



CERTIFICATE

I hereby certify that the following Bills (Drafts of 13/11/20) are in accordance with the National Executive Council Decision No. 367/2020, and the drafting instructions (Draft Bills).

1. *Customs (2021 Budget)(Amendment) Bill 2020.*
2. *Excise Tariff (2021 Budget)(Amendment) Bill 2020.*
3. *Income Tax (2021 Budget)(Amendment) Bill 2020.*
4. *Customs (2021 Budget)(Amendment) Regulation 2020.*


JOHNNY BOGOMBARI
Acting First Legislative Counsel



16th November, 2020.

SECOND READING SPEECH

CUSTOMS (2021 BUDGET)(AMENDMENT) BILL 2020

MR SPEAKER,

THIS PROPOSED AMENDMENT TO THE *CUSTOMS ACT 1951*, IS TO GENERALLY INCREASE ALL CURRENT PENALTY FEES AND IMPRISONMENT TERMS OF IMPORTERS, EXPORTERS, BROKERS, AND TRAVELLING PASSENGERS ACROSS BORDERS WHO ARE IN BREACH OF PNG CUSTOMS LAW.

THIS MEASURE IS TO ENHANCE COMPLIANCE BY IMPOSING HIGHER PENALTIES ON OFFENSES RELATING TO SMUGGLING AND BREACH OF CUSTOMS PROCESSES.

THE MEASURE IS EXPECTED TO COME INTO EFFECT ON 1ST JANUARY 2021.

MR SPEAKER, I COMMEND THE BILL.

Explanatory Memorandum

Customs (2020 Budget)(Amendment) Bill 2020

This measure is to enhance compliance by imposing higher penalties on offenses relating to smuggling and breach of Customs processes.

Importers, exporters, brokers, and travelling passengers across borders who are in breach of PNG Customs law are penalised with fines stipulated in the *Custom Act 1951*. However, the current general penalties are not high enough to deter the reoccurrence of smuggling offences caused by the importers and exporters, brokers, and travelling passengers. The current penalties are best described as payable and avoidable which means, the offences can be intentionally committed repeatedly without hesitation, as the perpetrators can afford to pay the penalty fees.

The last amendment was done in 2001, which is 18 years ago and therefore needs updating to meet current economic times and settings.

Therefore, this seek to amend the *Customs Act 1951* to generally increase the Customs penalty fees. This is to deter the reoccurring offences and boost voluntary compliance of Customs process and procedures. In addition, a new penalty provision to deter specifically the smuggling of tobacco products into PNG border will be introduced as well as penalties endorsed in the 2020 Budget on anti-social drinks.

The measure is expected to come into effect on 1st January 2021.



No: of 2020.

Customs (2021 Budget)(Amendment) Bill 2020.

ARRANGEMENT OF CLAUSES.

1. Provision of accommodation on wharfs etc. (Amendment of Section 9).
2. Working days and hours (Amendment of Section 11).
3. Customs control of goods (Amendment of Section 16).
4. Access to a customs controlled area (Amendment of Section 16A).
5. Power to question persons in a customs controlled area (Amendment of Section 16B).
6. Providing customs with information about people issued with security identification cards (Amendment of Section 16C).
7. Requirement to display signs at a customs controlled area (Amendment of Section 16E).
8. Entries (Amendment of Section 19).
9. Release of goods without entry (Amendment of Section 19A).
10. Dealing with entered goods (Amendment of Section 21).
11. Regulation of imports (Amendment of Section 23).
12. Entry of ships, aircraft and vehicles (Amendment of Section 23).
13. Bringing to and landing generally (Amendment of Section 26).
14. Bringing to or landing on signal (Amendment of Section 27).
15. Facilitation of boarding by officers (Amendment of Section 28).
16. Movement to and from place of unloading (Amendment of Section 29).
17. Report of cargo passengers and crew (Amendment of Section 30).
18. Report of wrecked ship or aircraft (Amendment of Section 31).
19. Report of derelict, etc., goods (Amendment of Section 32).
20. Breaking bulk (Amendment of Section 36).
21. Unshipment (Amendment of Section 37).
22. Landing of goods on permit (Amendment of Section 38).
23. Control of exports (Amendment of Section 41).
24. Entries in regard to arms, explosives, etc. (Amendment of Section 43).
25. Shipping of goods (Amendment of Section 44).
26. Short-shipped goods (Amendment of Section 45).
27. Certificates of clearance (Amendment of Section 47).
28. Shipment of unspecified goods (Amendment of Section 48).
29. Bringing to at proper station, etc., on departure (Amendment of Section 49).
30. Accounting for missing goods (Amendment of Section 50).
31. Unshipping in Papua New Guinea of goods for export (Amendment of Section 51).
32. Outwards duty free shops (Amendment of Section 54A).
33. Inward duty free shops (Amendment of Section 54B).
34. General duties of licencees (Amendment of Section 55).
35. Warehousing of dangerous goods (Amendment of Section 69).
36. Calling for aid in seizures (Amendment of Section 114).

37. Interpretation of Subdivision C (Amendment of Section 118).
38. Hovering ships etc. (Amendment of Section 121).
39. Breaking of seals, etc., placed by officers (Amendment of Section 123).
40. Stopping of conveyances (Amendment of Section 124).
41. Production of documents, etc., in cases of seizure (Amendment of Section 131).
42. Person to keep records (Amendment of Section 131A).
43. Authorised officer may require person to produce documents (Amendment of Section 131B).
44. Access, etc., to books, etc. (Amendment of Section 131C).
45. Power to question (Amendment of Section 136).
46. Arrest of persons suspected of smuggling, etc. (Amendment of Section 138).
47. Smuggling (Amendment of Section 149).
48. New Section 149A.

“149A. SMUGGLING TOBACCO PRODUCTS.”

49. Use of conveyance for smuggling (Amendment of Section 150).
50. Unauthorised entry on ships, aircrafts, etc. (Amendment of Section 152).
51. Miscellaneous offences (Amendment of Section 153).
52. Bribery of officers, undue influence, etc. (Amendment of Section 154).
53. Rescuing seized goods etc. (Amendment of Section 156).
54. Collusion and similar offences by officers, etc. (Amendment of Section 157).
55. Unauthorised opening of warehouse (Amendment of Section 158).
56. Unlawful importation or possession of blank invoices (Amendment of Section 159).
57. Evading duty by unauthorised modification of computer program or data (Amendment of Section 159A).
58. Unauthorised disclosure of access code (Amendment of Section 159B).
59. Unauthorised access to computer material (Amendment of Section 159C).
60. Enhanced punishment for offences against Sections 159B and 159C (Amendment of Section 159D).
61. Penalties for offences in relation to narcotic drugs (Amendment of Section 160).
62. General penalty (Amendment of Section 161).
63. Coasters taking in cargo at sea, etc. (Amendment of Section 180).
64. Account of locally-produced goods (Amendment of Section 182).
65. Unauthorised agents (Amendment of Section 184).
66. Goods on commissioned ships or aircraft (Amendment of Section 188).
67. Statutory garnishee (Amendment of Section 191AA).
68. Clearance certificate to be produced to shipowner etc. (Amendment of Section 191AC).
69. Declarations. (Amendment of Section 192).
70. Regulations. (Amendment of Section 193).



No. of 2020.

A Bill

For

An Act

entitled

Customs (2021 Budget)(Amendment) Bill 2020,

Being an Act to amend the *Customs Act* (Chapter 101) to increase the penalties for offences under the Act and for related purposes,

Made by the National Parliament to come into operation on 1 January, 2020.

1. PROVISION OF ACCOMMODATION ON WHARFS ETC. (AMENDMENT OF SECTION 9)

Section 9 of the Principal Act is amended by repealing the penalty provision and replacing it with the following:

“Penalty: Subject to Sections 163, 164 and 165, a fine of not less than K20,000.00 and not exceeding K50,000.00.”.

2. WORKING DAYS AND HOURS (AMENDMENT OF SECTION 11).

Section 11 of the Principal Act is amended by repealing the penalty provision and replacing it with the following:

“Penalty: Subject to Sections 163, 164 and 165, a fine of not less than K5,000.00 and not exceeding K10,000.00.”.

3. CUSTOMS CONTROL OF GOODS (AMENDMENT OF SECTION 16).

Section 16 of the Principal Act is amended in Subsection (5) by repealing the penalty provision and replacing it with the following:

“Penalty: Subject to Sections 163, 164 and 165, a fine of not less than K20,000.00 and not exceeding K100,000.00.”.

4. ACCESS TO A CUSTOMS CONTROLLED AREA (AMENDMENT OF SECTION 16A).

Section 16A of the Principal Act is amended in Subsection (2) by repealing the penalty provision and replacing it with the following:

“Penalty: Subject to Sections 163, 164 and 165, a fine of not less than K10,000.00 and not exceeding K50,000.00.”.

Customs (Amendment)

5. POWER TO QUESTION PERSONS IN A CUSTOMS CONTROLLED AREA (AMENDMENT OF SECTION 16B).

Section 16B of the Principal Act is amended in Subsection (3) by repealing the penalty provision and replacing it with the following:

“Penalty: Subject to Sections 163, 164 and 165, a fine of not less than K5,000.00 and not exceeding K10,000.00.”.

6. PROVIDING CUSTOMS WITH INFORMATION ABOUT PEOPLE ISSUED WITH SECURITY IDENTIFICATION CARDS (AMENDMENT OF SECTION 16C).

Section 16C of the Principal Act is amended in Subsection (3) by repealing the penalty provision and replacing it with the following:

“Penalty: Subject to Sections 163, 164 and 165, a fine of not less than K5,000.00 and not exceeding K10,000.00.”.

7. REQUIREMENT TO DISPLAY SIGNS AT A CUSTOMS CONTROLLED AREA (AMENDMENT OF SECTION 16E).

Section 16E of the Principal Act is amended in Subsection (2) by repealing the penalty provision and replacing it with the following:

“Penalty: Subject to Sections 163, 164 and 165, a fine of not less than K10,000.00 and not exceeding K50,000.00.”.

8. ENTRIES (AMENDMENT OF SECTION 19).

Section 19 of the Principal Act is amended in Subsection (6) by repealing the penalty provision and replacing it with the following:

“Penalty: Subject to Sections 163, 164 and 165, a fine of not less than K10,000.00 and not exceeding K50,000.00.”.

9. RELEASE OF GOODS WITHOUT ENTRY (AMENDMENT OF SECTION 19A).

Section 19 of the Principal Act is amended in Subsection (3) by repealing the penalty provision and replacing it with the following:

“Penalty: Subject to Sections 163, 164 and 165, a fine of not less than K5,000.00 and not exceeding K20,000.00.”.

10. DEALING WITH ENTERED GOODS (AMENDMENT OF SECTION 21).

Section 21 of the Principal Act is amended by repealing the penalty provision and replacing it with the following:

“Penalty: Subject to Sections 163, 164 and 165, a fine of not less than K10,000.00 and not exceeding K50,000.00.”.

Customs (Amendment)

11. REGULATION OF IMPORTS (AMENDMENT OF SECTION 23).

Section 23 of the Principal Act is amended in Subsection (4) by repealing the penalty provision and replacing it with the following:

“Penalty: Subject to Sections 163, 164 and 165, a fine of not less than K50,000.00 and not exceeding K100,000.00.”.

12. ENTRY OF SHIPS, AIRCRAFT AND VEHICLES (AMENDMENT OF SECTION 25).

Section 25 of the Principal Act is amended -

- (a) in Subsection (1), by repealing the penalty provision and replacing it with the following:

“Penalty: Subject to Sections 163, 164 and 165, a fine of not less than K50,000.00 and not exceeding K100,000.00.”; and

- (b) in Subsection (8), by repealing the penalty provision and replacing it with the following:

“Penalty: Subject to Sections 163, 164 and 165, a fine of not less than K50,000.00 and not exceeding K100,000.00.”.

13. BRINGING TO AND LANDING GENERALLY (AMENDMENT OF SECTION 26).

Section 26 of the Principal Act is amended in Subsection (2) by repealing the penalty provision and replacing it with the following:

“Penalty: Subject to Sections 163, 164 and 165, a fine of not less than K50,000.00 and not exceeding K100,000.00.”.

14. BRINGING TO OR LANDING ON SIGNAL (AMENDMENT OF SECTION 27).

Section 27 of the Principal Act is amended in Subsection (2) by repealing the penalty provision and replacing it with the following:

“Penalty: Subject to Sections 163, 164 and 165, a fine of not less than K10,000.00 and not exceeding K50,000.00.”.

15. FACILITATION OF BOARDING BY OFFICERS (AMENDMENT OF SECTION 28).

Section 28 of the Principal Act is amended in Subsection (3) by repealing the penalty provision and replacing it with the following:

“Penalty: Subject to Sections 163, 164 and 165, a fine of not less than K10,000.00 and not exceeding K50,000.00.”.

16. MOVEMENT TO AND FROM PLACE OF UNLOADING (AMENDMENT OF SECTION 29).

Section 28 of the Principal Act is amended in Subsection (2) by repealing the penalty provision and replacing it with the following:

Customs (Amendment)

“Penalty: Subject to Sections 163, 164 and 165, a fine of not less than K10,000.00 and not exceeding K50,000.00.”.

17. REPORT OF CARGO PASSENGERS AND CREW (AMENDMENT OF SECTION 30).

Section 30 of the Principal Act is amended -

- (a) in Subsection (4), by repealing the penalty provision and replacing it with the following:

“Penalty: Subject to Sections 163, 164 and 165, a fine of not less than K20,000.00 and not exceeding K50,000.00.”; and

- (b) in Subsection (6), by repealing the penalty provision and replacing it with the following:

“Penalty: Subject to Sections 163, 164 and 165, a fine of not less than K20,000.00 and not exceeding K50,000.00.”.

18. REPORT OF WRECKED SHIP OR AIRCRAFT (AMENDMENT OF SECTION 31).

Section 31 of the Principal Act is amended in Subsection (2) by repealing the penalty provision and replacing it with the following:

“Penalty: Subject to Sections 163, 164 and 165, a fine of not less than K20,000.00 and not exceeding K50,000.00.”.

19. REPORT OF DERELICT, ETC., GOODS (AMENDMENT OF SECTION 32).

Section 32 of the Principal Act is amended -

- (a) in Subsection (1), by repealing the penalty provision and replacing it with the following:

“Penalty: Subject to Sections 163, 164 and 165, a fine of not less than K10,000.00 and not exceeding K20,000.00.”; and

- (b) in Subsection (2), by repealing the penalty provision and replacing it with the following:

“Penalty: Subject to Sections 163, 164 and 165, a fine of not less than K10,000.00 and not exceeding K20,000.00.”.

20. BREAKING BULK (AMENDMENT OF SECTION 36).

Section 36 of the Principal Act is amended by repealing the penalty provision and replacing it with the following:

“Penalty: Subject to Sections 163, 164 and 165, a fine of not less than K20,000.00 and not exceeding K50,000.00.”.

21. UNSHIPMENT (AMENDMENT OF SECTION 37).

Section 37 of the Principal Act is amended in Subsection (2) by repealing the penalty provision and replacing it with the following:

Customs (Amendment)

“Penalty: Subject to Sections 163, 164 and 165, a fine of not less than K20,000.00 and not exceeding K50,000.00.”.

22. LANDING OF GOODS ON PERMIT (AMENDMENT OF SECTION 38).

Section 38 of the Principal Act is amended in Subsection (1) by repealing the penalty provision and replacing it with the following:

“Penalty: Subject to Sections 163, 164 and 165, a fine of not less than K10,000.00 and not exceeding K50,000.00.”.

23. CONTROL OF EXPORTS (AMENDMENT OF SECTION 41).

Section 41 of the Principal Act is amended by repealing the penalty provision and replacing it with the following:

“Penalty: Subject to Sections 163, 164 and 165, a fine of not less than K10,000.00 and not exceeding K50,000.00.”.

24. ENTRIES IN REGARD TO ARMS, EXPLOSIVES, ETC. (AMENDMENT OF SECTION 43).

Section 43 of the Principal Act is amended in Subsection (1) by repealing the penalty provision and replacing it with the following:

“Penalty: Subject to Sections 163, 164 and 165, a fine of not less than K20,000.00 and not exceeding K50,000.00.”.

25. SHIPPING OF GOODS (AMENDMENT OF SECTION 44).

Section 44 of the Principal Act is amended by repealing the penalty provision and replacing it with the following:

“Penalty: Subject to Sections 163, 164 and 165, a fine of not less than K20,000.00 and not exceeding K100,000.00.”.

26. SHORT-SHIPED GOODS (AMENDMENT OF SECTION 45).

Section 45 of the Principal Act is amended by repealing the penalty provision and replacing it with the following:

“Penalty: Subject to Sections 163, 164 and 165, a fine of not less than K10,000.00 and not exceeding K50,000.00.”.

27. CERTIFICATES OF CLEARANCE (AMENDMENT OF SECTION 47).

Section 43 of the Principal Act is amended in Subsection (1) by repealing the penalty provision and replacing it with the following:

“Penalty: Subject to Sections 163, 164 and 165, a fine of not less than K30,000.00 and not exceeding K100,000.00.”.

28. SHIPMENT OF UNSPECIFIED GOODS (AMENDMENT OF SECTION 48).

Section 48 of the Principal Act is amended by repealing the penalty provision and replacing it with the following:

Customs (Amendment)

“Penalty: Subject to Sections 163, 164 and 165, a fine of not less than K10,000.00 and not exceeding K50,000.00.”.

29. BRINGING TO AT PROPER STATION, ETC., ON DEPARTURE (AMENDMENT OF SECTION 49).

Section 49 of the Principal Act is amended in Subsection (2) by repealing the penalty provision and replacing it with the following:

“Penalty: Subject to Sections 163, 164 and 165, a fine of not less than K20,000.00 and not exceeding K50,000.00.”.

30. ACCOUNTING FOR MISSING GOODS (AMENDMENT OF SECTION 50).

Section 50 of the Principal Act is amended by repealing the penalty provision and replacing it with the following:

“Penalty: Subject to Sections 163, 164 and 165, a fine of not less than K20,000.00 and not exceeding K50,000.00.”.

31. UNSHIPPING IN PAPUA NEW GUINEA OF GOODS FOR EXPORT (AMENDMENT OF SECTION 51).

Section 51 of the Principal Act is amended by repealing the penalty provision and replacing it with the following:

“Penalty: Subject to Sections 163, 164 and 165, a fine of not less than K20,000.00 and not exceeding K50,000.00.”.

32. OUTWARDS DUTY FREE SHOPS (AMENDMENT OF SECTION 54A).

Section 54A of the Principal Act is amended in Subsection (11) by repealing the penalty provision and replacing it with the following:

“Penalty: Subject to Sections 163, 164 and 165, a fine of not less than K20,000.00 and not exceeding K50,000.00.”.

33. INWARD DUTY FREE SHOPS (AMENDMENT OF SECTION 54B).

Section 54B of the Principal Act is amended in Subsection (11) by repealing the penalty provision and replacing it with the following:

“Penalty: Subject to Sections 163, 164 and 165, a fine of not less than K20,000.00 and not exceeding K50,000.00.”.

34. GENERAL DUTIES OF LICENCEES (AMENDMENT OF SECTION 55).

Section 55 of the Principal Act is amended -

- (a) in Subsection (1), by repealing the penalty provision and replacing it with the following:

“Penalty: Subject to Sections 163, 164 and 165, a fine of not less than K20,000.00 and not exceeding K50,000.00.”; and

- (b) in Subsection (2), by repealing the penalty provision and replacing it with the following:

Customs (Amendment)

“Penalty: Subject to Sections 163, 164 and 165, a fine of not less than K10,000.00 and not exceeding K50,000.00.”.

35. WAREHOUSING OF DANGEROUS GOODS (AMENDMENT OF SECTION 69).

Section 69 of the Principal Act is amended in Subsection (1) by repealing the penalty provision and replacing it with the following:

“Penalty: Subject to Sections 163, 164 and 165, a fine of not less than K20,000.00 and not exceeding K50,000.00.”.

36. CALLING FOR AID IN SEIZURES (AMENDMENT OF SECTION 114).

Section 114 of the Principal Act is amended in Subsection (2) by repealing the penalty provision and replacing it with the following:

“Penalty: Subject to Sections 163, 164 and 165, a fine of not less than K10,000.00 and not exceeding K20,000.00.”.

37. INTERPRETATION OF SUBDIVISION C. (AMENDMENT OF SECTION 118).

Section 118 of the Principal Act is amended in Subsection (2) by repealing the penalty provision and replacing it with the following:

“Penalty: Subject to Sections 163, 164 and 165, a fine of not less than K10,000.00 and not exceeding K50,000.00.”.

38. HOVERING SHIPS ETC. (AMENDMENT OF SECTION 121).

Section 121 of the Principal Act is amended in Subsection (3) by repealing the penalty provision and replacing it with the following:

“Penalty: Subject to Sections 163, 164 and 165, a fine of not less than K20,000.00 and not exceeding K50,000.00.”.

39. BREAKING OF SEALS ETC., PLACED BY OFFICERS (AMENDMENT OF SECTION 123).

Section 123 of the Principal Act is amended -

(a) in Subsection (1), by repealing the penalty provision and replacing it with the following:

“Penalty: Subject to Sections 163, 164 and 165, a fine of not less than K20,000.00 and not exceeding K100,000.00.”; and

(b) in Subsection (3), by repealing the penalty provision and replacing it with the following:

“Penalty: Subject to Sections 163, 164 and 165, a fine of not less than K20,000.00 and not exceeding K100,000.00.”.

Customs (Amendment)

40. STOPPING OF CONVEYANCES (AMENDMENT OF SECTION 124).

Section 124 of the Principal Act is amended in Subsection (3) by repealing the penalty provision and replacing it with the following:

“Penalty: Subject to Sections 163, 164 and 165, a fine of not less than K20,000.00 and not exceeding K50,000.00.”.

41. PRODUCTION OF DOCUMENTS, ETC., IN CASES OF SEIZURE (AMENDMENT OF SECTION 131).

Section 131 of the Principal Act is amended in Subsection (1) by repealing the penalty provision and replacing it with the following:

“Penalty: Subject to Sections 163, 164 and 165, a fine of not less than K20,000.00 and not exceeding K50,000.00.”.

42. PERSON TO KEEP RECORDS (AMENDMENT OF SECTION 131A).

Section 131A of the Principal Act is amended -

- (a) in Subsection (5), by repealing the penalty provision and replacing it with the following:

“Penalty: Subject to Sections 163, 164 and 165, a fine of not less than K20,000.00 and not exceeding K50,000.00.”; and

- (b) in Subsection (6), by repealing the penalty provision and replacing it with the following:

“Penalty: Subject to Sections 163, 164 and 165, a fine of not less than K20,000.00 and not exceeding K50,000.00.”.

43. AUTHORISED OFFICER MAY REQUIRE PERSON TO PRODUCE DOCUMENTS (AMENDMENT OF SECTION 131B).

Section 131B of the Principal Act is amended in Subsection (2) by repealing the penalty provision and replacing it with the following:

“Penalty: Subject to Sections 163, 164 and 165, a fine of not less than K20,000.00 and not exceeding K50,000.00.”.

44. ACCESS, ETC., TO BOOKS, ETC. (AMENDMENT OF SECTION 131C).

Section 131C of the Principal Act is amended -

- (a) in Subsection (2), by repealing the penalty provision and replacing it with the following:

“Penalty: Subject to Sections 163, 164 and 165, a fine of not less than K20,000.00 and not exceeding K50,000.00.”; and

- (b) in Subsection (4), by repealing the penalty provision and replacing it with the following:

“Penalty: Subject to Sections 163, 164 and 165, a fine of not less than K20,000.00 and not exceeding K50,000.00.”.

Customs (Amendment)

- (c) in Subsection (7), by repealing the penalty provision and replacing it with the following:

“Penalty: Subject to Sections 163, 164 and 165, a fine of not less than K20,000.00 and not exceeding K50,000.00.”.

45. POWER TO QUESTION (AMENDMENT OF SECTION 136).

Section 136 of the Principal Act is amended in Subsection (2) by repealing the penalty provision and replacing it with the following:

“Penalty: Subject to Sections 163, 164 and 165, a fine of not less than K10,000.00 and not exceeding K50,000.00.”.

46. ARREST OF PERSONS SUSPECTED OF SMUGGLING, ETC. (AMENDMENT OF SECTION 138).

Section 138 of the Principal Act is amended in Subsection (2) by repealing the penalty provision and replacing it with the following:

“Penalty: Subject to Sections 163, 164 and 165, a fine of not less than K20,000.00 and not exceeding K50,000.00.”.

47. SMUGGLING (AMENDMENT OF SECTION 149).

Section 149 of the Principal Act is amended by repealing Subsection (5) and replacing it with the following:

“(5) The penalty for a breach of Subsections (1), (2) or (3), subject to Sections 163, 164 and 165, a fine not less than K 250,000.00 and not exceeding K500,000.00 or imprisonment for a term not exceeding 20 years, or both.”.

48. NEW SECTION 149A.

The Principal Act is amended by inserting after Section 149, the following new section:

“149A. SMUGGLING TOBACCO PRODUCTS.

(1) For the purpose of this section, “tobacco products” means goods classified to heading 2401, 2402 or 2403 of Schedule 1 to the *Customs Tariff Act 1990* (except goods classified to subheading 2403.10.20).

(2) A person, who smuggles or attempts to smuggle tobacco products into Papua New Guinea, whether clandestinely or not, is guilty of an offence.

(3) A person, who conveys or has in his possession any smuggled tobacco products, is guilty of an offence.

(4) A person who conveys or has in his possession any smuggled tobacco products is deemed to have conveyed them, or have them in his possession, as the case may be, unlawfully.

Customs (Amendment)

(5) Merchandise on board a ship or aircraft calling at a port or airport in the country but intended for, and consigned to, a port, airport or place outside the country shall not be deemed to be unlawfully importing into the country, if the goods -

- (a) are specified on the ship's or aircraft's manifest; and
- (b) are not transhipped or landed in the country, or are transhipped or landed by authority.

(6) The penalty for a breach of Subsections (2), (3) or (4), subject to Sections 163, 164 and 165, is a fine of not less than K1,000,000.00 and not exceeding K5,000,000.00 or imprisonment for a term not exceeding 20 years, or both.

(7) In addition to any penalty imposed by the Court under Subsection (6), the Court may order the convicted person to pay the Chief Commissioner the amount of customs duties that would otherwise have been avoided plus a sum not exceeding five times the value of the tobacco products.

(8) A person convicted or acquitted of an offence against Subsection (2) or (3) is not liable to proceedings under Section 149 in respect to that conduct.

(9) Section 149A does not apply to the concessions for tobacco products for personal consumption prescribed under Part III of Schedule 1 of the *Customs (Personal Effects) Regulation*.”.

49. USE OF CONVEYANCE FOR SMUGGLING (AMENDMENT OF SECTION 150).

Section 150 of the Principal Act is amended by repealing the penalty provision and replacing it with the following:

“Penalty: Subject to Sections 163, 164 and 165, a fine of not less than K50,000.00 and not exceeding K100,000.00.”.

50. UNAUTHORISED ENTRY ON SHIPS, AIRCRAFTS, ETC. (AMENDMENT OF SECTION 152).

Section 152 of the Principal Act is amended in Subsection (2) by repealing the penalty provision and replacing it with the following:

“Penalty: Subject to Sections 163, 164 and 165, a fine of not less than K10,000.00 and not exceeding K20,000.00.”.

51. MISCELLANEOUS OFFENCES (AMENDMENT OF SECTION 153).

Section 153 of the Principal Act is amended by repealing the penalty provision and replacing it with the following:

“Penalty: Subject to Sections 163, 164 and 165, a fine of not less than K100,000.00 and not exceeding K200,000.00.”.

Customs (Amendment)

52. BRIBERY OF OFFICERS, UNDUE INFLUENCE, ETC. (AMENDMENT OF SECTION 154).

Section 154 of the Principal Act is amended by repealing the penalty provision and replacing it with the following:

“Penalty: Subject to Sections 163, 164 and 165, a fine of not less than K25,000.00 and not exceeding K100,000.00 or imprisonment for a term not exceeding 5 years, or both.”.

53. RESCUING SEIZED GOODS ETC. (AMENDMENT OF SECTION 156).

Section 156 of the Principal Act is amended by repealing the penalty provision and replacing it with the following:

“Penalty: Subject to Sections 163, 164 and 165, a fine of not less than K25,000.00 and not exceeding K100,000.00 or imprisonment for a term not exceeding 5 years, or both.”.

54. COLLUSION AND SIMILAR OFFENCES BY OFFICERS, ETC. (AMENDMENT OF SECTION 157)

Section 157 of the Principal Act is amended by repealing the penalty provision and replacing it with the following:

“Penalty: Subject to Sections 163, 164 and 165, a fine of not less than K25,000.00 and not exceeding K100,000.00 or imprisonment for a term not exceeding 5 years, or both.”.

55. UNAUTHORISED OPENING OF WAREHOUSE (AMENDMENT OF SECTION 158).

Section 158 of the Principal Act is amended by repealing the penalty provision and replacing it with the following:

“Penalty: Subject to Sections 163, 164 and 165, a fine of not less than K10,000.00 and not exceeding K50,000.00.”.

56. UNLAWFUL IMPORTATION OR POSSESSION OF BLANK INVOICES (AMENDMENT OF SECTION 159).

Section 159 of the Principal Act is amended by repealing the penalty provision and replacing it with the following:

“Penalty: Subject to Sections 163, 164 and 165, a fine of not less than K10,000.00 and not exceeding K100,000.00.”.

57. EVADING DUTY BY UNAUTHORISED MODIFICATION OF COMPUTER PROGRAM OR DATA (AMENDMENT OF SECTION 159A).

Section 159A of the Principal Act is amended in Subsection (1) by repealing the penalty provision and replacing it with the following:

Customs (Amendment)

“Penalty: Subject to Sections 163, 164 and 165, a fine of not less than K20,000.00 and not exceeding K100,000.00.”.

58. UNAUTHORISED DISCLOSURE OF ACCESS CODE (AMENDMENT OF SECTION 159B).

Section 159B of the Principal Act is amended in Subsection (1) by repealing the penalty provision and replacing it with the following:

“Penalty: Subject to Sections 163, 164 and 165, a fine of not less than K20,000.00 and not exceeding K100,000.00.”.

59. UNAUTHORISED ACCESS TO COMPUTER MATERIAL (AMENDMENT OF SECTION 159C).

Section 159C of the Principal Act is amended in Subsection (1) by repealing the penalty provision and replacing it with the following:

“Penalty: Subject to Sections 163, 164 and 165, a fine of not less than K20,000.00 and not exceeding K100,000.00.”.

60. ENHANCED PUNISHMENT FOR OFFENCES AGAINST SECTIONS 159B AND 159C (AMENDMENT OF SECTION 159D).

Section 159D of the Principal Act is amended in Subsection (1) by repealing the penalty provision and replacing it with the following:

“Penalty: Subject to Sections 163, 164 and 165, a fine of not less than K20,000.00 and not exceeding K100,000.00.”.

61. PENALTIES FOR OFFENCES IN RELATION TO NARCOTIC DRUGS (AMENDMENT OF SECTION 160).

Section 160 of the Principal Act is amended -

- (a) in Subsection (2), by repealing the penalty provision and replacing it with the following:

“Penalty: Subject to Sections 163, 164 and 165, a fine of not less than K250,000.00 and not exceeding K500,000.00 or imprisonment

for

a term not exceeding 20 years, or both.”; and

- (b) in Subsection (3), by repealing the penalty provision and replacing it with the following:

“Penalty: Subject to Sections 163, 164 and 165, a fine of not less than K10,000.00 and not exceeding K50,000.00 or imprisonment for a term not exceeding two years, or both.”.

62. GENERAL PENALTY (AMENDMENT OF SECTION 161).

Section 161 of the Principal Act is amended by repealing the penalty provision and replacing it with the following:

Customs (Amendment)

“Penalty: Subject to Sections 163, 164 and 165, a fine of not less than K10,000.00 and not exceeding K50,000.00.”.

63. COASTERS TAKING IN CARGO AT SEA, ETC. (AMENDMENT OF SECTION 180).

Section 180 of the Principal Act is amended by repealing the penalty provision and replacing it with the following:

“Penalty: Subject to Sections 163, 164 and 165, a fine of not less than K10,000.00 and not exceeding K50,000.00.”.

64. ACCOUNT OF LOCALLY-PRODUCED GOODS (AMENDMENT OF SECTION 182).

Section 182 of the Principal Act is amended by repealing the penalty provision and replacing it with the following:

“Penalty: Subject to Sections 163, 164 and 165, a fine of not less than K20,000.00 and not exceeding K50,000.00.”.

65. UNAUTHORISED AGENTS (AMENDMENT OF SECTION 184).

Section 184 of the Principal Act is amended in Subsection (5) by repealing the penalty provision and replacing it with the following:

“Penalty: Subject to Sections 163, 164 and 165, a fine of not less than K20,000.00 and not exceeding K50,000.00.”.

66. GOODS ON COMMISSIONED SHIPS OR AIRCRAFT (AMENDMENT OF SECTION 188).

Section 188 of the Principal Act is amended in Subsection (1) by repealing the penalty provision and replacing it with the following:

“Penalty: Subject to Sections 163, 164 and 165, a fine of not less than K10,000.00 and not exceeding K50,000.00.”.

67. STATUTORY GARNISHEE (AMENDMENT OF SECTION 191AA).

Section 191AA of the Principal Act is amended in Subsection (4) by repealing the penalty provision and replacing it with the following:

“Penalty: Subject to Sections 163, 164 and 165, a fine of not less than K10,000.00 and not exceeding K50,000.00.”.

68. CLEARANCE CERTIFICATE TO BE PRODUCED TO SHIPOWNER ETC. (AMENDMENT OF SECTION 191AC).

Section 191AC of the Principal Act is amended in Subsection (2) by repealing the penalty provision and replacing it with the following:

“Penalty: Subject to Sections 163, 164 and 165, a fine of not less than K10,000.00 and not exceeding K50,000.00.”.

Customs (Amendment)

69. DECLARATIONS (AMENDMENT OF SECTION 192).

Section 192 of the Principal Act is amended in Subsection (2) by repealing the penalty provision and replacing it with the following:

“Penalty: A fine of not exceeding K5,000.00.”.

70. REGULATIONS (AMENDMENT OF SECTION 193).

Section 193 of the Principal Act is amended by repealing Paragraph (f) and replacing it with the following:

“(f) Subject to Sections 163, 164 and 165, a fine of not less than K20,000.00 and not exceeding K100,000.00.”.

SECOND READING SPEECH

EXCISE TARIFF (2021 Budget) BILL 2020

MR SPEAKER,

THE BILL PROPOSES TO ENURE HYBRID VEHICLES ARE CATERED FOR IN THE CUSTOMS TARIFF ACT TO ALLOW THE INTERESTED IMPORTERS TO IMPORT THE HYBRID VEHICLES. THE EXCISE OF 20 PER CENT WILL APPLY ON THESE VEHICLES.

MR SPEAKER, I COMMEND THE BILL.

EXPLANATORY MEMORANDUM

Excise Tariff (2021 Budget) Bill 2020

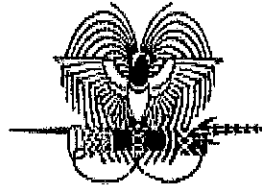
This bill proposes an amendment to:

extend the application of import excise duty for imported car to include the importation of the Hybrid Vehicles.

Hybrid vehicle is the vehicle that uses more than one distinct type of power. Hybrid vehicles can be classified as a combination of petrol and diesel engine with an electric motor and vehicles operating entirely on electrical powering which is charged by plugging to external sources of electric power. The main advantage of a hybrid cars is that it should consume less fuel and emit less Carbon dioxide than a comparable conventional petrol or diesel-engine vehicle.

PNG Importers have shown interest to import powered engine vehicles but have been disallowed due to unavailability of import excise description and rates to administer the import of those hybrid vehicles into PNG for use.

Therefore, this measure ensures that the PNG Customs Harmonised System caters for Hybrid Vehicles with tariff Code, Description and duty rate. The import excise rate for hybrid vehicle will be aligned with current excise rate at 20 per cent.

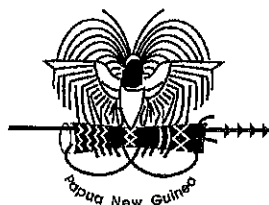


No. of 2020.

Excise Tariff (Amendment) Bill 2020.

ARRANGEMENT OF CLAUSE.

Excise Tariff (Amendment of Schedule 1. - Duties on Excise).



A Bill

for

An Act

entitled

Excise Tariff (Amendment) Act 2020.

Being an Act to amend the *Excise Tariff Act 1956* (Chapter 107),

MADE by the National Parliament and to come into operation on 1 January 2021.

EXCISE TARIFF (AMENDMENT OF SCHEDULE 1. - DUTIES ON EXCISE).

Schedule 1 of the Principal Act is amended by introducing import excise on the import of hybrid vehicles with the tariff item, description of the goods and rates of excise duty as shown below -

TARIFF ITEM.	DESCRIPTION	Excise Tariff Rates from 01 st Jan, 2021.
8703.40.00	Other vehicles, with both spark ignition internal combustion reciprocating piston engine and electric motor as motors for propulsion, other than those capable of being charged by plugging to external source of electric power.	20%
8703.50.00	Other vehicles, with both compression ignition internal combustion piston engine (diesel or semi-diesel) and electric motor as motors for propulsion other than those capable of being charged by plugging to external source of electric power.	20%
TARIFF ITEM.	DESCRIPTION.	Excise Tariff Rates from 01 st Jan, 2021.
8703.60.00	Other vehicles, with both spark ignition internal combustion reciprocating piston engine and electric motor as motors for propulsion, capable of being charged by plugging to external source of electric power.	20%

Excise Tariff (Amendment)

8703.70.00	Other vehicles, with both compression ignition internal combustion piston engine (diesel or semi-diesel) and electric motor as motors for propulsion, capable of being charged by plugging to external source of electric power.	20%
8703.80.00	Other vehicles, with only electric motor for propulsion.	20%

SECOND READING SPEECH

INCOME TAX (2021 BUDGET) (AMENDMENT) BILL 2020

MR SPEAKER,

THE BILL PROPOSES AMENDMENTS TO:

- (I) TO MAKE CORRECTIONS TO THE ***INCOME TAX (2019 BUDGET) (AMENDMENT) BILL 2018*** WITH RESPECT TO THE REDUCTION IN THE PERIOD WITHIN WHICH TAXPAYERS CAN CARRY FORWARD LOSSES AND THE TRANSITIONAL ARRANGEMENTS. THIS CORRECTION WILL REFLECT THE TRUE TAX POLICY INTENT OF THE GOVERNMENT;
- (II) ENSURE RESOURCE DEVELOPERS MAKE THE ROYALTY PAYMENTS DIRECTLY TO INTERNAL REVENUE COMMISSION.
- (III) (II) AMEND THE DUE DATES FOR PROVISIONAL TAX TO ALIGN WITH COMPANIES OPERATING UNDER A SUBSTITUTED ACCOUNTING PERIOD AND TO ENSURE MORE ACCURATE ESTIMATE REPORTING. THIS CHANGE WILL ALLOW THE INTERNAL REVENUE COMMISSION'S SIGTAS SYSTEM TO BETTER MANAGE THIS TAX TYPE;
- (IV) TO MAKE CORRECTIONS TO THE THRESHOLD FOR THE SMALL BUSINESS TAX REGIME AND INTRODUCE ANTI-AVOIDANCE RULES.

MR SPEAKER, I COMMEND THE BILL.

EXPLANATORY MEMORANDUM

Income Tax (2021 Budget)(Amendment) Bill 2020

The Bill proposes to:

- (i) The *Income Tax (2019 Budget) (Amendment) Bill 2018* with respect to the reduction in the period within which taxpayers can carry forward losses was corrected in the 2020 Budget but the changes did not adequately cater for the transitional arrangements on how existing losses as at 31 December 2018, would be treated. This consequential changes seeks to reflect the true policy intent as follows:
 - the tax loss carry forward period is reduced to 7 years for all taxpayers;
 - the new 7-year tax loss carry forward period applies from the year ending 31 December 2019;
 - all carry forward tax losses previously subject to the 20-year or indefinite year loss rule, being losses from the year ended 31 December 2006 onwards, will be limited to 7 years from 31 December 2018 and tax losses incurred in the year of income ended 31 December 2005 and prior years will expire;
- (ii) In the 2020 Budget, the installment due dates were changed to time periods of 90 days, 180 days and 270 days. The 90 days would have fallen before the due date for resource companies to lodge their estimates of taxable income, which are due on 31 March. Estimates are necessary and must be received by the IRC at least 30 days in advance in order for the IRC to establish the Advance Payment Tax (APT) and Provisional Tax (PT) amounts due on the instalment dates.
- (iii) This proposal seeks to change those due dates to 120 days, 210 days and 300 days respectively to better align the due dates for Provisional Tax as well as Advance Payment Tax so that it does not clash with the due dates for resource companies to provide their estimates. The second and third dues dates were adjusted accordingly.
- (iv) Amending the Small Business Tax regime to reflect true policy intent. The correct thresholds and tax payable under micro-businesses and small business tax would be:
 - a. A business with turnover of less than K60, 000.00 is categorized as a micro-business as a way to separate it from small businesses for purposes of taxation. Those micro-businesses are liable to pay fixed tax amount of K250.00 per year;
 - b. A business with an annual turnover of more than K60,000.00 and less than K250,000.00 is defined as small business and is liable to pay business tax of K62.50 plus 2.0 per cent of turnover above K15,000.00 per quarter. Turnover of K15,000.00 per quarter is derived from the K60,000.00 per year divided by 4 quarter and K62.50 from K250.00 divided by 4 quarters.
- (vi) Introduce an anti-avoidance measure to discourage employees and employers from converting employment relationships into independent contractor arrangements to pay Small Business Tax (SBT) rather than Salary and Wages Tax (SWT). This is a very important measure to prevent abuse of the SBT and potentially significant revenue loss from SWT.
- (ix) Currently, developers make the royalty payments directly to relevant regulator responsible who then pays to the landowners and bears the final obligation of withholding and remitting the 5% prescribed royalty withholding tax (PRWT) to the IRC. This process can take time and has delayed the collection of PRWT to the Government over the years. In addition, such

delay means that the IRC cannot reconcile the payment with the deduction claimed by the developers.

This measure will seek to make it clear in the law that the developer must deduct and remit the PRWT directly to the IRC in the first instance. This will ensure a timely receipt of this tax to the Government.



No. of 2020.

Income Tax (2021 Budget)(Amendment) Bill 2020.

ARRANGEMENT OF CLAUSES.

1. Interpretation (Amendment of Section 4).
2. Imposition of Income Tax (Amendment of Section 11).
3. New Section 11C.

“11C. IMPOSITION OF SMALL BUSINESS TAX.”

4. Interpretation (Amendment of Section 65D).
5. New Section 65K.

“65K. COUNTERING ARRANGEMENTS TO CONVERT AN EMPLOYEE INTO AN INDEPENDENT CONTRACTOR.”

6. Losses of previous years (Amendment of Section 101).
7. Liability to prescribed royalty (Withholding) Tax (Repeal and replacement of Section 142C).

“142C. LIABILITY TO PRESCRIBED LOALTY (WTTTHOLDING) TAX”.

8. Payment of prescribed royalty (Withholding) Tax (Amendment of Section 142D).
9. New Section 223A.

“223A. PROCEDURAL RULES FOR SMALL BUSINESS TAX.”

10. Notice of company provisional tax payable (Amendment of Section 275N).
11. Provisional tax to be credited against tax assessed (Repeal of Section 308).
12. Payment of Tax (Amendment of Section 311AQ).



A Bill

for

An Act

entitled

Income Tax (2021 Budget)(Amendment) Bill 2020,

Being an Act to amend the *Income Tax Act 1959*,

MADE by the National Parliament and deemed to come into operation -

- (a) in respect of Sections 1, 2, 3, 4, 5, and 9 - 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 for Treasury;
- (b) in respect of Section 6 - retrospective to 1 January 2019; and
- (c) in respect of Sections 7, 8, 10 and 11 - retrospective to 1 January 2020; and

1. INTERPRETATION (AMENDMENT OF SECTION 4).

Section 4 of the Principal Act is amended -

- (a) by inserting the following new definitions in the correct alphabetical order -
 - ““quarter” means the period of three months ending on 31 March, 30 June, 30 September and 31 December;”
 - “small business tax” means small business tax imposed under Section 11C;”
 - “small business taxpayer” means an individual liable for small business tax;”;
- (b) in the definition of “salary or wages” by repealing the comma in Paragraph (f) and replacing it with “; or”; and
- (c) inserting the following new paragraph after Paragraph (f):

“(g) by a person to an independent contractor for providing a service or services to that person as envisaged under Section 65K,”.

2. IMPOSITION OF INCOME TAX (AMENDMENT OF SECTION 11).

Section 11 of the Principal Act is amended by inserting after Subsection (3), the following new subsection -

“(4) This section does not apply to business income derived by an individual that is subject to small business tax.”.

3. NEW SECTION 11C.

Part III of the Principal Act is amended by inserting after Section 11B, the following new section -

“11C. IMPOSITION OF SMALL BUSINESS TAX.

(1) In this section -

“business” does not include professional services;

Income Tax (2021 Budget)(Amendment)

“professional services” means medical, dental, legal, accounting, financial, managerial, engineering, architectural, consulting, or other similar services; and

“turnover”, in relation to an individual conducting a business, means the assessable income received by the individual from the conduct of the business without deduction of expenditures or losses.”.

(2) Subject to this Act, small business tax is imposed on an individual conducting business as a sole trader who satisfies the following conditions:

- (a) the individual conducts the business solely in Papua New Guinea;
- (b) the individual is not a registered person for the purposes of the *Goods and Services Tax Act*;
- (c) the individual was not subject to income tax under Section 11 for the previous fiscal year;
- (d) the total turnover of the individual for the previous fiscal year did not exceed the Goods and Services Tax Registration threshold specified in Section 43 of the *Goods and Services Tax Act*.

(3) In determining the total turnover of an individual for a fiscal year for the purposes of Subsection (2)(d), the Commissioner General may have regard to the turnover of an associate or associates of the individual for the year.

(4) If the annual total turnover of an individual subject to tax under this section is less than K60,000.00 -

- (a) the individual is liable for small business tax annually; and
- (b) the amount of small business tax payable by the individual for a fiscal year is K250.00.

(5) If the annual total turnover of an individual subject to tax under this section is K60,000.00 or more -

- (a) the individual is liable for small business tax quarterly; and
- (b) the amount of small business tax payable by the individual for a quarter is the sum of the following amounts:
- (c) K62.50; and
- (d) 2% of the turnover of the person for the quarter above K15,000.00.

(6) An individual subject to small business tax may elect for Section 11 to apply to the individual for a fiscal year instead of this section.

(7) An individual must make an election under Subsection (6) for a fiscal year, in the approved form, by the due date for furnishing the individual's income tax return for that year or such later date as the Commissioner General may allow.

(8) Where an individual has made an election under Subsection (7) for a fiscal year within the time specified in that subsection -

- (a) the election applies from the commencement of the fiscal year to which the election relates and remains in force indefinitely or until the Commissioner General permits the person to be subject to this section under Subsection (11); and

Income Tax (2021 Budget)(Amendment)

(b) any small business tax paid by the individual during the fiscal year is allowed as a tax credit against the income tax liability of the individual for the year.

(9) Subject to Subsection (10), an individual subject to income tax under Section 11 for a fiscal year who satisfies Subsection (2) may apply, in the approved form, to the Commissioner General for permission for the individual to be subject to the small business tax.

(10) An individual who has made an election under Subsection (7) for Section 11 to apply to the individual cannot make an application under Subsection (9) within three years of the end of the first tax year in relation to which Section 11 applies.

(11) The Commissioner General may approve an individual under Subsection (9) if satisfied that there is reasonable cause to do so and the approval shall apply from the date specified in the notice of approval.

(12) An approval under Subsection (7) or (11) may be subject to such conditions as the Commissioner General may specify in the notice of approval.

(13) The small business tax payable by an individual is a final tax for the person on the business income on which it has been imposed.

(14) Subsection (2)(c) is ignored in determining whether the small business tax applies to an individual for the first fiscal year after certification of this Act.”.

4. INTERPRETATION (AMENDMENT OF SECTION 65D).

Section 65D of the Principal Act is amended by inserting the following definition after the definition of “assessment”:

““independent contractor” means an individual who is engaged as a contractor;”.

5. NEW SECTION 65K.

The Principal Act is amended by inserting after Section 65J, the following new section:

“65K. COUNTERING ARRANGEMENTS TO CONVERT AN EMPLOYEE INTO AN INDEPENDENT CONTRACTOR.

(1) For the purposes of this division, an independent contractor providing a service or services to a person shall be treated as an employee of that person unless the following conditions are satisfied:

- (a) the independent contractor is in business on their own account, and is responsible for the success or failure of the business and can make a loss or a profit; or
- (b) the independent contractor can decide the work that is done, and when, where, and how the work is done; or
- (c) the independent contractor can hire someone else to do the work; or
- (d) the independent contractor is responsible for fixing any unsatisfactory work in their own time and on their own account; or
- (e) a fixed remuneration is agreed for the work, which does not depend on how long the job takes to finish; or
- (f) the total taxable income of the independent contractor does not consist of more than 80 percent of the total remuneration received for services rendered to one person; or

- (g) the independent contractor finances the acquisition of business assets and the covering of their operating costs, and provides their own tools and equipment necessary for the work to be done; or
- (h) the independent contractor can work for more than one person.

(2) Where an independent contractor is treated as an employee of a person under Subsection (1), the amounts paid by the person to the independent contractor, shall be treated as salary or wages and the person shall withhold salary or wages tax from the payments made and remit to the Commissioner General as required under the Act.”.

6. LOSSES OF PREVIOUS YEARS (AMENDMENT OF SECTION 101).

Section 101 of the Principal Act is amended by repealing Subsections (4A), (4B) and (4C) and replacing them with the following:

“(4A) Notwithstanding any other provision of this section, losses incurred on or before 31 December 2018 that were not deductible under the provisions in force at that time, shall not be deductible from income derived in 2019 or in a later year.

(4B) For the avoidance of doubt, losses incurred prior to 1 January 2019 that, under the provisions in force at that time, remained deductible as at 1 January 2019, shall be deductible from income derived in 2019 or a later year to the extent remaining under the provisions in force at that time but limited to a maximum of 7 years from 1 January 2019.”.

7. LIABILITY TO PRESCRIBED ROYALTY (WITHHOLDING) TAX (REPEAL AND REPLACEMENT OF SECTION 142C).

Section 142C of the Principal Act is repealed and replaced with the following:

“142C. LIABILITY TO PRESCRIBED LOYALTY (WITHHOLDING) TAX.

Where a prescribed royalty payment is paid or credited by any person to or on behalf of a customary landowner, the person making the payment or crediting such payment is liable to withhold and pay tax upon that income at the rate of 5 percent.”.

8. PAYMENT OF PRESCRIBED ROYALTY (WITHHOLDING) TAX (AMENDMENT OF SECTION 142D).

Section 142D of the Principal Act is amended by repealing Subsection (1) and replacing it with the following:

“(1) Prescribed Royalty (Withholding) Tax is due and payable by the person liable to pay the tax within 21 days after the end of the month in which the prescribed royalty income to which the tax relates was credited or paid to or on behalf of a customary landowner (whichever occurs earlier), or such further time as the Commissioner General, in special circumstances, allows.”.

9. NEW SECTION 223A.

Part III of the Principal Act is amended by inserting after Section 223, the following new section:

“223A. PROCEDURAL RULES FOR SMALL BUSINESS TAX.

- (1) In this section, “tax period”, in relation to the small business tax, means -
 - (a) for a small business taxpayer subject to Section 11C(4), the fiscal year; or
 - (b) for a small business taxpayer subject to section 11C(5), the quarter.”.

Income Tax (2021 Budget)(Amendment)

- (2) A small business taxpayer shall keep the following records:
 - (a) a record of sales, including cash and credit sales; and
 - (b) where the individual employs employees, a record of the employment income paid to those employees; and
 - (c) any other records as required by the Commissioner General.
- (3) A small business taxpayer shall maintain a bank account for business purposes unless exempted by the Commissioner General.
- (4) A small business taxpayer shall retain evidence that any income derived by the taxpayer is exempt income.
- (5) A small business taxpayer shall retain the records referred to in Subsection (2) for three years after the end of the tax period to which they relate.
- (6) A small business taxpayer shall furnish a small business tax return:-
 - (a) for a small business taxpayer to whom Section 11C(4) applies, within 28 days after the end of the fiscal year;
 - (b) for a small business taxpayer to whom Section 11C(5) applies, within 28 days after the end of the quarter.
- (7) The small business tax payable by a small business taxpayer for a tax period shall be payable on the date that the small business tax return for the period is due.”.

10. NOTICE OF COMPANY PROVISIONAL TAX PAYABLE (AMENDMENT OF SECTION 275N).

Section 275N of the Principal Act is amended by repealing Subsection (1) and replacing it with the following:

“(1) Where the Commissioner General has determined the company provisional tax for a year of tax, or a year of tax approved under Section 12A of this Act, he shall issue a notice setting out the amount of tax payable and this shall be paid in three installments, due and payable as follows:

- (a) first installment due 120 days from the end of the preceding year of tax or a year of tax as approved under Section 12A of this Act; and
- (b) second installment due 210 days from the end of the preceding year of tax or a year of tax as approved under Section 12A of this Act; and
- (c) third installment due 300 days from the end of the preceding year of tax or a year of tax as approved under Section 12A of this Act.”.

11. PAYMENT OF TAX (AMENDMENT OF SECTION 311AQ).

Section 311AQ of the Principal Act is amended by repealing Subsection (1) and replacing it with the following:

“(1) An amount determined by the Commissioner General to be the estimated taxable income liable to tax under this division shall be taxed at the rates declared by the ***Income Tax and Dividend (Withholding) Tax Rates Act*** (Chapter 111) and shall be payable in three instalments as follows:

- (a) first installment due 120 days from the end of the preceding year of tax or a year of tax as approved under Section 12A of this Act; and
- (b) second installment due 210 days from the end of the preceding year of tax or a year of tax as approved under Section 12A of this Act; and

Income Tax (2021 Budget)(Amendment)

- (c) third installment due 300 days from the end of the preceding year of tax or a year of tax as approved under Section 12A of this Act.”.



STATUTORY INSTRUMENT.

No. of 2020.

Customs (2021 Budget) (Amendment) Regulation 2020.

ARRANGEMENT OF CLAUSES.

1. Production of Commercial Invoice and Valuation Declaration, etc. (Amendment of Section 19).
2. Entry for Home Consumption (Amendment of Section 21).

No. of 2020.

GOVERNOR-GENERAL.