

No. 14 of 2003.

Goods and Services Tax Revenue Distribution Act 2003.

Certified on : 21.01.04



INDEPENDENT STATE OF PAPUA NEW GUINEA.

Goods and Services Tax Revenue Distribution Act 2003.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.

No. of 2003.

AN ACT

entitled

Goods and Services Tax Revenue Distribution Act 2003,

Being an Act to make provision for the control and disbursement of revenue accruing consequent on the imposition of a Goods and Services Tax in Papua New Guinea, to be read as one with the ***Goods and Services Tax Act 2003,***

MADE by the National Parliament to come into operation on 1 January 2004.

1. INTERPRETATION.

In this Act, unless the context otherwise requires –

“Bank” means the Bank of Papua New Guinea or a bank licensed under the ***Banks and Financial Institutions Act 2000;***

“Commissioner General” means the Commissioner General of Internal Revenue;

“gross inland provincial revenue” means the total monthly GST revenue collected in or attributed to each province in the prescribed manner;

“GST” means the Goods and Services Tax imposed by the ***Goods and Services Tax Act 2003;***

“net inland revenue” means the gross inland provincial revenue, as reduced by refunds allocated against that revenue in accordance with Section 6;

“this Act” includes the Regulations;

2. ESTABLISHMENT OF TRUSTS.

(1) There shall be established a National GST Revenue Trust –

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- (a) consisting of three trustees being -
 - (i) the Commissioner General; and
 - (ii) the Governor of the Central Bank; and
 - (iii) the Departmental Head of the Department of the Treasury; and
- (b) whose purposes, functions, powers and procedures shall be as prescribed.

- (2) There shall be established an Inland GST Revenue Trust -
 - (a) consisting of six trustees being -
 - (i) the Commissioner General; and
 - (ii) the Departmental Head of the Department responsible for Inter-Governmental Affairs; and
 - (iii) four persons, each one of whom shall represent one of the four main regions of the country, who shall be nominated and appointed by the Provincial Governors' Council; and
 - (b) whose purposes, functions, powers and procedures shall be as prescribed.

3. ESTABLISHMENT OF THE TRUST ACCOUNTS.

Trust accounts for the receipt of revenue arising from the imposition of a Goods and Services Tax shall be established as follows:-

- (a) there shall be established in a Bank a trust account entitled the National GST Trust Account which shall be subject to the provisions, as prescribed, of the National GST Revenue Trust;
- (b) there shall be established in a Bank a trust account entitled the Inland GST Trust Account which shall be subject to the provisions, as prescribed, of the Inland GST Revenue Trust.

4. GOODS AND SERVICES TAX REVENUE TO BE PAID INTO TRUST ACCOUNTS.

All revenue collected from the imposition of a Goods and Services Tax in Papua New Guinea shall, immediately following receipt, be paid into the trust accounts established under this Act, as follows: -

- (a) Goods and Services Tax revenue collected pursuant to Section 6 of the *Goods and Services Tax Act 2003* shall be paid into the National GST Trust Account established under Section 3(a); and
- (b) Goods and Services Tax revenue collected pursuant to Section 8 of the *Goods and Services Tax Act 2003* shall be paid into the Inland GST Trust Account established under Section 3(b).

5. ADDITIONAL REVENUE TO BE PAID INTO GST TRUST ACCOUNTS.

Such additional amounts shall be paid into the GST Trust Accounts as are -

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- (a) needed to meet any shortfall between the amounts deposited into the Inland GST Trust Account and the amounts needed to meet the revenue entitlement of the provinces pursuant to Section 7; and
- (b) equal to interest accrued on deposits made into each Trust Account.

6. ALLOCATION OF REFUNDS.

(1) Monthly refunds of Goods and Services Tax shall be allocated, proportionally to revenue collections, against monthly revenue collected and deposited into each of the respective National and Inland trust accounts established under Section 3.

(2) Monthly refunds of Goods and Services Tax allocated against the Inland GST Trust Account shall be debited, in proportion to gross inland provincial revenue attributed to each province, against each province's monthly gross inland provincial revenue.

7. VALUE OF DISTRIBUTIONS TO PROVINCES.

(1) For the purposes of this section –

“net Vat collections” means VAT collected pursuant to Sections 6 and 8 of the *Value Added Tax Act 1998*, less any refunds paid pursuant to Section 87 of that Act;

“2003 distribution” means the amount received by a province during the fiscal year commencing 1 January 2003 pursuant to Section 6 of the *Value Added Tax Revenue Distribution Act 1998*.

(2) Each province shall be entitled to receive out of Goods and Services Tax Revenue –

(a) for the fiscal year commencing 1 January 2004 –

(i) 60% of the net Vat collections estimated by the Minister, immediately prior to presenting the National Budget for the fiscal year 2004, to be collected in the province during the fiscal year commencing 1 January 2003; and

(ii) where the amount payable to the province under Subparagraph (i) is less than the 2003 distribution for that province-such further amount as is required to bring the total amount of payment up to the amount of the 2003 distribution for that province; and

(b) for subsequent fiscal years – an amount determined by an Act of the Parliament.

(3) On and from the coming into operation of the financial provisions relating to Bougainville contained in -
Part XIV (Bougainville Government and Bougainville Referendum) of the Constitution; and

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- (a) Part XIV (Bougainville Government and Bougainville Referendum) of the Constitution; and
- (b) the ***Organic Law on Peace – Building in Bougainville – Autonomous Bougainville Government and Bougainville Referendum***,

this section does not apply to the Autonomous Region of Bougainville.

8. ORDER OF PRECEDENCE OF DISTRIBUTIONS FROM THE TRUST ACCOUNTS.

Revenue held in the Trust Accounts established under this Act is appropriated and shall be paid and distributed as follows:--

- (a) for the National GST Trust Account -
 - (i) the first charge shall be for the payment of refunds of Goods and Services Tax revenue; and
 - (ii) the second charge shall be for the payment of any amount paid into the Inland Revenue Trust pursuant to Section 5(a); and
 - (iii) the balance remaining shall be paid to the Consolidated Revenue Fund;
- (b) for the Inland GST Trust Account -
 - (i) the first charge shall be for the payment of refunds of Goods and Services Tax revenue; and
 - (ii) the second charge on the account shall be for the payment of collection and administration expenses of the Trust Accounts, allocated proportionally to gross inland revenue against each province; and
 - (iii) the third charge shall be for the payment of provinces' share of net inland revenue as provided for in Section 7; and
 - (iv) the balance remaining shall be paid to the Consolidated Revenue Fund.

9. TRUSTEES TO DECIDE WHEN PAYMENTS SHALL BE MADE TO THE CONSOLIDATED REVENUE FUND.

(1) The Trustees shall, from time to time, by mutual agreement, decide the balance required to be kept in the respective Goods and Services Tax Revenue Trust Accounts to meet commitments arising from the provisions of Section 8(a) and (b).

(2) The balance referred to in Subsection (1) may vary from week to week and month to month.

(3) When the balance required to be kept at any one point in time has been reached any further payments into the Trust Account shall forthwith be paid to the Consolidated Revenue Fund.

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10. TIME OF DISTRIBUTION OF REVENUE TO THE PROVINCES.

Each province shall be entitled to receive, within 21 days of the end of each month, one twelfth of the total amount of GST revenue that it is entitled to under Section 7(2)(a).

11. ADMINISTRATION OF THE TRUST ACCOUNTS.

(1) The trust accounts established under the provisions of this Act shall be administered by the Commissioner General, who shall be responsible for the transactions relating to these accounts.

(2) In his administration of the trust accounts, the Commissioner General shall be subject to the direction of the trustees appointed under Section 2.

(3) The trustees may not direct the Commissioner General to perform any action which would breach any provision of this Act.

12. POWER OF DELEGATION.

(1) A person appointed to exercise any powers, or to perform any duty, under the provisions of this Act, may delegate, by writing under his hand, any of the powers or duties under this Act (other than this power of delegation).

(2) A power or function delegated under Subsection (1) may be exercised or performed by the delegate in accordance with the instrument of delegation.

(3) A delegation under this section is revocable at will and does not prevent the exercise or performance of a function by the person who delegated his powers or duties.

13. REGULATIONS.

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

I hereby certify that the above is a fair print of the *Goods and Services Tax Revenue Distribution Act 2003* which was made by the National Parliament.

Clerk of the National Parliament.

I hereby certify that the *Goods and Services Tax Revenue Distribution Act 2003* was made by the National Parliament on 1 October 2003.

Acting Speaker of the National Parliament.

