

No. 15 of 2003.

Local-level Government Head Tax (Enabling) Act 2003.

Certified on: 21/1/2004.

INDEPENDENT STATE OF PAPUA NEW GUINEA.



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ARRANGEMENT OF SECTIONS.

1. Interpretation.
 - “corporation”
 - “fiscal year”
 - “Head Tax Appeal Tribunal”
 - “ Head Tax Relief Committee ”
 - “ resident ”
2. Imposition of Head Tax.
3. Form of Local-Level Government Law.
4. Rate of Tax.
5. When Tax is Payable.
6. Community Service in lieu of Tax.
7. Exemptions.
8. Appointment of Collector of Head Taxes, etc.,.
9. Duties of the Collector of Head Taxes.
10. Non-payment of Head Tax.
11. Establishment of a Head Tax Relief Committee.
12. Applications for Relief from Payment of Head Tax.
13. Proceedings of the Head Tax Relief Committee.
14. Head Tax Appeal Tribunal.
15. Appeals to the Head Tax Appeal Tribunal.
16. Proceedings by the Head Tax Appeal Tribunal.
17. Additional duties of the Collector of Head Tax etc.

INDEPENDENT STATE OF PAPUA NEW GUINEA.



AN ACT

entitled

Local-level Government Head Tax (Enabling) Act 2003,

Being an Act made pursuant to the provisions of Sections 87(3) and (4) of the *Organic Law on Provincial Governments and Local-level Governments*, to enable the imposition of head taxes by Local-level Governments

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

1. INTERPRETATION.

In this Act, unless the contrary intention appears –

“**corporation**” means a body or association corporate or unincorporated;

“**fiscal year**” means the period from 1 January to 31 December in each year;

“**Head Tax Appeal Tribunal**” means a Head Tax Appeal Tribunal appointed under Section 14;

“ **Head Tax Relief Committee** ” means a Head Tax Relief Committee established under Section 11;

“ **resident** ” means –

(a) in the case of an individual – a person who has been resident in the area of the Local-level Government for more than 186 days during a fiscal year; or

(b) in the case of a corporation – a corporation that has carried on business in the area of the Local-level Government for more than 186 days during the fiscal year.

2. IMPOSITION OF HEAD TAX.

A Local-level Government established under Section 27 of the *Organic Law on Provincial Governments and Local-level Governments* may, by a Local-level Government law, impose a head tax in accordance with this Act.

3. FORM OF LOCAL-LEVEL GOVERNMENT LAW.

(1) A Local-level Government law enacted under Section 2 shall provide for the imposition of head tax as provided by this Act.

(2) A Local-level Government law enacted under Section 2 shall not impose that head tax in respect of periods prior to the date of the enactment of the law.

4. RATE OF TAX.

The rate of head tax that may be imposed shall be –

- (a) K20.00 per fiscal year for each individual resident aged 18 years or more; and
- (b) K100.00 per fiscal year for each resident corporation.

5. WHEN TAX IS PAYABLE.

Head tax imposed under this Act shall be payable on –

- (a) 1 March in each year; or
- (b) the day on which the law imposing a head tax is enacted by the Local-level Government; or
- (c) such later date as the Local-level Government law provides,

whichever is the latest.

6. COMMUNITY SERVICE IN LIEU OF TAX.

(1) A Local-level Government law enacted under Section 2 may provide that individual persons liable to pay the head tax may, at the option of the Local-level Government, in lieu of payment of the head tax, provide community work to or for the Local-level Government, for a period not exceeding five working days for each year for which they are liable to pay the head tax, and such work –

- (a) shall be done on projects to be determined by the Local-level Government; and
- (b) shall be done at a time and place as directed by the Local-level Government, but not earlier than the date on which the head tax became due for payment unless by agreement of the person liable to pay the head tax.

(2) A Local-level Government law enacted under Section 2 may provide that corporations liable to pay the head tax may, at the option of the Local-level Government, in lieu of payment of the head tax, provide community work to or for the Local-level Government, equivalent to the community work that would be performed by an individual person for a period not exceeding 10 working days for each year for which they are liable to pay the head tax, and such work shall be done –

- (a) on projects to be determined by the Local-level Government; and
- (b) at a time agreed between the corporation and the Local-level Government, but not earlier than the date on which the head tax became due for payment unless by agreement of the corporation liable to pay the head tax.

7. EXEMPTIONS.

(1) The following bodies are exempt from head tax:-

- (a) schools, school boards of management and associated bodies that operate subject to the provisions of the *Education Act 1983* (Chapter 163); and
- (b) hospitals, aid posts and provincial and district health boards that operate subject to the provisions of the *National Health Administration Act 1997*; and
- (c) youth groups, women's groups and other bodies that operate as voluntary community organisations, are not operated for a profit and provide community services; and
- (d) religious bodies; and
- (e) such bodies as are approved charities under the provisions of the *Income Tax Act 1959*; and
- (f) other bodies that are exempt from taxes by or under an Act.

(2) The following persons are exempt from head tax –

- (a) persons who are exempted from payments of taxes by or under an Act;
- (b) during the period of their imprisonment, persons serving a jail sentence.

(3) A Local-level Government law enacted under Section 2 may provide for other categories of persons or corporations to be exempt from the head tax.

(4) The Minister responsible for intergovernment relations may, by notice in the National Gazette, declare additional categories of persons or corporations that are exempt from the head tax.

8. APPOINTMENT OF COLLECTOR OF HEAD TAXES, ETC.,.

(1) A Local-level Government may appoint a Collector of Head Taxes and such number of Assistant Collectors as are required for efficient collection of the head tax.

(2) The duties of Assistant Collectors are as prescribed by the Collector of Head Taxes.

(3) Where the Local-level Government has not appointed a Collector of Head Taxes, the Clerk of the Local-level Government Council shall be the Collector of Head Taxes.

9. DUTIES OF THE COLLECTOR OF HEAD TAXES.

The Collector of Head Taxes shall be responsible for –

- (a) keeping a register of persons and corporations liable to pay head tax; and
- (b) issuing notices to pay the head tax, either to the public generally, or to individual persons and corporations; and
- (c) initiating proceedings in a Village Court, which may be brought in the name of the Clerk or of the President of the Local-level Government, to recover head tax payable that is due, has not been paid and in respect of which no request for relief from payment has been lodged to the Head Tax Relief Committee; and
- (d) issuing receipts to persons and corporations who have paid head tax; and
- (e) keeping a record of the persons and corporation who have paid tax; and
- (f) keeping a record of the total amount of head tax collected in a fiscal year; and
- (g) paying, no later than five days after collection, all head tax collected to the Local-level Government or into a bank account in the name of the Local-level Government and nominated by the Local-level Government.

10. NON-PAYMENT OF HEAD TAX.

A Local-level Government law enacted under Section 2 shall provide that –

- (a) a person liable to pay head tax who, without reasonable cause (proof of which is on him) fails to pay the head tax at or within the prescribed time is guilty of an offence, punishable by a fine not exceeding K100.00 or by the performance of specified work; and
- (b) in a prosecution of an offence referred to in Paragraph (a), the burden of proof that a person –
 - (i) has paid the head tax for which he is liable; or
 - (ii) is exempt from paying head tax,

is on that person; and

- (c) prosecution of an offence referred to in Paragraph (a), shall be made in a Village Court and may be appealed in a District Court; and
- (d) a conviction of an offence referred to in Paragraph (a), does not relieve the offender of the liability to pay the head tax.

11. ESTABLISHMENT OF A HEAD TAX RELIEF COMMITTEE.

(1) A Local-level Government imposing a head tax shall establish a Head Tax Relief Committee.

(2) The Head Tax Relief Committee established under Subsection (1) shall consist of not more than five members, who shall be appointed by the Local-level Government.

(3) A person involved in collection of the head tax shall not be eligible for appointment to the Head Tax Relief Committee.

12. APPLICATIONS FOR RELIEF FROM PAYMENT OF HEAD TAX.

(1) A person who is liable to pay head tax may apply to the Head Tax Relief Committee, no later than 90 days from the date that the head tax liability became payable, to request relief from payment of the head tax, on the grounds of –

- (a) hardship; or
- (b) insufficient means; or
- (c) that he is not a resident of the Local-level Government area.

(2) The Head of Tax Relief Committee may, at its option, extend the 90-day time limit for applications for relief where sufficient grounds for that extensions are provided to it.

(3) The Local-level Government may not take any action to recover head tax payable by an applicant for relief, until the Head Tax Relief Committee has considered the application and has made its decision.

13. PROCEEDINGS OF THE HEAD TAX RELIEF COMMITTEE.

(1) The Head Tax Relief Committee shall, no later than 60 days after receiving a request for relief from payment of head tax, consider the application for relief.

(2) The Head Tax Relief Committee shall not be bound by the rules of evidence or by legal procedure, but shall hear such evidence as is relevant and available.

(3) The Head Tax Relief Committee may, in considering a request for relief from payment of head tax –

- (a) refuse the request; or
- (b) grant partial relief; or
- (c) grant full relief; or
- (d) order that the person requesting relief shall perform community service as provided in Section 6, in lieu of payment of the head tax; or
- (e) order a combination of partial relief from payment of the head tax and partial community service, calculated at the rate of one day's community service for each K10.00 reduction in the head tax payable.

14. HEAD TAX APPEAL TRIBUNAL.

(1) In each Province in which a head tax is charged, there shall be appointed a Head Tax Appeal Tribunal.

(2) The Head Tax Appeal Tribunal shall be a District Court Magistrate appointed for this purpose by notice in the National Gazette, by the Minister responsible for Justice.

15. APPEALS TO THE HEAD TAX APPEAL TRIBUNAL.

A person who has applied for relief from payment of the head tax and is aggrieved by a decision of the Head Tax Relief Committee, may, no later than 60 days after he has received the decision of the Committee, request review of that decision by the Head Tax Appeal Tribunal.

16. PROCEEDINGS BY THE HEAD TAX APPEAL TRIBUNAL.

(1) The Head Tax Appeal Tribunal shall not be bound by the rules of evidence or by legal procedure, but shall hear such evidence as is relevant and available.

(2) The Head Tax Appeal Tribunal may, in considering an appeal against a decision of the Head Tax Relief Committee, confirm, annul or vary the decision of the Head Tax Relief Committee.

(3) Decisions by the Head Tax Appeal Tribunal are final and may not be further appealed.

17. ADDITIONAL DUTIES OF THE COLLECTOR OF HEAD TAX ETC.

A Local-level Government law may prescribe; –

- (a) the powers of the Collector of Head Tax and such additional duties as, in its view, are required for efficient collection of the head tax; and
- (b) procedures for –
 - (i) the collecting, recovering and furnishing of proof of payment of head tax; and
 - (ii) the compilation of records of taxable and non-taxable persons; and
 - (iii) the taking of taxation censuses at any time or times, the duties of persons in respect of such censuses, the information that persons shall be required to supply in respect of such censuses and all measures necessary for the effective taking of such censuses; and
- (c) provisions for the imposition of penalties of fines not exceeding K50.00 or imprisonment for terms not exceeding two weeks, or both, for offences against the powers, duties or procedures prescribed.