

No. 14 of 2003.

Goods and Services Tax Revenue Distribution Act 2003.

Certified on: 21/1/2004.

INDEPENDENT STATE OF PAPUA NEW GUINEA.



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INDEPENDENT STATE OF PAPUA NEW GUINEA.



AN ACT

entitled

Goods and Services Tax Revenue Distribution Act 2003,

Being an Act to make provision for the control and disbursement of revenue accruing consequent on the imposition of a Goods and Services Tax in Papua New Guinea, to read as one with the *Goods and Services Tax Act 2003*,

MADE by the National Parliament to come into operation on 1 January 2004.

1. INTERPRETATION.

In this Act, unless the context otherwise requires –

“**Bank**” means the Bank of Papua New Guinea or a bank licensed under the *Banks and Financial Institutions Act 2000*;

“**Commissioner General**” means the Commissioner General of Internal Revenue;

“**gross inland provincial revenue**” means the total monthly GST revenue collected in or attributed to each province in the prescribed manner;

“**GST**” means the Goods and Services Tax imposed by the *Goods and Services Tax Act 2003*;

“**net inland revenue**” means the gross inland provincial revenue, as reduced by refunds allocated against that revenue in accordance with Section 6;

¹“**provincial government**” means –

- (a) a provincial government established under Section 10 of the *Organic Law on Provincial Governments and Local-level Governments*; and

¹ Section 1 Amended by No. 21 of 2004, s. 1.

- (b) for the purposes of this Act, includes the National Capital District Commission established under the *National Capital District Commission Act 2001*;

²“**Provincial Treasurer**” means –

- (a) in the case of a provincial government –the person appointed to be the Provincial Treasurer in accordance with Section 112 of the *Organic Law on Provincial Governments and Local-level Governments*; and
- (b) in the case of the National Capital District Commission –the person responsible for keeping the financial records of the National Capital District Commission;

“**this Act**” includes the Regulations;

2. ESTABLISHMENT OF TRUST.

(1) There shall be established a National GST Revenue Trust –

- (a) consisting of three trustees being –
- (i) the Commissioner General; and
 - (ii) the Governor of the Central Bank; and
 - (iii) the Departmental Head of the Department of the Treasury; and
- (b) whose purposes, functions, powers and procedures shall be as prescribed.

(2)³ ⁴There shall be established for each provincial government a Provincial Inland GST Trust –

- (a) consisting of two trustee being –
- (i) the Commissioner General; and
 - (ii) the Provincial Treasurer; and
- (b) whose purposes, functions, powers and procedures shall be as prescribed.

3. ESTABLISHMENT OF TRUST ACCOUNT.

Trust accounts for the receipts of revenue arising from the imposition of a Goods and Services Tax shall be established as follows: –

- (a) there shall be established in a Bank a trust account entitled the National GST Trust Account which shall be subject to the provisions, as prescribed, of the National GST Revenue Trust;

² Section 1 Amended by No. 21 of 2004, s. 1.

³ Section 2 Subsection (2) substituted by No. 21 of 2004, s. 2.

⁴ Section 2 Subsection (2) substituted by No. 21 of 2004, s. 2.

- (b)⁵ there shall be established in a bank for each provincial government a trust account entitled “(name of the provincial government) Inland GST Trust Account” which shall be subject to the provisions, as prescribed, of the Inland GST Trust.

4. GOODS AND SERVICES TAX REVENUE TO BE PAID INTO TRUST ACCOUNTS.

All revenue collected from the imposition of Goods and Services Tax in Papua new Guinea shall, immediately following receipt, to be paid into the trust accounts established under this Act, as follows: –

- (a) Goods and Services Tax revenue collected pursuant to Section 6 of the *Goods and Services Tax Act 2003* shall be paid into the National GST Trust and Account established under Section 3(a); and
- (b)⁶ Goods and Services Tax revenue collected pursuant to Section 8 of the *Goods and Services Tax Act 2003* shall, to the extent that it is collected on a supply made within a province, be paid into the Provincial Inland GST Trust Account for that provincial government established under Section 3(b).

5. ADDITIONAL REVENUE TO BE PAID INTO GST TRUST ACCOUNTS.

Such additional amounts shall be paid into the GST Trust Accounts as are –

- (a)⁷ needed to meet any shortfall between the amounts deposited into the Inland GST Trust Account and the amounts needed to meet the revenue entitlement of the provincial governments pursuant to Section 7; and
- (b) equal to interest accrued on deposits made into each Trust Account.

6. ALLOCATION OF REFUNDS.

(1) Monthly refunds of Goods and Services Tax shall be allocated, proportionally to revenue collections, against monthly revenue collected and deposited into each of the respective National and Inland trust accounts established under Section 3.

(2) Monthly refunds of Goods and Services Tax allocated against the Inland GST Trust Account shall be debited, in proportion to gross inland provincial revenue attributed to each province, against each province’s monthly gross inland provincial revenue.

7. VALUE OF DISTRIBUTIONS TO PROVINCIAL GOVERNMENTS.

⁸(1) For the purposes of this section –

⁵ Section 3 Amended by No. 21 of 2004, s. 3.

⁶ Section 4 Amended by No. 21 of 2004, s. 4.

⁷ Section 5 Amended by No. 21 of 2004, s. 5.

“net GST collections” means GST collected pursuant to Section 8 of the *Goods and Services Tax Act 2003*, less any refunds paid pursuant to Section 91 of that Act, allocated in the manner provided for in Section 6(2); and

“2003 distribution” means the amount received by a provincial government during the fiscal year commencing 1 January 2003 pursuant to Section 6 of the *Value Added Tax Revenue Distribution Act 1998*.

(2)⁹ ¹⁰Each provincial government shall be entitled to receive, for the fiscal year commencing 1 January 2006 and for each following fiscal year –

- (a) 60% of the GST collections estimated by the Minister, immediately prior to presenting the National Budget for the next fiscal year, to be collected in the province during that next fiscal year commencing 1 January; and
- (b) where the amount payable to the provincial government under Paragraph (a) is less than the 2003 distribution for that provincial government – such further amount as is required to bring the total amount of payment up to the amount of the 2003 distribution for that provincial government.

(2A)¹¹ ¹²For the years 2005 and 2006, where the amount payable to the provincial government under Subsection (2) is less than the distribution the province was entitled to in the immediately preceding year – such further amount as is required to bring the total amount of payment up to the amount of the preceding year’s distribution for that provincial government.

(3) Notwithstanding the provisions of Subsection (2), a provincial government which imposes a sales and/or service tax of the kind permitted by Section 86(1)(a) of the *Organic Law on Provincial Governments and Local-level Governments* shall not be entitled to be paid a share of the GST collection while that tax is in force.

(4) Where Subsection (3) applies, the amount of GST distribution that a provincial government or provincial governments would have been entitled to receive but for the operation of Subsection (3) shall be distributed pro-rata to monthly entitlements to all other provincial governments which do not impose a sales and/or services tax.

(5) On and from the coming into operation of the financial provisions relating to Bougainville contained in –

- (a) Part XIV (Bougainville Government and Referendum) of the Constitution; and
- (b) the *Organic Law on Peace -Building in Bougainville-Autonomous Bougainville Government and Bougainville Referendum*,

⁸ Section 7 Substituted by No. 21 of 2004, s. 6.

⁹ Section 7 Subsection (2) substituted by No. 14 of 2005, s. 1.

¹⁰ Section 7 Subsection (2) substituted by No. 14 of 2005, s. 1.

¹¹ Section 7 Subsection (2A) inserted by No. 14 of 2005, s. 1.

¹² Section 7 Subsection (2A) inserted by No. 14 of 2005, s. 1.

this Section does not apply to the Autonomous Region of Bougainville.

8. ORDER OF PRECEDENCE OF DISTRIBUTIONS FROM THE TRUST ACCOUNT.

Revenue held in the Trust Accounts established under this Act is appropriated and shall be paid and distributed as follows: –

- (a) for the National GST Trust Account –
 - (i) the first charge shall be for the payment of refunds of Goods and Services Tax revenue; and
 - (ii) the second charge shall be for the payment of any amount paid into the Inland Revenue Trust pursuant to Section 5(a); and
 - (iii) the balance remaining shall be paid to the Consolidated Revenue Fund;
- (b)¹³ for each Provincial Inland GST Trust Account –
 - (i) the first charge shall be for the payment of refunds of Goods and Services Tax revenue; and
 - (ii) the second charge on the account shall be for the payment of collection and administration expenses of the Trust Accounts, allocated proportionally to gross inland revenue against each province; and
 - (iii)¹⁴ the third charge shall be for the payment of each provincial government's share of net inland revenue as provided for in Section 7; and
 - (iv) the balance remaining shall be paid to the Consolidated Revenue Fund.

9. TRUSTEES TO DECIDE WHEN PAYMENTS SHALL BE MADE TO THE CONSOLIDATED REVENUE FUND.

(1) The Trustees shall, from time to time, by mutual agreement, decide the balance required to be kept in the respective Goods and Services Tax Revenue Trust Accounts to meet commitments arising from the provisions of Section 8(a) and (b).

(2) The balance referred to in Subsection (1) may vary from week to week and month to month.

(3) When the balance required to be kept at any one point in time has been reached any further payments into the Trust Account shall forthwith be paid to the Consolidated Revenue Fund.

¹³ Section 8 Amended by No. 21 of 2004, s. 7.

¹⁴ Section 8 Amended by No. 21 of 2004, s. 7.

10. TIME OF DISTRIBUTION OF REVENUE TO THE PROVINCES.

¹⁵Each provincial government shall be entitled to receive, within 21 days of the end of each month, one twelfth of the total amount of GST revenue that it is entitled to under Section 7(2).

11. ADMINISTRATION OF THE TRUST ACCOUNTS.

(1) The trust accounts established under the provisions of this Act shall be administered by the Commissioner General, who shall be responsible for the transactions relating to these accounts.

(2) In his administration of trust accounts, the commissioner General shall be subject to the direction of the trustees appointed under Section 2.

(3) The trustees may not direct the Commissioner General to perform any action which would breach any provision of this Act.

12. POWER OF DELEGATION.

(1) A person appointed to exercise any powers, or to perform any duty, under the provisions of this Act, may delegate, by writing under his hand, any of the powers or duties this Act (other than this power of delegation).

(2) A power or function delegated under Subsection (1) may be exercised or performed by the delegate in accordance with the instrument of delegation.

(3) A delegation under this section is revocable at will and does not prevent the exercise or performance of a function by the person who delegated his powers or duties.

13. REGULATIONS.

The Head of State, acting on advice, may make regulations not inconsistent with this Act, prescribing all matters that are required or permitted to be prescribed or that are necessary or convenient to be prescribed for the purpose of giving effect to this Act.

Office of Legislative Counsel, PNG

¹⁵ Section 10 Amended by No. 21 of 2004, s. 8.