

Chapter 326.
Unclaimed Moneys Act 1963.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.



Chapter 326.

Unclaimed Moneys Act 1963.

ARRANGEMENT OF SECTIONS.

PART I – PRELIMINARY.

1. Interpretation.
 - “accountable officer”
 - “the commencement date”
 - “company”
 - “firm”
 - “officer”
 - “officer”
 - “officer responsible”
 - “owner”
 - “the Registrar”
 - “unclaimed moneys”

2. Saving of other laws.
3. Application.
4. Declaration of companies.

PART II – GENERAL ADMINISTRATION.

5. Registrar of Unclaimed Moneys.
6. Registers of unclaimed moneys.
7. Disposal of unclaimed moneys generally.
8. Inspection of registers, etc.

PART III – MONEYS IN COURT.

9. Disposal of unclaimed money etc., in court.
10. Sale of unclaimed securities in court.
11. Claims after disposal.

PART IV – MISCELLANEOUS.

12. Payment of unclaimed moneys to accountable officers.
13. Payment to persons entitled.
14. Indemnity.

15. Regulations.

INDEPENDENT STATE OF PAPUA NEW GUINEA.



AN ACT

entitled

Unclaimed Moneys Act 1963,

Being an Act to make provision for the payment of certain unclaimed moneys into the Consolidated Revenue Fund, and for other purposes.

PART I. – PRELIMINARY.

1. INTERPRETATION.

In this Act, unless the contrary intention appears—

“**accountable officer**” means a person who has, under the *Public Finances (Management) Act 1995* or any other law, the responsibility for receiving public moneys;

“**the commencement date**” means 1 July 1964 (being the date of commencement of the pre-Independence *Unclaimed Moneys Act 1963*);

“**company**” means—

- (a) a company within the meaning of the *Companies Act 1997*; or
- (b) a foreign company to which Division XII.3 of the *Companies Act 1997* applies; or
- (c) the Copra Marketing Board of Papua New Guinea; or
- (d) a society registered under the *Savings and Loans Societies Act 1961*; or
- (e) a Local-level Government; or
- (f) a Local-level Government Special Purposes Authority; or
- (g)¹ [*Repealed.*]

¹ Section 1 Amended by No. 69 of 2006, s. 13.

- (h) a corporation or society declared under Section 4 to be a company for the purposes of this Act;

“firm” means an unincorporated body of persons (whether consisting of individuals or of corporations, or partly of individuals and partly of corporations) associated together for the purpose of carrying on business;

“officer”, in relation to a company, includes—

- (a) a director, secretary or employee of the company; and
- (b) a receiver and manager of any part of the undertaking of the company appointed under a power contained in an instrument,

but does not include—

- (c) a receiver who is not also a manager; or
- (d) a receiver and manager appointed by a court;

“officer”, in relation to a firm, includes a partner, member, manager or employee of the firm;

“officer responsible” includes an officer who knowingly authorizes or permits a default, refusal or failure;

“owner” means the person entitled to unclaimed moneys, and includes his executors, administrators or assigns, or his or their lawful attorney or agent in the country;

“the Registrar” means the Registrar of Unclaimed Moneys appointed under Section 5;

“unclaimed moneys” means all principal, interest, dividends, bonuses, profits, salaries, wages, and other sums of money—

- (a) that are legally payable to the owner; and
- (b) that have remained unpaid for not less than 12 months after they have become payable.

2. SAVING OF OTHER LAWS.

This Act shall be read and construed in aid of and not in derogation of any other law relating to the disposition of unclaimed moneys.

3. APPLICATION.

This Act does not apply to unclaimed moneys for which special provision has been made by any other Act, or except as provided in Part III, to moneys paid into court.

4. DECLARATION OF COMPANIES.

The Head of State, acting on advice, may, by notice in the National Gazette, declare a corporation or society to be a company for the purpose of this Act.

PART II. – GENERAL ADMINISTRATION.**5. REGISTRAR OF UNCLAIMED MONEYS.**

(1) The Minister may, by notice in the National Gazette, appoint officers of the Department to be–

- (a) the Registrar of Unclaimed Moneys; and
- (b) the Deputy Registrar of Unclaimed Moneys.

(2) Any thing appointed, authorized or required by this Act to be done or signed by the Registrar–

- (a) may be done or signed by the Deputy Registrar; and
- (b) is as valid and effectual as if done or signed by the Registrar.

6. REGISTERS OF UNCLAIMED MONEYS.

(1) As soon as practicable after 1 March in each year, a company or firm holding unclaimed moneys must enter them in a register kept in the prescribed form at its principal office or place of business in the country.

(2) After 8 March in each year or such later date as the Registrar allows, the register kept under Subsection (1) shall be open to inspection by any person on payment of a fee of 20t.

(3) Except where the amount that relates to the entry is less than K10.00, each entry in the register kept under this section shall be advertised by the company or firm in the National Gazette during March in each year.

(4) During March in each year or during such further period as the Registrar allows, the company or firm shall lodge with the Registrar a copy of all entries in the register signed–

- (a) in the case of a company, other than a foreign company registered under Part XX of the *Companies Act 1997*–by a director or the secretary; or
- (b) in the case of a foreign company referred to in Paragraph (a)–by the agent within the meaning of Part XX of the *Companies Act 1997*; or
- (c) in the case of a firm–by a partner or manager, or by some other person authorized to sign.

(5) On the payment of a fee of 20t, the copy of the entries lodged with the Registrar shall be open to inspection by any person at such place and times as are prescribed.

(6) In the event of–

- (a) a failure to keep or to enter all unclaimed moneys in the register; or
- (b) a failure to advertise the copy; or
- (c) a refusal to permit inspection of the entry; or

(d) a failure to lodge copies of the entry with the Registrar,
each person to whom by virtue of Subsection (7) this section applies is guilty of an offence.

Penalty: A fine not exceeding K4.00.

Default penalty: A fine not exceeding K4.00.

(7) The persons to whom Subsection (6) applies are—

- (a) in the case of a failure or refusal by a company—the company and each officer of the company responsible for the failure or refusal; and
- (b) in the case of a failure or refusal by a firm—each officer of the firm who is responsible for the failure or refusal.

(8) Any rights of the owner in respect of moneys entered in the register that exist at the time of the entering or advertising are not prejudiced or affected by the entering or advertising.

(9) Moneys referred to in Subsection (8) may, notwithstanding any rule of the underlying law to the contrary, be recovered by the owner at any time before they are paid to an accountable officer under this Act, but not afterwards.

7. DISPOSAL OF UNCLAIMED MONEYS GENERALLY.

(1) All moneys that—

- (a) become or became unclaimed moneys after the commencement date; and
- (b) have not been paid by the company or firm to the owner—
 - (i) within 12 months after the publishing of an advertisement by the company or firm under Section 6(3); or
 - (ii) if no such advertisement has been inserted by the company or firm—within 12 months after the last day of the month of March during which entries under Section 6(1) should have been made in the register,

must be forwarded, with a statement in the prescribed form, within 14 days after the expiration of that period of 12 months, by the company or firm to an accountable officer to be placed in the Trust Fund to the credit of an account to be known as the Unclaimed Moneys Fund.

(2) A company or firm may deduct its reasonable expenses of the advertising and lodging of the copies of entries in accordance with this Act out of unclaimed moneys payable under this Act to an accountable officer or to a claimant.

(3) In the event of failure to pay any unclaimed moneys to an accountable officer in accordance with this section, each person to whom by virtue of Subsection (4) this section applies is guilty of an offence.

Penalty: A fine not exceeding K100.00.

Default penalty: A fine not less than K10.00 and not exceeding K20.00.

(4) The persons to whom Subsection (3) applies are—

- (a) in the case of a failure by a company—the company and each officer of the company responsible for the failure; and
- (b) in the case of a firm—each officer of the firm responsible for the failure.

8. INSPECTION OF REGISTERS, ETC.

(1) For the purpose of ascertaining whether a company or firm is complying with this Act, the Registrar or a person authorized in writing by him may, without fee, inspect—

- (a) the register of unclaimed moneys required to be kept by the company or firm under this Act; and
- (b) any book, minute-book, register, record or document kept by or on behalf of the company or firm in the course of business or under any law.

(2) A person shall not make an inspection under Subsection (1) unless he has made a declaration of secrecy in the prescribed form.

(3) A person who—

- (a) makes an inspection under Subsection (1) before he has made a declaration of secrecy under Subsection (2); or
- (b) after making such a declaration makes, except for the purposes of this Act or in the course of criminal proceedings, a record of, or divulges or communicates to any other person, any information that he has acquired by reason of the inspection,

is guilty of an offence.

Penalty: A fine not exceeding K200.00.

(4) A company or an officer of a company or firm that or who—

- (a) on being required by the Registrar or a person authorized under Subsection (1) to produce a book, minute-book, register, record or document referred to in that subsection—
 - (i) refuses or fails to produce; or
 - (ii) avoids producing; or
 - (iii) prevents the production of,

the book, minute-book, register, record or document; or

- (b) on being required by the Registrar or an authorized person to correct an error found in any such book, minute-book, register, record or document, refuses or fails to correct the error; or
- (c) obstructs or hinders the Registrar or authorized person in the exercise of the powers conferred by Subsection (1),

is guilty of an offence.

Penalty: A fine not exceeding K200.00.

PART III. – MONEYS IN COURT.**9. DISPOSAL OF UNCLAIMED MONEY ETC., IN COURT.**

(1) In this section, “**money paid into court**” means money or a security paid—

- (a) into court; or
- (b) into a bank (whether in the name or to the credit of an officer of the court or otherwise) to be subject to the order or disposition of the court,

and includes—

- (c) any security or money into which the money or security, or any part of the money or security, is or has been converted after the time of payment; and
- (d) all interest and every dividend or other profit accrued or accruing from any such money or security from the time of payment until the time of payment under this Part into the Consolidated Revenue Fund; and
- (e) for the purpose of payment into the Consolidated Revenue Fund—the proceeds of the sale or conversion into money, after the time of payment, of any such security under Section 10.

(2) Notwithstanding any other law, where money has been paid into a court at any time under any law, and—

- (a) no claim, application, action, suit or other proceedings for or in respect of the money has been or is made or instituted for a period of 15 years after the last payment out of court of any part of the money; or
- (b) no payment out of court has been or is made, after the payment into court,

the proper officer of the court having the control or custody of money paid into court shall, as soon as practicable after the termination of that period of 15 years, pay the money to the Departmental Head for payment into the Consolidated Revenue Fund.

(3) Where any document filed in the court in connection with a matter referred to in Subsection (2) discloses the existence at any time of a person who—

- (a) would have been entitled to make or institute a claim, application, action, suit or proceeding for or in respect of the money but for want of age or other legal disability; or
- (b) would, on the happening of some event, have become entitled to do so,

the period of 15 years for the purposes of that subsection shall not be deemed to have commenced to run—

- (c) until the day on which the person became of age or the other disability was determined, or the event happened, as the case may be; or
- (d) until the day on which the person died,

whichever day was the earlier.

10. SALE OF UNCLAIMED SECURITIES IN COURT.

(1) Notwithstanding any other law, after the expiration of the period of 15 years referred to in Section 9 the proper officer of the court may, for the purpose of the payment of money into the Consolidated Revenue Fund under that section, sell or otherwise convert into money any security referred to in Section 9(1).

(2) On application by or on behalf of the proper officer of the court, a Judge may make an order vesting in the officer—

(a) the property in; or

(b) an interest in,

a security or in money in a bank referred to in Section 9(1), in order to facilitate payment into the Consolidated Revenue Fund under this Part.

11. CLAIMS AFTER DISPOSAL.

(1) Where, after money is paid into the Consolidated Revenue Fund under this Part, a claim, suit, action, application or other proceeding for or in respect of the money is made or instituted by a person, the claim, suit, action, application or other proceeding shall be heard and determined in all respects as if the money had remained in court, and the court may make any lawful order for the payment to a person of the money, or any part of the money, paid into the Consolidated Revenue Fund.

(2) Notwithstanding anything in any other law, when an order made under Subsection (1) is served on him the Departmental Head shall pay the amount specified in the order to the person to whom the order directs the payment to be made (without interest from the date of payment into the Consolidated Revenue Fund).

(3) The amount specified in an order under Subsection (1) shall be paid out of the Consolidated Revenue Fund which is, to the necessary extent, appropriated accordingly.

PART IV. – MISCELLANEOUS.

12. PAYMENT OF UNCLAIMED MONEYS TO ACCOUNTABLE OFFICERS.

(1) Where a person has in his hands, whether by way of business or otherwise, unclaimed moneys not required by this Act to be paid to an accountable officer, he may pay the moneys to an accountable officer as if they were payable under Section 7(1).

(2) This section does not apply to money paid into court, to which Part III applies.

13. PAYMENT TO PERSONS ENTITLED.

(1) If a claimant makes a demand against the Minister for money placed to the credit of the Unclaimed Moneys Fund, the Minister, or an officer authorized by him for the purpose, on being satisfied that the claimant is the owner of the money, shall direct payment of the money to be made to him out of the Fund or, if the money has been paid into the Consolidated Revenue Fund, may direct payment of the amount to be made to him out of moneys lawfully made available for the purpose.

(2) Where unclaimed moneys paid to a claimant are afterwards claimed by any other person, neither the Minister nor any authorized officer who made the payment shall be held responsible for the payment, but the last-mentioned person may have recourse against the claimant to whom the Minister has paid the unclaimed money.

14. INDEMNITY.

Unless otherwise provided in this Act, a person is not liable—

- (a) for any money paid to the Departmental Head; or
- (b) for the doing by him of any other act in good faith,

in accordance with this Act.

15. REGULATIONS.

The Head of State, acting on advice, may make regulations, not inconsistent with this Act, prescribing all matters that by this Act are required or permitted to be prescribed, or that are necessary or convenient to be prescribed for carrying out or giving effect to this Act, and in particular for prescribing matters relating to or in respect of—

- (a) the lodging of documents and the time and manner of submission of documents for lodging; and
- (b) forms for the purpose of this Act, the type and dimensions of forms to be used and any conditions attaching to the forms; and
- (c) fees for the purpose of this Act; and

- (d) inspections, including the method of inspection and the days and the times of day when inspections may be made.

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