

Investment Promotion Act Amendment Bill – Frequently Asked Questions

For MSMEs

How are MSMEs protected from unfair foreign competition under the changes?

MSMEs have expressed that they suffer from unfair foreign competition in smaller-scale, onshore businesses where PNG citizens have already shown capability.

The Government is responding with a number of important steps to protect and promote MSMEs:

1. **Minimum investments for business/investorresident visas**—non-citizen owners of foreign investments will be required to show a minimum investment in PNG in order to obtain their residence visas. This class of visa also applies to overseas-headquartered foreign investments recruiting senior management staff for their PNG based operations.
2. **Reserved activities for PNG citizens** – the IPA will continue to reserve activities for citizens under the Reserved Activities List and regularly review the list
3. **Promotion of local-foreign partnerships** – a new ‘Restricted Activities List’ will be introduced to encourage PNG citizen participation in larger, more complex, and/or more capital-intensive businesses. Activities will be identified where foreign investment is allowed under certain conditions, which can include minimum local ownership and minimum investment levels.
4. **Improved compliance and enforcement** – government agencies will upgrade their compliance and enforcement capacity and activities.

What about existing foreign enterprises that are not complying with existing investment laws?

The Government is committed to stopping existing foreign enterprises that are not doing the right thing.

Government agencies involved in administering the foreign investment system are upgrading their compliance and enforcement capabilities and activities. This will include more, and better, inspections of businesses suspected of breaching PNG investment laws. The IPA will also be granted improved powers to require information from foreign enterprises.

Which activities will be reserved for citizens?

The existing Reserved Activities List under the Investment Promotion Regulations will continue to be in force. The IPA will undertake a review of this List in accordance with the new process for reviewing the Reserved Activities List within 6 months of the changes coming into force.

How are reserved and restricted activities identified?

Under the proposed changes, the Reserved Activities List and Restricted Activities List must be reviewed by the IPA Board at least every 3 years.

This review process is required to be public, and seek the views of government, the business community, and the public. The IPA Board's recommendations are published publicly and provided to the Minister for decision. If the Minister decides to reject a recommendation, he or she must publicly publish the reasons for the rejection.

Are there some activities that cannot be reserved or restricted?

It is important to balance the affordability and availability of goods and services with the longer-term policy of empowering PNG citizens to participate in more business activities.

Reserving activities where there are no existing PNG citizens to take over, insufficient competition, or are vital inputs into other businesses will likely lead to goods and services not being available, or only available at higher prices. This result will only hurt MSMEs.

The proposed changes places some basic controls on activities that cannot be reserved or restricted. An activity cannot be reserved or restricted:

- unless at least one Papua New Guinean citizen is involved in carrying out the activity, whether by himself or herself is
 - a member of a joint venture, or
 - a partner in a partnership, or
 - a trustee, or
 - an agent or employee,and carries out the business in PNG
- if fewer than 10 businesses operators conduct the activity in PNG
- is carried out on as a business, or part of a business, that produces or supplies goods and services which are used regularly by, or are otherwise important to the operation of, other business in PNG.

Even with these controls, the Government will have substantial flexibility to reserve activities for citizens to meet the needs of MSMEs.

How can I provide comment on the draft Bill?

The draft Bill and other explanatory documents are available at www.ipa.gov.pg. Comments must be received by **5 pm on Friday, 29 March 2019** to ggLegislativeReview@ipa.gov.pg.

IPA