

No *24* of 2009.

*Customs (Amendment) Act 2009.*

Certified on : *09.07.10*



*Customs (Amendment) Act 2009,*

**ARRANGEMENT OF SECTIONS.**

1. Interpretation (Amendment of Section 1) -
  - "the Customs"
  - "Commissioner"
  - "Collector"
  - "Comptroller"
  - "Service".
2. Administration of this Act (Repeal and Replacement of Section 3).
3. Delegation (Repeal and Replacement of Section 3A).



AN ACT

entitled

*Customs (Amendment) Act 2009,*

Being an Act to amend the *Customs Act* (Chapter 101),

MADE by the National Parliament to come into operation in accordance with a notice in the National Gazette by the Head of State, acting with, and in accordance with, the advice of the Minister.

**1. INTERPRETATION (AMENDMENT OF SECTION 1).**

Section 1 of the Principal Act is amended by -

- (a) repealing the definition of 'Commissioner General'; and
- (b) repealing the definition of 'the Customs' and replacing it with the following new definition:  
'the Customs' means the Papua New Guinea Customs Service; and
- (c) repealing the definition of 'Commissioner of Customs' and replacing it with the following new definition -  
'Commissioner' means the Commissioner of the Papua New Guinea Customs Service appointed under Section 3A, and, any reference in the Act to the Commissioner General or Commissioner of Customs or the Collector or Comptroller shall be deemed to mean the Commissioner of Papua New Guinea Customs Service; and
- (d) inserting the following new definition:  
'Collector' includes -
  - (a) a deputy or assistant Commissioner of Customs; and
  - (b) a principal officer of Customs performing duty at the time and place in relation to which the expression is used; and
  - (c) any officer performing duty in the matter in relation to which the expression is used; and
- (e) repealing the definition of the comptroller; and
- (f) insert the following new definition:-  
'Service' means the Papua New Guinea Customs Service.

**2. ADMINISTRATION OF THIS ACT (AMENDMENT OF SECTION 3).**

Section 3 of the Principal Act is repealed and replaced with the following new Sections:

*Papua New Guinea Customs Service*

**“3. COMMISSIONER OF PAPUA NEW GUINEA CUSTOMS SERVICE.**

(1) There shall be a Commissioner of the Papua New Guinea Customs Service who is –

- (a) appointed, suspended and dismissed in the manner as is specified in the *Public Services (Management) Act 1995* in relation to the appointment, suspension and termination of departmental heads; and
- (b) 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) eligible for re-appointment; and
- (d) subject to this Act, not subject to direction and control of any person or authority.”

(2) The office of Commissioner of the Service is 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 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*.”

**“3A. FIRST COMMISSIONER OF THE PAPUA NEW GUINEA CUSTOMS SERVICE.**

(1) The person who, immediately before the coming into operation of this Act, held the office of the Commissioner of Customs, shall, on that coming into operation, hold the office of Commissioner of the Service until a Commissioner is appointed under Section 3.”

(2) The person referred to in Subsection (1) shall hold office in accordance with the terms and conditions of employment of the office of Commissioner of Customs until terms and conditions have been determined for the office of the Commissioner of the Service at which time those terms and conditions shall apply.”

**“3B. SERVICE.**

All periods of service shall be counted for all purposes as service in the National Public Service in respect of the officers of the Service.”

**“3C. ACTIONS, ETC., NOT TO ABATE.**

Where, immediately before the coming into operation of this Act, any action, arbitration or proceeding instituted by the Commissioner General of the Internal Revenue Commission was pending or existing by or against a person or body, it does not, on that coming into operation, abate or discontinue, and is not in any way affected by any provision of this Act, but it may be prosecuted, continued and enforced by, against or in favor of the person or body as if the Service was a division of the Internal Revenue Commission.”

**“3D. APPLICATION OF ACTS.**

Where, by or under an Act or any other law, other than this Act, any document or instrument wherever made or executed, contains a reference, expressed or implied, to the Commissioner General of the Internal Revenue Commission in relation the Customs division and functions of the Internal Revenue Commission, that reference shall, on the coming into operation of this Act, except where the context otherwise requires, be read and construed and have effect as a reference to the Service.”

**“3E. DISCIPLINARY OFFENCES.**

Where, prior to the coming into operation of this Act, a customs officer has been charged by the Commissioner General of the Internal Revenue Commission with a disciplinary offence, and, on that coming into operation, the procedures set out for dealing with the disciplinary offence under the *Public Services (Management) Act 1995* had not been completed, that disciplinary process shall be continued by the Commissioner in accordance with the provisions of the *Public Services (Management) Act 1995*.”

**“3F. ACTS, ETC., DONE UNDER REPEALED ACTS.**

(1) All acts, matters and things suffered, done or omitted to be done under or for the purposes of exercising the powers and functions in relation to customs by the Commissioner General of the Internal Revenue Commission under the repealed laws shall be deemed to have been suffered, done or omitted to be done by the Commissioner of the Service under the equivalent provisions of this Act.”

(2) Without limiting the generality of Subsection (1), but subject to Section 3E, subsection (1) applies to any act, matter or thing relating to appointment, promotion, transfer or discipline.”

**3. DELEGATION (REPEAL AND REPLACEMENT OF SECTION 3A).**

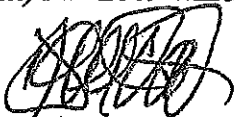
Section 3A of the principal Act is repealed and replaced with the following:

**“3G. DELEGATION.**

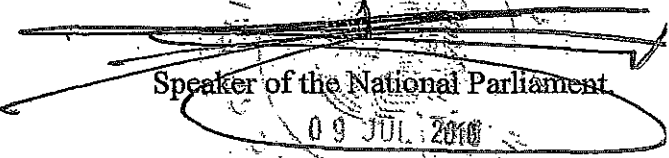
The Commissioner may, by written instrument, delegate to -Deputy Commissioners or Assistant Commissioners, all or any of his powers and functions under this Act or any other Act that is an Act relating to customs or excise, except this power of delegation.”

*Papua New Guinea Customs Service*

I hereby certify that the above is a fair print of the *Customs (Amendment) Act 2009* which has been made by the National Parliament.

  
Clerk of the National Parliament.  
09 JUL 2010

I hereby certify that the *Customs (Amendment) Act 2009* was made by the National Parliament on 24 November 2009.

  
Speaker of the National Parliament.  
09 JUL 2010