance.

Revenues collected by public bodies

- The report does not address the question of revenues collected by public bodies and whether these are required to be returned to consolidated revenue. Consideration of this point would assist with ensuring the issues identified by central agencies with the PFMA are addressed in the report.

Enforcement powers

- Strengthening enforcement of the PFMA is highly desirable and the recommendations of the report in this regard are supported.
- However, there is a concern that the power to terminate the head of a public body, or a member of a public body, as proposed on Page 59, does not actually rest with the Minister for Finance or the Treasurer. Rather, in many cases NEC appoints the heads of public bodies and, as such, it is unclear where the Minister for Finance would acquire the authority to suspend and terminate persons appointed by the NEC or members of public bodies (which are not public servants). It may be that the Minister for Finance can only recommend suspension or termination to the appropriate appointing body. Clarification of whether the inclusion of such powers in the PFMA would be sufficient to give the Minister for Finance such powers would be appreciated in the report, to ensure any proposed amendments are enforceable.

Matrix

- The Auditor-General's Office has completed the requested sections of the matrix. These are reflected in the attachment.
- A few amendments are necessary to the matrix to reflect changes in legislation and the structure of a few of the listed bodies. For instance, the PNG Banking Corporation has been privatized so should be removed, and the Coffee Industry Corporation (CIC) is the only other 'incorporated' body on the list (others being corporatised, but not incorporated). The proposed removal of the CIC is subject to discussion of the above classification into 3 types of public bodies, versus that currently proposed in the report.

XI. Appendix E 65 Statutory Body Matrix

Papua New Guinea: Support for Public Expenditure Review and Rationalization

XII. Statutory Authorities – Legislative and Governance Arrangements

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
(1) National Broadcasting Corporation established as a corporation / National Broadcasting Board	Broadcasting Corporation Act.	(1) Corporation to provide balanced, objective and impartial broadcasting services within and, if so directed by the Head of State, acting on advice, outside the country, (2) At the request	<u>Corporation</u> – (a) Erect, maintain and operate transmitting and receiving stations; and (b) Install and operate wired radio distribution services; and (c) Enter into arrangements	(1) Minister specifies broadcast stations (2) Minister may prohibit broadcast or request matter not be broadcast (3) Minister directs employment of consultant to evaluate services of Corporation	Reference to annual report but no specific provision about such report	Board members and chief officers of Corporation are appointed by Head of state on advice	(1) Part VIII of PFMA applies to and in relation to the Corporation. (2) For purposes of Section 62 of the PFMA the Corporation is a trading enterprise.	No provision concerning income or finance of the corporation	31/12/4002	10/05/07

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
		<p>of the Minister, the Corporation may make recommendations to the Minister concerning the granting of licenses for broadcasting services under the Radio communications Act and the conditions of those licenses.</p> <p><u>National Broadcasting Board</u> - responsible for the affairs of the</p>	<p>nts with the State or any public body for the purpose of obtaining licenses, rights, privileges and concessions; etc</p>	<p>n (4) Minister accepts resignation of Board member, grants leave of absence to member, removes member for absence if leave not granted (5) Minister terminates appointment of Chairman and Deputy Chairman on specified grounds (6) Minister declares categories of houses for sale under</p>						

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
		Corporation		home ownership scheme						
Bank of Papua New Guinea established as a corporation / Board of Central Bank	Central Banking Act 2000	(1) Issue currency (2) act as banker and financial agent to the Government; (3) Regulate banking, credit and other financial services (4) manage the gold, foreign exchange and other international reserves etc	All powers necessary to perform functions	(1) Minister to be consulted on appointment of Deputy Governor (2) Minister may designate Acting Governor (3) Minister publishes reason where Governor becomes disqualified from holding office (4) Minister places recommendation for removal of	(1) Governor provides Minister with special reports on adverse conditions (2) Governor provides Minister with report of Board proceedings every 3 months (3) within six months after the end of each year Bank shall deliver to the Minister—	(1) Governor appointed by Head of state on advice (2) Deputy governor appointed by Governor after consultation with Minister (3) Board comprises ex officio members and others appointed by Head of State on advice	No reference to PFMA	Capital may be increased by direction of Minister The capital or any increase in capital that is not met by a transfer under Section 42(2) shall be paid out of moneys appropriated by this Act for the purpose. The net profit of the Central Bank shall	31/12/2006	20/09/2007

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
				governor from office before NEC (5) Minister to be consulted by Governor on proposal to remove Deputy governor from office (6) Minister may increase capital of Bank (7) Minister approves transfer of capital (8) Minister makes determination concerning transfer of profits (9)	(a) A report on the operations of the Central Bank during that financial year; and (b) Audited financial statements for that financial year; and (c) The auditor's report on those financial statements; and (d) A statement of the projected income and			be dealt with as follows: — (a) Such amount as the Minister in consultation with the Board determines (after having regard to prudent financial management and provisions) shall be placed to the credit of the Bank of Papua New Guinea Reserve Funds; and (b) The balance shall be		

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
				Minister may direct performance audit	expenditure for the next financial year. (4) The financial statements shall be accompanied by management statement stating that the financial statements give a true and fair view of the matters to which they relate (5) Bank shall furnish to the Minister such periodical statements as are prescribed.			paid into and form part of the Consolidated Revenue Fund. (3) No amount shall be paid into the Consolidated Revenue Fund under Subsection (2)(b) where, in the opinion of the Central Bank, the assets of the Central Bank are, or after the payment would be, less than the sum of		

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
								its liabilities and paid-up capital.		
Civil Aviation Authority of PNG established as a corporation / PNG Air Traffic Services Ltd/ Accident Investigation Commission established as a corporation	Civil Aviation Act 2000	(1) CAA – functions in relation to management of airports, meteorology, air traffic and navigation (2) PNG Air Traffic Services Ltd to be incorporated under Companies Act as wholly owned subsidiary of CAA (3) AIC established as corporation	As per functions – established as corporations	(1) Minister recommends to NEC on appointment of part time members of CAA (2) Minister appoints Chairman and Deputy, grants leave of absence to Chairman, accepts resignation of members (3) Minister gives notice of intention to terminate	CAA – shall, before 30 June in each year, prepare an annual report for the year ending 31 December preceding. Annual report shall comprise— (a) Statement of activities of CAA during year; and (b) Annual financial statements of the CAA; and (c)	Head of State on advice makes appointment	CAA - (1) Part VIII PFMA applies to and in relation to the Authority. (2) For purposes of Section 62(2) of the PFMA the CAA is declared to be a trading enterprise. AIC – (1) shall, before 30 June in each year, prepare an annual report for the year ending 31 December preceding. Annual report shall	CAA - moneys appropriated and income from commercial undertakings and activities; fees, charges, rents, levies and other sums payable, grants, donations, etc and loans raised by the Authority. AIC – monies appropriated.	30/12/2005	02/06/2006

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
				appointment of member (4) Minister may convene meeting of CAA (5) Minister may direct waiver of conflict of interest provisions (6) Minister negotiates with CAA on performance agreement for each financial year (7) Minister directs AIC to investigate incident (8) Minister recommends	The performance agreement under Section 36 for that year between the Minister and the CAA; and (d) An analysis of the performance of the CAA compared with the performance agreement; and (e) The report by the Auditor-General under the		comprise— (a) A statement of the activities of the Commission during the year; and (b) The annual financial statements of the Commission prepared under this Act; and (c) The report by the Auditor-General under the Audit Act 1989 on the results of his inspection and audit of the account and records of the Commission;			

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
				<p>ds appointme nt of persons to AIC</p>	<p>Audit Act 1989 on the results of his inspection and audit of the accounts and records of the CAA; and (f) A report on the extent to which there has been compliance with the equal opportunity programme of the CAA; and (g) Such other matters as the Minister may in writing,</p>		<p>and (d) Such other matters as the Minister may, from time to time, require. (2) Commission shall cause proper accounts and records of the affairs of the Commission to be kept in accordance with the accounting principles generally applies in commercial practice. Commission shall do all things to ensure that— (a) All payments by the</p>			

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
					from time to time, require. CAA shall forward a copy of its annual report to the Minister who shall, as soon as is practicable lay a copy of the report before Parliament. <u>PNGATS</u> - shall submit to the Minister an annual report, including the audited and approved financial statements, within three		Commission are correctly made and properly authorized; and (b) Adequate control is maintained over the assets of, or in the custody of the Commission, and over the incurring of liabilities by the Commission (SCOPE AND DETAIL OF PROVISIONS NOT FOUND IN OTHER LAWS)			

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
					months of the end of each financial year. AIC - shall, before 30 June in each year, prepare an annual report for the year ending 31 December preceding. Annual report shall comprise— (a) A statement of the activities of the Commission during the year; and (b) The annual					

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
					financial statements of the Commission; and (c) The report by the Auditor-General under the Audit Act 1989 on the results of his inspection and audit of the account and records of the Commission; and (d) Such other matters as the Minister may, from time to time, require.					

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
Cocoa Board established as a corporation	Cocoa Act	(1) Control and regulate the growing, processing, marketing and export of cacao, cacao beans, cocoa beans and cocoa products; (2) establish price stabilization, price equalization and stockholding arrangements within the cocoa industry; etc	As necessary to perform functions	(1) Minister may terminate appointment of Board member on specified grounds (2) Minister may request Board to convene meeting (3) Minister may require Board to perform PNG international obligations	None	Regulatory Statutory Authorities Act 2004 applies	(1) PFMA applies to the Board subject to the exceptions and modifications set out in Schedule 1; and does not apply to the Cocoa Stabilization Fund otherwise than in relation to the audit of the Fund. (2) For the purpose of Section 62 of the Public Finances (Management) Act 1995 the Board is a trading enterprise.	Board may expend funds from Cocoa Stabilization Fund with approval of Minister to recompense costs incurred by board in administering Fund	31/12/2002	05/11/2007
Communit	Communi	Organize	As	Board not	(1) Board	No	(1) Part VIII	(1) all		

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
y Services Trust Board established as corporation	ty Services Trust Act 2002	and conduct community development and projects and provide capital	necessary to perform functions	subject to direction or control but Minister determines allowances for Board members and can terminate member on specified grounds	must furnish to Minister, in addition to the annual report such other reports in relation to the functions of the Trust as are reasonably requested by the Minister (2) The Board, within six months after each balance date of the Trust, is to furnish to the Minister an annual report on the affairs of the Trust during the	Ministerial appointment power	(other than Sections 54, 55 and 56) of the PFMA applies to and in relation to the Trust. (2) K100,000.00 is specified for the purposes of Section 59 PFMA	moneys appropriated, grants and subscriptions (2) all moneys received by the Trust from communities (3) all moneys received by the Trust from investments		

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
					accounting period ending on that date – content of report specified in detail					
PNG Electricity Commission – established as a corporation	Electricity Industry Act	(1) plan and to co-ordinate the supply of electricity throughout the country; (2) generate, transmit, distribute, reticulate and sell electricity; etc.	As necessary to perform functions	(1) Minister appoints Chairman of the Commission and who shall hold office during the pleasure of the Minister. (2) Minister may convene meeting of Commission (3) Minister grants leave of absence to	None	Commission shall consist of three Commissioners appointed by the Minister and who shall hold office during the pleasure of the Minister.	Commission shall open and maintain bank accounts and pay into them— (a) all moneys received from the Government for the purposes of this Act; and (b) all moneys appropriated by Act for the purpose of carrying out or giving	(1) Commission shall pay to the State out of the profits of the Commission for a financial year, such amount in relation to that financial year as the Secretary for Finance, with the approval of the Head of	31/12/2005	17/11/2006

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
				member (4) Minister appoints GM on recommendation of EC and terminates appointment of GM on specified grounds (5) Commission to give effect to policy directions of Minister			effect to this Act; and (c) all moneys received by the Commission for the sale, leasing or hire of property; and (d) all moneys received by the Commission for the sale or supply of electricity; and (e) all other moneys received by the Commission (Note: application of PFMA provisions repealed)	State, acting on advice, determines . (2) In making a determination under Subsection (1), regard shall be had to any advice furnished by the Commission to the Secretary for Finance, in relation to the financial affairs of the Commission.		

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
National Fisheries Authority established as a corporation /National Fisheries Board	Fisheries Management Act 1998	(1) <u>Authority</u> shall manage the fisheries stocks; (2) make recommendations to the Board on the granting of licenses and implement any licensing scheme (3) liaise with other agencies and regional and international organisations concerning fisheries	Authority – necessary to perform functions	(1) Minister grants leave of absence to chairman of Board, receives resignation of Board member (2) Minister may terminate Board member for cause (3) Minister may request convening of Board meeting	(1) Managing Director provides report to Board within three months after 1 January in each year, on progress and performance of Authority during the year ending 31 December previously. (2) As soon as practicable after receiving report Board shall forward the report to	NEC appoints Chairman of Board and some Board members	Part VIII PFMA applies to and in relation to the Authority.	Funds of Authority consist of any monies appropriated and (a) grants and subscriptions; and (b) monies for services provided by the Authority; and (c) monies received in respect of rents, fees, levies and charters etc. i	31/12/2005	06/12/2006

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
		etc. <u>Board</u> – (1) provide general control and guidance over the exercise of the functions and powers of the Authority; and (2) on recommendation of the Managing Director make decisions on licenses			the Minister who shall forward— (a) the report to the Speaker for presentation to the National Parliament; and (b) a copy of the report to each provincial government.					
PNG Forest Authority established as corporation /	Forestry Act 1991	<u>Authority</u> - (1) provide advice to the Minister on forest policies and	All necessary powers to perform functions	(1) Board – Minister grants leave of absence, accepts resignation	The Board shall, by 31 March in each year, furnish to the Minister an annual	Minister appoints one nominee to NFB	(1) Part VIII PFMA applies to and in relation to the Authority (2) Authority is a	No reference	31/12/2003	03/01/2008

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
National Forest Board		legislation pertaining to forestry matters; (2) prepare and review the National Forest Plan and recommend it to the National Executive Council for approval; (3) direct and supervise the National Forest Service; (4) negotiate Forest Management Agreements; (5) select operators		of members, terminates appointment on specified grounds (2) Minister may request Board to convene meeting	report on the progress, performance and finances of the Authority in relation to its functions during the year ended 31 December previously. (2) As soon as practicable after he has received the report referred to in Subsection (1), the Minister shall forward— (a) the		trading enterprise for the purposes of Section 62 of the Public Finances (Management) Act 1995.			

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Statutory Reports Lodged	Last
		and negotiate conditions on which timber permits, timber authorities, large scale agricultural or other land use and road forest clearing authorities and licences may be granted in accordance with the provisions of this Act etc <u>Board</u> - shall carry out the functions and objectives,			report to the Speaker for presentation to the Parliament; and (b) a copy of the report to each provincial government.						

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
		manage the affairs and exercise the powers of the Authority.								
National Gaming Control Board established as a corporation	Gaming Machine Act 1993	Board is to consider applications for, and where appropriate grant, permits and licences to control the operation of gaming machines	Board may borrow money from any licensed bank or financial institution within the country, or any financial institution outside the country as approved in writing by the Bank of Papua New Guinea, mortgage, charge or	Minister grants leave of absence to members, accepts resignation of members, terminates members on specified grounds	The Board shall, by 31 March in each year, furnish to the Minister a report on the progress and performance of the Board for the year ending 31 December previously. (2) As soon as practicable after he has received a	Minister appoints one member of Board	Part VIII PFMA applies to and in relation to the Board. (2) The Board is declared to be a trading enterprise for the purposes of Section 62(2) of the PFMA.	No reference except – In January and July each year, the Board shall review the cost of carrying out its functions against income received for that purpose in the six months prior to the month of	31/12/2004	07/02/2007

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
			pledge any of the assets of the Board including future assets or future income, as security for any borrowing of the Board; (c) possess, own, operate or maintain any gaming machine (d) sell, lease or hire any gaming machine to the holder of a permit etc.		report the Minister shall forward the report to the Speaker for presentation to the Parliament.			review, and after taking into account anticipated income and expenditure for the ensuing six months period, shall pay any funds then held and surplus to requirements in the ensuing six months, into the Community Benefit Fund Account.		
Gazelle	Gazelle	Authority is	As	Minister	The	No	Part VIII	No	2006	15/08/2006

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
Restoration Authority established as a corporation	Restoration Authority Act 1995	to oversee and co-ordinate all restoration activities in East New Britain necessary as a result of the volcanic eruption etc	necessary to perform its functions	grants leave of absence to members	Authority shall furnish to the Minister a report on the progress and performance of the Authority in relation to its functions— (a) before 31 March 1996, in respect of the period from the coming into operation of this Act until 31 December 1995; and (b) before 31	ministerial appointment power – Regulatory Statutory Authorities Act applies	PFMA applies to and in relation to the Authority.	reference		

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
					<p>March in each subsequent year, in respect of the year ending 31 December preceding, and the Minister shall table such report at the first sitting of the National Parliament after the date of his receipt of it.</p> <p>(2) The Authority shall also furnish to the Minister such other reports as the Minister may</p>					

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
					require at such intervals as the Minister may determine.					

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XIII. Statutory Authorities – Legislative and Governance Arrangements

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
PNG Harbours Board established as a corporation	Harbours Act	Provide, erect, maintain and regulate wharves, docks, piers, slips, jetties, landing stages, platforms and landing ramps placed under its control by or under this Act or any other law; and maintain, improve and extend	As necessary to perform functions	(1) Minister may terminate appointment of member for specified reasons, leave of absence to member, may convene meeting of Board (2) Board shall give effect to any direction given to it by the Minister on any matter	Where the Minister requests the Board to furnish a report or information on the activities or operations, or proposed activities or operations, of the Board, or on any matter relating to the control or use of ports, the Board shall, to the	Minister recommends appointment of chairman of Board to NEC	PFMA applies to and in relation to the Board, subject to the exceptions and modifications set out in Schedule 2.	(1) Out of the profits of the Board for any financial year the Board shall pay to the State such amount in relation to that year as the Minister responsible for financial matters, with the approval of the Head of State, acting on advice,	31/12/2005	13/04/2007

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
		any existing wharves, docks, piers, slips, jetties, landing stages, platforms and landing ramps etc.		of policy relating to the exercise or performance of its functions, duties or powers.	best of its ability, furnish the report or information requested.			determines . (2) In the making of a determination regard shall be had to any advice furnished by the Board to the Minister responsible for financial matters in relation to the financial affairs of the Board.		
Independence Fellowship Trust established as corporation	Independence Fellowship Trust Act	Make selections of candidates to receive the awards of fellowships;	As necessary to perform functions	Minister appoints Chairman of Trust, determines terms and conditions of trustees,	(1) Trust shall, as soon as practicable at the end of each fiscal year, prepare	Minister appoints all members of Trust	PFMA applies to and in relation to the Trust subject to the exceptions and	The funds of the Trust shall consist of— (a) the amount set aside to	31/12/2006	12/02/2007

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
		determine the number and value of awards; invest the funds of the Trust.		terminates appointment of Trustee on specified grounds	and furnish to the Minister a report of the operation and activities of the Trust during the year ending on that date. (2) The report shall contain any comments and recommendations that the Trust considers desirable to make concerning the operation of the Trust.		modifications specified in the Schedule.	form a perpetual endowment for the Independence Fellowship Scheme in the sum of K41,894.00 ; and (b) the allocation of a grant of K58,106.00 which is appropriated accordingly ; and (c) other sums of money received by way of gift or otherwise by the Trust		

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
Independent Consumer and Competition Commission established as a corporation	Independent Consumer and Competition Commission Act 1992	To perform such functions relating to price regulation, licensing, industry regulation and other matters as are conferred on the Commission by or under this Act or any other Act, including, without limitation, in relation to issuing, administering and enforcing regulatory contracts under Part III; and	As necessary to perform functions	Minister grants leave of absence to Commission member, consents to engagement of member in paid outside employment, applies to court to remove Commissioner Commissioner not subject to direction or control of Minister		Appointment of Commissioners made by Head of state on advice of the ICCC Appointments Committee	(1) Part VIII PFMA applies to and in relation to the Commission. (2) The Commission's annual performance and management report required under Subsection 63(2) of the PFMA 1995 shall include, in addition to the matters required under that Act— (a) a report on the Commission's operations during the year in question; and	Fees received by the Commission under this or any other Act shall be retained by the Commission for the purpose of funding its costs.	31/12/2003	16/03/2006

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
		(b) to promote and protect the bona fide interests of consumers in relation to the acquisition and supply of goods and services; etc					(b) such other matters as are required under this or any other Act or as are prescribed. For the purposes of Section 59(1) of the PFMA, tenders shall be publicly invited and contracts taken by the Commission for all works, supplies and services the estimated cost of which exceeds K100,000.00.			
Independent Public Business Corporation of Papua	Independent Public Business Corporation	Corporation shall administer the Trusts and	As necessary to perform functions	No Ministerial powers stated. NEC has	The Corporation shall not later than 3 months	Directors shall be appointed by the NEC, upon	The PFMA does not apply to the Corporation, the Trusts,	Except to the extent that it is otherwise provided by	31/12/2005	11/01/2007

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Management - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
New Guinea established as a corporation	on of Papua New Guinea (Amendment) Act 2007	monitor the performance of the assets of the Trust in such manner as provided under this Act and shall perform such other functions as are required under this Act.		21 days to object to nomination of Board members. Minister to receive a plan for the financial year not later than 3 months before the end of the financial year.	before the end of the financial year, submit to the Minister a plan in respect of the next financial year activities of the Corporation and the Trusts. The Plan is subject to NEC approval.	the recommendation of the Minister, by notice in the national Gazette	the SOEs or to any other enterprise in which the Corporation, the Trusts or a SOE holds any shares, property or other interest. The IPBC (Amendment) Act goes on to amend Section 2 of the PFMA (which lists exempted bodies) by adding to the definition of an exempted public body: (f) the Corporation, the Trusts, the SOEs and any other enterprise in which the	the NEC, all profits made by the Corporation shall accrue to the benefit of consolidated revenue less any losses of the Corporation shall be the responsibility of consolidated revenue.		

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
							Corporation holds any shares, property or other interests			
Industrial Centres Development Corporation established as a corporation / ICDC Board	Industrial Centres Development Corporation Act 1990	<u>ICDC</u> - To be responsible for overall planning and implementation of the Government's industrial centres development programme in accordance with Government policies on industrial development; and	As necessary to perform functions	Minister appoints Chairman and Deputy Chairman, grants leave of absence and terminates members on specified grounds	Board shall on 31 December in each year furnish to the Minister a report on the progress and performance of the Corporation in relation to its functions. (2) As soon as practicable, after he has received the report	Non ex officio members of Board appointed by Minister	(1) Part VIII PFMA applies to and in relation to the Corporation. (2) Corporation is a trading enterprise for the purpose of Section 62 of the Public Finances (Management) Act 1995.	Funds of the Corporation consist of— all monies appropriated by Act, grants and subscriptions; monies received for rents and other dues from tenant enterprises ; and all monies received by the Corporation for services	31/12/2005	12/06/2007

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
		to prepare feasibility studies in order to identify appropriate forms of industrial development and regions and sites in the country for industrial centres etc. <u>Board</u> - Board shall perform the functions, exercise the powers and manage the affairs of the Corporation.			the Minister shall forward the report to the Speaker for presentation to the Parliament.			and all other monies received by the Corporation		
PNG Institute of	Institute of	Council is governing	No express provision	Minister appoints	None	No Ministerial	Sections 53, 54, 55, 57, 62	Fund established	31/12/2004	25/08/2006

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
Medical Research established as a corporation / Council of the Institute	Medical Research Act	body of Institute. Institute functions – conduct and fostering of research into— (a) any branch of medical science or biology; and (b) anthropological and sociological aspects of health and ill-health; and (c) matters relating to public health generally		chairman and Deputy Chairman of Council, approves Institute bank account, approves arrangements with hospitals and other research bodies.		power to appoint members of Council	and 63 of PFMA apply to and in relation to the Institute.	– PNG Institute of Medical Research Fund comprising – all moneys appropriated, gifts, bequests or devised given or made for the purposes of the Institute; and all other moneys received by the Institute.		
Niugini	Insuranc	Corporatio	Corporatio	Minister	None	Board	(1) PFMA		31/12/2006	04/01/2008

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
Insurance Corporation established as a corporation / NIC Board	Corporation Act	Functions of the Corporation are to carry on the business of insurance and any other business that is capable of being carried on advantageously with the general business of the Corporation and that the Minister, on the advice of the Board, considers it desirable to undertake.	and Board - all necessary powers to perform functions	determines terms and conditions of members of Board, appoints Chairman and Deputy		members are appointed by Minister	applies to and in relation to the Corporation. (2) Sections 52, 58, 57, 51, 59 and 61 of the PFMA do not apply to and in relation to the Corporation. (3) The Corporation is a trading enterprise for the purposes of the PFMA	Corporation shall have and shall at all times maintain a general reserve fund to be known as the "Niugini Insurance Corporation General Reserve Fund" which shall consist of— (a) an initial amount of K1,250,000.00; and (b) such sums as are appropriated by Act for the purpose.		

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
		<p>Board – subject to any directions given by the Minister to (a) manage and control the Corporation and the affairs of the Corporation; and (b) to determine the policy of the corporation; and (c) to develop and expand the business of the Corporation, and the</p>						<p>The net profit of the Corporation in each year shall be first applied against any previous losses carried forward and the balance shall, subject to Subsection (2), be placed to the credit of the Fund. (2) Out of its net annual profit remaining after its application against previous</p>		

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
		Board shall carry on the business of the Corporation for the purpose of performing those functions.						losses the Corporation shall pay into the Consolidated Revenue Fund such amounts as are determined from time to time by the Minister after receiving advice from the Board. (3) In determining the net profit of the Corporation for the purposes of this Act, any amounts written off are subject to the		

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
								consent of the Minister.		
Investment Corporation established as a corporation /Board of Directors	Investment Corporation Act	Corporation may, in the exercise of its judgement but subject always to any policy laid down under Section 10— (a) take up shares in enterprises, and hold them with a view to their future disposal to eligible persons; and (b) dispose of shares in	As necessary to perform functions	(1) Minister may direct Corporation to act as agent for government (2) Corporation shall operate within any framework of policy laid down from time to time by the Minister and approved by the Head of State, acting on advice. (3) Minister	The Corporation shall furnish to the Minister such periodical statements as are prescribed.	(1) Regulatory Statutory Authorities Act applies (2) Public Service members of Board hold office at pleasure of Minister	Subject to Subsection (3), the PFMA applies to and in relation to the Corporation. (2) The Corporation is a trading enterprise for the purposes of Sections 62 and 63 of the PFMA. (3) Sections 52, 58, 51, 59 and 61 of the PFMA do not apply to or in relation to the Corporation.	(1) The capital of the Corporation includes sums advanced to the Corporation out of moneys appropriated by Act for the purpose. (2) The net profit of the Investment Corporation in each year shall be first applied against any previous losses	31/12/2000	27/09/04

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
		enterprises to eligible persons; and (c) arrange opportunities for eligible persons to acquire shares in enterprises, and arrange for enterprises to offer shares, or rights to future shares, to eligible persons etc		determines remuneration of Board members, Minister terminates appointment of Board members on specified grounds, Minister appoints Chairman and Deputy Chairman of Board, accepts resignation of Board members				carried forward and the balance shall, subject to Subsection (2), be placed to the credit of the Investment Corporation of Papua New Guinea Reserve Fund. (2) Out of its net annual profit remaining after its application against previous losses, the Corporation shall pay into the		

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Statutory Reports Lodged	Last
								Consolidated Revenue Fund such amounts as are determined from time to time by the Minister. (3) In determining, for the purposes of this Act, the net profit of the Corporation, any amounts written off or provided for contingencies are subject to the consent of the Minister.			

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Management - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
Investment Promotion Authority established as a corporation/ Board for the IPA	Investment Promotion Act 1992	<u>IPA</u> - in accordance with any directions of the National Executive Council or the Minister on development objectives and policies— (a) provide information to investors in the country and overseas; (b) encourage and facilitate investment in the country by assisting investors to	As necessary to perform functions	(1) The Board shall act in accordance with any general or specified directions as to the policy to be followed given to it from time to time by the Minister. (2) Minister may, after consultation with the Board, give to the Board directions as to policy and the Board shall give effect to such policy but any such	The Board shall furnish to the Minister— (a) on or before 15 March in every year, a report on the progress and performance of the Authority for the previous year; and (b) such other reports as are requested by the Minister. (2) As soon as practicable after he	Minister appoints 2 members of Board, appoints Chairman and Deputy Chairman	Part VIII PFMA applies and in relation to the Authority.	Funds of the Authority consist of— (a) all monies appropriated by Act (b) all grants and subscriptions; (c) monies received by the Authority for services (d) fees paid to the Registrar of Companies (e) all fees paid under the Acts contained in the Schedule to this Act; and (f) all other	31/12/2005	04/07/2007

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
		obtain all necessary licences, compliance and approvals; (c) facilitate introduction of citizens and foreign investors to each other and to activities and investments of mutual benefit etc <u>Board</u> - shall perform the functions, exercise the powers and manage and direct the affairs of the Authority.		direction as to policy shall not be inconsistent with the provisions of this Act. (3) Minister grants leave of absence to Board member, terminates member of Board for specified reasons	has received the report the Minister shall forward the report to the Speaker for presentation to the Parliament.			monies received by the Authority in accordance with the Act.		

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
Kokonas Industri Koporesen established as a corporation/ Board of Directors of the KIK	Kokonas Industri Koporesen Act 2002	Functions of Koporesen are— (a) control and regulate the production, processing, marketing and export of coconut products; (b) promote the investment in and consumption and export of coconut products; and (c) by itself or in co-operation with other persons or bodies, to promote or	As necessary to perform functions	Minister grants leave of absence to Board member, terminates member of Board for specified reasons	Board shall, by 31 March in each year, furnish to the Minister— (a) report on the operations of the Koporesen during the year ending on the preceeding 31 December; (b) financial statements in such form as the Minister approves in respect of that year. (2) As soon as practicable after he has	Minister has no power to appoint Board members but can appoint Board Chairman and Deputy if Board fails to do so.	(1) Part VIII PFMA applies to and in relation to the Koporesen subject to the exceptions and modifications specified in the Schedule; (2) The Koporesen is declared to be a trading enterprise for the purposes of Section 62(2) of the PFMA.		31/12/2004	08/05/2007

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
		engage in research and development programmes for the benefit of the coconut industry etc.			received the reports the Minister shall forward the reports to the Speaker for presentation to Parliament.					
Papua New Guinea Law Society established as a corporation/ Council of the Law Society	Lawyers Act 1986	Promote the interest of the public and the interest of lawyers in relation to legal matters and generally to promote and uphold justice and the rule of law; to promote and encourage	Specified list of powers consistent with functions	None	None	None	No reference to PFMA	No reference		

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
		proper conduct by lawyers etc								

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XIV. Statutory Authorities – Legislative and Governance Arrangements

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
Papua New Guinea Maritime College /PNG Maritime College Board established as a corporation (?)	Maritime College Act	Board - functions are— (a) provide general or special courses of training in nautical studies; and (b) provide, or cooperate in the provision of, classes, lectures and study groups; and (c) arrange conference	As necessary to perform functions	(1) Minister appoints Chairman and Deputy Chairman of the Board (2) The Board shall give effect to any directions given to it by the Minister on any matter of policy relating to the exercise or performance of its powers,	(1) Board shall, as soon as practicable after 30 June in each year, prepare and furnish to the Minister a report of the operations and activities of the Board during the year ending on that date.	Minister appoints all members of the Board and any ad hoc members	The PFMA applies to and in relation to the College subject to the exceptions and modifications specified in Schedule 1.	Funds included a levy paid by shipowners – no reference to moneys appropriated	31/12/2005	04/09/2007

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
		s and seminars etc ;		functions, duties or responsibilities.						
Mineral Resources Authority established as a corporation /MRA Board	Mineral Resources Authority Act 2005	Authority - To advise the Minister on matters relating to mining and the management, exploitation and development of Papua New Guinea's mineral resources; (b) to promote the orderly exploration for and development of the country's mineral	Necessary powers to perform functions	(1) The Minister may, after consultation with, and acting on the advice and recommendation of, the Mining Advisory Council, give to the Board general or specific directions as to mineral policy. (2) In the exercise of its functions under this	(1) The Board is to furnish to the Minister, in addition to the annual report such other reports in relation to the functions of the Authority as are reasonably requested by the Minister from time to time. (2) The Authority shall, not	Minster has no appointment power for Board	(1) Without limitation to any function or power of the Authority under this Act, Part VIII (other than Sections 51, 55, 56, 57 and 58) of the PFMA applies to and in relation to the Authority. (2) The sum of K100,000.00 is specified for the purposes of Section 59 of the PFMA.	The funds of the Authority consist of— (a) all monies appropriated by Act (b) grants and subscriptions; (c) all monies received by the Authority from investments or borrowings; (d) all monies received by the Authority for goods		

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
		resources; and (c) to oversee the administration and enforcement of Mining laws (d) to negotiate mining development contracts under the Mining Act as agent for the State; etc <u>Board</u> - perform the functions, exercise the powers and manage and direct the administrative affairs of the		Act, the Board shall act in accordance with, and shall give effect to, any general or specific directions as to policy given to it from time to time by the Minister under Subsection (3) or the Government Policy Advisory Committee (3) Minister determines fees paid to Board (4) Minister may terminate member of	later than three months before the end of each financial year, submit to the Departmental Head of the Department responsible for treasury matters an operating budget including— (a) estimates of the receipts and expenditure of the Authority for the next financial year; and (b) its			or services provided by the Authority; (e) all fees paid or payable under this Act, the Mining Act etc (f) all rents paid or payable under the Mining Act etc.		

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
		Authority.		Board on specified grounds	proposed program (if any) for that financial year, and identifying any expenditure to be charged against the assets of the Authority, as approved by the Board after consultation with, and in such form as reasonably required by, the Departmental Head of the Department					

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
					responsible for treasury matters etc (3) The Board shall, within five months after each balance date of the Authority, furnish to the Minister an annual report on the affairs of the Authority during the accounting period ending on that date. (4) The Minister shall table the annual report at the first sitting of					

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
					the Parliament subsequent to his receipt of the annual report.					
National Agricultural Research Institute of PNG established as a corporation / Council of the Institute	National Agricultural Research Institute Act 1996	Institute - Generate and adapt agricultural technologies and resource management practices appropriate to the needs, circumstances and goals of smallholders; and (b) promote and facilitate applied and adaptive research in	Necessary powers to perform functions	(1) Minister appoints Chairman and Deputy Chairman of Council, grants leave of absence and terminates members for specified reasons (2) Minister may, after consultation with the Council or otherwise, give to the Council	Council shall, by 31 March each year, furnish to the Minister a report on the progress and performance of the Institute in relation to its functions for the year ending 31 December previously. (2) As soon as practicable,	Minister appoints 3 members of Council	(1) Part VIII PFMA applies to and in relation to the Institute. (2) The Institute is a trading enterprise for the purposes of Section 62 of the PFMA.	Institute shall maintain a fund to be known as the National Agricultural Research Institute Fund. (2) The Fund shall consist of— (a) all monies as are appropriated (b) all monies as may be appropriate	31/12/2006	18/10/2007

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
		food crops, livestock, alternative cash crops, and resource management; (c) promote the use of appropriate agricultural technologies and provide essential technical services to improve the productivity, income, nutritional status and food security, resource base and quality of life of rural		such directions consistent with Government policies and programmes and not inconsistent with the provisions of this Act, as he considers fit, as to the exercise and performance by the Council of its powers, duties and functions under this Act, and the Council shall give effect to all such directions.	after he has received a report Minister shall forward the report to the Speaker for presentation to the National Parliament.			d annually by Parliament (c) grants, subscriptions, gifts, bequests or devises (d) all monies received for goods and services provided by the Institute; and (e) all other monies received by the Institute		

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
		households and communities etc. Council - shall perform the functions, exercise the powers and direct the affairs of the Institute.		(3) Council shall furnish the Minister with such information with respect to its activities as he may from time to time require. (4) Council shall prepare corporate plan every 5 years for approval of Minister (5) Council to prepare work plan each year by 31 December and submit to Minister for approval						

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
National Agriculture Quarantine and Inspection Authority established as a corporation/Board of the Authority	National Agriculture Quarantine and Inspection Authority Act 1997	<u>Authority</u> – (a) advise the Ministry and the National Government on policy formulations and legislative changes pertaining to agriculture quarantine and inspection matters; and (b) monitor and inspect all imports of animals, fish and plants and their parts and products, including fresh, frozen and	Necessary powers to perform functions	(1) Minister appoints Chairman and Deputy Chairman of Board, grants leave of absence, accepts resignation, terminates member of Board on specified grounds	(1) Board shall furnish to the Minister— (a) on or before 15 March in every year, a report on the progress and performance of the Authority for the previous year; and (b) such other reports in relation to the functions of the Authority as are requested by the Minister.	No Ministerial appointment power for Board	Part VIII PFMA applies and in relation to the Authority.	Funds of the Authority consist of— (a) moneys appropriated annually by Parliament (b) grants or subscriptions; (c) all moneys received by the Authority for services and goods provided by the Authority; (d) all other moneys received by the Authority in accordance	31/12/2005	09/01/2007

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
		<p>processed food to ensure the imports are free from pests, diseases, weeds and any other symptoms; etc</p> <p><u>Board</u> - shall carry out the functions, exercise the powers and manage and direct the affairs of the Authority.</p>			<p>As soon as practicable after he has received the report the Minister shall forward the report to the Speaker for presentation to the Parliament.</p> <p>(2) The Minister may, after consultation with Board or otherwise, give to the Board such directions consistent with Government policies and programme</p>			<p>with this Act and in the exercise and performance of its powers, functions and duties.</p>		

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
					<p>s and not inconsistent with the provisions of this Act, as he considers fit, as to the exercise and performance by the Board of its powers, duties and functions under this Act, and the Board shall give effect to all such directions.</p> <p>(3) The Board shall furnish the Minister with such information with respect to</p>					

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
					its activities as he may from time to time require.					
National Aids Council established as a corporation	National AIDS Council Act 1997	(a) To be responsible for formulating, implementing, reviewing and revising national policy, in accordance with its objects, for the prevention, control and management of HIV/AIDS; (b) to make recommendations and	Necessary powers to perform functions	Minister grants leave of absence, accepts resignation, terminates member of Council on specified grounds	(1) Council shall, as soon as possible by 31 March in each year, furnish to the Minister a report on the progress and the performance of the Council in relation to its functions for the year ending 31 December preceding. (2) As soon as practicable	No Ministerial appointment power for Council	Part VIII PFMA applies and in relation to the Council	Funds of the Council consist of— (a) moneys appropriated annually by Parliament (b) grants or subscriptions; (c) all moneys received by the Council for services and goods provided by the Council; (d) all other moneys	31/12/2002	14/09/06

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
		provide guidelines on any issue related to HIV/AIDS to the National Executive Council and, where appropriate, to Provincial Governments and Local-level Governments in accordance with the national policy referred to in Paragraph (a); etc			after he has received the report Minister shall forward the report to the Speaker for presentation to the National Parliament.			received by the Council in accordance with this Act and in the exercise and performance of its powers, functions and duties.		
National Airline Commissi	National Airline Commiss	To establish a National	Necessary powers to perform	(1) Minister grants leave of	None	Head of state on advice	PFMA applies to in	Where Minister determines	31/12/2005	25/06/2007

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
on established as a corporation	ion Act	Airline; and (b) to transport passengers and goods for reward by air; and (c) to transport mail; and (d) to engage in other activities to the extent that they are within the limits of the powers of the Commission under a provision of this Act other than this section etc	functions	absence, appoints Chairman and Vice Chairman, can direct meeting of Commission be convened, commission must forward minutes of meetings to Minister (2) Minister may approve increase in paid up capital (3) Minister determines distribution of profits for a financial year		appoints NAC members	relation to the Commission	that there shall be a distribution of profits, the profits shall be distributed to the State, the Australian nominees and the Company in proportion to the percentage of the paid-up capital which each holds at the end of the financial year to which the distribution relates.		
National	National	NCDC --(a)	Commissio	None	The	No	Part VIII	Finances of	31/12/2004	16/11/2007

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
Capital District Commission established as a corporation/ Motu Koitabu Council	Capital District Commission Act 2001	to control, manage and administer the National Capital District and to ensure the welfare of the National Capital District and of the persons in it; and (b) to ensure that an adequate level of assistance is given towards the successful operation of Tabudubu Pty Ltd, the company	n has power to legislate, to acquire, hold, dispose of, mortgage or pledge property, land or buildings; to develop or improve land; to construct buildings; and to invest moneys; and with the consent of the Minister, to provide or co-operate with a Department or other body in providing		Commission shall, before 31 October in each year, submit to the Minister estimates of its receipts and expenditure for the next financial year, and may submit supplementary or revised estimates. (2) Where the Commission fails to submit estimates the Minister may, by written notice to the	Ministerial appointment power for NCDC	PFMA applies to and in relation to the Commission, subject to such modifications as are contained in this Part as are permitted by Part VIII	the NCDC include grants from the National government. The National Government shall make the following grants to the Commission: (a) the balance outstanding, as at the commencement date, of sums appropriated for the financial year 2001 for the National		

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
		established for the Motu Koitabu people of the National Capital District.	any public or social service; and to determine the duties and functions of any person employed by the Commission; and (h) to do such other matters and things as seem to it necessary or desirable for carrying out and performing its powers, functions, duties and responsibilities		Commission, require it to submit its estimates, and until the Commission complies with the notice, Subsection (4) applies to the Commission as if the Minister had withheld certification of the Commission's estimates. (3) Where the Minister is satisfied that the proposals contained in any			Capital District Interim Commission; (b) grants in respect of functions transferred to the Commission, which shall be paid annually at the level of National Government funding at the time of transfer and indexed annually in accordance with rises in the Consumer Price Index or in accordance		

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
			ties and any other ancillary or incidental matters		estimates, supplementary estimates or revised estimates — (a) are not unreasonable; and (b) are within the authorized powers and duties of the Commission under this Act; and (c) are likely to be capable of being met from the finances available, or to become available for the purpose,			with an alternative method of fixing annual increase agreed between the Commission and the National Government; (c) such other sums as the National Government may, from time to time, decide or in accordance with law.		

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
					the Minister shall certify the estimates to the Commission.					
National Council of Women established as a corporation	National Council of Women Incorporation Act	(a) To encourage and provide opportunities for mutual understanding among women in the country; and (b) to represent the views, at all levels, of women in the country and to publicize those	Necessary powers to perform functions	None	None	Minister recognises women's organizations for appointment purposes	No reference to PFMA	No reference		

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
		views where it thinks proper etc								
National Cultural Centre Trust established as a corporation	National Cultural Centre Trust Act.	To acquire, construct, develop, operate, manage or regulate the National Cultural Centre; and (b) to acquire land and other fixed and moveable assets; and (c) to arrange for displays of the traditional cultures, arts and crafts of	As necessary to perform functions	(1) Minister may terminate trustees for specified reasons (2) Trust must give effect to policy directions from Minister	As soon as practicable after the expiration of each financial year, the Trust shall prepare in a form approved by the Minister and forward to him a report and properly audited financial statements in respect of its activities during that financial	Minister determines number of trustees and appoints trustees	PFMA applies to and in relation to the Trust subject to the exceptions and modifications specified in the Schedule.	No reference		

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
		the country, whether by the Trust or by the Trustees of the Papua New Guinea Public Museum and Art Gallery or by others etc			year.					
National Cultural Commission established as a corporation	National Cultural Commission Act 1994	To perform the cultural functions of the former National Cultural Committee and — (a) to assist and facilitate, preserve, protect, develop and		(1) Minister grants leave of absence, accepts resignation of members, terminates members for specified reasons (2) Minister can	(1) Commission shall, as soon as possible between 1 January and 31 March of each year, prepare and furnish to the Minister a report on	No ministerial appointment powers	(1) Part VIII PFMA applies to and in relation to the Commission, subject to modifications specified in the Schedule to this Act. (2) The Commission is a trading enterprise for	Commission to open bank account and pay into it all moneys appropriated by Act for the purposes of carrying out or giving effect to	31/12/2002	16/10/07

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
		promote the traditional cultures of the indigenous peoples of Papua New Guinea; and (b) to encourage the development, promotion and protection of the contemporary cultures of Papua New Guinea etc.		request meeting of Commission be convened	the Commission and its operation under this Act for the preceding twelve months. (2) As soon as practicable, after the Minister has received the report, he shall lay the report before the Parliament within 14 sitting days of the receipt of the report.		the purposes of Section 62 PFMA.	this Act; and all moneys received by the Commission for the sale, leasing or hire of property; all other moneys received by the Commission in the exercise and performances of its powers, functions and duties.		
National Housing Corporation	National Housing Corporation Act	Improve housing conditions; and	As necessary to perform functions	(1) Minister determines terms and conditions	The Corporation shall, as soon as	Minister appoints one member of	Part VIII PFMA applies to in	Corporation shall pay into bank account	31/12/2003	08/11/2006

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
established as a corporation	1990	provide adequate and suitable housing for letting to eligible persons; and sell houses to eligible persons; and make advances to eligible persons and approved applicants to enable them to become the owners of their own homes etc		of Board members, grants leave of absence, may convene meeting of Board (2) Corporation shall give effect to any direction given to it by the Head of State, acting on advice, or by the Minister on any matter of policy relating to the exercise or performance of its functions or powers.	possible between 1 January and 28 March of each year prepare and forward a report to the National Parliament of its work and activities for the preceding twelve months. (UNUSUAL REPORTING PROVISION)	corporation Board but Head of State on advice has power to terminate Board members	relation to the Corporation, subject to the exceptions and modifications set out in Schedule 1.	(a) all moneys received from the State for the purposes of this Act; and (b) all moneys appropriated Act; and (c) all moneys received by the Corporation for the sale, leasing or hire of property; and (d) all other moneys received by the Corporation in the exercise		

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Statutory Reports Lodged	Last
								and performance of its powers, functions and duties			

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XV. Statutory Authorities – Legislative and Governance Arrangements

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
Papua New Guinea National Institute of Standards and Industrial Technology established as a corporation /NISAIT Council	National Institute of Standards and Industrial Technology Act 1993	<u>Institute</u> - to safeguard Papua New Guinea against the dumping and supply of unsafe, unhealthy and inferior or substandard products and to assure Papua New Guinea of quality products and services;	As necessary to perform functions	(1) Minister determines terms and conditions of Council members, appoints Chairman and Deputy chairman, grants leave of absence and terminates member of council for specified reasons, Minister may request	(1) Council shall, by 31 March in each year, furnish the Minister with a report on the progress and performance of the Council in relation to its functions during the year ended 31 December previously.	Minister appoints 6 members of the Council	(1) The Institute is a public authority to which Part VIII PFMA applies. (2) For the purposes of Section 58 of the PFMA, tenders shall be publicly invited and contracts for all works, services and supplies the estimated cost of which exceeds K20,000.00	General fund established into which shall be paid – (a) all moneys appropriated (b) all moneys paid to or received by the Institute as fees imposed under this Act or the regulations; and (c) all monies paid to or	31/12/2005	27/03/2007

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
		and (b) to establish and co-ordinate the National Standardization system for Papua New Guinea; and (c) to provide education, training and industrial extension and consultative services to assist industries in meeting standards and to improve production, processes,		council to convene meeting (2) Minister may give directions to the Council as to the exercise of the powers and functions of the Council and the Council shall give effect to those directions. (3) The Council shall furnish the Minister with such information relating to its activities	(2) As soon as practicable after he has received the report, the Minister shall forward the report to the Speaker for presentation to Parliament. The Institute shall, as soon as practicable between 1 January and 28 March of each year, prepare and forward a report to		or such other figure as may be declared by the Minister responsible for finance matters.	received by the Institute on the sale of its publications; and (d) grant, contribution, endowment, subsidy, gift, bequest, donation, subscription, rent, interest or royalty; and (e) all other moneys lawfully paid to or received by the Institute; and (f) all accumulations of income derived		

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
		techniques and procurement; etc <u>Council</u> - shall carry out the functions and objectives, manage the affairs and exercise the powers of the Institute.		as the Minister may from time to time require.	the National Parliament of its work and activities for the preceding twelve (12) months.			from moneys paid into the General Fund.		
National Maritime Safety Authority established as a corporation/ Board of the Authority	National Maritime Safety Authority Act 2003	<u>Authority</u> - co-ordinate search and rescue operations for vessels in distress or lost at sea pursuant to the terms and conditions	As necessary to perform functions	(1) The Minister may, after consultation with the Board or otherwise, give the Board, by notice in writing, such directions	(1) The Board shall prepare a corporate plan at least once a year and shall submit the plan to the Minister. (2) Where the Minister	Minister nominates 1 member of Board	(1) Part VIII of the PFMA except Sections 53(2), 53(3), 57(3), 57(4), 57(5), 60 and 61, applies in relation to the Authority. (2) For the purposes of Section 62(2)	The Authority shall operate— (a) as a not-for-profit public body; and, (b) on a self-sustaining financial basis	31/12/2005	28/06/2006

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
		of a search and rescue plan prepared by the Minister, from time to time, and approved by the Authority; and co-ordinate with other agencies and persons, including regional and international organizations and consultants, whether local or foreign, on matters concerning		consistent with Government policies and programmes and not inconsistent with the provisions of this Act, as he considers fit, with respect to the performance and exercise by the Board of its functions and powers under this Act, and the Board, shall give effect to all such directions.	requests the Board to give the plan to him by a specified day, the Board shall give the plan to the Minister by that day. (3) A plan prepared under Subsection (1) shall cover a period of at least three years. The Board shall furnish to the Minister— (a) on or before 30 June in every year,		of the PFMA, the Authority is declared to be a trading enterprise.	through the various fees and levies provided under this Act or any other law, with a view furthermore that the revenue to accrue to the Authority from such fees and levies does not exceed for any prolonged period the costs and expenses incurred by the Authority in the performance of its functions.		

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
		maritime safety, marine pollution prevention or search and rescue operations at sea etc. Board - shall carry out the functions, exercise the powers and manage and direct the affairs of the Authority.		grants leave of absence, accepts resignation of member of Board, terminates appointment on specified grounds	a report on the progress and performance of the Authority for the previous year; and (b) such other reports in relation to the functions of the Authority as are requested by the Minister.			Note: the funds of the Authority do not include moneys appropriated		
Trustees of the PNG National Museum and Art Gallery	National Museum and Art Gallery Act 1992	Protect and conserve the cultural and natural heritage of Papua New Guinea as required by	No express provision	Minister approves delegation of functions of Trustees to working committees	As soon as practicable after 31 March each year, the Trustees shall, in respect of	Minister appoints President of Trustees	The Public Finances (Management) Act 1995 applies to and in relation to the Trustees,	No reference	31/12/2003	18/06/2007

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
id as a corporation		the Environmental Planning Act National Cultural Property (Preservation) Act and the Conservation Areas Act and collect, document, photograph, conserve and manage examples of prehistoric artifacts, traditional arts and material culture and contemporary history and art etc.			the year ended 31 December preceding, present a report to the Minister for presentation to Parliament — (a) on the operation of the Museum; and (b) on the state of the cultural, natural and contemporary heritage, preservation and development programme; and (c)		subject to the exceptions and modifications specified in the Schedule 1.			

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
					recommending any changes in legislation or administration that to it seem necessary or desirable for improving the operation or achieving the objectives of this Act.					
National Provident Fund Board of Trustees established as a corporation	National Provident Fund Act.	Board is to administer the Fund	No express provision	Minister determines terms of appointment of Trustees, terminates appointment on specified grounds	(1) The Board shall, as soon as practicable after 31 December in each year prepare and furnish	Minister appoints 4 members of Board	No reference to PFMA	All expenses incurred by the Board in connexion with the performance of its functions under this		

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
					to the Minister a report of its operations during the year ended on that date, together with financial statements in respect of that year in such form as the Minister approves. (2) The Minister shall cause the report and financial statements, together with the report from the auditor, to be laid before the			Act shall be met from the Fund.		

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
					Parliament at its first meeting after their receipt by the Minister.					
National Research Institute established as a corporation /Council of the Institute	National Research Institute Act	Council is governing body of Institute. Council functions - to do all things necessary for achieving the objects of the Institute; and formulate Institute policy on social, political and economic	Council - As necessary to perform functions	(1) Minister grants leave of absence to Chairman (2) Council must sent copies of minutes of meetings to Minister	As soon as practicable after 31 March in each year, the Council shall furnish to the Minister, for presentation to the Parliament, a report on the operations of the Institute and of this Act during the year ending on the	Some Council appointments made by Head of state on advice	The PFMA applies to and in relation to the Institute and to the Council subject to the exceptions and modifications specified in the Schedule.	No reference	31/12/2006	11/11/2008

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
		research in Papua New Guinea with due regard to any general guidelines on those matters that the Head of State, acting on advice, declares, and to implement such policies through direction and development of the Institute; and to employ, control and regulate the staff of			preceding 31 December, and recommending any changes in legislation or administration that seem to it necessary or desirable for improving the operation or achieving the objects of this Act, together with financial statements in respect of that year in such form as the Minister					

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
		the Institute. No express statement of functions of Institute			approves.					
National Road Safety Council established as a corporation	National Road Safety Council Act 1997	To determine the goals and objectives in the promotion of road safety in Papua New Guinea; and (b) to advise the National Government on all matters relating to road safety which the Council may from	As necessary to perform functions	(1) Minister grants leave of absence, accepts resignation of members, terminates members for specified reasons, appoints Chairman and Deputy (2) The Minister may, after consultation with the Council or otherwise,	(1) The Council shall, in respect of each calendar year, prepare a corporate plan including a work programme for the Council. The Council shall, by 28 February in each year, submit to the Minister for his	No ministerial appointment power	(1) Part VIII PFMA applies to and in relation to the Council. (2) For the purposes of Section 59 of the PFMA, tenders shall be publicly invited and contracts taken by the Council for all works, supplies and services, the estimated cost of which exceeds K20,000.00	The capital of the Council consists of— (a) monies levied by the Council ; and (b) such monies as are appropriated (c) such monies as may be appropriated annually by Parliament for the purposes	31/12/2005	22/11/2007

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
		time to time consider desirable or which the National Government may refer to the Council; etc		give to the Council such directions consistent with Government policies and programmes and not inconsistent with the provisions of this Act, as he considers fit, as to the exercise and performance by the Council of its powers, duties and functions under this Act, and the Council shall give effect to all	approval the corporate plan including the work programme and budget of the Council for that year. (2) The Council shall furnish to the Minister— (a) on or before 15 March in every year, a report on the progress and performance of the Council for the year ending 31		for such other figure declared by the Minister responsible for finance matters.	of this Act; and (d) grants and subscriptions; and (e) monies received by the Council for services provided by the Council; and (f) monies earned or arising from any investments; and (g) all other monies received by the Council in accordance with this Act and in the exercise and		

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
				<p>such directions.</p> <p>(2) The Council shall furnish the Minister with such information with respect to its activities as he may from time to time require.</p>	<p>December previously; and (b) such other reports in relation to the functions of the Council as are requested by the Minister.</p> <p>(3) As soon as practicable after he has received the report the Minister shall forward the report to the Speaker for presentation to the Parliament.</p>			<p>performance of its powers, functions and duties.</p>		

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
National Roads Authority established as a corporation/ Board of the Authority	National Roads Authority Act 2003	<u>NRA</u> - Establish and operate a Road Fund from road user charges, budget and other sources; and (b) establish resources and an organization to enable the Authority to perform its functions; and (c) to maintain and manage updated data on asset conditions	As necessary to perform functions and some specifically enumerated powers	Minister determines terms and conditions of Board members, grants leave of absence and terminates appointment of Board members on specified grounds	The Board shall furnish to the Minister before 31 March in each year a report on the progress and performance of the National Roads Authority in relation to its functions in respect of the year ending 31 December preceding, and the Minister shall table such report at the first sitting of the	No ministerial appointment power	Part VIII PFMA applies and in relation to the Authority subject to the exception and modification specified in Schedule 2.	The Authority may invest any monies standing to the credit of the Fund— (a) in any securities of, or guaranteed by, the State; or (b) on deposit with an approved bank or a licensed financial institution; or (c) in any manner authorised by Section 57 of the PFMA; or (d) in any other	31/12/2005	01/11/2007

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
		using the Road Asset Management System, Bridge Inventory and Bridge Maintenance and other approved systems etc Board - carry out the functions, exercise the powers and manage the affairs of the Authority			National Parliament after the date of his receipt of it.			manner approved by the Minister responsible for financial matters; or (e) in any other manner approved by the Board and the Minister responsible for financial matters. (2) Any balance of monies at the end of each year shall be placed to the credit of the Authority, and used only for the purposes of the Act,		

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
								and no part of the balances may be transferred to the Consolidated Revenue Fund.		
National Training Council established as a corporation	National Training Council Act 1991	To be responsible for supervising and managing the implementation of the National Training Policy and for monitoring, reviewing and revising the National Training Policy	All powers necessary to perform functions	Minister accepts resignation of Council member, terminates member of Council on specified grounds	(1) The Council shall, as soon as practicable after 1 January in each year, furnish to the Minister a report on the progress and the performance of the Council in relation to its functions	No ministerial appointment power	Part VIII PFMA applies to and in relation to the Council.	No reference		

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
		when necessary; and to make recommendations on any issue related to training to the National Executive Council and, where appropriate, to provincial governments etc			for the year preceding ending 31 December. (2) As soon as practicable after he has received the report referred to in Subsection (1), the Minister shall forward the report to the Speaker for presentation to the Parliament.					
National Volunteer Service established as a corporation	National Volunteer Service Act 1990	<u>NVS</u> - (a) To promote a spirit of sacrifice and service;	All powers necessary to perform functions	Minister accepts resignation of member of council, approves	The Council shall on 31 December in each year furnish	Regulatory Statutory Authorities Act applies – no Ministerial	Part VIII PFMA applies to in relation to the Service.	The funds of the Service consist of— (a) all	31/12/2004	13/12/2006

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
n/ Council for the NVS		and (b) participate generally in the economic development of Papua New Guinea; and (c) provide labour and skills to the community for development projects either free of charge or at a much reduced labour cost etc <u>Council</u> - shall perform the functions, exercise the powers		leave of absence and terminates a member on specified grounds	to the Minister a report on the progress and performance of the Service. (2) As soon as practicable, after he has received the report the Minister shall forward the report to the Speaker for presentation to the Parliament.	appointment power		monies appropriated by Act (b) all grants and subscriptions; and (c) all monies received by the Service for services provided by the Service; and (d) all other monies received by the Service in the exercise and performance of its powers, functions and duties.		

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
		and manage the affairs of the Service.								
Waterboard established as a corporation /Board of directors	National Water Supply and Sewerage Act 1986	<u>Waterboard</u> - to provide water supply and sanitation services to meet the reasonable needs of the urban population, Governments and business enterprises ; and to promote water supply and sanitation in rural areas and urban fringe	All powers necessary to perform functions	None	None	Regulatory Statutory Authorities Act applies – no Ministerial appointment power. Appointment of some members made by NEC.	(1) The PFMA applies to and in relation to the Waterboard. (2) The Waterboard is a trading enterprise for the purpose of Section 62 of the PFMA. (3) For the purposes of Section 59 PFMA tenders shall be publicly invited and contracts taken by the Waterboard for all works, supplies and	No reference	31/12/2004	20/06/2006

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
		areas through community participation on self-help bases and where necessary with the help of loans, grants or aid; etc ; <u>Board</u> – no express statement					services, the estimated cost of which exceeds K10,000.00 or any other figure as declared by the Minister responsible for finance matters.			
National Youth Commission established as a corporation / National Youth Council	National Youth Commission Act 1999	<u>NY Commission</u> – (a) to coordinate policy development and provide policy advice to the Government on matters	All powers necessary to perform functions	(1) Minister grants leave of absence, terminates member of the Council for specified reasons, Minister may request council to	(1) The National Youth Council shall, by 31 May in each year, furnish to the Minister a report on the progress and performanc	Regulatory Statutory Authorities Act applies – no Ministerial appointment power.	Part VIII PFMA applies to and in relation to the Commission.	The funds of the Commission consist of— (a) all monies appropriated by Act (b) all grants and subscriptions; and (c) all	31/12/2005	18/05/2007

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
		<p>pertaining to youth; and (b) to provide policy advice to the Provincial Governments and Local-level Governments on matters pertaining to youth; and (c) to identify and provide training opportunities for employees of National, Provincial and Local-level Governments as well</p>		<p>convene meeting (2) Minister may suspend Council on specified grounds and appoint Caretaker committee</p>	<p>e of the Commission in relation to its functions during the year ended 31 December preceding. (2) As soon as practicable after he has received a report the Minister shall forward the report to the Speaker for presentation to the Parliament. (3) The National Youth Council shall</p>			<p>monies received by the Commission for services provided by the Commission; and (d) all other monies received by the Commission in exercise and performance of its powers, functions and duties.</p>		

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
		as for other young men and women; etc <u>National Youth Council</u> (a) advise the National Executive Council on any matter referred to it by the National Executive Council; and (b) work with relevant authorities on developments of policy; and (c) establish and maintain a strong			furnish to the Minister a quarterly performance report and any such other report as he may from time to time require.					

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
		youth network throughout the country; and etc								

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XVI. Statutory Authorities – Legislative and Governance Arrangements

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
Occupational Health and Safety Council established as a corporation	Occupational Health, Safety and Welfare Act 1991	(a) to inquire into and report to the Minister within the time specified by the Minister upon any matters referred to it by the Minister; and (b) to make recommendations to the Minister with respect to— (i) the	No express provision	(1) Minister grants leave of absence, terminates member of the Council for specified reasons (2) Minister receives minutes of meetings of council	(1) The Council shall on or before 30 December in each year prepare and submit to the Minister a report of its operations and the operation of this Act during the year ending on the preceding 30 June. (2) The Council may at any	Minister appoints 2 members of council	No reference to PFMA	No reference		

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
		operation and administration of this Act and the regulations; and (ii) regulations or codes of practice in relation to occupational health, safety and welfare which it or the Minister proposes should be made or approved; etc			time prepare and submit to the Minister such other report in relation to occupational health, safety and welfare as it thinks fit. (3) The Minister shall cause a report submitted under this section to be laid before the Parliament after receiving the report.					
Oil Palm Industry Corporation	Oil Palm Industry Corporati	<u>Corporatio</u> n - (a) to promote	As necessary to perform	(1) Minister grants leave of	The Board shall furnish to	No ministerial power to	The provisions of Part VIII	The funds of the Corporation	31/12/2005	27/03/2007

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
Oil Palm Industry Corporation Board	Oil Palm Industry Corporation Board Act 1992	and encourage increase in productivity in the oil palm industry by the more efficient provision of extension services to small-holders; and (b) to promote the development of the oil palm industry, and in particular— (i) the implementation of improved husbandry technologies to	functions	absence, terminates member of the Board for specified reasons	the Minister— (a) on 31 March in each year, a report on the progress and the performance of the Corporation in relation to its functions for the preceding year; and (b) such other reports in relation to the functions of the Corporation as are requested by the Minister. (2) As soon	appoint	PFMA shall apply to and in relation to the Corporation subject to the exceptions and modifications set out in the Schedule.	n shall consist of— (a) funds appropriated by the State from the Consolidated Revenue Fund for the first five years of its operation; and (b) funds raised by a levy imposed by the Corporation (c) profits from any commercial enterprise undertaken by the Corporation; and (d) gift,		

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
		increase production by small-holders; etc Board - The Board shall direct the affairs of the Corporation and shall otherwise perform such functions and exercise such powers as are given to it in this Act or any other law.			as practicable after he has received the report the Minister shall forward the report to the Speaker for presentation to the Parliament.			loan or otherwise		
Palm Oil Industry Stabilization Funds Board of Management	Palm Oil Industry Stabilization Funds Act	(a) establish and administer the stabilization funds as	No express provision	(1) Minister terminates member of Board for specified reasons (2) Minister	The Board shall, as soon as practicable after 31 December in each	Minister appoints one member of Board	The PFMA applies to and in relation to the Board subject to the exceptions	No reference		

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
established as a corporation.		provided by this Act; and (b) advise the Minister on all matters concerning the palm oil industry relating to the stabilization funds; and (c) liaise between the Minister and the small-holders or estate holders, as the case may be, on any matters relating to a stabilization fund; etc		receives minutes of Board meetings	year, prepare and furnish to the Minister a report of its operations during the year ended on that date, together with financial statements in respect of that year in a form approved by the Minister.		and modifications specified in Schedule 1.			

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
Papua New Guinea Institute of Public Administration established as a corporation / Governing Council	Papua New Guinea Institute of Public Administration Act 1993	<u>Institute</u> - (a) to plan, organize, conduct and assess a wide range of practical and relevant training programmes to meet the needs of the public and private sectors in the country and, if applicable, in the South Pacific Region; and (b) to undertake relevant research and	Necessary powers to perform functions	Minister appoints chairman and Deputy chairman, grants leave of absence, terminates member of council for specified reasons, Minister may request convening of meeting of council	(1) The Council shall, by 31 March in each year, furnish to the Minister a report on the progress and performance of the Council in relation to its functions for the year ending 31 December previously. (2) As soon as practicable after he has received a report the Minister shall forward a	Minister nominates 1 member of the Council	The provisions of Part VIII PFMA apply to and in relation to the Institute.	No reference	31/12/2005	25/09/2007

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
		consultation on issues and problems of management and administration and to act as a centre for collection, storage, retrieval and dissemination of information ; etc <u>Council</u> - is the governing body of the Institute and shall perform the functions, exercise the powers and direct			copy of the report to the Speaker for presentation to the Parliament. (3) The Council shall, where requested so to do by the Minister, furnish to the Minister such additional report or reports on its functions or on any aspect of its functions as may be required by the Minister.					

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
		the affairs of the Institute. Council - to provide general direction for the efficient and effective management of the Institute; and (b) to decide, after consultation with— (i) the National Training Council; and (ii) the Commission for Higher Education; etc								

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
Papua New Guinea Science and Technology Council established as a corporation	Papua New Guinea Science and Technology Council Act 1992	(a) gather information on scientific and technological activities taking place or being planned or required and, through a process of analysis and consultation, determine their positive and negative implications and the optimum course of action; and (b) maintain	Necessary powers to perform functions	Minister accepts resignation of member, terminates member on specified grounds	The Council shall submit before 31 December in each year an annual report to the Minister on the implementation or working of this Act.	All members of council except chairman appointed by NEC on recommendation of the Minister	Part VIII of the PFMA shall apply to and in relation to the Council.	The funds of the Council shall consist of— (a) monies as may be appropriated to the Council, (b) any moneys or properties which may be donated to the Council; and (c) other monies lawfully received by the Council.		

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
		liaison with government agencies and organisations, private sector, universities, research institutions and non-government organisations and any international bodies and institutions to ensure cross-sectoral consideration of scientific and technological issues; etc								
Papua	Papua	(a) to	Necessary	(1) Minister	The	None	Part VIII of	There is	31/12/1999	05/06/2007

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
New Guinea Sports Foundation established as a corporation	New Guinea Sports Foundation Act 2006	advise the Minister in relation to the development of sport; and (b) to coordinate activities in Papua New Guinea for the development of sport; and (c) to develop and implement programs that promote equality of access to and participation in sport by all Papua New Guineans;	powers to perform functions	may, by written notice, give directions to the Foundation with respect to the policies and practices to be followed by the Foundation in the performance of its functions, and the exercise of its powers, and the Foundation shall comply with the directions. (2) The Minister shall not	Foundation shall: (a) from time to time inform the Minister concerning the general conduct of its activities; and (b) Furnish an annual report on its activities to the Minister every year.		the PFMA shall apply to and in relation to the Board. (1) It is hereby declared that the Foundation is a public authority to which Part VIII PFMA applies. (2) The Foundation is a trading enterprise of Section 61 of the PFMA (3) For the purposes of Section 58 of the PFMA tenders shall be publicly invited and contracts taken by the	payable to the Foundation such money as appropriated by the Parliament. (2) The Minister responsible for financial matters may give directions as to the amounts in which, and the times at which, money referred to in Subsection (1) is to be paid to the Foundation. The Foundation		

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
		etc		<p>give a direction to the Foundation under Subsection (1) unless the Minister.</p> <p>(a) has informed the Foundation, in writing, that the Minister is considering giving the direction; and</p> <p>(b) has given the chairperson an opportunity to discuss the need for the proposed</p>			<p>Foundation for all works, supplies and services the estimated cost of which exceeds K100,000.00 or such other figure declared by the Minister responsible for finance matters.</p>	<p>shall prepare estimates, in such form as the Minister directs, of the receipts and expenditure of the Foundation, for each financial year and, if the Minister so directs, for any other period specified by the Minister, and the Foundation shall submit estimates so prepared to the Minister</p>		

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
				<p>direction with the Minister.</p> <p>The Foundation shall —</p> <p>(a) formulate a Strategic Plan setting out the manner in which the Foundation proposes to perform its functions on a continuing basis; and</p> <p>(b) from time to time, review and revise the Strategic Plan.</p> <p>(2) A</p>				<p>not later than such date as the Minister directs.</p> <p>(2) The moneys of the Foundation shall not be expended, otherwise than in accordance with estimates of expenditure approved by the Minister.</p>		

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
				Strategic Plan, or a revision of the Strategic Plan, has no effect until approved by the Minister. (3) The first Strategic Plan shall be submitted to the Minister within six months after the coming into operation of this Act.						
Papua New Guinea University of Technology	Papua New Guinea University of Technology	(a) the advancement and dissemination of knowledge	Powers specifically enumerated	None	None	Minister nominates 8 members of the Council of the	The PFMA (other than Sections 53, 51 and 61) applies to and in	(1) The State shall each year pay to the University a sum of	31/12/2004	06/06/2206

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
y establishe d as a corporatio n	gy Act 1986	by teaching, research and otherwise, with particular reference to its practical application; and (b) the provision of liberal and professiona l education responsive to the needs of Papua New Guinea.				University	relation to the University, subject to the exceptions, limitations, conditions, additions and modifications set out in Schedule 2.	money, which sum shall be determined by the National Executive Council on the advice and recommen dation of the Commissio n for Higher Education. (2) The amounts payable to the University under this section shall be paid out of the Consolidat ed Revenue		

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
								Fund.		
Parliamentary Members Retirement Benefits Board established as a corporation	Parliamentary Members Retirement Benefits Act 1997	No express provision	No express provision	None	The Board shall, in each year, submit to the Committee, to be tabled before the Parliament, a report dealing with the general administration and working of this Act.	No ministerial appointment power	No reference to PFMA	No reference	31/12/2006	11/02/2008
Legal Training Institute established as a corporation / Council of the Institute	Post-graduate Legal Training Act.	The functions of the Institute are to provide practical training in law, the conduct and management of legal	No express provision	None	(1) As soon as practicable after the receipt by it of a report by the Director under Section 22, the Council shall	Minister appoints 2 members of the Council	The PFMA applies to and in relation to the Institute subject to the exceptions and modifications specified in Schedule 1.	No reference	31/12/2006	06/05/2007

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
		<p>offices, trust accounts and related subjects for candidates for admission, to a standard sufficient to qualify them for admission to practice as lawyers under the Admission Rules</p>			<p>forward the report to the Minister together with its comments and any other comments on matters relating to legal education that the Council thinks it desirable to make. (2) As soon as practicable after the receipt by him of the report and comments, the Minister shall present them to the Parliament.</p>					

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
Management Boards established as a corporation	Public Hospitals Act 1994	(a) to administer and maintain the public hospital and its facilities for the care and treatment of the local people; and (b) to engage in and assist local authorities in the provision of community health education and public health information services to local communities; and	Necessary to perform functions and specifically enumerated powers	Minister appoints Chairman and Deputy Chairman of Boards, grants leave of absence, terminates members on specified grounds	The Board of a public hospital shall— (a) on 31 December in each year; and (b) at such other times as the Minister may require, furnish to the Minister a report on the progress and performance of the Board in relation to its functions.	Minister nominates all members who are appointed by NEC	The PFMA applies to and in relation to the Board of a public hospital.	The funds of the Board of a public hospital shall consist of— (a) such sums as are appropriated in accordance with Section 32; (b) fees and charges imposed (c) loans, gifts. (1) There shall be payable to the Board of a public hospital out of the Consolidat		

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
		(c) to provide or assist in the provision of facilities for, or in connection with, education, instruction or practical training of its professional staff and other employees; etc						ed Revenue Fund such monies as are appropriated by Parliament for the purposes of that public hospital. (2) The Minister responsible for finance matters may give directions as to the amounts in which, and the times at which, money referred to in Subsection (1) is to be paid to the		

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
								Board.		
Securities Commission of PNG established as a corporation	Securities Act 1997	No express provision	Necessary to perform functions and enumerated powers	None	None	Minister appoints and removes Chairman of commission who is Registrar of Companies	No reference to PFMA	No reference		

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XVII. Statutory Authorities – Legislative and Governance Arrangements

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
Small Business Development Corporation established as a corporation / SBDC Board	Small Business Development Corporation Act 1990	SBDC - (a) Formulate and recommend to the Minister, policies on the promotion of small business, incentive schemes and financial support; and (b) to provide, either by itself or in conjunction with	Necessary to perform functions	Minister appoints Chairman and Deputy chairman, grants leave of absence to member, terminates member on specified grounds	The Board shall— (a) on 31 December in each year furnish to the Minister a report on the progress and the performance of the Corporation in relation to its functions; and (b) when requested by the Minister,	Appointment to Board made by Head of State on advice on recommendation of Minister	(1) Part VIII PFMA applies to and in relation to the Corporation. (2) The Corporation is a trading enterprise for the purpose of Section 62 of the PFMA	The funds of the Corporation consist of— (a) all monies appropriated (b) grants and subscriptions; (c) all monies received by the Corporation for services provided by the Corporation; (d) all other	31/12/2006	30/11/2006

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
		appropriate government or private sector organisations, an advisory, management and administrative service, for the development and expansion of small business; and (c) to arrange and co-ordinate training programmes and skills development programmes for small business; etc			furnish to the Minister, such other reports in relation to the functions of the Corporation. (2) As soon as practicable after he has received the report the Minister shall forward the report, together with any other reports (if any) prepared and submitted under			monies received by the Corporation in the exercise and performance of its powers, functions and duties.		

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
		Board - shall perform the functions, exercise the powers and manage the affairs of the Corporation.			Subsection (1)(b), to the Speaker for presentation to the Parliament.					
PNG Spice Industry Board established as a corporation	Spice Industry Act 1989	Subject to any direction by the Minister, the functions of the Board are— (a) to control and regulate the processing, marketing and export of spices; and	Necessary to perform functions	Minister appoints chairman and Deputy Chairman and terminates members for specified reasons	None	No ministerial appointment power	(1) Part VIII PFMA applies to and in relation to the Board. (2) The Board is a trading enterprise for the purposes of Section 62(2) of the PFMA.	The Board shall not expend money from the Fund except— (a) in payment of bounty under Section 22; or (b) with the Minister's approval, to recompens		

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
		(b) to promote the consumption and export of spices; and (c) to promote research and development programmes for the benefit of the spice industry; and (d) to compile statistical data on production, imports and exports of spices etc.						the costs necessarily incurred by the Board in administering the Fund.		
Surveyors Board	Survey Act	No express provision		Minister determines	None	Minister appoints all	No reference to PFMA	No reference		

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
established as a corporation				allowances for Board members, directs that meeting of Board be convened, accepts resignation of member, terminates member for incapacity or misbehaviour		members except SG who is ex officio chairman				
Papua New Guinea Radio communications and Telecommunications Technical Authority, to be known as PANGTEL established	Telecommunications Act 1996	(a) providing technical inspection and technical regulation of the telecommunications industry; and (b) implementi	Necessary to perform functions	(1) Minister determines terms and conditions of members, grants leave of absence, terminates members on specified grounds	None	Chairman and members appointed by Head of state on advice after recommendation from Minister	Part VIII applies to PANGTEL. and in relation to PANGTEL.	The activities of PANGTEL shall be funded from the following sources:— (a) sums appropriated by the National Budget; (b) fees	31/12/2002	16/11/2007

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
incorporated as a corporation		<p>giving effect to the Government Policy notified to PANGTEL in accordance with Section 36; and</p> <p>(c) establishing technical standards for the telecommunications industry; and</p> <p>(d) ensuring that this Act is implemented with due regard to the public interest; and</p>		<p>(2) Subject to Section 19B, the Minister may notify PANGTEL in writing of any Government Policy.</p> <p>(3) PANGTEL shall ensure that any Government Policy notified in accordance with Subsection (1) is carried out.</p>				<p>and other charges payable to PANGTEL in the performance of its functions under this Act;</p> <p>(c) grants, donations or other contributions;</p> <p>(d) loans raised by PANGTEL.</p>		
Tourism	Tourism	TPA - To	Necessary	(1) The	The Board	Minister	(1) Part VIII	The	31/12/2006	23/05/2007

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
Promotion Authority established as a corporation / Tourism Promotion Authority Board	Promotion Authority Act 1993	foster the development of tourism in Papua New Guinea so as to maximize the economic benefits of the industry to Papua New Guinea whilst minimizing any disruption to society, culture and the environment, and to this end— (a) to formulate a tourism policy for the consideration	to perform functions and enumerated powers	Minister or the National Executive Council may give to the Board directions as to the overall tourism policies on the development and promotion of tourism and the Authority and the Board shall give effect to any such directions. (2) Minister grants leave of absence to Board member, terminates	shall, within six months of the coming into operation of this Act and thereafter as required by the Minister, prepare and submit to the Minister, a corporate plan for the Authority for a period of three to five years. (2) The Board shall, by 31 December in each year, prepare and submit to the Minister an	appoints some members of Board	PFMA applies to and in relation to the Authority. (2) The Authority is a trading enterprise for the purpose of Section 62 PFMA.	Authority shall open and maintain such bank accounts, with such bank or banks as the Minister approves for the purpose of the Authority, and shall pay into them— (a) all moneys appropriated (b) all moneys received by the Authority for the sale, leasing or hire of		

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
		<p>on of the National Executive Council; and (b) to implement the tourism policy approved by the National Executive Council etc</p> <p><u>Board</u> – responsible for the efficient and effective accomplishment of the government tourism policy and for the satisfactory management of the Authority</p>		<p>members of Board for specified reasons</p>	<p>operational plan for the Authority for the year commencing 1 January following.</p> <p>The Board shall, by 31 March in each year, furnish to the Minister a report on the progress and performance of the Authority in relation to its functions for the year ending 31 December previously. (2) As soon as practicable,</p>			<p>property; (c) all other moneys received by the Authority in the exercise and performances of its powers and functions.</p>		

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
		subject to the provisions of this Act and shall from time to time advise the Minister on any matters associated with tourism promotion and the tourism industry.			after he has received a report the Minister shall forward the report to the Speaker for presentation to the Parliament.					
University of Goroka established as a corporation	University of Goroka Act 1997	(1) The University shall be dedicated to the pursuit,	Enumerated powers	None	None	None	Part VIII PFMA applies to and in relation to the University,	(1) The State shall each year pay to the University a sum of	31/12/2004	05/06/06

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
		<p>advancement and dissemination of knowledge, understanding and wisdom. (2) In pursuing the objects specified in Subsection (1), the University shall pay particular attention to the human resource development and other development needs of Papua New Guinea and shall endeavour to achieve academic</p>					<p>subject to the exceptions, limitations, conditions, additions and modifications set out in this Part.</p>	<p>money, which sum shall be determined by the National Executive Council on the advice and recommendation of the Commission for Higher Education, through the Minister. (2) The amounts payable to the University under this Section shall be paid out of the Consolidated</p>		

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
		and professional excellence to meet those needs through teaching, research and community service.						Revenue Fund.		
University of Papua New Guinea established as a corporation	University of Papua New Guinea Act.	The University shall be dedicated to the pursuit, advancement and dissemination of knowledge, understanding and wisdom. (2) In pursuing the objects	Enumerated powers	None	None	None	The PFMA applies to and in relation to the University, subject to the exceptions, limitations, conditions, additions and modifications set out in Schedule 1.	(1) The State shall each year pay to the University a sum of money, which shall be determined by the National Executive Council on the advice and recommen	31/12/2005	21/11/2006

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
		<p>specified in Subsection (1), the University shall be mindful of the manpower and other needs of Papua New Guinea and shall endeavour, by the example of its corporate life, academic achievements and professional excellence, to promote national well-being and progress.</p>					<p>ation of the Commission for Higher Education. (2) The amounts payable to the University under this section shall be paid out of the Consolidated Revenue Fund.</p>			

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
University of Vudal established as a corporation	The University of Vudal Act 1997	(1) The University shall be dedicated to the pursuit, advancement and dissemination of knowledge, understanding and wisdom. (2) In pursuing the objects specified in Subsection (1), the University shall pay particular attention to the human resource development and other development needs of	Enumerated powers	None	None	None	Part VIII of the PFMA applies to and in relation to the University, subject to the exceptions, limitations, conditions, additions and modifications set out in this Part.	(1) The State shall each year pay to the University a sum of money, which sum shall be determined by the National Executive Council on the advice and recommendation of the Commission for Higher Education, through the Minister. (2) The amounts payable to the University under this	31/12/2005	08/02/2006

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
		Papua New Guinea and shall endeavour to achieve academic and professional excellence to meet those needs through teaching, research and community service.						Section shall be paid out of the Consolidated Revenue Fund..		
Papua and New Guinea Valuers Registration Board established as a corporation	Valuation Act	No express provision	Power to register classes of persons who are valuers	Minister determines fees and allowances for Board members, accepts resignation of Board member, may direct	None	Minister appoints 4 members	No reference to PFMA	The Board may demand and collect in advance such fees as are prescribed.		

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
				that Board convene a meeting						
Security Industries Authority established as a corporation / Security Industry Council	Security (Protection) Industry Act 2004	<u>SIA</u> - (a) to grant licences and permits under this Act; and (b) to fix minimum standards of training applicable to holders of licences and permits, respectively; and (c) to establish, provide or approve training institutions and facilities or permit such	Necessary to perform functions	Minister terminates appointment of council member on specified grounds	The Council shall furnish to the Minister— (a) on or before 15 March in each year, a report on the progress and performance of the Authority for the previous year ending 31 December; and (b) such other reports as are	Minister appoints some members but on nomination of others and has no power to reject nominations	No reference to PFMA	The funds of the Authority shall consist of any monies appropriated and any monies received in accordance with law, including— (a) all monies received for services provided by the Authority; (b) all monies received by the Authority as fees or charges in	31/12/2006	10/09/2007

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
		training institutions or facilities as it may approve to conduct training or to be used for training for the purpose of training of persons who intend to perform security officer duties or security guard duties; etc <u>Council</u> - to carry out the functions, manage the affairs and exercise the powers which are			requested by the Minister, in relation to the functions of the Authority. (2) As soon as practicable after receiving the report referred to in Subsection (1)(a), the Minister shall forward the report to the Speaker for presentation to the Parliament.		respect of applications for and grants of permits and licences; and (c) all other monies received by the Authority in exercise and performance of its duties and functions. All penalty payments or fines imposed and collected under this Act in respect of a contraventi			

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged
		vested in, or are delegated to the Authority; (b) to do such thing as may be incidental to or consequential upon the exercise of its powers or the discharge of its functions under this Act; and (c) otherwise to control the regulation of the security industry.						on of any provision of this Act shall be paid into the funds of the Authority and shall be applied to defray the costs and expenses of carrying out of the functions of the Authority.		

Name of Authority	Enabling Act	Authority's Functions	Authority's Powers	Ministerial Powers	Reporting Requirements	Board of Manage't - How Appointed	Application of PFMA	Public moneys, other finance	Last Audited by AGO or other auditor	Date Last Statutory Reports Lodged

Entities yet to be classified (but included in Auditor-General's list of Public Bodies)

Cocoa Stabilisation Fund									31/12/2002	5/11/2007
Defence Force Retirement Benefit Fund									31/12/2004	12/04/2005
Motu Koitabu Council									31/12/2002	17/11/2006
PNG Cocoa Coconut Institute									31/12/2004	28/11/2006
PNG Coconut Extension Fund									31/12/2004	30/04/07
PNG Corpa Extension Fund									31/12/2004	30/4/07
Public Curator of PNG									21/12/2003	10/05/2006
POSF									31/12/2003	30/07/04
Port Moresby City Development									31/12/2007	24/11/05

Enterprises Limited										
University Staff Superannuation Admin.Limited									31/12/2004	11/04/2006
University Staff Superannuation Fund Limited									31/12/2005	11/04/06
National Economic Fiscal Commission									31/12/2005	18/06/07
National Narcotics Bureau									31/12/1997	

**BOARDS, COMMISSIONS, COMMITTEES
(Not incorporated)**

Accountants Registration Board
Accounting Standards Board
Apprenticeship and Trade Testing Board
Board of Architects of PNG
Building Boards, Central Building Tribunal
Child Welfare Council
Citizenship Advisory Committee
Censorship Board
Central Roads Board
Coasting Trade Committee
Commission for Higher Education
Conservation Council
Environment Council
Fluoridation Committee
Food Sanitation Council
Industry Assistance Board
Land Board
Land Transport Board
Management Accountants Registration Board
Medical Board/ PNG Nursing Council
National Education Board
National Intelligence Organization
National Narcotics Control Board
National Physical Planning Board/ National Capital District
Physical Planning Board
National Statistical Office
National Tripartite Consultative Council / Minimum Wages Board
Office of Libraries and Archives
Petroleum Advisory Board
Pharmacy Board
Professional Boxing Control Board
Professional Engineers Registration Board
Salaries and Conditions Monitoring Committee
Teaching Service Commission
Teaching Service Tribunal
Valuers Registration Board
Veterinary Surgeons Board
Water Resources Board
Physical Planning Appeals Tribunal
Transport Committee (Licensing of Heavy Vehicles Act 1977)
Parole Board
Police Promotions Selection Board
Liquor Licensing Commission
National Health Board, Provincial Health Boards, District Health Management Committees
Place Names Committee
National Disaster Committee, Provincial Disaster Committees
National Security Council
National Security Advisory Committee
Central Agencies Co-ordination Committee

INCORPORATED PUBLIC COMPANIES

PNG Harbours Ltd (currently in above matrix as PNG Harbours – since incorporated)

PNG Power

Niugini Insurance Limited (currently in above matrix as Niugini Insurance Corporation – since incorporated)

Air Niugini Limited

Higaturu Transport Limited

Livestock Development Corporation Ltd

Mineral Resources Development Corporation Ltd

Motor Vehicles Insurance Limited

NCD Botanical Enterprises Ltd

NCD Water & Sewage Limited

North Fly Highway Development Company Limited

Post PNG Limited

National Development Bank of PNG (previously Rural Development Bank)

Telikom PNG Limited

Open Bay Timber Limited

Pacific Forum Line Limited

Pacific Rim Plantations Limited

Government Printing Office

Petromin

PNG Dams Ltd

Government Stores

Eda Ranu (Need to clarify different to NCD Water & Sewage Limited above)

Port Moresby Hospital Ltd

PNG Forest Products Ltd

KNP Company Pty Ltd

Aquarius No. 21 Ltd

Garden Hills

Cape Roney rubber Estate Ltd

Finance Pacific Ltd

Stettin Bay Lumber Ltd

Gogol Reforestation Ltd

Open Bay Timber Ltd

**PARTIALLY STATE OWNED COMPANIES
(Not Public Bodies)**

Bougainville Copper Limited

Ok Tedi Mining Limited

Ramu Sugar Holdings Limited

Highlands Pacific Limited

Oil Search Limited

Bank of South Pacific

