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Year in review,
Year to come

Papua New Guinea Law

December 2018



Year in review

Papua New Guinea Law in 2018

Year in Review 2018 discusses some of the key areas of focus in PNG in 2018. Areas of reform in 2018 included capital markets regulation and improving infrastructure through a Public Private Partnership Act encouraging the private sectors' interest in working with the Government to develop much-needed infrastructure.



Asia-Pacific Economic Cooperation (APEC) Summit:

PNG hosted the APEC Summit this year, under the theme of "Harnessing Inclusive Opportunities, Embracing the Digital Future". A number of APEC meetings were held throughout the year in Port Moresby, PNG's capital, culminating in the APEC Leaders' Summit and the CEO Summit, which ran from 12 November 2018 through to 17 November 2018.

Capital market regulation:

Capital markets regulation was substantially amended and strengthened under new legislation that came into force in time for 2018. The PNG Capital Markets Act 2015 commenced operation on 15 December 2017. The Act requires any person in the business of dealing in securities, trading in derivatives, funds management, provision of corporate finance or investment advice, or financial planning to hold a capital market licence (limited exceptions apply to entities already licensed under the *Banks & Financial Institutions Act 2000*, and for activities incidental to the professional practice of people such as accountants, valuers and receivers). Capital markets businesses now have considerable compliance obligations relating to maintenance of registers of interest in securities, recommendations to clients, giving priority to client orders, holding client funds separate from other funds, and annual audits.

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Telecommunications infrastructure:

Concluding intense competition between Australia, China, and the US, it was Australia that, in June, signed the contract to build an undersea, high-speed telecommunications cable for PNG that will run between the two nations. The Coral Sea Cable System will be delivered and majority-funded by Australia, with a financial contribution from PNG. Australian telco Vocus will be the construction manager.

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Infrastructure framework:

The PNG Government passed the *Public Private Partnership Act 2014 (PPP Act)* to establish a formal framework within which private industry may partner with the Government to develop much-needed infrastructure within PNG. The Act's commencement paves the way for the establishment of the PPP Centre, a statutory agency that will be established to implement the PPP Act and monitor its use, along with arrangements under the PNG Government's National Public Private Partnership Policy. These developments are anticipated to eventually result in a number of infrastructure projects being offered by the PNG Government to private investors to undertake.

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Savings and Loan Societies Act 2015:

Replacing the old Savings and Loan Societies Act (Chapter 141), among other things the new Act introduces a new method of incorporation and licensing of savings and loan societies. It moves away from the incorporation and regulation of savings and loan societies by the Bank of PNG (BPNG) or the Governor of the BPNG and instead provides for the incorporation under the *Companies Act* of entities intending to carry on business as Savings and Loan societies and provides for a licensing scheme to be administered by the BPNG. Pursuant to section 59 of the new Act, Savings and Loan Societies that intend to continue in operation have one year from the date of commencement of the Act to incorporate a new company and apply to the BPNG for a licence under the Act. If not, from 24 August 2019 all savings and loan societies not registered under the new Act will be wound up.

2018 highlights

The APEC Summit, held in November 2018 with the theme: *Harnessing Inclusive Opportunities, Embracing the Digital Future* highlighted some of the key area of focus across the country.

Independent Consumer and Competition Commission (Amendment) Act 2018:

This Amendment requires any person proposing to acquire the assets of a business or shares to give the ICCC notice seeking clearance under Section 81(1) for the acquisition if: the transaction value of the proposed acquisition exceeds the value of K50,000,000; or the proposed acquisition is likely to or would likely result in a market share increase of 50% or more of the person who is acquiring. Under a new Section 81(3) (c), the ICCC may also direct the proposed Purchaser to give notice of the acquisition under Section 82(1) of the ICCC Act, where the ICCC reasonably believes the proposed acquisition requires a notice seeking authorisation.

Superannuation (General Provisions) Act 2013:

contains the provisions for the making of voluntary contributions, restrictions on the appointment of investment managers by an authorised superannuation fund, and excludes the requirement for mandatory contributions to be made for or on behalf of non-citizen employees. While the Amendment serves to repeal the mandatory contribution provisions applicable to non-citizens under the *Superannuation (General Provisions) Act 2002*, non-citizen employees will still be counted in employee numbers when determining whether or not an employer must contribute to an authorised superannuation fund.

Expiry of term of Papua New Guinea Chief Justice:

The 10-year term of the Chief Justice of Papua New Guinea, Sir Salamo Injia, Kt, GCL, expired on 31 October 2018. Sir Gibbs Salika has been appointed as the acting Chief Justice, until further notice.

Mining Act 1992:

The PNG Government is proposing amendments to the *Mining Act 1992* that could have very significant impacts on mining operations in PNG. The proposed amendments would, among other things: reduce the term of an existing mining lease from 40 years to 25 years; give the State of PNG a right to either increase its participating equity interest in a project or purchase it outright after 25 years of operations; and limit the compensation payable for this increased interest or outright acquisition to 50% of the sunk costs of the tenement holder for no more than 20 years, multiplied by the percentage of increase in equity acquired by the State.

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Earthquake:

An earthquake struck in the early hours of 26 February 2018, measuring, according to the US Geological Society, 7.6 on the Richter scale. It occurred 89km SSW of Porgera, PNG, at a depth of 35km. Damage sustained during and after the earthquake affected Ok Tedi Mine, the PNG LNG project, and the Porgera Gold Mine. Oil Search, Exxon and the PNG Government were swift to respond to the disaster. However, ongoing support is still needed for local communities affected by the quake.

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Year to come

Papua New Guinea Law in 2019

After a period of relative political stability, the first opportunity to move a vote of no confidence in the PNG Parliament arises in February 2019. The Australian Government has recently announced the creation of a Pacific Infrastructure Fund for Pacific Island nations to build critical infrastructure.



Telecommunications infrastructure contract:

The Coral Sea Cable System, an undersea, high-speed telecommunications cable line running between PNG and Australia, is due for completion by the end of 2019.

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Creation of Pacific infrastructure fund:

Australia will create a multi-billion dollar fund for Pacific island nations to build infrastructure. The Australian Prime Minister announced that he aims to restore the Pacific to the 'front and centre' of Australia's foreign outlook. Australia will offer up to A\$2bn (K4.64bn) in grants and loans to strengthen ties, he said.

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Telecommunications:

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The Papua New Guinea Parliament:

The first opportunity to move a vote of no-confidence in the PNG Parliament arises in February 2019. The current Government has enjoyed a period of relative stability since it was sworn in in August 2017, after the general elections earlier that year.

Electricity:

In August 2018, State power company PNG Power Ltd (PPL) entered into an agreement with the International Finance Corporation (IFC) under which the two organisations will identify ways to stimulate private investment and expertise to boost power generation in PNG. IFC wants to work with PPL to improve services to the people of PNG and support the Government's agenda to be 100% renewable by 2050.

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Petroleum and Energy Summit:

The third annual PNG Petroleum and Energy Summit, to be held in March 2019, will see senior representatives of government and major energy companies review current energy projects, expansion strategies, and business opportunities for investment in PNG. Its aim is to progress the sustainable development of the country's petrol and energy sector.

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2019 highlights

The third annual Petroleum and Energy Summit will be held in March 2019.

2019 highlights

The Coral Sea Cable System between PNG and Australia is due for completion by the end of 2019.

What now?

Your contacts

We hope that you have found this guide useful.
Please contact your usual Linklaters contact, if you would like to discuss any of these matters further.



Paul Brittain
Partner, Brisbane and
Port Moresby
Tel: +61 7 3334 3203
paul.brittain@allens.com.au



David Hill
PNG Practice Director
Tel: +675 305 6003
david.hill@allens.com.au



Sarah Kuman
Partner
Tel: +675 305 6013
sarah.kuman@allens.com.au



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