

Chapter 387.
Departure Tax Act 1980.

Certified on: / /20 .

INDEPENDENT STATE OF PAPUA NEW GUINEA.



Chapter 387.

Departure Tax Act 1980.

ARRANGEMENT OF SECTIONS.

1. Interpretation.
 - “Commissioner General”
 - “crew”
 - “passenger”
 - “overseas passenger carrier”
 - “this Act”
 - “transit passenger”
2. Departure Tax.
3. Exemption of certain persons.
4. Domestic travel.
5. Collection and payment of Departure Tax.
- 5AA. Statutory garnishee.
 - “tax”
 - “person”
 - “person liable”
- 5A. Access, etc., to books.
- 5B. Commissioner general may obtain information and evidence.
6. Regulations.
7. Repeal.

INDEPENDENT STATE OF PAPUA NEW GUINEA.



AN ACT

entitled

Departure Tax Act 1980,

Being an Act to provide for a tax to be paid on certain departures from—

- (a) the country; and
 - (b) airports for travel within the country,
- and for related purposes.

1. INTERPRETATION.

In this Act, unless the contrary intention appears—

¹“**Commissioner General**” means the Commissioner General of Internal Revenue appointed under the *Income Tax Act 1959*;

“**crew**”, in relation to an aircraft or ship, includes every person having duties or functions on board the aircraft or ship;

“**passenger**” in relation to an aircraft or ship, means any person travelling on board the aircraft or ship other than a member of the crew of the aircraft or ship;

²“**overseas passenger carrier**” means a person or company who conveys passenger departing from Papua New Guinea, by aircraft or ship, to a destination in a foreign country;

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

“**transit passenger**” means a passenger who—

¹ Section 1 (definition of “Commissioner General” inserted by *Departure Tax (Budget Provisions) Act 1993* (No. 39 of 1993), s1.

² Section 1 (definition of “overseas passenger carrier”) inserted by *Departure Tax (Amendment) Act 1998* (No. 16 of 1998), s1.

- (a) is travelling from a place outside Papua New Guinea to another place outside Papua New Guinea; and
- (b) while in Papua New Guinea, does not leave the part of any aerodrome or port allotted to transit passengers except—
 - (i) under direction of an airline concerned, the authorities responsible for civil aviation or a member of the Police Force; or
 - (ii) in case of emergency or necessity; or
 - (iii) for the purposes of embarkation or disembarkation; or
 - (iv) being a passenger on a ship calling at a port in Papua New Guinea for a period of not more than 48 hours, leaves on that ship within 48 hours.

2. DEPARTURE TAX.

³(1) Subject to Section 3, a tax by the name of Departure Tax is imposed on—

- (a) all passengers departing the country for a destination in a foreign country; and
- (b) subject to Section 4, all passengers conveyed by air by a prescribed carrier on a journey within the country.

(2) The rate of Departure Tax is—

- (a)⁴ in the case of passengers referred to in Subsection (1)(a)—K30.00 per person; and
- (b) in the case of passengers referred to in Subsection (1)(b)—Nil.

3. EXEMPTION OF CERTAIN PERSONS.

Section 2(1) does not apply to—

- (a) transit passengers; or
- (b) children who are not entitled to a seat on the aircraft on which they are to travel; or
- (c) children who are travelling free of charge on a ship; or
- (d) a member of the Defence Force travelling in the course of his duties; or
- (e) crew of an airline travelling in the normal course of their duties to or from other locations; or
- (f) such other persons as are prescribed.

³ Section 2 amended by No. 40 of 1981, No. 21 of 1982, No. 43 of 1983.

⁴ Section 2(2)(a) amended by *Departure Tax (Amendment) Act 1989* (No. 23 of 1989); amended by *Departure Tax (Amendment) Act 1990* (No. 16 of 1990); amended by *Departure Tax (Budget Provision) Act 1997* (No. 19 of 1997).

4. DOMESTIC TRAVEL.

(1) A person shall not be liable to pay Departure Tax in respect of any part of a continuous journey in respect of any other part of which Departure Tax has already been paid.

(2) Subject to Subsection (3), for the purposes of this section, a journey is a continuous journey if it is not broken by the person travelling except—

- (a) as necessary to make airline connections between the point at which the journey commenced and the person's destination in the country; or
- (b) because of delays in scheduled connections through adverse weather conditions, aircraft or ship performance, or other reasons beyond the person's control.

(3) The regulations may impose limits on what may be considered a continuous journey for the purpose of this section.

5. COLLECTION AND PAYMENT OF DEPARTURE TAX.

(1) Departure Tax shall be collected and paid as prescribed.

(2) The regulations may authorize—

- (a) a person to act as agent for the State for the collection of Departure Tax; and
- (b)⁵ the Minister to enter into an agreement with an agent referred to in Paragraph (a) to provide for—
 - (i) the agent to make, or cause to be made, adhesive stamps to be known as Departure Tax Stamps of a design approved by the Minister and showing the amount or amounts of Departure Tax payable under this Act; and
 - (ii) the agent to collect Departure Tax by selling Departure Tax Stamps to intending passengers; and
 - (iii) the payment, by the 21 day of the month succeeding the month in which Departure Tax was collected, by the agent to the Commissioner General of the amount of Departure Tax collected less all or any agreed costs for the collection of the Departure Tax; and
 - (iv) the Commissioner General to charge late payment penalty at the rate of 20% per annum in respect of payments required under Subparagraph (iii) and received by him after the due date; and
 - (v) access at all times by the Commissioner General, or an officer authorized by him, to the premises of and to all records of the agent for any of the purposes of ensuring protection of the revenue, and to have like access to examine and review

⁵ Section 5(2)(b) repealed and replaced by Departure Tax (Budget Provisions) Act 1993 (No. 39 of 1993), s2.

accounting, internal audit and security methods and controls of the agent; and

- (vi) the provision by the agent to the Commissioner General at the end of each financial year of reconciliation of total sales for the year to total payments made in respect of Departure Tax Stamps printed and sold and Departure Tax received; and
- (c) an agent referred to in Paragraph (a) to deduct all or any agreed costs from Departure Tax.

(3)⁶ ⁷An overseas passenger carrier, or an agent acting on behalf of the carrier, who sells, on or after 1 April 1998, a ticket for travel to a foreign destination after 30 April 1998, is required to charge, collect and show on the ticket, the Departure Tax referred to in Section 2.

(4)⁸ ⁹An overseas passenger carrier—

- (a) is required to be registered by 7 April 1998 or within 7 days before conveying a passenger to a destination in a foreign country, whichever is the later; and
- (b) shall register by furnishing to the Commissioner General a registration form in the form authorized for this purpose by the Commission; and
- (c) shall remain registered until notified otherwise by the Commissioner General.

(5)¹⁰ ¹¹An overseas passenger carrier registered or required to be registered under Subsection (4) shall, no later than the twenty first day of each month—

- (a) furnish to the Commissioner General a return showing—
 - (i) the total number of passengers conveyed by it to a destination in a foreign country in the previous month; and
 - (ii) the total amount of Departure Tax collected or which should have been collected from those passengers; and
- (b) pay to the Commissioner General the total amount of Departure Tax collected or which should have been collected in that month, less a 5% collection fee.

(6)¹² ¹³An overseas passenger carrier who contravenes, or fails to comply with a provision of this section is guilty of an offence.

Penalty: A fine not less than K2,000.00 and not exceeding K20,000.00.

⁶ Section 5(3) inserted by *Departure Tax (Amendment) Act 1998* (No. 16 of 1998), s2.

⁷ Section 5(3) inserted by *Departure Tax (Amendment) Act 1998* (No. 16 of 1998), s2.

⁸ Section 5(4) inserted by *Departure Tax (Amendment) Act 1998* (No. 16 of 1998), s2.

⁹ Section 5(4) inserted by *Departure Tax (Amendment) Act 1998* (No. 16 of 1998), s2.

¹⁰ Section 5(5) inserted by *Departure Tax (Amendment) Act 1998* (No. 16 of 1998), s2.

¹¹ Section 5(5) inserted by *Departure Tax (Amendment) Act 1998* (No. 16 of 1998), s2.

¹² Section 5(6) inserted by *Departure Tax (Amendment) Act 1998* (No. 16 of 1998), s2.

¹³ Section 5(6) inserted by *Departure Tax (Amendment) Act 1998* (No. 16 of 1998), s2.

(7)¹⁴ ¹⁵Where an amount (in this subsection referred to as the “**principal amount**”) payable to the Commissioner General by an overseas passenger carrier under this section remains unpaid after the expiration of the period within which it is required to be paid—

- (a) the principal amount continues to be payable by the overseas passenger carrier to the Commissioner General; and
- (b) the overseas passenger carrier is liable to pay to the Commissioner General additional tax being—
 - (i) an amount (in this Paragraph referred to as the relevant additional amount) equal to 20% of the principal amount; and
 - (ii) an amount at the rate of 20% per annum of the sum of such of the principal amount as remains unpaid and so much of the relevant additional amount as remains unpaid, computed from the expiration of that period,

but the Commissioner General may in any case, for reasons he thinks sufficient, remit the additional amount or any part of that amount.

5AA. STATUTORY GARNISHEE.

¹⁶(1) A person who is liable to pay Departure Tax is personally liable for payment of the Departure Tax to the State in the manner provided for under this Act and, upon the Departure Tax becoming due and payable, the amount of Departure Tax—

- (a) shall be deemed to be a debt due to the State; and
- (b) may be sued for and recovered in any court of competent jurisdiction by the Commissioner General in his official name.

(2) The Commissioner General may at any time, or from time to time, by notice (a copy of which shall be forwarded to the person at his last place of address known to the Commissioner General), require—

- (a) any person by whom any money is due or accruing or may become due to the person liable; or
- (b) any person who holds or may subsequently hold money for or on account of the person liable; or
- (c) any person who holds or may subsequently hold money on account of some person for payment to the person liable; or
- (d) any person having authority from some other person to pay money to the person liable,

¹⁴ Section 5(7) inserted by *Departure Tax (Amendment) Act 1998* (No. 16 of 1998), s2.

¹⁵ Section 5(7) inserted by *Departure Tax (Amendment) Act 1998* (No. 16 of 1998), s2.

¹⁶ Section 5AA inserted by *Departure Tax (Budget Provisions 1999) Act 1998* (No. 32 of 1998).

to pay to the Commissioner General, either upon the money becoming due or being held or within a time specified in the notice (not being a time before the money becomes due or is held)–

- (e) so much of the money as is sufficient to pay the money due by the person liable in respect of any fines and costs imposed on him under this Act, or the whole of the money when it is equal to or less than the amount; or
- (f) such payment as is specified in the notice out of each of any payments that the person so notified becomes liable from time to time to make to the person liable, until the amount due by the person liable in respect of any Departure Tax and of any fines and costs under this Act is satisfied,

and may at any time, amend or revoke any such notice, or extend the time for making any payment in pursuance of the notice.

(3) A person, who fails to comply with a notice under this section is liable to pay–

- (a) the amount specified in the notice; or
- (b) the amount due or held on behalf of the person liable,

whichever is the lesser amount, and any amount collected under this subsection shall be applied against the debt of the person liable.

(4) In addition to any amount a person is liable to pay under Subsection (3), a person who fails to comply with a notice under this section is guilty of an offence.

Penalty: A fine of not less than K2,000.00 and not more than K20,000.00.

(5) A person making a payment in pursuance of this section shall be deemed to have been acting under the authority of the person liable and of all other persons concerned and is, by force of this subsection, indemnified in respect of that payment.

(6) If the Commissioner General receives a payment in respect of the amount due by the person so notified, he shall forthwith give notice of receipt of the payment to that person.

(7) In this Section–

“**tax**” means Departure Tax, penalties and fines and includes a judgement debt and costs in respect of such tax;

“**person**” includes company, partnership, the State and any public authority constituted by or under any law of Papua New Guinea;

“**person liable**” means a person specified in this Act as being liable to pay Departure Tax.

(8) A notice to be given under this section to the State may be served upon such person as is prescribed and a notice so served shall be deemed to have been served upon the State.

5A. ACCESS, ETC., TO BOOKS.

¹⁷(1) Subject to this section, the Commissioner General, or an officer authorized by him in that behalf, shall at all times have full and free access to all buildings, places, computers, books, documents, records, papers and other information storage devices for any of the purposes of this Act, and for that purpose may seize, retain and remove for inspection or make extracts or copies of any such computer, book, document or paper record.

(2) An officer is not entitled to remain on or in any building or place under this section if, on being requested by the occupier of the building or place for proof of authority, the officer does not produce an authority in writing signed by the Commissioner General stating that the officer is authorized to exercise power under this section.

(3) The occupier of a building or place entered or proposed to be entered by the Commissioner General or by an officer under Subsection (1), shall provide the Commissioner General or the officer with all reasonable facilities and assistance for the effective exercise of powers under this section.

(4) The Commissioner General shall not undertake to gain access to places or things under this section without first obtaining prior written approval from the Minister, who may at his full absolute discretion impose conditions for the grant of access or direct that certain requirements are met to his satisfaction.

5B. COMMISSIONER GENERAL MAY OBTAIN INFORMATION AND EVIDENCE.

¹⁸(1) The Commissioner General may by notice in writing, require a person, whether a taxpayer or not, including a person employed in the Public Service or by an authority constituted by or under a law of Papua New Guinea—

- (i) to furnish him with such information as he may require; and
- (ii) to attend and give evidence before him or before any officer authorized by him in that being concerning his or any other person's income or assessment, and may require him to produce all books, documents and other papers in his custody or under his control relating to that income or assessment.

(2) The Commissioner General may require the information or evidence referred to in Subsection (1) to be given on oath, and verbally or in writing, and for that purpose he or the officer so authorized by him may administer on oath.

6. REGULATIONS.

¹⁹The 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

¹⁷ Section 5A inserted by *Departure Tax (Amendment) Act 1998* (No. 16 of 1998), s3.

¹⁸ Section 5B inserted by *Departure Tax (Amendment) Act 1998* (No. 16 of 1998), s4.

¹⁹ Section 6 Amended by No. 15 of 2002, s. 1.

s. 7.

Departure Tax 9999

prescribed, or that are necessary or convenient to be prescribed, for carrying out or giving effect to this Act, and in particular for prescribing penalties of fines not exceeding K500.00 for offences against the regulations.

7. REPEAL.

The *Airports (Departure) Tax Act* is repealed.

Office of Legislative Counsel, PNG