

INDEPENDENT STATE OF PAPUA NEW GUINEA

STATUTORY INSTRUMENT

No 29 of 2002

Environment (Procedures) Regulation 2002

Being a Regulation relating to procedures of the Environment Council,

MADE by the Head of State, acting with, and in accordance with, the advice of the National Executive Council under the *Environment Act 2000*.

1. INTERPRETATION

(1) Subject to Subsection (2), in this Regulation unless the contrary intention appears, the terms used shall have the same interpretation as in *Section 2* of the *Environment Act 2000*.

(2) In this Regulation, unless the contrary intention appears -

“**Act**” means the *Environment Act 2000* as amended;

“**Chairman**” means the Chairman of the Environment Council appointed under *Section 17* of the Act, or his alternate;

“**Council**” means the Environment Council appointed under *Section 17* of the Act; and

“**Member**” means a member of the Environment Council appointed under *Section 17* of the Act.

Part One - Environment Council

2. CALLING OF MEETINGS

(1) The Council must meet as often as the business of the Council requires and at such times and places as the Chairman determines but in any event not less frequently than every three months.

(2) Where he receives a request to do so by the Minister or by not less than two members, the Chairman must convene a meeting of the Council within seven days after receiving the request.

(3) For the purposes of Subsection (1), the Chairman must give to all members of the Council at least seven days written notice of the meeting.

(4) Where the Chairman determines it expedient, the Council may meet by telephone or video conferencing so long as each participant is able to hear and be heard by each other participant.

3. MEETINGS OF THE COUNCIL

(1) At a meeting of the Council -

(a) the Chairman shall preside; and

(b) matters arising must be decided by a majority of votes of the members present and voting; and

- (c) the Chairman has a deliberative, and in the event of an equality of votes on any matter, also a casting vote.
- (2) The Council must cause minutes of its meeting to be recorded and kept.
- (3) Notwithstanding the provisions of Subsection (1) and Section 2, where in the opinion of the Chairman it is impracticable to convene a formal meeting, the following procedure will apply –
 - (a) the Chairman shall give written notice to each member of the proposed resolution to be put to the Council and seek that member's written vote on the proposal; and
 - (b) the vote of the majority of members will be deemed to be the decision of the Council on any matter; and
 - (c) the Chairman will have a deliberative and a casting vote on any matter; and
 - (d) the Chairman shall keep records of such votes and cause a brief summary of the opinions of the members to be prepared and recorded as deliberations of the Council on a matter.
- (4) Subject to this Regulation, the procedures of the Council are as determined by the Council.

4. DISCLOSURE OF INTEREST BY MEMBERS OF THE COUNCIL

(1) A member of the Council who has a direct or indirect personal or pecuniary interest in a matter being considered or about to be considered by the Council must, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest at a meeting of the Council.

(2) A disclosure under Subsection (1), must be recorded in the minutes of the Council, and the member –

- (a) must not take part, after the disclosure in any deliberation or decision of the Council in relation to the matter; and
- (b) must be disregarded for the purpose of constituting a quorum of the Council for any such deliberation or decision.

5. DELEGATION

(1) The Council may, after consultation with the Minister, by instrument delegate to the Director all or any of its powers and functions under the Act or Regulations (except this power of delegation or its function to carry out a review under Section 68 of the Act).

(2) A delegation under Subsection (1) may be revoked by the Council by notice in writing to the delegate.

6. REPORTS TO THE MINISTER

(1) The Council must by 31 March in each year furnish to the Minister a report on the activities of the Council in relation to the administration of the Act in the previous year.

(2) As soon as possible after he has received the report referred to in Subsection (1), the Minister shall forward the report to the National Executive Council and a copy shall be presented to the Speaker to be tabled in the Parliament.

Part Two - Environment Consultative Group

7. MEMBERSHIP OF ENVIRONMENT CONSULTATIVE GROUP

The membership of the Environment Consultative Group shall include the following:-

- (a) the Chairman;
- (b) one person nominated by the Head of the Department of the Prime Minister; and
- (c) one person nominated by the Head of the Department responsible for minerals resources matters; and

- (d) one person nominated by the Head of Department responsible for petroleum matters; and
- (e) one person nominated by the Head of Department responsible for land matters; and
- (f) one person nominated by the Head of Department responsible for health matters; and
- (g) one person nominated by the Head of Department responsible for agriculture and livestock matters; and
- (h) one person nominated by the Head of Department responsible for forestry matters; and
- (i) one person nominated by the Head of Department responsible for transport and works matters; and
- (j) one person nominated by the Head of Department responsible for financial matters; and
- (k) one person nominated by the Head of Department responsible for Provincial Governments and Local-level Governments matters; and
- (l) one person nominated by the Head of Department responsible for national planning matters; and
- (m) one person nominated by the Head of Department responsible for fisheries matters; and
- (n) such other persons as the Director appoints from time to time (including for any specific or limited purpose or function or time) to represent the interests of other interested bodies and groups or to provide particular expertise.

8. CALLING OF MEETINGS

(1) The Environment Consultative Group must meet as often as the business of the Environment Consultative Group requires and at such times and places as the Chairman determines.

(2) Where he receives a request to do so by the Minister or the Council, the Chairman must convene a meeting of the Environment Consultative Group within fourteen days after receiving the request.

(3) For the purposes of Subsection (1), the Chairman must give to all members of the Environment Consultative Group at least seven days written notice of the meeting.

(4) Where the Chairman determines it expedient, the Environment Consultative Group may meet by telephone or video conferencing so long as each participant is able to hear and be heard by each other participant.

9. MEETINGS OF THE ENVIRONMENT CONSULTATIVE GROUP

(1) At a meeting of the Environment Consultative Group -

- (a) the Chairman shall preside; and
- (b) the Chairman shall provide an opportunity for each member of the Environment Consultative Group to provide his opinion, in writing or orally, with respect to each matter being discussed at the meeting; and
- (c) the Chairman shall table any written representations received prior or at the meeting with respect to any matter being discussed at the meeting.

(2) The Environment Consultative Group must cause minutes of its meeting to be recorded and kept.

(3) Where a meeting of the Environment Consultative Group -

- (a) has been convened at the request of the Council or the Minister; or
- (b) considers any matter referred to it by the Council or the Minister, the Chairman shall report to the Council or the Minister (as appropriate) with a summary of the opinions and representations of the members of the Environment Consultative Group.

- (4) Notwithstanding the provisions of Subsection (1) and Section 8, where in the opinion of the Chairman it is impracticable to convene a formal meeting, the following procedure will apply –
- (a) the Chairman shall give written notice to each member of the matter to be considered by the Environment Consultative Group and seek that member's written opinions and representations on the matter; and
 - (b) the Chairman shall keep records of such opinions and representations on the matter; and
 - (c) Subsection (3) shall apply with respect to any matter referred to the Environment Consultative Group by the Minister or the Council.
- (5) Subject to this Regulation, the procedures of the Environment Consultative Group are as determined by the Environment Consultative Group.

Part Three - Review of Director's Decisions

10. APPLICATION FOR REVIEW

- (1) For the purposes of Section 68 of the Act, an application for review of a decision of the Director shall be in Form 1 of the Schedule and shall be accompanied by –
- (a) the information set out in Form 1 of the Schedule; and
 - (b) the prescribed fee.
- (2) An application for review must be lodged within 21 days of the decision which is the subject of the review, at the office of the Director.

11. PROCEDURE FOR DETERMINING APPLICATION

- (1) The Director shall, as soon as practicable after receiving an application under Subsection (1) –
- (a) give a copy of the application to each member of the Environment Council; and
 - (b) place a copy of the application on the Register.
- (2) The Council shall, at its next meeting after the Director has received an application for review, proceed to determine the application.
- (3) The Director may make representations in writing or in person to the Council as to the basis on which the decision was made, but shall not otherwise take part in the determination of the application.
- (4) Where the Council is of the opinion that the applicant should be given an opportunity to make representations to the Council in person, it shall adjourn determination of the application and notify the applicant of a time and place where the applicant may make representations to the Council.
- (5) A determination by the Council under Section 68 of the Act shall be in Form 2 of the Schedule and shall be placed on the Register.

SCHEDULE

*Act, Sec. 68(5)
Reg., Sec. 10(1)*

THE INDEPENDENT STATE OF
PAPUA NEW GUINEA

FORM 1.

ENVIRONMENT ACT 2000

APPLICATION FOR REVIEW OF DIRECTOR'S DECISION

TO: Environment Council of Papua New Guinea

I, [*Name and address of applicant*],

wish to apply for a review of the decision by the Director of the Environment; taken on [*Insert date*] .

The decision relates to Environment Permit [*Insert permit or reference number - if applicable*], which relates to [*Description of project**]

The particulars of the decision which I would like reviewed are as followed -
[*Insert details of the decision to be reviewed**]

The grounds of application for this review are -
[*Insert details of the reasons the applicant feels a review is required**]

Signed:

Dated:/...../.....

THIS APPLICATION MUST BE LODGED AT THE OFFICES OF THE DEPARTMENT OF ENVIRONMENT AND CONSERVATION.

* *Attach additional material if space is insufficient*

ENVIRONMENT ACT 2000

DECISION OF ENVIRONMENT COUNCIL ON APPLICATION FOR REVIEW

TO: [*Name of applicant*]
OF: [*Address of applicant*]

I, [*Name of Temporary Chairman*],

temporary Chairman of the Environment Council advise that the Council, in the absence of the Director, has reviewed the decision of the Director which is the subject of your application (attached) and has determined that the decision of the Director is -

- a) : UPHELD
- b) : NOT UPHELD, and is modified in the following way -
[*Details of modified decision, if applicable*]

Signed:
TEMPORARY CHAIRMAN,
PNG ENVIRONMENT COUNCIL

Dated:/...../.....