

No. 13 of 2014.

*Internal Revenue Commission Act 2014.*

Certified on : 05 AUG 2014



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***Internal Revenue Commission Act 2014.***

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No. of 2014

AN ACT

entitled

***Internal Revenue Commission Act 2014,***

Being an Act to provide for the establishment of the Internal Revenue Commission, to define its powers and functions and for related purposes,

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.

**PART 1. - PRELIMINARY.**

**1. COMPLIANCE WITH CONSTITUTIONAL REQUIREMENTS.**

(1) For the purposes of Section 41 of the *Organic Law on Provincial Governments and Local-level Governments*, it is declared that this law relates to a matter of national interest.

(2) This Act to the extent that it regulates or restricts the exercise of any one or more of the following rights or freedoms referred to in Subdivision III.3.C (*qualified rights*) of the *Constitution*, namely -

- (a) the right to freedom from arbitrary search and entry conferred by Section 44 of the *Constitution*; and
- (b) the right to freedom of expression conferred by Section 46 of the *Constitution*; and
- (c) the right to freedom of employment conferred by Section 48 of the *Constitution*; and
- (d) the right to privacy conferred by Section 49 of the *Constitution*; and
- (e) the right to freedom of information conferred by Section 51 of the *Constitution*; and
- (f) the right to freedom of movement conferred by Section 52 of the *Constitution*; and
- (g) the equality of citizens conferred by Section 55 of the *Constitution*,

is a law that is made for the purpose of giving effect to the public interest in public welfare.

**2. INTERPRETATION.**

(1) In this Act, unless the contrary intention appears -

“Commissioner General” means -

- (a) the Commissioner General of the Internal Revenue Commission appointed under Section 16, and includes any person acting in that capacity; and

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- (b) any reference to the Commissioner General, Commissioner of Taxation, Assistant Commissioner or Chief Collector in any revenue law;
- “Commissioners” means the Commissioners appointed under Section 18, and includes any person acting in that capacity;
- “expenses” means the expenditures of the Internal Revenue Commission as set out under Section 35;
- “financial year” refers to the Internal Revenue Commission’s financial year, which shall be a calendar year commencing on the 1<sup>st</sup> day of January and ending on the 31<sup>st</sup> day of December each year;
- “income” means the funds of the Internal Revenue Commission under Section 33;
- “Internal Revenue Commission” means the Internal Revenue Commission established under Section 5;
- “Minister” means the Minister with ministerial responsibility for the Internal Revenue Commission;
- “officer” means a member of the staff of the Internal Revenue Commission, including any casual or temporary staff, persons on secondment or attachment, or persons under any exchange program;
- “orders” refers to the orders made under Section 10;
- “public moneys” refers to public moneys as defined under the *Public Finances (Management) Act 1995*;
- “revenue laws” means any of the laws relating to income tax, goods and services tax, stamp duties, turnover taxes, or any other taxes that the Commissioner General administers, and such other legislation concerning revenue as the Parliament may enact which is administered by the Commissioner General;
- “staff of the Internal Revenue Commission” means a person employed with the Internal Revenue Commission including any casual or temporary staff, persons on secondment or attachment, or persons under any exchange program;
- “tax revenue” includes those taxes under the *Income Tax Act 1959* including any taxes, duties, charges, levies, fees, fines, penalties or interests imposed by any other revenue law that the Commissioner General administers, and such other legislation concerning revenue as the Parliament may enact which is administered by the Commissioner General;
- “the Commission” means the governing body of the Internal Revenue Commission established under Section 8;
- “this Act” includes any regulations made under it.

- (2) A reference in this Act to any other Act includes -
  - (a) any regulation made under that Act; and
  - (b) any Act that is substituted for or that replaces that other Act; and
  - (c) any regulations made under any such substitute or replacement Act.

### **3. ACT BINDS THE STATE.**

- (1) This Act binds the State.

(2) Where, by or under any other Act, the Head of State, acting on advice of the Minister or the National Executive Council, may give directions as to policy, any such directions given to the Internal Revenue Commission under this Act may not be inconsistent with the provisions of this Act and any revenue laws, or any other Act the administration of which is the responsibility of the Internal Revenue Commission or the Commissioner General from time to time.

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**4. FUNCTIONS AND ROLE OF THE MINISTER.**

- (1) Subject to Subsection (2), the principal functions of the Minister under this Act are -
  - (a) to ensure the proper fulfilment of the responsibilities of the State regarding taxation; and
  - (b) to advise the National Executive Council regarding taxation policy and strategies based on advice and recommendations from the Internal Revenue Commission; and
  - (c) to give directions to the Internal Revenue Commission on matters of policy pertaining to taxation matters to the extent permitted by law; and
  - (d) to present the annual report under this Act to Parliament.
  
- (2) The Minister shall not -
  - (a) intervene in the determination of any tax assessment, tax collection, tax liability or tax appeal by any taxpayer or the enforcement of the revenue laws which shall be the sole responsibility of the Commissioner General, as mandated under the revenue laws, and exercised through the Internal Revenue Commission; or
  - (b) interfere with the supervision or direction of the Commissioner General or the Commission or in the exercise of their powers, functions, roles, responsibilities and discretions including the day to day management of the Commission and the enforcement of the revenue laws; or
  - (c) interfere with the supervision, appointment or direction of the staff of the Internal Revenue Commission or in the exercise of their powers, functions, roles, responsibilities and discretions including the day to day management of the Internal Revenue Commission and the enforcement of the revenue laws.

**PART II. - THE INTERNAL REVENUE COMMISSION AND GOVERNANCE.**

*Division 1. - Internal Revenue Commission.*

**5. ESTABLISHMENT OF THE INTERNAL REVENUE COMMISSION.**

- (1) The Internal Revenue Commission is hereby established as a body corporate.
  
- (2) The Internal Revenue Commission -
  - (a) is a body corporate with perpetual succession; and
  - (b) has a common seal; and
  - (c) may acquire, hold or dispose of real or personal property; and
  - (d) may sue or be sued in its corporate name; and
  - (e) is capable of performing such acts as bodies corporate may, by law, perform.
  
- (3) All courts, judges and persons acting judicially shall take judicial notice of the seal of the Internal Revenue Commission affixed to a document and shall presume that it was duly affixed.
  
- (4) Subject to this Act, the Internal Revenue Commission is a governmental body and is entitled to the benefit of any immunity or privilege enjoyed by the State under any law.

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### **6. POWERS AND FUNCTIONS OF THE INTERNAL REVENUE COMMISSION.**

(1) The Internal Revenue Commission is the agent of the State on taxation matters and shall exercise the functions and perform the duties carried out by the Internal Revenue Commission immediately prior to the commencement of this Act.

(2) The powers and functions of the Internal Revenue Commission are to enable the Commissioner General -

- (a) to administer and enforce the revenue laws; and
- (b) to promote compliance with the revenue laws; and
- (c) to take such measures as may be required to improve service provided to taxpayers with a view to improving efficiency and maximising revenue collection; and
- (d) to take such measures as may be required to counteract tax fraud and other forms of tax evasion; and
- (e) to advise the State on matters relating to taxation and to liaise with relevant stakeholders on such matters; and
- (f) to represent the State internationally in respect of matters relating to taxation; and
- (g) to carry out such functions as are given to the Internal Revenue Commission under this Act or any other law.

(3) Without limiting the generality of Subsections (1) and (2), the Internal Revenue Commission may -

- (a) enter into contracts; or
- (b) utilize all property of the Internal Revenue Commission, whether movable or immovable, in the interest of the State and in the better administration of the taxation system; or
- (c) engage in any activity, either alone or in conjunction with other organizations or international agencies, to promote a better understanding of taxation; or
- (d) provide technical advice or assistance, including training facilities, to tax authorities of other countries; or
- (e) impose fees for additional administrative costs incurred; or
- (f) provide training for the staff of the Internal Revenue Commission or to award scholarships or otherwise pay for such training; or
- (g) do anything incidental to any of its powers.

### **7. INTERNAL REVENUE COMMISSION NOT A DEPARTMENT.**

Subject to this Act, the Internal Revenue Commission is not a Department of the National Public Service and the provisions of the *Public Services (Management) Act 1995* do not apply to the Internal Revenue Commission.

#### *Division 2. - Establishment of the Commission.*

### **8. ESTABLISHMENT OF THE COMMISSION.**

(1) There is established a governing body of the Internal Revenue Commission known as the Commission.

(2) The Commission shall consist of the Commissioner General and the Commissioners.



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(3) The Commission shall exercise the powers and functions of the Commission under this Act.

### **9. POWERS AND FUNCTIONS OF THE COMMISSION.**

(1) The Commission shall -

- (a) determine an overall governance structure for the Internal Revenue Commission; and
- (b) make such orders relating to the general good governance of the Internal Revenue Commission and any other related matter pursuant to this Act; and
- (c) approve strategic plans relating to the operations and administration of the Internal Revenue Commission; and
- (d) monitor the Internal Revenue Commission's performance and compliance in the exercise of its powers and functions; and
- (e) report, subject to the secrecy provisions in the revenue laws, on the operations of the Internal Revenue Commission to such Audit Committees as established under the *Public Finances (Management) Act 1995*.

(2) The Commission has, in addition to the powers otherwise conferred on it by this Act or any other law, the power to do all things necessary or convenient to be done for or in connection with, the performance of its functions.

(3) The powers of the Commission do not include the powers of the Commissioner General conferred by the revenue laws.

(4) Consistent with Section 20(4) of this Act, the Commissioners shall not exercise any powers and functions under this section that contravenes a directive of the Commissioner General.

### **10. ORDERS.**

(1) The Commission shall make such orders for any matter required or permitted by this Act to be made, or that are necessary or desirable to be made, for carrying out or giving effect to this Act for the good governance of and the better management and control of the staff, finances and assets of the Internal Revenue Commission.

(2) Without limiting the generality of Subsection (1), the orders made under this section may relate to any of the following:

- (a) the terms and conditions of the employment of the staff of the Internal Revenue Commission; and
- (b) the organisation, pay structures and personnel emoluments of the staff of the Internal Revenue Commission; and
- (c) selection and appointment of staff of the Internal Revenue Commission; and
- (d) training and career path development for the staff of the Internal Revenue Commission; and
- (e) criteria and procedures for the disciplining of staff of the Internal Revenue Commission; and
- (f) codes of ethics and conduct of the staff of the Internal Revenue Commission, including codes relating to the specialised function of any member or category or group of the staff of the Internal Revenue Commission; and

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- (g) the management, protection and control of the property and assets of the Internal Revenue Commission; and
- (h) the procedures of the Commission; and
- (i) the reporting requirements of the Commission and the Commissioner General; and
- (j) the financial procedures connected with the expenditure and income of the Internal Revenue Commission; and
- (k) the tender and procurement procedures of the Internal Revenue Commission.

### *Division 3. - Procedures of the Commission.*

#### **11. MEETINGS OF THE COMMISSION.**

- (1) At a meeting of the Commission -
  - (a) the Commissioner General shall preside; and
  - (b) a quorum includes the Commissioner General and two Commissioners; and
  - (c) all members present are entitled to one vote; and
  - (d) matters arising shall be decided by a majority of the votes of the members present and voting; and
  - (e) in the event of any equality of votes on any matter, the Commissioner General has a casting as well as a deliberative vote.

(2) The Commission will be required to keep records, minutes and determine its own procedures.

#### **12. DISCLOSURE OF INTEREST.**

(1) A member of the Commission, who has a direct or indirect interest in a matter being considered or about to be considered by the Commission, shall disclose the nature of the interest at a meeting as soon as he is aware of the relevant facts and such a disclosure shall be recorded in the minutes of the meeting.

(2) The member making the disclosure should be excused from the discussion of the matter and should not participate in any debate, deliberation, decision or vote of the Commission in relation to the matter and would be disregarded for the purposes of determining whether a quorum is present.

#### **13. ESTABLISHMENT OF COMMITTEES.**

(1) The Commission may establish, vary or terminate such number of committees as it considers necessary to advise it on any matters.

(2) The Commission shall appoint persons that it considers necessary to the committees and specify the functions and procedures of a committee and determine appropriate remuneration if required.

#### **14. INDEMNITY OF MEMBERS.**

A member of the Commission shall not be liable for any actions, suits, proceedings, claims or demands in any jurisdiction arising out of any act, matter or thing done or omission, by that member in good faith and without negligence for the purpose of carrying out or giving effect to this Act.

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**15. VALIDITY OF CONDUCT OF THE COMMISSION.**

An act or decision of the Commission is not invalid by reason only of -

- (a) a defect or irregularity in, or in connection with, the appointment or removal of a member of the Commission; or
- (b) a vacancy in, or absence from, the office of the Commissioner General or a Commissioner.

*Division 4. - Management of the Internal Revenue Commission.*

*Subdivision A. - Commissioner General and Commissioners of the Internal Revenue Commission.*

**16. COMMISSIONER GENERAL OF THE INTERNAL REVENUE COMMISSION.**

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

- (a) be appointed by the Head of State, acting with, and in accordance with, the advice of the National Executive Council, following a merit-based appointment process pursuant to the *Regulatory Statutory Authorities (Appointment to Certain Offices) Act 2004*; and
- (b) hold office under a contract of employment 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, the revenue laws or any other law, not otherwise be subject to the direction and control of any person.

(2) The office of the Commissioner General 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 determined in accordance with the *Salaries and Remuneration Commission Act 1988*.

**17. SUBSTANTIVE VACANCY IN THE OFFICE OF THE COMMISSIONER GENERAL.**

(1) Where there is substantive vacancy in the office of the Commissioner General through removal or dismissal under this Act, or expiration of contract, the Head of State shall as soon as practicable appoint a Commissioner General in accordance with this Act.

(2) Where a permanent Commissioner General is yet to be appointed, the Head of State shall appoint a Commissioner General, or appoint a Commissioner to act as the Commissioner General in accordance with this Act.

(3) Where the Commissioner General's employment contract has lapsed, the Commissioner General shall continue to act as the Commissioner General until such time as the Head of State makes an appointment under Subsection (2), or appoints a substantive Commissioner General in accordance with this Act.

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### **18. COMMISSIONERS.**

- (1) The Internal Revenue Commission shall have such number of Commissioners as determined by the National Executive Council upon advice of the Commissioner General, from time to time.
- (2) The Commissioners shall -
  - (a) be appointed by the Head of State, acting with, and in accordance with, the advice of the National Executive Council, upon recommendation of the Commissioner General, following a merit-based appointment process pursuant to the *Regulatory Statutory Authorities (Appointment to Certain Offices) Act 2004*; and
  - (b) hold office under a contract of employment 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, the revenue laws or any other law, not otherwise be subject to the direction and control of any person.
- (3) The office of a Commissioner is hereby declared to be an office to and in relation to which Division III.2 (*Leadership Code*) of the *Constitution* applies.
- (4) The salary, allowances and benefits (financial and otherwise) of the Commissioners shall be determined in accordance with the *Salaries and Remuneration Commission Act 1988*.

### **19. MERIT-BASED APPOINTMENT PROCESS.**

For purposes of Section 13 of the *Regulatory Statutory Authorities (Appointment to Certain Offices) Act 2004*, the Secretary for the Department responsible for personnel management matters shall co-ordinate the merit-based appointment process in the appointment of the Commissioner General and the Commissioners.

#### *Subdivision B. - Functions of the Commissioner General and the Commissioners.*

### **20. FUNCTIONS OF THE COMMISSIONER GENERAL.**

- (1) The Commissioner General shall manage and perform the functions, powers and duties conferred on the Commissioner General, the Commission and the Internal Revenue Commission under this Act and the revenue laws.
- (2) The Commissioner General is -
  - (a) the head of the Internal Revenue Commission and its staff; and
  - (b) responsible for the administration, assessment, enforcement and collection of taxes under the revenue laws on behalf of the State; and
  - (c) responsible to the Minister for the proper administration and management of the functions and affairs of the Internal Revenue Commission; and
  - (d) responsible to the Minister for the provision of annual reports as required under this Act and the revenue laws and such other reports relating to revenue or the operations of the Internal Revenue Commission as may be required; and

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- (e) in addition to the reporting requirements under this Act, the Commissioner General may at such intervals as are required by the Departmental Head of the Department responsible for financial management under Section 50 of the *Public Finances (Management) Act 1995*, submit to the Departmental Head of the Department responsible for financial management, a performance and management plan of the Internal Revenue Commission; and
- (f) responsible for performing such other functions as required of the Commission and the Internal Revenue Commission under this Act.

(3) Subject to the secrecy provisions in the revenue laws, the Commissioner General, in performing or exercising any functions or powers under this Act and the revenue laws, shall advise the State on matters relating to taxation and shall liaise with relevant stakeholders on such matters.

(4) The Commissioner General has the sole right and responsibility to supervise and direct the Commissioners in the exercise of their functions and duties as the Commissioners.

(5) The Commissioner General has the overall right and responsibility to supervise, appoint and direct the staff of the Internal Revenue Commission in the exercise of all powers, functions and discretions in respect of the administration and enforcement of this Act and the revenue laws, and may delegate this function to a Commissioner or a staff member of the Internal Revenue Commission.

(6) The Commissioner General shall manage the Internal Revenue Commission and direct its affairs and act honestly and in good faith to achieve the functions and objectives of the Internal Revenue Commission.

(7) The functions of the Commissioner General include the functions of the Commission under this Act for purposes of the administration of this Act.

### **21. ANNUAL REPORT.**

The Commissioner General shall within four months after 31 December in each year, furnish to the Minister, for presentation to Parliament, a report on the progress, performance and finances of the Internal Revenue Commission in relation to its functions during the year ended 31 December previously, including but not limited to the following matters:

- (a) the audited financial statements for that year, which may include a formal audit opinion on those financial statements; and
- (b) a disclosure of all funding received by source, and expended by the Internal Revenue Commission by type of expenditure; and
- (c) any orders made by the Commission during the year ending 31 December previously; and
- (d) a report on the workings of the revenue laws including any breaches of the revenue laws; and
- (e) the total annual revenue collections; and
- (f) the staff and resources; and
- (g) any other information the Commission considers relevant.

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### **22. DELEGATION.**

(1) The Commissioner General may, by written instrument, delegate to the Commissioners or any other staff of the Internal Revenue Commission any of his powers or functions under this Act, except this power of delegation.

(2) The Commission may, by unanimous decision and subject to any orders made for the purpose of this section, delegate to any staff of the Internal Revenue Commission, any of its functions and powers under this Act, except this power of delegation.

- (3) A delegation under Subsections (1) and (2) -
- (a) may be subject to such conditions or restrictions as are specified in the instrument of delegation; and
  - (b) may be specified to be restricted to a particular matter or class of matters; and
  - (c) is revocable at will by the Commissioner General or by resolution of the Commission in writing; and
  - (d) does not affect or prevent the performance of a function or the exercise of a power by the Commissioner General or the Commission.

### **23. RESIGNATION FROM OFFICE.**

(1) The Commissioner General may resign from office by giving to the Minister three months' notice in writing of an intention to do so.

(2) The period of three months specified in Subsection (1) is deemed to commence on the twenty-second day after the receipt by the Minister of the notice except where the Minister, acting with, and in accordance with, the advice of a majority of the members of the Appointments Committee, by notice in writing to the member, fixes an earlier date for the commencement of that period.

(3) The Commissioner General may withdraw his resignation at any time before the period of three months referred to in Subsection (1) commences.

### **24. FUNCTIONS OF THE COMMISSIONERS.**

The Commissioners shall exercise -

- (a) the powers and functions of the Commission; and
- (b) the powers and functions delegated by the Commissioner General under this Act and the revenue laws; and
- (c) such other powers and functions as provided for under any law or as determined from time to time.

#### *Subdivision C - General Conditions as to Employment of the Commissioner General and the Commissioners.*

### **25. QUALIFICATIONS FOR APPOINTMENT.**

(1) A person is not eligible for appointment as Commissioner General or a Commissioner unless that person is a person of integrity, independence of mind and good reputation.

(2) A person is not eligible for appointment as Commissioner General or a Commissioner unless he has knowledge of or industry experience in commerce, economics, law, public administration or taxation administration.

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### **26. DISQUALIFICATION FROM OFFICE.**

A person is not qualified to be, or to remain, as Commissioner General or a Commissioner if that person is -

- (a) a member, or candidate for election as a member, of the National Parliament, a member of a Provincial Government or a member of a Local-level Government or a Local-level Government Special Purposes Authority; or
- (b) an office-holder, or candidate for election as an office-holder, in a registered political party; or
- (c) an undischarged bankrupt or insolvent; or
- (d) of unsound mind within the meaning of any law relating to the protection of the person and property of persons of unsound mind; or
- (e) under sentence of death or imprisonment or has previously been sentenced to death or a term of imprisonment; or
- (f) found guilty of misconduct in office under the *Organic Law on the Duties and Responsibilities of Leadership*.

### **27. SPECIAL CONDITIONS OF EMPLOYMENT.**

(1) The Commissioner General or a Commissioner shall not -

- (a) actively engage in politics; or
- (b) absent themselves from duty for more than 14 consecutive days or more than 28 days in any period of 12 months except because of illness or on approved leave.

(2) The Commissioner General or a Commissioner shall not, directly or indirectly engage in any paid employment outside the duties of their respective offices under this Act and the revenue laws.

### **28. TEMPORARY VACANCY IN THE OFFICE OF THE COMMISSIONER GENERAL AND THE COMMISSIONERS.**

(1) Where the Commissioner General takes a temporary leave of absence from office for any purpose or is temporarily unable to perform his duties by reason of illness or otherwise, the Commissioner General shall appoint a Commissioner to act as the Commissioner General during any such period of absence from duty.

(2) Where a Commissioner takes a temporary leave of absence from office for any purpose or is temporarily unable to perform his duties by reason of illness or otherwise, the Commissioner General may appoint a member of the staff of the Internal Revenue Commission to act in place of that Commissioner during any such period of absence from duty.

## **PART III. - STAFF OF THE INTERNAL REVENUE COMMISSION.**

### **29. STAFF OF THE INTERNAL REVENUE COMMISSION.**

(1) The Commissioner General may appoint persons to the staff of the Internal Revenue Commission in accordance with this section to give effect to this Act and the revenue laws, and to carry out the functions of the Internal Revenue Commission.

(2) The persons appointed under Subsection (1) constitute the staff of the Internal Revenue Commission.

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(3) The staff of the Internal Revenue Commission are not officers of the National Public Service.

(4) Subject to the *Salaries and Conditions Monitoring Committee Act 1988*, the Commission may make orders in relation to the terms and conditions of employment of the staff of the Internal Revenue Commission

(5) The Commission shall make further orders in accordance with this Part to govern the eligibility, qualifications, process of selection, method of appointment, discipline, suspension and dismissal of the staff of the Internal Revenue Commission.

### **30. TEMPORARY AND CASUAL STAFF.**

The Commissioner General may appoint temporary or casual staff as are necessary to assist or carry out the functions of the Internal Revenue Commission on such terms and conditions as are approved by the Commission.

### **31. CONSULTANTS.**

The Commissioner General may engage such consultants, as are necessary for the purposes of carrying out temporary and specialised tasks on behalf of the Internal Revenue Commission, on such terms and conditions as approved by the Commission.

### **32. PRIOR SERVICE.**

Where a person appointed as -

- (a) Commissioner General; or
- (b) a Commissioner; or
- (c) a member of the staff of the Internal Revenue Commission,

was, immediately before the appointment, an officer of or employed in the Public Service or a public body within the meaning of the *Public Services (Management) Act 1995*, that person's service as that officer or employee shall be counted as service to the Internal Revenue Commission.

## **PART IV. - FINANCIAL PROVISIONS.**

### **33. FUNDS OF THE INTERNAL REVENUE COMMISSION.**

(1) The funds of the Internal Revenue Commission shall consist of any one or more of the following:

- (a) an amount appropriated by Parliament and paid to the Internal Revenue Commission; or
- (b) grants that the Internal Revenue Commission may receive; or
- (c) subject to Section 34, any percentage of tax revenue which is approved by the Minister; or
- (d) such moneys as may otherwise vest in or accrue to the Internal Revenue Commission.

(2) Subject to Section 20 of the *Public Finance (Management) Act 1995*, any funds received by the Internal Revenue Commission in respect of a financial year which are not expended by the end of that financial year shall be available to the Internal Revenue Commission to meet its expenditure in the ensuing financial year.



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(3) For the avoidance of doubt, the funds of the Internal Revenue Commission are as specified under this section and do not include tax revenue collected as a result of the administration of the revenue laws by the Commissioner General except for that approved under Subsection (1)(c).

### **34. APPROPRIATION OF REVENUE TOWARDS FUNDS OF THE INTERNAL REVENUE COMMISSION.**

For the purposes of Section 33(1)(c), the allocation to the funds of the Internal Revenue Commission, of tax revenue collected under the revenue laws administered by the Commissioner General, shall be appropriated and the amount of such allocation, as may be approved by the Minister, shall not exceed two percent of the total revenue collections in any year.

### **35. EXPENDITURE.**

The funds of the Internal Revenue Commission may be expended only for any one or more of the following purposes:

- (a) in payment or discharge of expenses, obligations and liabilities of the Internal Revenue Commission; or
- (b) in payment of the remuneration of the staff of the Internal Revenue Commission; or
- (c) for such other purposes as are consistent with the functions of the Internal Revenue Commission.

### **36. BANK ACCOUNTS.**

The Internal Revenue Commission shall open and maintain such bank accounts as are necessary and shall at all times maintain at least one such account to receive the funds under Section 33 and pay its expenses under Section 35.

### **37. ACCOUNTING RECORDS.**

(1) The Internal Revenue Commission shall keep proper records and books of account of its income, expenses and transfers.

(2) The Internal Revenue Commission shall prepare a statement of accounts for each financial year.

(3) The accounting records of the Internal Revenue Commission are subject to audit by the Auditor General.

### **38. TAX REVENUE ACCOUNTS.**

(1) Subject to Subsections (2) and (3), all tax revenue collected under the revenue laws administered by the Commissioner General shall be paid into the Consolidated Revenue Fund as required under the *Public Finances (Management) Act 1995*.

(2) The Commissioner General shall pay -

- (a) such tax revenue as may be directed to be paid into such accounts as are established to receive such taxes and on such occasions as are required under any law for the purposes of the Sovereign Wealth Fund established under Section 212A of the *Constitution*; and
- (b) such amounts that may be distributed under any revenue laws.

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(3) The payments under Subsection (1) and (2) shall be less such amounts as the Minister approves under Section 33(1)(c).

**39. APPLICATION OF *PUBLIC FINANCES (MANAGEMENT) ACT 1995.***

(1) Without limitation to any function or power of the Internal Revenue Commission under this Act, Part VIII (other than Sections 51, 55, 56, 57 and 58) of the *Public Finances (Management) Act 1995* applies to and in relation to the Internal Revenue Commission.

(2) The Minister may declare a sum for the purposes of Section 59(1) of the *Public Finances (Management) Act 1995* or where no declaration is made, the sum of K500,000.00 is specified.

(3) The Internal Revenue Commission may make orders for the purposes of Section 63 of the *Public Finances (Management) Act 1995*, and until such time as an order is made, the relevant provisions of the Financial Instructions issued under Section 117 of that Act shall apply to the preparation of the reports and financial statements of the Internal Revenue Commission.

(4) The Internal Revenue Commission is not a trading enterprise for purposes of the *Public Finances (Management) Act 1995*.

**40. LIABILITY TO TAXATION, ETC.**

The Internal Revenue Commission is a public authority for the purposes of Section 24(1) of the *Income Tax Act 1959*.

**41. AUDIT AND APPLICATION OF THE *AUDIT ACT 1989.***

(1) Part III of the *Audit Act 1989* applies to the Internal Revenue Commission.

(2) All tax revenue collected under the revenue laws administered by the Commissioner General are public moneys and the accounts kept by the Internal Revenue Commission of the tax revenue collected are subject to audit, inspection and report by the Auditor General.

(3) The Auditor General shall observe the secrecy provisions applicable in Section 9 of the *Income Tax Act 1959* and shall not divulge any specific taxpayer details or transactions which may come to his knowledge during an audit of the tax revenue accounts maintained by the Commissioner General.

**42. FINANCIAL ORDERS.**

The Commission shall make further orders in relation to any matter under this Part to govern its application.

**PART V. - TRANSITIONAL AND SAVINGS PROVISIONS.**

*Division 1. - Transitional Provisions.*

**43. COMMISSIONER GENERAL AND COMMISSIONERS.**

(1) The person who, held the position of Commissioner General of Internal Revenue, immediately before the coming into operation of this Act, shall -

(a) continue to hold office at not less than the same terms and conditions or on such

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other terms and conditions determined pursuant to the *Salaries and Remuneration Commission Act 1988*; and

- (b) retain and continue to accrue all rights and entitlements of that office; and
  - (c) be subject to the same disciplinary procedures,
- as the Commissioner General appointed under this Act.

(2) The persons who, held the position of Commissioner of Taxation and Deputy Commissioner of Service Wing of the Internal Revenue Commission, immediately before the coming into operation of this Act, shall -

- (a) continue to hold office at not less than the same terms and conditions or on such other terms and conditions determined pursuant to the *Salaries and Remuneration Commission Act 1988*; and
  - (b) retain and continue to accrue all rights and entitlements of that office; and
  - (c) be subject to the same disciplinary procedures,
- as a Commissioner appointed under this Act.

#### **44. INTERIM STAFF.**

(1) A person who, was a permanent or probationary officer in the Internal Revenue Commission under the *Public Services (Management) Act 1995*, immediately before the coming into operation of this Act, shall -

- (a) continue to be employed in a similar position in the Internal Revenue Commission as an interim staff, on the same terms and conditions and subject to the same provisions of the *Public Services (Management) Act 1995* and the Public Service General Orders; and
  - (b) retain and continue to accrue all rights and entitlements of that former position in the Public Service,
- until -
- (c) appointed to the staff of the Internal Revenue Commission under Section 29; or
  - (d) notified in writing by the Commissioner General that he will not be appointed to the staff of the Internal Revenue Commission.

(2) In the event of any ambiguities, inconsistencies or disputes in determining the designation, duties and functions of the staff of the Internal Revenue Commission, the decision of the Commissioner General is final.

(3) Persons employed under Subsection (1)(a), shall remain public servants and officers of the Public Service until appointed to the staff of the Internal Revenue Commission under this Act.

(4) The Internal Revenue Commission shall continue to pay superannuation contributions for the interim staff of the Internal Revenue Commission to the superannuation fund approved by the State, and nothing in this Act shall affect their existing superannuation rights, entitlements and benefits.

(5) Where an interim staff member under Subsection (1) is appointed to the staff of the Internal Revenue Commission under Section 29, nothing in that appointment shall create or be taken to be -

- (a) a breach of any contract of employment; or
- (b) an interruption to employment; or

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- (c) a right to payment in respect of accrued leave entitlements; or
- (d) a retrenchment, severance or redundancy.

(6) An interim staff member referred to in Subsection (1)(d) shall be made redundant and shall have his entitlements paid to him by the State pursuant to the *Public Services (Management) Act 1995* or the Public Services General Orders.

(7) Any disciplinary proceedings, claims or actions taken under the *Public Services (Management) Act 1995* or the Public Services General Orders against an interim staff member that was commenced before the coming into operation of this Act, shall be continued under those laws.

(8) Where any event or cause of action giving rise to a right to commence a disciplinary proceeding, claim or action against an interim staff member, occurs before the coming into operation of this Act or during the transitional period, that matter shall be continued by the Commissioner General under this Act.

*Division 2. - General Savings Provisions.*

**45. APPLICATION OF ACTS AND OTHER DOCUMENTS.**

Where -

- (a) any Act, or subordinate enactment other than this Act; or
- (b) any document or instrument wherever executed,

contains a reference, express or implied, to the Internal Revenue Commission, that reference shall, on the coming into operation of this Act unless the contrary intention appears, to be read and construed and have effect as a reference to the Internal Revenue Commission as established under this Act.

**46. REFERENCES TO THE MINISTER, COMMISSIONER GENERAL AND OFFICERS.**

(1) Where -

- (a) any revenue laws, Act or subordinate enactment other than this Act; or
- (b) any document or instrument wherever made or executed,

contains a reference, express or implied to the Minister, that reference shall, on the coming into operation of this Act unless the contrary intention appears, to be read and construed and have effect as a reference to the Minister responsible for the Internal Revenue Commission.

(2) Where -

- (a) any revenue laws, Act or subordinate enactment other than this Act; or
- (b) any document or instrument wherever made or executed,

contains a reference, express or implied, to the Commissioner General, Commissioner of Taxation, Assistant Commissioner, Chief Collector of Taxes or officers or any similar reference, that reference shall, on the coming into operation of this Act, unless the contrary intention appears, be read and construed and have effect as a reference to the Commissioner General under this Act.

(3) Where -

- (a) any revenue laws, Act or subordinate enactment other than this Act; or

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(b) any document or instrument wherever made or executed, contains a reference, express or implied, to an officer or any similar reference, that reference shall, on the coming into operation of this Act, unless the contrary intention appears, be read and construed and have effect as a reference to a member of the staff of the Internal Revenue Commission.

### **47. APPLICATION OF AUDIT COMMITTEE.**

The Audit Committee established by the Commissioner General in accordance with the *Public Finances (Management) Act 1995* continues to apply to the Internal Revenue Commission.

### **48. NO EFFECT ON PREVIOUS ACTS AND DECISIONS.**

The validity of any act or decision done or made by the Commissioner General before the coming into operation of this Act and every such act or decision will be taken to be valid and effectual and to have continuing effect as if those acts or decisions were made or done under this Act.

### **49. ACTIONS, ETC., NOT TO ABATE.**

Where, immediately before the coming into operation of this Act, any arbitration, action or proceeding was pending or existing by, against or in favour of the Commissioner General under any law or any revenue laws, such arbitration, action or proceeding does not, on that coming into operation, abate or discontinue, but it may be prosecuted, continued or enforced by, against or in favour of the Commissioner General under that other law or that revenue law.

### **50. TRANSFER OF ASSETS.**

(1) In this section, unless the context otherwise requires, "assets" means any real or personal property of any kind, whether or not subject to rights, and without limiting the generality of the foregoing includes -

- (a) any estate or interest in any land, including all rights of occupation of land or buildings; and
- (b) all buildings, vehicles, plant, equipment and machinery and any rights therein; and
- (c) all rights of any kind, including rights under Acts, deeds, agreements or licences; and
- (d) all trust accounts established under the *Public Finance (Management) Act 1995*; and
- (e) any kind of building or planning consent; and
- (f) all patents, trademarks, designs, copyright, and other intellectual property rights whether enforceable by law or rule of law.

(2) All assets held by the Commissioner General or held by the State on behalf of the Commissioner General, immediately before the coming into operation of this Act, shall be transferred to and become assets of the Internal Revenue Commission as established under this Act.

### **51. REGISTRATION OF TITLE OF LAND.**

(1) Where any property vested in the Commissioner General on behalf of the State, is land registered under the *Land Registration Act 1981*, the Registrar of Titles shall, without formal

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transfer, on application by the Internal Revenue Commission, enter or register the Internal Revenue Commission in the register kept under that Act and on entry and registration, grant a certificate of title, lease or other instrument evidencing title to the land within that Act to the Internal Revenue Commission under this Act.

(2) No stamp duty or other duty, tax or fee is payable on any registration made under Subsection (1).

### **52. SAVINGS OF CONTRACTS, ETC.**

(1) All contracts, agreements, deeds, bonds or other instruments entered into with, made with or addressed to the Commissioner General of Internal Revenue Commission immediately before the coming into operation of this Act, are, insofar as they relate to the functions of the Internal Revenue Commission under this Act, binding on and of full force and effect against or in favour of the Internal Revenue Commission as fully and effectually as if, instead of the Commissioner General, the Internal Revenue Commission were a party to them or bound by them or entitled to the benefit of them.

(2) All existing contracts, agreements, deeds, bonds or other instruments entered into by the State on behalf of the Commissioner General, including but not limited to office lease agreements, immediately before the coming into operation of this Act, is binding on the State.

### **53. TRANSFER OF APPROPRIATED MONEYS.**

All moneys, including any unspent funds appropriated to the Internal Revenue Commission, which were, immediately before the coming into operation of this Act, standing at the credit of, or on accounts opened for the Commissioner General are, on that coming into operation, transferred to equivalent accounts opened under this Act by the Commissioner General.

### **54. EXEMPTION FROM TRANSFER TAXES, DUTIES AND FEES.**

No stamp duty, income tax, goods and services tax, provincial tax, fee or duty is payable on any agreement, contract, transfer, conveyance, order, lease or licence made for the purpose of this Act in establishing the Internal Revenue Commission or any subsequent transfer of assets between them to give effect to the purposes of this Act or government policy.

## **PART VI. - MISCELLANEOUS.**

### **55. PROTECTION FROM PERSONAL LIABILITY.**

A member of the staff of the Internal Revenue Commission or any other person acting under the direction of the Commissioner General, is not liable for any act of default of himself or of the Internal Revenue Commission done or omitted to be done in good faith in the operations of the Internal Revenue Commission, or for the purposes of the Internal Revenue Commission.

### **56. CONFIDENTIALITY.**

(1) Subject to this Act, the Commissioner General, the Commissioners or a member of the staff of the Internal Revenue Commission shall regard and deal with, as confidential, all documents and information relating to the affairs of the Internal Revenue Commission or for any other person which has been obtained by them in the performance of their duties or the exercise of their functions under this Act.

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(2) Nothing in this Act affects the operation of the secrecy provisions under the revenue laws.

(3) A person who contravenes this section commits an offence and is liable to a fine not exceeding K10,000.00 or to imprisonment for a term not exceeding 12 months.

**57. NO PROCEEDINGS AGAINST THE INTERNAL REVENUE COMMISSION AS AGENT OF STATE.**

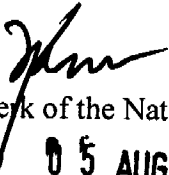
No action, suit, judgment or order shall be brought, executed or enforceable, through the courts or otherwise, against the Internal Revenue Commission in respect of any matter relating to any tax revenue dispute, tax objections or tax appeals under the revenue laws for which the Commissioner General is acting or exercising the powers as agent of the State pursuant to the revenue laws.

**58. REGULATIONS.**


(1) The Head of State, acting on advice may make regulations, not inconsistent with this Act, prescribing all matters that by this Act are permitted or required to be prescribed, or that are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) Such regulations made under Subsection (1) shall be binding on the State.

I hereby certify that the above is a fair print of the *Internal Revenue Commission Act 2014* which has been made by the National Parliament.

  
Clerk of the National Parliament.  
05 AUG 2014

I hereby certify that the *Internal Revenue Commission Act 2014* was made by the National Parliament on 8 May 2014 by an absolute majority as required by the *Constitution*.

  
Speaker of the National Parliament  
05 AUG 2014