



No. 46 of 2000

*Income Tax (Budget Provisions 2001) Act 2000.*

Certified on: 02/02/2001

INDEPENDENT STATE OF PAPUA NEW GUINEA

No. of 2000.

AN ACT

entitled

*Income Tax (Budget Provisions 2001) Act 2000,*

Being an Act to amend the *Income Tax Act 1959,*

MADE by the National Parliament to come into operation on 1 January 2001.

**1. REPEAL AND REPLACEMENT OF SECTION 6.**

Section 6 of the Principal Act is repealed and is replaced with the following:-

**“6. COMMISSIONER GENERAL OF INTERNAL REVENUE.**

(1) There shall be a Commissioner General of Internal Revenue who shall

- (a) be appointed by the Head of State, acting on advice, by notice in the National Gazette; and
- (b) be appointed for such period, of not less than five years or more than seven years, as the Head of State, acting on advice, determines; and
- (c) be eligible for re-appointment; and
- (d) subject to this Act, not otherwise be subject to the direction and control of any person.

“(2) The office of Commissioner General of Internal Revenue is hereby declared to be an office to and in relation to which Division III.2 (*Leadership Code*) of the *Constitution* applies.

“(3) The salary, allowances and benefits (financial and otherwise) of the Commissioner General shall be fixed by the National Parliament following consideration of a recommendation by the Salaries and Remuneration Commission in accordance with Section 216A (*The Salaries and Remuneration Commission*) of the *Constitution*.”

**2. NEW SECTION 6A.**

The Principal Act is amended by inserting after Section 6 the following new section:-

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**“6A. REMOVAL OF COMMISSIONER GENERAL FROM OFFICE.**

- (1) The Commissioner General may be removed from office only by –
- (a) the Head of State, acting with or in accordance with the recommendation of an independent tribunal established under the *Organic Law on the Duties and Responsibilities of Leadership*; or
  - (b) the Head of State, acting on advice, in accordance with the provisions of this section.

“(2) The Head of State, acting on advice, shall remove the Commissioner General from office 21 days after a determination of the National Executive Council that the Commissioner General should be removed from office where the determination is reached after the process and procedure specified in Subsections (4), (5) and (6).

“(3) In this section, “Committee” means the Committee formed for the purpose of this section comprising –

- (a) the Chief Secretary to Government, who shall be chairman; and
- (b) the Departmental Head of the Department responsible for personnel management matters; and
- (c) the Departmental Head of the Department responsible for planning matters; and
- (d) the Attorney -General.

“(4) Where, in the reasonable opinion of the Committee, the Commissioner General is guilty of conduct prejudicial to the performance of his duties under this Act, the Committee may make a recommendation (which recommendation shall contain full reasons for the recommendation), to the Minister that the Commissioner General be removed from office.

“(5) The Minister upon receiving the recommendation and reasons of the Committee pursuant to Subsection (4) shall –

- (a) place the recommendation of the Committee and reasons before the National Executive Council; and
- (b) advise the Commissioner General that the Commissioner General may by a particular date (such date being not less than 21 days from the date the Commissioner General is advised of the recommendation of the Committee and reasons) submit reasons to the National Executive Council why the Commissioner General should not be removed from office; and
- (c) provide the Commissioner General with full copies of the recommendation of the Committee and the reasons for the recommendation.

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“(6) The National Executive Council shall on the earlier of the date it receives the submission of the Commissioner General or the date stipulated for such submission –

- (a) consider the reasons for the recommendation of the Committee and the submission of the Commissioner General, if any; and
- (b) where, in the reasonable opinion of the National Executive Council –

- (i) the Commissioner General is not guilty of conduct prejudicial to the performance of his duties under this Act; or
- (ii) the Commissioner General should not be removed from office,  
the National Executive Council shall notify the Commissioner General in writing and the Commissioner General shall continue in office; and

- (c) where in the reasonable opinion of the National Executive Council –

- (i) the Commissioner General is guilty of conduct prejudicial to the performance of his duties under this Act; and
- (ii) the Commissioner General should be removed from office,  
the National Executive Council shall –
- (iii) give the Commissioner General written notice of its decision as soon as possible; and
- (iv) not earlier than 21 days thereafter, or where, within such 21 days, a decision of the National Executive Council is reviewed or appealed under Subsection (7), until a decision is handed down, advise the Head of State to remove the Commissioner General from office.

“(7) A decision by the Committee or the National Executive Council is a decision that may be fully reviewed (including on its merits) by any competent court.”.

**3. NEW SECTION 6B.**

The Principal Act is amended by inserting after Section 6A the following new section:-

**“6B. COMMISSIONER OF TAXATION.**

- (1) There shall be a Commissioner of Taxation who shall –

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- (a) be appointed by notice in the National Gazette by the National Executive Council after considering a recommendation from the Commissioner General; and
- (b) be appointed for such period, being not less than five years or more than seven years, as the National Executive Council determines; and
- (c) be eligible for re-appointment.

“(2) The office of Commissioner of Taxation is hereby declared to be an office to and in relation to which Division III.2 (*Leadership Code*) of the *Constitution* applies.”.

**4. TRANSITIONAL PROVISIONS.**

(1) The person who, immediately before the coming into operation of this Act (*Income Tax (Budget Provisions 2001) Act 2000*), held office as Commissioner General of Internal Revenue shall, on that coming into operation, continue to hold that office and is deemed to have been appointed in accordance with Section 6 of the Principal Act as replaced by this Act (*Income Tax (Budget Provisions 2001) Act 2000*) for a period of five years commencing on and from the coming into operation of this Act (*Income Tax (Budget Provisions 2001) Act 2000*).

(2) The person who, immediately before the coming into operation of this Act (*Income Tax (Budget Provisions 2001) Act 2000*), held office as Commissioner of Taxation shall on that coming into operation continue to hold that office until an appointment to that office is made in accordance with the Principal Act as amended by this Act (*Income Tax (Budget Provisions 2001) Act 2000*).

**5. EXEMPTION OF PENSION, ETC., (AMENDMENT OF SECTION 29).**

Section 29(1)(r) of the Principal Act is amended by repealing the amount “K50,000.00” and replacing it with the following:-

“K75,000.00”.

**6. TRAINING LEVY (AMENDMENT OF SECTION 196Z).**

Section 196Z (2) of the Principal Act is amended by repealing the amount “K100,000.00” and replacing it with the following:-

“K200,000.00”.

**7. NON-APPLICATION OF DIVISION (AMENDMENT OF SECTION 213C).**

Section 213C (b) of the Principal Act is amended by repealing the amount “K16,533.00” and replacing it with the following:-

“K17,072.00”.

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**8. REPEAL AND REPLACEMENT OF SECTION 214B.**

Section 214B of the Principal Act is repealed and is replaced with the following:-

**“214B. REBATE OF EDUCATION EXPENSES.**

(1) In this section-

“dependent student child” means a child or student wholly maintained by the taxpayer, in respect of whom he is incurring net education expenses; and

“net education expenses” means amounts of educational fees paid by the taxpayer to any primary or high school, whether within or outside Papua New Guinea, less any subsidy, allowance or assistance received.

“(2) Where, during a year of income a taxpayer incurs expenses in relation to the education of a dependent student child and he has not been, or will not be, allowed a deduction in respect of those expenses under Section 70A, he is entitled to a rebate equal to the lesser of-

(a) 25% of the net education expenses incurred; or

(b) K750.00 for that dependent student child.

“(3) An application for a rebate under Subsection (2) shall be made by lodgement of a return of income as required from year to year by notice in the National Gazette and shall be deemed to be an objection for the purposes of Part V.2.”.

**9. REPEAL AND REPLACEMENT OF SECTION 219C.**

Section 219C of the Principal Act is repealed and is replaced with the following:-

**“219C. CREDITS IN RESPECT OF PRESCRIBED INFRASTRUCTURE DEVELOPMENTS.**

(1) In this Section-

“eligible taxpayer” means-

(a) a taxpayer engaged in mining, petroleum or gas operations; or

(b) a taxpayer engaged in primary production.

“(2) Where an eligible taxpayer has, in a year of income, incurred expenditure in relation to a prescribed infrastructure development, the amount of such expenditure is, subject to this section, deemed to be income tax paid in

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respect of that taxpayer's liability assessed for the year of tax relating to that year of income, limited to the lesser of-

- (a) 0.75% of the assessable income derived by the taxpayer in the year of income; or
- (b) the amount of tax payable.

"(3) Where in any year the actual expenditure by an eligible taxpayer is less than the maximum amount of expenditure which, under Subsection (2), the taxpayer would be entitled to claim as deemed tax paid, the difference may be carried forward to be expended in the next two years of income.

"(4) Amounts expended in a year of income pursuant to Subsection (3) shall be in addition to amounts which may be expended under Subsection (2).

"(5) Where in any year an eligible taxpayer has incurred expenditure greater than the total of the amounts he is entitled to expend under Subsections (2) and (3), for the purposes of this section the amount of the excess shall be deemed to be expenditure of the next succeeding year of income.

"(6) Where an eligible taxpayer would have been, on 1 January 2001, entitled to expend additional amounts on prescribed infrastructure development under the provisions of this section as they were in force prior to that date, that entitlement may be expended before 31 December 2003 and shall be in addition to the amounts which may be expended under Subsections (2) and (3)."

I hereby certify that the above is a fair print of the *Income Tax (Budget Provisions 2001) Act 2000* which has been made by the National Parliament.

Acting Clerk of the National Parliament.

I hereby certify that the *Income Tax (Budget Provisions 2001) Act 2000* was made by the National Parliament on 7 December 2000.

Acting Speaker of the National Parliament.