

Public Finances (Management)

PART XII. - MISCELLANEOUS.

107. *EX GRATIA* PAYMENTS.

(1) Where, in the opinion of -

(a) the Minister; or

(b) the Departmental Head of the Department responsible for financial management,

it is expedient to do so, he may make an *ex gratia* payment of public moneys to any person in an amount not exceeding the prescribed amount.

(2) Where, in the opinion of the Minister it is expedient to do so, he may, with the approval of the National Executive Council, make an *ex gratia* payment of public moneys to any person in an amount exceeding the prescribed amount.

(3) Where, in the opinion of -

(a) the Minister; or

(b) the Departmental Head of the Department responsible for financial management,

it is expedient that a payment of public moneys to a person, being a payment in an amount

not exceeding the prescribed amount, be treated as an *ex gratia* payment,

(c) the Minister; or

(d) the Departmental Head of the Department responsible for financial management,

as the case may be, may approve the payment and the payment so approved shall be deemed to be an *ex gratia* payment under Subsection (1).

(4) Where the National Executive Council resolves that it is expedient that a payment of public moneys to a person, being a payment in an amount exceeding the prescribed amount, be treated as an *ex gratia* payment, the National Executive Council may approve that payment and the payment so approved shall be deemed to be an *ex gratia* payment made under Subsection (2).

(5) Until an amount is prescribed by the Regulation, the prescribed amount is -

(a) in the case of the Minister - K50,000.00; and

(b) in the case of the Departmental Head of the Department responsible for financial management - K25,000.00.

(6) This section shall not be taken to be an appropriation of public moneys.

108. WRITING OFF.

The Minister or the Departmental Head of the Department responsible for financial management may write off -

(a) losses and deficiencies of public moneys; and

- (b) irrecoverable amounts of revenue; and
- (c) irrecoverable debts and overpayments; and
- (d) the value of lost, deficient, condemned, unserviceable or obsolete stores.

109. WAIVER OF FEES.

- (1) The Minister may -
 - (a) waive, reduce or defer an amount of -
 - (i) fees or forfeitures; or
 - (ii) fines or penalties in respect of fees; or
 - (b) by agreement, vary rent or royalties chargeable under any law.

(2) Nothing in Subsection (1) affects any power of waiver, reduction, deferment or variation conferred by any other law.

110. DELEGATION.

A Departmental Head may, by instrument, delegate to a person all or any of his powers and functions under this Act (other than this power of delegation).

111. LAWS OF ANOTHER COUNTRY MAY APPLY TO FINANCIAL OPERATIONS OF CERTAIN AGENTS OF THE STATE.

- (1) In this section, “approved overseas agency” means -
 - (a) the government; or
 - (b) a government department; or
 - (c) a government instrumentality; or
 - (d) a statutory corporation,

of a country other than Papua New Guinea approved by the Minister by notice in the National Gazette.

(2) Subsection (3) applies where an approved overseas agency acts as agent for the State (whether within or outside the country) for any purpose, and in so doing is responsible for -

- (a) the collection, receipt, expenditure or issue of public moneys on behalf of the State; or
- (b) the receipt, custody, disposal, issue or use of stores or other property of the State.

(3) If in a case to which this subsection applies, a person approved by the Minister for the purpose on the nomination of the approved overseas agency certifies that in respect of any period -

- (a) the collection, receipt, expenditure or issue of public moneys on behalf of the State; or
- (b) the receipt, custody, disposal, issue and use of stores and other property of the State,

was in accordance with the procedures laid down by or under the law of the country to which the approved overseas agency belongs that relates to the control, management and

audit of public finance and property, those matters shall, for all purposes of this Act and any other law, be deemed to have been properly dealt with according to law.

112. OFFENCES.

- (1) A person who -
- (a) in connection with an inspection or inquiry under this Act refuses or wilfully neglects to attend at a time and place required of him by the Minister, the Auditor-General or the Departmental Head of the Department responsible for financial management; or
 - (b) refuses or wilfully neglects to produce any book or account or other document in his possession when required to do so under this Act or the ***Organic Law on Provincial Governments and Local-level Governments***; or
 - (c) refuses to answer any lawful question put to him by any person under this Act; or
 - (d) refuses or neglects to pay any public money into the account or fund into which it is payable; or
 - (e) refuses or wilfully neglects to provide reports under Section 4; or
 - (f) without due care, overcommits funds under his control,
- is guilty of an offence.

Penalty: In the case of an offence by an individual person, a fine not exceeding K20,000.00 and suspension without pay; in the case of an offence by a person other than an individual person, a fine not exceeding K50,000.00.

Default penalty: K200.00.

- (2) A penalty under Subsection (1) may be imposed in addition to any surcharge under Section 102.

113. DISCIPLINARY ACTION.

An accountable officer who has committed or is responsible for any or all financial irregularities specified in Section 102 is also guilty of an offence under Section 112 and is further liable to disciplinary action under the ***Public Services (Management) Act 1995*** and General Orders made there under.

114. TIME FOR COMMENCING PROCEEDINGS.

Notwithstanding the provisions of any other law, a prosecution against any person for an offence under Section 112(a), (b) or (c) must be commenced within two years of -

- (a) the date on which the offence was committed; or
- (b) where the offence was committed on more than one date - the latest date on which it was committed,

and not otherwise.

114A. DISCIPLINING OF DEPARTMENTAL HEADS, ETC., IN CERTAIN CIRCUMSTANCES.

(1) For the purposes of this section, “appointing authority” means the authority by whom, under a Constitutional Law or an Act of Parliament, a Departmental Head or chief executive of a public body is appointed.

(2) Where -
(a) a Departmental Head; or
(b) the chief executive of a public body,
authorizes expenditure -
(c) over the approved aggregate ceiling for the Departmental Head or public body, as the case may be; or
(d) in advance of the issuance of warrant authority under this Act,
the appointing authority may suspend without pay the Departmental Head or the chief executive, as the case may be, with effect on and from the date on which the Departmental Head of the Department responsible for finance matters certifies the unauthorized expenditure.

(3) A Departmental Head or chief executive suspended under Subsection (1) may within 14 days of the date of such suspension make written submissions to the appointing authority as to the circumstances giving rise to the unauthorized expenditure.

(4) After the expiry of 14 days from the date of the suspension the appointing authority, after considering any submission made under Subsection (2), may uplift the suspension or terminate the appointment of the Departmental Head or chief executive.

(Section 114A added by No. 49 of 1996)

115. REGULATIONS.

The 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 prescribed, or that are necessary or convenient to be prescribed for carrying out or giving effect to this Act, and in general for the better control and management of public moneys and public property.

116. DIRECTIONS AS TO MONEYS OUTSIDE THE COUNTRY.

(1) The Minister may give such directions as he thinks necessary for or in relation to -

- (a) the collection, receipt, custody, expenditure, control, management and use, outside the country, of public moneys and stores and other property of the State, and the due accounting for such moneys, stores and property; and
- (b) the keeping of accounts and records and the furnishing of statements, returns and vouchers in respect of the matters referred to in Paragraph (a); and
- (c) the execution of works and supply of services outside the country for or by the State; and
- (d) the purchase outside the country of stores for or by the State; and

- (e) the custody, issue, sale or other disposal and writing off of stores and other property of the State outside the country, and the proper accounting for and stocktaking of such stores and property; and
- (f) the inspection and examination (other than by the Auditor-General), and the Departmental check, of accounts and records prepared or kept outside the country in respect of public accounts and stores and other property of the State.

(2) Directions under Subsection (1) have effect notwithstanding any other provisions of this Act.

117. FINANCIAL INSTRUCTIONS.

The Departmental Head of the Department responsible for financial management may issue Financial Instructions, not inconsistent with this Act, as to any matter prescribed by this Act to be so provided for, or that are necessary or desirable for carrying out or giving effect to this Act and in general for the better control and management of public moneys and public property.