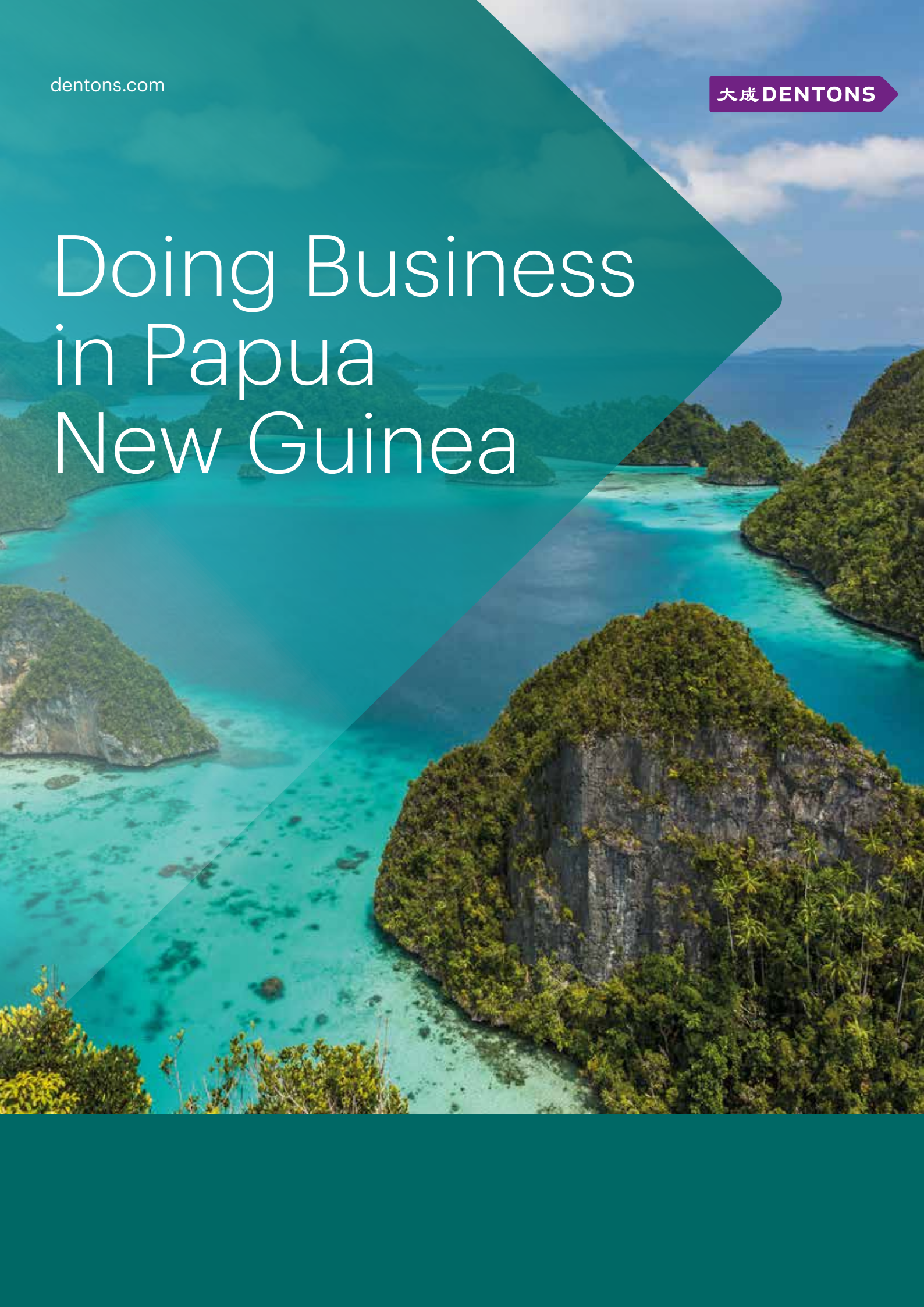


Doing Business in Papua New Guinea





About Papua New Guinea



Geography

Papua New Guinea (PNG) is a country located north of the east coast of Australia. PNG occupies the eastern half of the Island of New Guinea, along with other small offshore Islands, including Bougainville, Manus, Lihir, New Ireland and New Britain. The western half of the Island of New Guinea is known as the Papua province and is governed by Indonesia.

PNG's total land area is approximately 463,000 square kilometres.

The capital of PNG is Port Moresby, which is located on the south-east side of the mainland. The country has a central range of mountains called the Owen Stanley Range which connects Port Moresby with the north coast of the country.

Language

PNG has three official languages: English, Tok Pidgin and Hiri Motu. English is used throughout PNG educational institutions, government, Courts and in business.

There are also estimated to be over 800 different indigenous languages spoken throughout the country.

Demography

PNG's population is currently approximately 7.3 million.

It is estimated that growth of the population is increasing by approximately 3.1% annually.

The population of PNG remains primarily based in rural areas and operates in a traditional, non-monetary barter economy. However,

there is also a portion of the population that live in cities such as Port Moresby, Lae, Madang and Goroka.

Co-existing with the traditional communities is a modern economic system, involving mining, the production and exportation of petroleum products and other industries such as agriculture and fisheries.

Culture

Predominantly, the religion in PNG is Christian. However, traditional indigenous belief systems are also common, particularly in rural areas.

Customary laws are still commonly practiced and enforced across the country. Legislation also recognises Customary Law as part of the underlying law of PNG.

Currency

The unit of PNG currency is the Kina (PGK).

Time zone

PNG is 10 hours ahead of Greenwich Mean Time and is on the same time zone as Australian Eastern Standard Time. However, PNG does not have daylight saving.

PNG's political and legal systems

Structure of government

National government

The Constitution provides that PNG has a unitary system of government. That is, the country is a single unit with a National Parliament. PNG is a Commonwealth realm, and, as such, Queen Elizabeth II acts as its Sovereign and Head of State, represented by the Governor-General, who is a citizen of PNG nominated by Parliament. The leader of the government is the Prime Minister.

Under the Constitution, the power, authority and jurisdiction of the people of PNG are to be exercised by the national government, which is made up of three principal arms: the National Parliament (the legislature), the National Executive and the National Judicial system.

The National Parliament has legislative power in connection with foreign investment, exchange control, immigration, trading and financial corporations, banking, most taxation, customs and excise, shipping and overseas trade.

PNG has a robust political party system governed by the PNG Registrar of Parties. The major political parties are National Alliance, the United Resources Party, the Papua New Guinea Party, and the People's Progressive Party. Ideological distinctions between the parties tend not to be substantial, and affiliations between the parties are flexible.

Provincial governments

Within PNG, there are 20 provinces, one autonomous region (Bougainville) and the National Capital District, which has a status similar to provincial governments. Provincial governments have their powers delegated from the National Parliament, and are subordinate to the National Parliament. Provincial legislatures can pass laws on a limited, but important, range of matters including agriculture, fishing, trade and industry, land and land development, forestry and natural resources. Provincial governments also have certain limited powers to raise revenue, including the right, subject to certain conditions, to impose sales and services tax.

Local governments

A local government system was introduced to the country by the colonial administration. Generally, a council will represent a number of villages and will manage and administer the area under its control.

Local-level government has legislative power in connection with, among other things, labour and employment, provision of water and electricity, local trading and the local environment.

Depending on the location, size and nature of its enterprise, a foreign investor may need to consider the Acts, regulations and policies of all three tiers of government operating in the country.

Hierarchy of Laws in PNG

The Constitution of PNG provides the sources of law in PNG as follows:

- a. Constitution;
- b. Organic Laws, which are Acts of Parliament, having quasi-constitutional status and which are passed by a special majority of Parliament;
- c. Acts of Parliament;
- d. Emergency Regulations, which are laws of limited duration made by the executive in special circumstances;
- e. provincial laws;
- f. laws made under or adopted by or under the Constitution or any of those laws, including subordinate legislative enactments made under the Constitution or any of those laws; and
- g. the underlying law.

The Constitution is the primary source of law in PNG. Where a law in PNG is inconsistent with the Constitution, it will be declared null and void.

The principles and rules of common law and equity in England at the time of independence (16 September 1975), subject to certain exceptions, were adopted by the Constitution. Those principles and rules, together with custom (or customary law), comprise the underlying law of PNG.



Contract law in PNG applies in much the same way as other common law countries such as England, Australia, Canada and New Zealand. However, there is considerably less statutory regulation of the application and operation of contracts in PNG than in those other countries.

The Judicial system

The Constitution provides that the national judicial system consists of the Supreme Court, the National Court and other courts established by Acts of Parliament.

Supreme Court

The Supreme Court is the ultimate appeal court in PNG. It has original jurisdiction in matters of constitutional interpretation and enforcement. It also has appellate jurisdiction in appeals from the National Court, certain decisions of the Land Titles Commission and those of other regulatory entities as prescribed in their own Acts.

The Supreme Court is convened as a bench of at least three National Court judges.

National Court

The National Court also has original jurisdiction for certain constitutional matters and has unlimited original jurisdiction for criminal and civil matters.

The National Court has jurisdiction under the Land Act in proceedings involving land in PNG, other than customary land. The National Court also has jurisdiction in appeals from Local and District Courts and from certain administrative tribunals.

District Courts

The District Courts generally have jurisdiction for some criminal matters, and civil matters up to K10,000. The District Courts are constituted by one or more Magistrates.

Village Courts

In addition to the courts mentioned above, there is also a system of Village Courts established under the Constitution and the Village Courts Act. Matters involving customary law claims are likely to arise at the Village Court level. However, as the Constitution adopts custom as part of the underlying law, there is no reason why customary law arguments cannot be raised in the appropriate circumstances in other courts in PNG.

Other information

There is no jury system in PNG.

Lawyers operating in PNG are governed by a number of Acts of Parliament. The PNG Law Society is the profession's regulator and only lawyers registered with the Law Society and admitted to practice in the National Court of PNG are allowed to practice as lawyers in PNG.

Foreign investment in PNG

Foreign investment climate

Foreign investment in PNG is regulated by legislation. An Authority called the Investment Promotion Authority (IPA) operates as a quasi-department of government and acts as the registry and oversees the management of a vast raft of different pieces of legislation that cover all aspects of doing business in PNG, both by citizen and non-citizen enterprises. The IPA is established by the Investment Promotion Act.

The IPA also administers the Companies Act through the office of the Registrar of Companies.

Businesses wishing to commence a new business in PNG (or acquire an existing one) need to satisfy the requirements of both the Companies Act and the Investment Promotion Act.

It is usual to commence both processes at once, although a company needs to be registered first before it can be certified to carry on business in PNG.

Investment Promotion Authority

Powers

Under the Investment Promotion Act, the main powers and functions of the IPA are:

- a. to promote and facilitate investment in the country by citizens and foreign investors;
- b. to provide for the grant of a certificate to a foreign enterprise;
- c. to define the activities open to a foreign investor;

- d. to provide for a register of foreign investment opportunities;
- e. to promote investments which will materially benefit the country and its people and which, among other things, contribute to economic growth, create employment and utilise domestic resources; and
- f. to monitor the impact of investment and the activities of enterprises.

Structure

The IPA consists of the following key divisions:

- a. Investor Servicing and Export Promotion;
- b. Business Registration, Regulation and Certification (Companies Office of PNG);
- c. the Intellectual Property Office; and
- d. the Securities Commission of PNG (SCPNG).

First point of contact

The IPA has been designed as the first point of contact for a potential new investor in PNG. A foreign investor should approach the IPA during the early stages of considering investing in PNG (along with relevant industry bodies such as a chamber of commerce). The IPA will assist in facilitating the proposals, identify relevant Government departments and assist investors in obtaining the required approvals, licences and permits.

Meaning of 'foreign enterprise'

A 'foreign enterprise' is an enterprise which is 50% or more owned directly or indirectly by non-citizens, is controlled by non-citizens or is declared by the Minister for Commerce and Industry to be a foreign enterprise. An 'enterprise' is a person, company, body or association of persons.

Carrying on business in PNG –certification

When certification is required

A foreign enterprise must first obtain certification from the IPA before it carries on business in PNG. A foreign enterprise will be deemed to be 'carrying on business' if it:

- a. makes an application for, or is issued, any permit, licence, lease or authority issued for commercial purposes by the State or a government body;
- b. administers, rents, manages, or otherwise deals with property in the country as an owner, agent, legal personal representative, or trustee, whether by a servant or agent or otherwise;
- c. maintains an agent, employee, or officer for the purpose of soliciting or procuring or entering into orders, arrangements, agreements, or contracts (whether conditional or not), whether or not the agent, employee, or officer is continuously resident in the country;

- d. maintains an office, agency, or branch (however described), whether or not the office, agency, or branch is also used for one of those purposes by another enterprise;
- e. undertakes a building, construction or assembly project or certain other activities that will not be completed within six months; or
- f. a combination of paragraphs (a) to (e) above.

In the case of an unincorporated joint venture, each foreign participant must seek certification. Before the IPA will grant certification, the foreign enterprise must complete a formal application, provide specified information and pay the required fee.

Provided the foreign enterprise has properly completed its application, the IPA will respond within 35 days. Certification enables the foreign enterprise to carry on business in a particular activity at a specific location within the country set out in the certificate.

When certification is not required

A foreign enterprise need not obtain certification if its only activities in PNG are:

- a. being a party to a legal proceeding or settling a legal proceeding or a claim or dispute;
- b. holding meetings of its directors or shareholders or carrying on other activities concerning its internal affairs;
- c. maintaining a bank account;

- d. effecting a sale of property through an independent contractor;
- e. soliciting or procuring an order that becomes a binding contract only if the order is accepted outside the country;
- f. creating evidence of a debt or creating a charge on property;
- g. securing or collecting any of its debts or enforcing its rights in relation to securities relating to those debts;
- h. conducting an isolated transaction that is completed within a period of one month, not being one of a number of similar transactions repeated from time to time; or
- i. investing its funds or holding property.

The IPA may grant certification subject to any terms and conditions it considers appropriate. However, provided a proposed investment does not fall within a list of investment activities restricted to citizens of PNG, certification is usually not conditional on maintaining a minimum level of local equity.

Foreign enterprises are restricted from going into restricted activities regardless of local equity.

Reserved activities

Certain activities are presently reserved for PNG citizens. These activities can include traditional and small-scale agricultural, forestry and fisheries activities, traditional arts and crafts, alluvial mining, certain small retail and wholesale activities.

For more information, visit the IPA website: www.ipa.gov.pg

Certification criteria

Certification conditions can be varied with the IPA's agreement and the IPA may suspend or cancel a certificate if a foreign enterprise breaches its terms. The IPA must be notified of certain changes in control of a certified foreign enterprise (other than one that is a public company listed on a prescribed stock exchange) and 're-certification' will need to be obtained. Certified enterprises wishing to expand or diversify their operations must lodge an Application for Variation with the IPA.

Failure to comply with the Investment Promotion Act may have serious consequences for a foreign investor.

The Investment Promotion Act provides that, where a foreign enterprise and another enterprise enter into a contract, arrangement or understanding and:

- a. the foreign enterprise did not have a certificate at the time; or
- b. the contract related to business activities other than those for which the foreign enterprise was certified,

the court may, on the application of the other enterprise or the IPA, declare the contract unlawful and void.

Guarantees for certified foreign investors

The Investment Promotion Act contains the following investment guarantees for certified foreign investors:



- a. protection against nationalisation or expropriation other than in accordance with law, for a public purpose and on payment of compensation;
 - b. subject to taxation and exchange control laws, acknowledgment that a foreign investor is entitled to remit earnings, and certain other payments, overseas and to repatriate capital;
 - c. acknowledgment that a foreign investor is entitled to remit overseas, at the prevailing exchange rate, any compensation it has received for nationalisation or expropriation of its investment; and
 - d. subject to law and any agreement between the State and the foreign investor, assurance that no governmental impost, procedure or practice will discriminate against the foreign investor or its investment on the grounds of its origin.
- Similar types of guarantees may be available to some investors under bilateral agreements for the protection of investment. For example, PNG has entered into such agreements with Germany, Australia and the United States of America.

Establishing a business in PNG

Most foreign investors use a company as the vehicle for their investment. However, it is possible to conduct business in PNG through any of the structures outlined below.

Companies

There are two types of companies that may be registered in PNG.

The first is the incorporation of a new company under the Companies Act. It will have a name, one or more shares and one or more shareholders who have limited or unlimited liability for the obligation of the company. It will also have one or more directors. In the case of a foreign investor this normally would be a wholly owned subsidiary of the offshore parent or owners.

The second is registering what is called in the PNG Companies Act, an overseas company (see below). This is sometime referred to in other jurisdictions as a branch. It allows investors that may not wish to incorporate a wholly owned subsidiary in the PNG jurisdiction to register their existing business entity that is a corporation offshore in PNG. The driving factor in most of these cases is based upon advice from taxation experts having regard to group reporting and taxation issues.

In general terms, the Companies Act regulates the incorporation and management of a company in PNG including such matters as legal capacity, the raising of debt and equity capital, registration of security interests over corporate property,

shareholders' meetings, the preparation of accounts, appointment and functions of auditors, directors' duties, corporate arrangements and reconstructions, reductions of capital and winding up.

Incorporation

The steps involved in incorporating a company in PNG are as follows:

- a. Reserve the proposed company name on a prescribed form with the Registrar of Companies. It should be noted that the reservation of the proposed company name can be registered simultaneously with the application to register a company. An application can be unsuccessful if the name is likely to be confusing with a similar name which has already been registered.
- b. An application must be made to the Registrar of Companies on the prescribed forms, signed by each applicant. The application must also state:
 - the number of proposed directors;
 - the number of proposed secretaries (if any);
 - the number of proposed shareholders; and
 - the proposed address for service.
- c. The following must also accompany the application in prescribed forms:

- each director's consent to act as a director of the company;
- each shareholder's consent to being a shareholder of the company and the number and class of shares to be held;
- each secretary's consent to being the secretary of the company (if applicable); and
- reservation of the name (if the proposed name of the company was not previously reserved).

Constitution

A Constitution sets out the rules governing the company, the directors and shareholders of the company and their relationship with each other. It may cover such matters as the rights, duties, powers and obligations of the company, directors and shareholders.

It is not a mandatory legal requirement for a company to have a Constitution. Where a company does not have a Constitution however, the company, the board, each director, and each shareholder of the company only have the rights, powers, duties, and obligations set out in the Companies Act.

This may prove unsatisfactory for the day to day operation of the company. Usually companies are recommended to adopt and lodge a certified copy of a Constitution with the Companies office upon incorporation.

Where a company has a Constitution, the company, the board, each director, and each shareholder of the company have the rights, powers, duties, and obligations set out in the Companies Act except to the extent that they are negated or modified by the Constitution of the company.

Any change or alteration to the Constitution, directors or persons authorised to accept services, or the place of business, must be approved by special resolution of the shareholders of the company (75%) and notified to the Registrar within one month of the change or alteration.

Company Officers

Under the Companies Act, every company must have at least one director who is ordinarily a resident of PNG. A company may or may not have a secretary. If it does have a secretary, that secretary must be a natural person ordinarily residing in PNG.

Registered Office

Every company must have a registered office in the country that is identifiable and easily accessible to the public. The registered office address must be notified to the Registrar.

If a company wishes to change its registered office, the change and the date of change must be notified to the Registrar on the prescribed form within one month of the change.

Address for Service

Every company must have an address for service in the country. This may be the same address as a company's registered office or it may be elsewhere, but it must not be a postal address. The address for service must have a readily identifiable street address and be at a place that is readily accessible during normal business hours. A company's address for service must be notified to the Registrar on the prescribed form lodged on application. If a company wishes to change its

address for service, the change must be notified to the Registrar on the prescribed form within one month of the change.

Reporting Requirements

An annual return must be lodged every year with the Registrar of Companies within six months of the end of its financial year. All companies are required to lodge an annual return on a prescribed form with the Registrar within 14 days of the annual general meeting being held together with a prescribed fee of K50.00.

The annual return must be made up to the date no later than 14 days of the date of the annual meeting.

Company Records

A company must keep the following documents at its registered office:

- a. the Constitution of the company;
- b. minutes of all meetings and shareholders' resolutions within the last seven years;
- c. an interests register (of directors' interests);
- d. minutes of all meetings, directors' resolutions and directors' committees within the last seven years;
- e. certificates given by directors under the Companies Act within the last seven years;
- f. the full names of directors and secretaries;
- g. copies of all written communications to all shareholders of the same class of shares during the last seven years, including annual reports that have been made;
- h. copies of all financial statements required to be completed by the Companies Act for the last seven years' completed accounting periods of the company; and

- i. the share register.

Despite the general requirements to keep the above records at the company's registered office, the records (except the share register) may be kept at any other location in the country provided that the location is notified to the Registrar within one month of their first having been kept elsewhere.

Company Name and Business Name

Company names and business names are quite different and are administered under two different Acts.

A company name is the name under which a company is incorporated and ends with the word Limited or the abbreviation 'Ltd', while a business name is the name that a business uses for trading purposes. A company (or individual) carrying on business in PNG under any name other than its own, must register that business name with the IPA.

Registering as an overseas company in PNG

Under the Companies Act, a company that is incorporated outside PNG and wishes to commence carrying on business in PNG must apply for registration as a foreign company (overseas company).

It must also separately still apply for a certificate to carry on business as a foreign owned enterprise under the Investment Promotion Act (see above) before it is legally entitled to carry on business.

To achieve registration in PNG under the Companies Act, an overseas company must lodge with the Registrar of Companies an application in the prescribed form, including certified copies of its certificate of incorporation and constituent documents (its constitution or equivalent) and a registration fee.

Registered overseas companies must lodge with the Registrar of Companies an annual return together with a certified copy of its audited financial statements. An overseas company automatically falls under the category of a 'reporting company' and therefore must present its audited financial statements. However, a company may apply to be exempted from certain requirements.

If an overseas company merely wishes to have a representative office in PNG, it may be exempt from lodging tax returns if it derives no income in PNG.

Alternative business structures

Sole trader

A sole trader is an individual who carries on business on his or her own behalf. A sole trader can carry on business either under his or her own name or under an adopted business name. If a business name is adopted, this name must be registered under the Business Names Act.

The principal advantages of conducting business as a sole trader are:

- a. it is comparatively easy to wind up or sell such a business;
- b. the costs of establishing and operating the business are generally less than those associated with other business structures; and
- c. other than preparing an individual tax return, there are no reporting or disclosure requirements.

The major disadvantage is that a sole trader has unlimited personal liability for his or her business obligations and debts. There may also be income tax disadvantages in operating this way.

Partnership

A partnership exists where two or more entities agree to carry on business in common with a view to deriving profit jointly.

A partnership is not a separate legal entity and the liability of the partners for the obligations of the partnership is joint and unlimited. Often the rights of the partners as between themselves are regulated by the terms of a partnership agreement. However, matters not covered by a partnership agreement may be regulated by the Partnership Act.

Partnerships are generally limited to 20 partners. However, some professional partnerships are able to exceed this number. Corporations and citizens of countries other than PNG are able to conduct business in the country through a partnership. The interest of a partner is not freely transferable as the consent of the other partners is necessary before a partnership interest can be transferred.

The principal advantages of a partnership are:

- a. the partnership arrangements need not be committed to writing (although, for taxation reasons and so as to avoid disputes, it is prudent to do so);
- b. the degree of control among the partners can be agreed and management may be vested in a particular partner or committee of partners;
- c. partnership losses can be offset against other income of individual partners for income tax purposes;
- d. partnership accounts need not be made public;

- e. the partnership agreement is a flexible document which can be tailored to meet specific needs; and
- f. partnership profits are only taxed once as income of the individual partners (whereas the profits of a company are taxed once as company income and again as shareholders' income).

Joint Venture

A joint venture is a contractual arrangement between two or more entities to carry out a business undertaking in common, otherwise than as partners. A joint venture can be incorporated or unincorporated and is usually entered into to undertake a specific business activity.

An unincorporated joint venture is often appropriate for mining, oil or gas projects, which generally involve high pre-production costs. The parties to a joint venture usually enter into a detailed agreement which specifies their respective rights and obligations. A joint venture differs from a partnership in several respects, the main one being that the participants do not carry on business in common. Rather, each participant contributes funds or other property to an agreed stage of a project, the profits of which are distributed directly to them in the manner and proportions set out in the joint venture agreement.

Generally speaking, a joint venture is not required to lodge a separate tax return and every participant may immediately incorporate its share of the costs of the project into its general income-producing expenses for tax purposes (other than mining and petroleum development projects, for which such costs must be incorporated into project income-

producing expenses). Furthermore, each participant is free to treat its share of the cost of the project independently of the other participants, thereby offering greater tax and accounting flexibility than a partnership.

It is common for an unincorporated joint venture to be formed and managed so that each participant's liability is limited to its agreed interest in the project.

Trust

A trust can be established by deed empowering a trustee to carry on business. In such circumstances, the trustee holds the assets of the business and runs the business for the benefit of the beneficiaries of the trust. It is possible for a trustee to be a company, thereby attracting limited liability and ensuring perpetual succession of the trustee. However, the trust itself must have a fixed life.

The flexibility of available trust structures means that a deed can be drawn to suit most circumstances.

The beneficiaries' entitlements under a trust structure may be in a fixed proportion or variable at the discretion of the trustee.

A unit trust structure may be adopted where the beneficiary's entitlement to the income and capital of a trust depends on the number of units the beneficiary holds in the trust. Units are similar to shares in a company, although there are some fundamental legal differences between the two. Where a number of separate individuals or companies are involved in a particular business activity, a unit trust structure can be used. The beneficial ownership of the trust property is divided into a number of fixed units. Unlike a

discretionary trust, which is more commonly used as a vehicle to conduct family businesses, unit trusts tend not to allow the trustee a discretion to redistribute the beneficial interest in income or capital among unit holders.

The principal advantages of a trust structure are that trusts are relatively easy to form and are subject to relatively few government controls on their formation and operation.

However, certain provisions of the Trustees and Executors Act apply to trusts. Where a company acts as trustee, it will need to comply with the requirements of the Companies Act. Certain trustee companies will also need to comply with the Trustee Companies Act.

Generally, trustees are personally liable for their actions as trustees but they may have a right of indemnity against the trust assets provided they act within the scope of their authority. However, in recent years, courts in other jurisdictions have become increasingly concerned about this state of affairs and have held beneficiaries of trusts to be personally liable for trust debts in some circumstances. The courts in PNG may follow this lead.

The principal disadvantages of a trust structure are:

- a. there must be strict adherence to the terms of the trust deed and, where the trustee is a company, it must also comply with its constituent documents and the Companies Act;
- b. legislation relating to the powers and duties of trustees must be adhered to;

- c. the courts have developed a complex set of rules relating to trusts;
- d. a trust structure will not enable individual participants to offset trust losses incurred in a year of income against assessable income derived from other sources; and
- e. the taxation regime in PNG does not favour trusts.

Foreign exchange controls



The Bank of Papua New Guinea (Central Bank) administers exchange controls, including in respect of inward investment, registration of foreign capital, foreign currency and repatriation of capital and earnings.

Non-exempt foreign exchange transactions

Central Bank approval is required for non-exempt foreign exchange transactions including:

- a. where a resident company contracts with another resident company in foreign currency;
- b. where a guarantee or security contract is provided by a resident company in favour of an offshore lender, unless there is a benefit to PNG; and

- c. where a resident company opens and maintains foreign currency accounts within and outside PNG.

Reporting obligations

Companies are also subject to reporting requirements by the Central Bank in respect of the movement of funds. Offshore borrowings, for example, do not require pre-approval by the Central Bank but are subject to reporting obligations (eg draw-downs are reportable).

Residency

According to the Foreign Exchange Notice 3 of the 'Foreign Exchange Manual' issued by the Central Bank, 'residency' for the purpose of foreign exchange regulations is determined as follows:

- a. PNG incorporated companies are designated as residents;
- b. foreign incorporated companies or branches of foreign incorporated companies operating actively in PNG are designated as residents;
- c. an entity is deemed to be operating actively in PNG if there exists some location (dwelling, place of production, or other premises) within the country from which the entity engages in economic activities and transactions; and
- d. those companies which do not actively trade or operate in PNG, even though they may be registered in PNG as foreign companies, must be designated as non-resident.

Taxation surveillance

Taxation clearance certificates obtained from the Internal Revenue Commission (IRC) are required for certain transactions including:

- a. remission of funds offshore in excess of K500,000 annually; and
- b. remission of funds of any amount offshore to a 'tax haven' as listed by the IRC.

Taxation

Overview of tax regime

In PNG, the taxation regime is set out in various legislation including the Income Tax Act, the Goods and Services Tax Act, the Stamp Duties Act, and the Customs Acts. The law is largely administered by the IRC, however also by the PNG Customs Services Commission.

Corporate Income Tax Rate

The income tax rate is 30% for a resident company and 48% for a non-resident company, but different tax rates may apply where income is generated from mining, petroleum or gas operations.

In the case of overseas shippers or charterers carrying passengers, livestock, mail or goods out of PNG, taxable income will be calculated as 5% of the gross fares, which will then be taxable at the non-resident tax rate of 48%.

Residence

A company incorporated under PNG law is considered to have its residence in PNG. Where companies are incorporated under foreign law, but are carrying on business in PNG and are effectively managed and controlled in PNG, they are still considered to have PNG residence.

Resident companies are taxed on their worldwide income, while non-resident companies are only required to remit tax on income sourced in PNG.

Permanent establishment

Non-resident companies are required to pay tax in PNG if the activities

they are carrying out constitute a permanent establishment.

A permanent establishment will be present in the following circumstances: The non-resident company has a place of business in PNG;

- a. at or through which it carries on business;
- b. where business is carried on through an agent;
- c. where the company is installing substantial machinery or substantial equipment;
- d. where the company is engaged in a construction project; and
- e. where the company is engaged in selling goods manufactured, assembled, processed, packed or distributed by another person for, or at, or to the order of, the first-mentioned person and either of those persons participates in the management, control or capital of the other person or another person participates in the management, control or capital of both of those persons.

Where the non-resident company is resident of a country with which PNG has entered into a double tax treaty then the Income Tax (International Agreements) Act provides that the treaty will take precedence over the local tax law. Many of the tax treaties narrow the definition of Permanent Establishment which allows the non-resident company to apply the agreement to its advantage and

reduce or vary its PNG tax liability – however this needs to be considered carefully in day to day operations.

Tax Administration

Tax Year

The PNG tax year runs from 1 January to 31 December each year. Applications may be made for a substituted tax year-end to coincide with the accounting year-end of an overseas parent company.

Public Officer

A company carrying on business or deriving income in PNG must appoint a resident in PNG to be its public officer. This must be done within three months after the company commences carrying on business or deriving income in PNG (unless an exemption applies).

Tax Returns

Resident companies must lodge tax returns each year, while non-resident companies are only required to lodge tax returns if they have derived PNG-sourced income during the year.

Generally, these returns must be filed by 28 February of the following year. However, if the returns are lodged through a registered tax agent, the return may be lodged by 30 April or a later date granted by the Commissioner.

Companies must pay provisional tax in three equal instalments on 30 April, 31 July and 31 October each year. Assessments are issued (based on lodged tax returns) for the balance of tax payable for a year of income after the application of provisional tax and other tax credits

or rebates. This is generally payable within 30 days of receiving the assessment.

Tax Losses

Tax losses may be carried forward for 20 years. In the case of primary production losses, there is no such limit. Continuity of ownership of the company and holding company is required to carry forward losses. Where losses have been incurred as a result of foreign activities, such losses will be available for deduction for 20 years against foreign-sourced income.

Consolidation

PNG law does not allow for grouping or consolidation of tax returns and losses are not permitted to be offset between group companies.

Anti-Avoidance

The Commissioner has authority to cancel the effect of any tax benefit that the taxpayer derived from an arrangement, where the sole or dominant purpose of that arrangement was to enable the taxpayer (or other persons) to obtain that benefit.

Specific anti-avoidance provisions exist to prevent accelerated deductions, excessive depreciation deductions and non-arm's length charges for management expenses.

Rulings

A tax ruling system has recently been introduced under which public rulings (called Tax Circulars) have been issued on matters of administrative practice, procedural instruction and interpretation of tax laws.

While no formal system is in place for private rulings, taxpayers may request a non-binding opinion from the Commissioner, the timeframe of which varies from 3 months to 12 months.

Income Tax Treaties for the Avoidance of Double Taxation

PNG has double tax treaties with the following countries:

- a. Australia;
- b. Canada;
- c. China;
- d. Fiji;
- e. Malaysia;
- f. New Zealand;
- g. Republic of Korea;
- h. Singapore;
- i. United Kingdom; and
- j. Germany.

Withholding Tax

Dividends

Where dividends are paid to either residents or non-residents, they are subject to 17% withholding tax. This rate may be reduced to 15% under application of a double tax treaty.

In the case of dividends being paid out of mining income, this rate is reduced to 10%, and is exempt altogether where dividends are paid out of oil or gas income.

Royalties

Royalties paid to residents are not subject to withholding tax.

Non-residents are subject to withholding tax at a rate of 10%. Where a royalty is paid to a non-resident associate of the payee, they will be subject to a 30% withholding tax rate. This rate may be reduced to 10% under application of a double tax treaty.

Interest

Interest payments to either residents or non-residents are subject to withholding tax at 15%. This rate may be reduced to 10% under application of a double tax treaty.

There will be no interest withholding tax where:

- a. interest is paid or credited to a licensed financial institution in PNG, the Central Bank, or the state;
- b. interest is paid or credited by a resource company to a non-resident lender; or
- c. the interest income is otherwise exempt.

Business Income

Businesses that make eligible business payments must withhold and remit 10% of all such payments where they are made to persons or organisations that do not have a certificate of compliance and they are operating in certain industries. The industries affected include:

- a. building and construction;
- b. road transport;
- c. motor vehicle repairs and maintenance;
- d. joinery and cabinet making;
- e. security;
- f. advertising services;
- g. entertainment of any kind;
- h. sign writing services;
- i. professional services, or services as an adviser, manager or consultant; and
- j. equipment hire.

Non-resident Insurers

Where non-resident insurers do not have a permanent establishment in PNG, they will be taxed at 48% on 10% of gross premiums paid in respect of property situated in, or events occurring in, PNG.

Management Fees

Where management fees are paid to non-residents, they will be subject to a 17% withholding tax rate. This rate may be reduced under application of a double tax treaty.

Branch Income

Unless the Commissioner has approved a non-resident contractor to be assessed on the actual taxable income from the contract, the payments to the non-resident contractor will be subject to a withholding tax rate of 12% of gross income. This amount is calculated on deemed 25% of the gross contract income, which will be taxed at the non-resident contractor tax rate of 48%.

Salary/Wages

Where businesses are paying salary or wages to employees, they will be required to withhold salary or wages tax at the prescribed marginal rates, and remit to the IRC on the 7th day of the month following the month of payment.

Where a company has any unpaid obligations, the directors will be personally liable and may be penalised at a rate of 20% of the unpaid tax liability per annum.

Goods and Services Tax (GST)

A business or an individual, whose annual turnover exceeds or is likely to exceed K100,000 per annum must register for GST by lodging the required Form 1 with the IRC.

A company registered for GST, must submit a monthly GST return to the IRC. The return must be in a required form, setting out the amount of tax payable in respect of the taxable period by the company, together with any other prescribed particulars.

The standard rate of GST is 10%, but certain goods and services are exempt or zero-rated.

Zero-rated goods and services include those goods and services that are exported, as well as goods and services (other than motor cars) supplied to mining, petroleum or gas companies.

Exempt goods and services include medical, educational, and financial services.

Land is also excluded from GST, but buildings and other improvements are subject to tax.

Where a company fails to comply with its GST obligations, the directors will be personally liable for a penalty equal to the outstanding tax liability.

Transfer Pricing

If the consideration for the supply or acquisition of property (or services) under an international transaction is less than/greater than the arm's length consideration, the Commissioner has the power to reconstruct the transaction to apply the arm's length consideration.

Other Taxes

Customs Duty

The majority of manufacturing inputs (including plant and machinery) attract no custom duties. Where customs duties are applicable, they are levied on the value of a wide range of imported goods, the rates

of which vary depending on the nature of the goods. Higher rates will generally apply to alcohol, juices, tobacco, sugar, canned fish and petroleum products, among others.

Excise Taxes

Although customs duties are being progressively reduced, some goods, most notably motor vehicles, now attract excise tax, the rates of which vary between the products and are based on the value of the goods. Excise taxes also apply to some domestically produced goods, including refined fuel products, alcohol and tobacco.

Stamp Duty

Stamp duty is imposed on documents evidencing certain transactions at varying rates.

Duty charged on the conveyance of property rises to a maximum of 5% where the value of the property exceeds K100,000 and is payable by the purchaser. A 5% duty may also be payable on the unencumbered value of land where there is a transfer of shares in certain landholding companies.

Duty charged on the transfer of shares will generally be taxed at 1% of the value of the shares transferred.

Stamp duty may also be payable on documents executed outside PNG where those documents relate to property or matters in PNG.

Land Tax

Land tax is imposed annually on the unimproved value of the land by the provincial governments at a rate of 1.25%.

Capital Gains Tax (CGT)

There is currently no CGT regime in PNG. However, where a property has been acquired for the purpose of resale at a profit, it will be taxable as ordinary income. In October 2015, a Tax Review Committee submitted a detailed report to the Government which recommends introduction of a tax on capital gains, initially to apply only to some classes of real property (including interests in resource

licences, but not the family home or customary land), but in the longer term extended to other assets. This change requires significant consultation, but the Government is committed to structural change in this respect.

Export Duties

a. **Timber:** Duty on timber logs is calculated with reference to the freight on board value per cubic

metre of exported logs and rates that increase as the value of the exported logs increase.

b. **Spices:** Levies may be imposed on the export of specified spices.



Banking and financial services

PNG's banking system

The PNG banking system is comprised of the Central Bank and various commercial banks.

Central Bank

The Central Bank was established under the Central Banking Act. Its objectives are to:

- a. formulate monetary policy for price stability;
- b. formulate financial regulation and prudential standards for stability of the financial system;
- c. promote a national and international payments system; and
- d. promote macro-economic stability and economic growth in PNG.

The Central Bank's functions include:

- a. issuing currency;
- b. acting as banker to the Government;
- c. regulating banking, credit and other financial services; and
- d. managing gold and foreign exchange.

Other banks

The Bank of South Pacific is the largest bank in PNG with 35 branches throughout the country. It also has branches in Fiji, the Solomon Islands, Samoa, Tonga and the Cook Islands.

Australia and New Zealand Banking Group Limited established a subsidiary in PNG in 1976 known as Australia and New Zealand Banking Group (PNG) Limited. However, ANZ has had branches in PNG since 1910. There are 12 branches located throughout the country.

Westpac Bank-PNG-Limited operates in PNG as a subsidiary of Westpac Banking Corporation.

Westpac has been providing banking services in PNG since 1910. Today it has 16 branches across the country.

Kina Bank is PNG's fourth commercial bank after recently completing the acquisition of Maybank's PNG business operation.

Port Moresby Stock Exchange Limited (POMSoX)

POMSoX

The Port Moresby Stock Exchange Limited (POMSoX) was established and registered as an organisation under the Companies Act. It was granted a license to operate a stock market under the Securities Act.

The PNG Securities Commission (Securities Commission), a subsidiary of the IPA, monitors and regulates the POMSoX, including by monitoring trades and approving listing and business rules.

Buying and selling on POMSoX

There are currently 19 companies listed on POMSoX, a large number of which have been admitted as 'exempt foreign entities'. Companies admitted as exempt foreign entities are generally subject to minimal continuing obligations under the POMSoX Listing Rules.

Stocks listed on the POMSoX can only be purchased or sold via a broker. Currently, there are only two licensed stockbrokers – BSP Capital and Kina Securities.

Personal property securities law

The Personal Property Security Act 2011 (PPSA) commenced on 4 May 2016. Under the PPSA there is a national online registry, the Personal Property Security Registry (PPSR), where security interests in both tangible and intangible personal property are registered. The PPSA has clear rules for creating valid security interests, as well as comprehensive and coherent priority rules for competing security interests. The PPSA does not apply to real property.

The PPSA affects more than traditional security interests such as mortgages and charges over assets. It also applies to personal property provided for under transactions such as leases, retention of title arrangements and consignments of goods. Unless the owner of an asset involved in any of these arrangements takes the necessary steps under the PPSA to perfect a security interest created as a result of those arrangements, it will not be able to rely on its legal interest to prove a first ranking claim to that personal property, on the insolvency of its counterpart.

How do you protect yourself under the PPSA?

You must perfect your security interest to protect your priority position in personal property, to avoid personal property being sold free of your security interest, and to maintain its enforceability.

The most common method of protection is by registration on the PPSR.



Employment and safety

Employment of non-citizens

Work permits and visas

For all non-citizens employed in PNG, an employer must obtain both:

- a. an entry permit (visa) under the Migration Act; and
- b. a work permit under the Employment of Non-Citizens Act.

The above applies whether the employer carries on their business alone or in joint venture.

The work permit and visa are unique to the role, employer and person and any variation of that role. Employers are required to maintain a register of all work permits which have been granted under the Employment of Non-Citizens Act.

Working in PNG without a work permit is an offence. A person issued with a work permit will need to apply to the Department of Foreign Affairs, Trade and Immigration for an entry visa.

Foreign contractors or consultants attending PNG to 'conduct business' such as participating in a meeting, conference or workshop, but not to undertake employment activities, will often enter under a 'Business Entry Visa'. Persons present in PNG for 'business', but not undertaking employment, do not require a work permit.

Business visas come in two types, 30 days single entry and 12 month multiple entry, with each visit not to exceed 60 days.

Application for business visas

Applications can be made at the PNG diplomatic mission in the country of origin of the candidate.

The following documents are required:

- a. completed Application for Entry Permit form, with passport photo attached;
- b. passport with at least 6 months validity;
- c. passport photo;
- d. copy of itinerary, (including return journey);
- e. business sponsorship letter stating precise nature of the business, PNG business contact and duration of stay; and
- f. proposed frequency of visits.

A fee of AUD435.00 applies for business short-term multiple entry, and a fee of AUD215.00 for short term single entry applies. Processing time is from 1-15 working days.

Work permits

There are various types of work permits that may be granted, including:

- a. a general work permit, for work of a commercial nature;
- b. a volunteer work permit, for work of a voluntary nature; and
- c. a bridging work permit.

Employment laws

Employment in PNG is principally governed by the Employment Act and its associated regulations and the Industrial Relations Act.

There is both a national minimum wage and a national minimum youth wage which are set by the 'Minimum Wages Board'. These minimum wages apply to all employees in PNG, other than apprentices. The determination of the board may be displaced by more generous terms and conditions offered by an employer.

Other laws relevant to employers include various taxation laws, laws regarding worker's compensation, occupational health and safety, discrimination, superannuation and long service leave.

Workers Compensation Act

It is an offence, under the Workers Compensation Act, for an employer to employ any worker in any employment without a policy of insurance or indemnity, issued by a licensed insurer, for any injury to the worker arising out of or in the course of their employment.

The Workers Compensation Act provides for compensation to workers and their dependants in respect of injuries suffered by workers arising out of or in the course of their employment, and for related purposes.

Property

Customary land

Approximately 97% of land in PNG is held by its traditional owners under customary principles of land ownership. Customary land ownership rules vary depending on the region. However, generally the rules of ownership recognise the traditional users of land and their personal and clan arrangements for land use.

A foreign investor cannot purchase or lease customary land directly from its traditional owners. If a foreign investor requires access to customary land, the government would have to acquire the land from its traditional owners and then lease it to the foreign investor.

Alienated land

Land in PNG that is not customary land is known as alienated land.

Alienated land is land which has been acquired from customary owners by the government either for its own use, or for private development. However, some alienated land is held as freehold other than by the government. Most enterprises in which foreign investors are involved are located on alienated land.

Alienated land in PNG can be held either as freehold or leasehold from the State. However, freehold land makes up a small proportion of alienated land in PNG. Both freehold land and leasehold land are registered by the Registrar of Titles under a Torrens system of land registration (see below). Under this system, an original certificate of title (for freehold land) or State

lease (for leasehold land) are kept on a register maintained at the Titles Office. Dealings with land are carried out by means of instruments which are perfected upon registration. A certificate of title or State lease kept on the register maintained by the Titles Office should reveal at any time the exact location of the land in question, its dimensions, the present owner or lessee and may also reveal sub-leases and mortgages in which the title may be subject. Certain dealings in land may also require the approval of the Minister for Lands.

Land Board and Land Titles Commission

The Land Act establishes a Land Board which deals with applications for leases of State land.

The Land Titles Commission administers the Land (Tenure Conversion) Act. The key functions of the Land Titles Commission include:

- a. authorising registration of customary land;
- b. determining whether land is alienated land; and
- c. ascertaining who the owners of the customary land are.

The last of these functions can be critical for a foreign investor whose development proposal involves business activities on land which a variety of clans claim to own or to have the right to use.

In recent years, the importance of landownership issues has been highlighted at a number of resource projects, public highways,

educational facilities and other business operations in different parts of the country. These incidents have reinforced the need for a developer to establish and maintain a sound relationship with landowners in the vicinity of any proposed project.

Freehold land

In PNG, a non-citizen is precluded from owning freehold land under the Constitution and the Land (Ownership of Freeholds) Act.

However, there is a mechanism under the law for certain types of freehold land to be converted to leasehold land, so that it may be used by a non-citizen.

Leasehold land

Leasehold land can be more freely dealt with than freehold land. Leasehold land is land which the government has acquired from its customary owners and leased to a natural person or company for a term of up to 99 years for a specific purpose.

The Land Act provides for:

- a. agricultural leases;
- b. pastoral leases;
- c. business and residence leases;
- d. mission leases;

- e. leases of government owned buildings;
- f. special purpose agricultural and business leases; and
- g. urban development leases.

The Land Act also deals with the granting of licences, disposal and acquisition of customary land, and regulation of compensation payments.

The Torrens System

PNG has a Torrens style system of land registration. The Land Registration Act sets out the process and provides forms required for the registration of any dealings of land.

At the time of registration, and by virtue of registration, the estate of the registered proprietor becomes absolutely free from any prior rival claims (except as prescribed by the

Land Registration Act) or some other overriding statutory considerations. Any dealings involving land being granted or transferred to a foreigner or corporate entity require approval from the Minister of Lands and Physical Planning prior to registration.



Environment

Environment Act and Regulations

Under the Environment Act, certain activities may not be undertaken without first applying for and successfully obtaining an Environment Permit under Part V of the Environment Act.

The PNG Department of Environment and Conservation (DEC) is responsible for administering this legislation and underlying regulations including the Environment

(Prescribed Activities) Regulation and Environment (Permits) Regulation.

The Environment Act and regulations provides for three prescribed levels of activities which require an Environment Permit. Under the Environment Act, an activity will be considered to be carried out when a person carries out:

- a. construction of works, land clearance, demolition, excavation or other works in relation to land or water;
- b. installation, operation or maintenance of plant or equipment;
- c. activities for the purpose of extracting or harvesting natural resources; or
- d. release of contaminants to air, land or water, in connection with any of the activities specified in paragraphs (a), (b) or (c).



Sector focus

Mining

Mining and natural resources are a central part of the PNG economy, and revenue from mining makes up the largest proportion of the country's GDP.

Primarily, PNG exports gold and copper, however, zinc and silver also form part of the mineral exports. The strongest demand for these exports are from Australia, China and Japan.

There are many operating mines across PNG. However, three of the larger mines are:

- a. Ok Tedi – operated by Ok Tedi Mining Limited;
- b. Lihir – operated by Lihir Gold Limited which was acquired by Newcrest Mining Limited; and
- c. Porgera – operated by joint venture between a subsidiary of Barrick Gold Corporation and the State.

Governance and legislation

Mining Act

The Mining Act and the Mining Regulations set out a detailed regime dealing with the types of mining tenements which may be granted by the State, including exploration licences, special mining leases, mining leases, leases for mining purposes, mining easements, and alluvial mining leases, and the terms and conditions of their issue.

The following are types of licenses and leases issues under the Mining Act:

- **Exploration Licences:** An Exploration Licence (EL) is granted to allow the holder to explore for minerals and remove rock, earth, soil and minerals from the specified land. An EL can be granted for a term not exceeding two years.
- **Special Mining Lease:** A Special Mining Lease (SML) is generally obtained by an EL holder for more complex projects and for a longer period of time. The SML holder must also be a party to a Mining Development Contract with the State. A SML can be granted for a term not exceeding 40 years.
- **Mining Lease:** A Mining Lease (ML) is generally issued for small to medium scale alluvial and hard rock mining operations. A ML can be granted for a term not exceeding 20 years.
- **Alluvial Mining Lease:** An Alluvial Mining Lease (AML) may only be granted over land that is a river bed, and land that extends no further than 20 metres from any river bed. An AML can be granted for a term not exceeding five years.
- **Lease for Mining Purposes:** A Lease for Mining Purposes (LMP) is granted for the purpose of works required in connection with mining, however not specifically for mining (for example, for construction of buildings and operating plant and

machinery). The term of a LMP is identical to the term of the SML or ML in relation to which the lease for mining purposes is granted or, where there is no related lease, for a term not exceeding 20 years.

- **Mining Easement:** A Mining Easement is granted in connection with mining operations for the purposes of constructing facilities such as roads, pipelines, bridges and waterways. The term of a mining easement is identical to the term of the tenement in relation to which the mining easement was granted.

Mining (Safety) Act

The Mining (Safety) Act also regulates mining by outlining safety requirements for mining sites. The Mining (Safety) Act provides for inspectors to be appointed that are granted various powers, including to:

- a. enter, inspect and examine a mine;
- b. take or remove samples for testing; and
- c. inspect documents and records relating to the mine.

Mineral Resources Authority

The Mineral Resources Authority (MRA) is a statutory body established pursuant to the Mineral Resources Authority Act to manage matters relating to mining and the management, exploitation and development of PNG's mineral resources.

The MRA has various purposes, outlined in the Mineral Resources Authority Act, which include:

- a. advising the Minister on matters regarding mining, and the management, exploitation and development of PNG's mineral resources; and
- b. promoting the orderly exploitation for the development of PNG's mineral resources.

The MRA has five divisions, as follows:

- a. Development Coordination Division – ensures exploration and mining activities in PNG are conducted within the regulatory and policy framework, with benefits being distributed fairly and transparently to beneficiaries and shareholders;
- b. Geological Survey Division – to carry out research to assist and promote exploration, geological and related activities in the mineral sector;
- c. Regulatory Operations Division – contains the Tenements and Inspectorate Branches that have regulatory functions of exploration and mining in PNG;
- d. Special Projects Unit – deals with the administering and management of all special projects; and
- e. Corporate Services Division – to provide support to the MRA and its Board.

Oil and gas

Generally, oil production in PNG has declined over recent years. Exploration for and production of Liquefied Natural Gas (LNG) is now considered the more promising investment.

Licences to explore for petroleum have now been issued for large areas of the country. However, production of petroleum predominantly occurs in the central highlands of PNG.

The PNG LNG project commenced production of LNG in April 2014, and made its first delivery of LNG in May 2014. Production and processing facilities are located in the Southern Highlands, Hela, Western, Gulf and Central Provinces of PNG.

For the initial phase of the project, the investment was estimated at US\$19 billion.

Kumul Petroleum Holdings Limited, through its wholly-owned subsidiary National Petroleum Company of PNG (Kroton) Limited, manages the State's participation in the project. It was established to create value and opportunity for PNG and its people by becoming a major national oil and gas corporation.

There are various other sites across PNG where LNG projects are in development. Other companies involved in LNG in PNG include InterOil, Total SA, Santos and Oil Search.

Governance and legislation

The Oil and Gas Act is an Act governing the exploration and production of petroleum (including oil and gas) in PNG, and the grant to traditional landowners and Provincial Governments and Local-level Governments of benefits arising from projects for the production of petroleum.

The PNG Department of Petroleum and Energy administers and manages the Oil and Gas Act.

Under the Oil and Gas Act, there are various types of licences that can be issued by the State in relation to oil and gas, as follows:

- **Petroleum Prospecting Licence:** A Petroleum Prospecting Licence (PPL) allows the licensee exclusive rights to explore for petroleum in a specified area, and for the sale or disposal of any petroleum so produced. The PPL is granted for a period of 6 years, however this can be extended.

- **Petroleum Retention Licence:** Where petroleum is discovered by a PPL holder, the PPL holder can apply for a Petroleum Retention Licence (PRL). The PRL allows the licensee to explore for petroleum in a specified area and carry on field studies to obtain information to ensure economic development of the gas field in the petroleum retention licence area.

- **Petroleum Development Licence:** A Petroleum Development Licence (PDL) allows the licensee exclusive rights to explore for petroleum in a specified area, recover petroleum in that area and sell or dispose of any petroleum so produced. The PDL is granted for a period of 25 years, however this can be extended.

- **Pipeline Licence:** A Pipeline Licence (PL) allows the licensee to construct and operate a pipeline (eg pumping station, tank station and valve station). The PL is granted for a period of 25 years, however this can be extended.

- **Petroleum Processing Facility Licence:** A Petroleum Processing Facility Licence (PPFL) allows the licensee to construct a petroleum processing facility at a specific site and conduct operation for processing petroleum. The PPFL remains in force until such time as it is cancelled by the Minister.

The Environment Act and Physical Planning Act will also be relevant to businesses involved in the oil and gas sector.

Agriculture and fisheries

PNG's agricultural and fisheries sector involves farming of the following:

- **Tree crops:** Tree crops account for the majority of the total agricultural export value in PNG. The types of tree crops produced in PNG are coffee, cocoa, rubber, coconut, tea and palm oil.

The Western Highlands and Eastern Highlands are the highest producers of coffee. Cocoa is widely grown in lowland coastal provinces.

- **Livestock:** The livestock industry consists of beef cattle, pigs, goats and chicken. The difficulty with maintaining livestock in PNG is obtaining feed for the livestock at sustainable prices. Often, feed for livestock is required to be imported, which is expensive.
- **Fruit:** A wide variety of fruit is grown in PNG, including bananas, pineapple, citrus fruits and pawpaw.
- **Fisheries:** PNG's fisheries sector ranges from reef fisheries, prawn trawl, deep-water tuna fisheries and river fisheries. The total market value of the sector is estimated at K350 – K400 million.

An issue for the industry generally, is the lack of adequate infrastructure to transport products to the areas they are required for export. Additionally, pests and diseases and lack of access to marketing have prevented the agricultural sector from reaching its full potential.

Governance and legislation

Agriculture in PNG is regulated by various pieces of legislation, outlined at a high level below.

The Department of Agriculture and Livestock is responsible for the sector, and works alongside various agricultural agencies, such as:

- **National Agricultural Research Institute:** The Institute was established under the National Agricultural Research Institute Act to research biological, physical and natural sciences

related to agriculture, cultural and socioeconomic aspects of the agricultural sector and rural development.

- **PNG Cocoa Board:** The PNG Cocoa Board was established under the Cocoa Act. Its roles and responsibilities are to promote, monitor and regulate the growing, processing, and advertising of cocoa, and to provide market knowledge for the benefit of the industry. The cocoa industry in PNG is liberalised from growing through to pricing and exporting. However, the Board performs a regulatory function in relation to quality control, export licensing and fermentation registration.
- **Oil Palm Industry Corporation:** The Oil Palm Industry Corporation was established by the Oil Palm Industry Corporation Act with the aim of taking reign over the oil palm industry in place of the Extension Services of the Department of Agriculture and Livestock. It was created to improve the economic and social well-being of smallholder oil palm growers throughout PNG by giving them services equivalent to the private sector as well as controlling regulatory functions on behalf of the Department.
- **Oil Palm Research Association:** Oil Palm Research Association is a nonprofit organisation which represents all oil palm growers in the country. Its aim is to fulfill the research requirements and solve the technical matters for its members.
- **Coffee Industry Corporation:** The Coffee Industry Corporation was created under the Coffee Industry Corporation (Statutory Functions and Powers) Act.

The Corporation took over the functions previously performed by the Coffee Industry Board, the Coffee Research Institute and the Coffee Development Agency. The main objectives of the Corporation include quality control and improvement, price determination and regulation, production and promotion of coffee in PNG. It is responsible for the research and development, extension of coffee industry for both plantation and smallholders.

- **National Agricultural Quarantine and Inspection Authority:** The National Agricultural Quarantine and Inspection Authority's primary aim is to improve agricultural production by establishing an environment that minimises the risk of introducing harmful pests and diseases into the country's plants and animal species. The Authority achieves this by upholding international quality assurance standards for both imports and exports. In respect of fisheries, the National Fisheries Authority is responsible for management of fisheries and marine resources and was established under the Fisheries Management Act. The legislative framework within which it operates includes the Fisheries Management Act and Regulations, National Seas Act and Whaling Act.

Useful links

Government

Bank of Papua New Guinea (Central Bank)

<http://www.bankpng.gov.pg/>

Conservation and Environment Protection Authority

<http://pngcepa.com/>

Department of Agriculture

<http://www.agriculture.org.pg/>

Intellectual Property Office

<http://www.ipopng.gov.pg/>

Internal Revenue Commission

<http://www.irc.gov.pg/>

Investment Promotion Authority

<http://www.ipa.gov.pg/>

Kumul Consolidated Holdings

<http://www.kch.com.pg/>

Kumul Petroleum Holdings Limited

<http://kumulpetroleum.com/>

Mineral Resources Authority

<http://www.mra.gov.pg/>

National Fisheries Authority

<http://www.fisheries.gov.pg/>

PNG Immigration and Citizenship Service Authority

<http://www.immigration.gov.pg/>

POMSoX

<http://www.pomsox.com.pg/>

Tourism Promotion Authority

<http://www.tpa.papuanewguinea.travel/>

Business Organisations

Australia - Papua New Guinea Business Council

<http://apngbc.org.pg/>

Business Council of PNG

<http://www.bcpng.org.pg/>

Employers Federation of Papua New Guinea

<http://www.efpng.org.pg/>

PNG Chamber of Commerce

<http://www.pngcci.org.pg/>

PNG Chamber of Mines and Petroleum

<http://www.pngchamberminpet.com.pg/>

PNG Forest Industries Association

<http://www.fiapng.com/>

Port Moresby Chamber of Commerce and Industry

<http://www.pomcci.com/>

PNG Media / News

EMTV Online

<http://emtv.com.pg/>

Kundu 2 TV

<http://www.nbcpng.com/>

PNG Loop Online

<http://www.looppng.com/>

Post Courier Online

<http://www.postcourier.com.pg/>

The National Newspaper Online

<http://www.thenational.com.pg/>

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