

GOLD BILL KILLS PNG!



How does the National Gold Corporation Bill affect the Department of Justice and Attorney General?

The National Gold Corporation Bill (NGC) comprises 966 sections and seeks to supersede or eliminate sovereign powers of the State outlined in over 25 distinct legislations. This includes specific powers of the Department of Justice & Attorney General (DJAG) in delivering law and justice services to the people and the State.

Following include changes the bill proposes to make which would undermine DJAG's function;

- a. Take precedence over all Laws in our Country except the undisclosed Shareholders Agreement and the Constitution. Our sovereign rights will be compromised, leading to an impending disaster if the Bill is passed (**Section 17**).

17. ACT TO PREVAIL.

(1) This Act prevails over any inconsistent rule of, or provision in, any -

- (a) law, but excluding -
 - (i) any *Constitutional Law*; and
 - (ii) the *Shareholders Agreement Act*; and,
- (b) without limiting Paragraph (a), contract or arrangement, written or otherwise, including the Company's constitution, or the constitution of any Subsidiary; or
- (c) authorisation of any kind under any law, other than a law referred to in Subparagraphs (a)(i) and (ii).

(2) Subject to Subsection (1)(a), and without limiting the amendments, including consequential amendments, to laws provided for in this Act, including as prescribed in Part XXII and Schedule 1, where in this Act -

- (a) another Act, or a Part, Division or Section of another Act, is -
 - (i) declared not to apply, or to have a particular application, in respect to this Act; or

- b. Introduce "Authorized officers /personnels" who may cause harm to Papua New Guineans in the process of discharging their duties and will not be liable for any wrong doings (**Section 573**).

Subdivision B. – Corporation, State and other persons not liable.

573. NO LIABILITY FOR LOSSES OR INJURIES.

A Corporation, the State and Exempt Persons, are not liable to pay or provide compensation to any person for -

- (a) any property destroyed, lost or damaged, or seized, held, quarantined or retained or otherwise dealt with by an Authorised officer; or
- (b) any loss, damage or financial detriment of any kind whatsoever and howsoever arising, suffered or incurred, directly or indirectly, from any such destruction, loss, damage, seizure, holding, quarantining or retention, or other action, by an Authorised officer; or

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- (c) any injury to or death to persons, including any person detained or arrested, where the injury or death suffered was caused or due to -
 - (i) the negligence of the injured person; or
 - (ii) the failure or refusal of the injured person to comply with a lawful instruction, direction or order,provided that, where any destruction, loss or damage, or personal injury or death, is caused by the willful neglect or default of an Authorised officer -
 - (d) the National Gold Authority alone will be liable, where the Authorised officer is a person other than a member of the Police Force or the Gold Police; or
 - (e) the State alone will be liable, where the Authorised officer is a member of the Police Force or the Gold Police,unless a Court determines otherwise in respect of liability.

558. PROTECTION OF AUTHORISED OFFICERS.

An Authorised officer who detains or searches a person under this Division, or any person assisting in good faith an Authorised officer for that purpose, is justified in so detaining and searching the person and in using such force as may be reasonably necessary in so doing, and no such Authorised officer, or person assisting an Authorised officer, shall have committed any offence, or become liable for any civil wrong, for so doing.

- c.** Deny basic human rights by detaining Papua New Guineans suspected of wrongdoing without proper proceedings (**Section 553, Section 555, Section 556, Section 557, and Section 756**).

554. AUTHORISED OFFICER TO SUMMON POLICE OR GOLD POLICE.

An Authorised officer, not being a member of the Police Force or the Gold Police, detaining any person under Section 553 shall take such steps as are necessary to ensure the summoning and arrival of a member of the Police Force or the Gold Police, with as little delay as practicable.

- d.** Duplicate or replace DJAG's role in regulating the dispensing of justice particularly for individuals committing crimes (**Section, 795, Section 760, Section 761, Section 762, Section 763, and Section 764**).
- f.** Nullify the powers of judicial officials to issue warrants before a search or arrest is conducted (**Sections 561 and Section 555**).

555. POLICE MAY DETAIN, SEARCH AND ARREST SUSPECTS.

A member of the Police Force or the Gold Police may detain, in the premises of a Corporation or elsewhere, for a reasonable time, any person suspected of committing or attempting to commit an offence to which Section 553 applies, and, where satisfied that there are reasonable grounds for suspecting that an offence has been attempted or committed, may -

- (a) search that person and the possessions of that person; and
- (b) seize anything found, as a result of the search or otherwise, that may afford evidence of the attempt or commission of an offence to which Section 553 applies; and
- (c) use such force as is reasonably necessary for the purpose of detention and search; and
- (d) arrest the person without warrant.

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