

INDEPENDENT STATE OF PAPUA NEW GUINEA

National Capital District Commission (Land Tax) Regulation 1991

Being a Regulation to make provisions for imposition of tax on land in the National Capital District,

MADE by the Head of State acting with, and in accordance with, the advice of the National Executive Council under the *National Capital District Commission Act 1990*.

PART I.—PRELIMINARY.

1. Interpretation.

In this Regulation, unless the contrary intention appears—

"Commission" means the Commission established by Section 3 of the National Capital District Commission Act 1990;

"land tax" means the land tax imposed by the Commission under this Regulation;

"owner" means—

- (a) in relation to freehold land—
 - (i) in the case of a registered freehold—the registered owner or the registered proprietor of the freehold; or
 - (ii) in the case of an unregistered freehold—the person who has made a claim for the title; and
- (b) in relation to land a subject of a State lease—
 - (i) the registered lessee; or
 - (ii) in the case of unregistered lease, the person notified under Section 34 of the Land Act 1996 as the successful applicant for the grant of that lease; or
 - (iii) in relation to land the subject of an application for a State lease—the person who at the relevant time is liable to pay rent for the land to the State, and where the land is subject to mortgage, includes the mortgagor and the mortgagee;

"taxable land" means the land declared by virtue of Section 4 to be taxable land;

"taxpayer" means a person liable to pay land tax under Section 4;

"valuation roll" means the Valuation Roll maintained by the Valuer-General under the Valuation Act 1967 in respect of the National Capital District;

"Valuer-General" means the Valuer-General appointed under the Valuation Act 1967.

PART II.—LAND TAX.

2. Imposition of land tax, etc.

- (1) Subject to this Regulation, the Commission may impose land tax assessed in accordance with this Regulation.
- (2) Land tax imposed by virtue of Subsection (1) shall be imposed in respect of a fiscal year ending on 31 December of each year.

- (3) The land tax referred to in Subsection (1) shall be assessed by means of using any one or more of the following methods:—
 - (a) by reference to the unimproved capital value of the taxable land;
 - (b) as a flat charge in respect of the taxable land;
 - (c) as a charge assessed by—
 - (i) reference to the superficial area of the taxable land or of building upon the land; or
 - (ii) reference to the floors of a building; or
 - (iii) by reference to the number of separate residences or shops on the area of the taxable land;
 - (d) as a separate charge to be paid in respect of a class of taxable land.
- (4) The validity of a law of the Commission imposing land tax in respect of a fiscal year shall not be affected by reason of the fact that the law is made during the fiscal year, but no such law takes effect so as to impose retrospective liability for payment.
- (5) This section does not prevent the imposition of land tax in respect of a number of fiscal years, or in respect of a fiscal year and, until otherwise provided by law, each subsequent year.

3. Valuation of taxable land.

- (1) The Commission may request the Valuer-General to carry out a valuation of taxable land for purposes of this Regulation.
- (2) The Commission shall pay such fees as may be charged by the Valuer-General for carrying out such Valuation.
- (3) Fees paid by the Commission under Subsection (2) may be recovered by the Commission as if it were a cost payable on the taxable land being valued.

4. Taxable land.

- (1) In this section, "government land" means government land within the meaning of the Land Act 1996.
- (2) All land in the National Capital District except—
 - (a) customary land; and
 - (b) government land; and
 - (c) land that is the subject of a lease under Division X.7 of the Land Act 1996; and
 - (d) any other land as determined by the Commission from time to time for purposes of this Section is taxable land.
- (3) The Commission shall charge a fee on any land referred to in Subsection (2)(a), (b), (c) and (d) at such rate as may be determined by the Commission from time to time provided that the fee chargeable shall not exceed the land tax that would have been payable had the land been taxable land.
- (4) Where a land is forfeited to the State or reverts back to the State for any reason under the provisions of the Land Act 1996 and—
 - (a) the former owner or lessee; or
 - (b) any other person,

remains in occupation of it, the land shall continue to be taxable land as if the land was not government land.

5. Minister may request copy of valuation roll.

- (1) The Minister may request the Valuer-General to provide him with a certified copy of the Valuation Roll.
- (2) The Commission is entitled to a certified copy of the Valuation Roll free of any charge.

6. Exemption on certain land.

The Commission may by written notice exempt wholly or partly from land tax on any taxable land, upon such term and conditions as the Commission thinks fit, being land used for—

- (a) educational purposes under the Education Act 1983; and
- (b) religious purposes; and
- (c) any other purposes approved by the Commission.

7. Liability to tax.

- (1) Land tax imposed by a law of the Commission is payable—
 - (a) in the case of taxable land that is leased or subleased from the Commission—by the lessee or sub-lessee; and
 - (b) in the case of any other taxable land—by the owner of the land.
- (2) Where under Subsection (1) two or more persons are liable to pay land tax on any parcel of land—
 - (a) they are jointly and severally liable for the tax; and
 - (b) as between themselves each of them is liable only for such part of the tax as is proportionate to the value of his interest in the land as compared with the value of the interest of the other or others; and
 - (c) if any of them pays more than his proportionate share he may recover the excess by way of contribution from the other or others.
- (3) Where the owner of taxable land—
 - (a) is absent from the country; or
 - (b) is unknown to the Commission; or
 - (c) has not, after reasonable efforts by or on behalf of the Commission, been served in any legal proceedings for the recovery of land tax due in respect of his land; or
 - (d) is an un-discharged bankrupt or insolvent; or
 - (e) dies; or
 - (f) has a verdict or judgment given against him for the amount of land tax due from him,

the Commission may serve on any person in occupation of the land a notice of the amount of land tax due in respect of that land or of the verdict or judgment.

- (4) Where a person in occupation of taxable land is served with a notice under Subsection (3) and fails within one month after service of the notice to pay the amount of the tax owing, the Commission may recover the amount of the demand, or any outstanding portion of that amount, from him as a debt.

- (5) When any parcel of taxable land is transferred, the transferor shall within one month after the date of the transfer notify the Commission, in a form approved by the Commission, of the particulars of the transfer.
- (6) The Commission may discontinue or refuse to supply any services to land for which tax remains unpaid.

8. Tax notices.

- (1) Subject to Subsection (2), where land tax is payable in relation to any land, the Commission shall cause a notice of liability, in a form approved by it, to be served on the taxpayer, and if the name of the taxpayer is not known to the Commission, it is sufficient to specify the land to which the notice relates and to direct the notice to the "taxpayer".
- (2) Service of a notice under Subsection (1) shall be effected—
 - (a) by serving the taxpayer, personally or by prepaid post, at the address last known to the Commission; or
 - (b) if the address of the taxpayer is unknown to the Commission—by the notice being displayed on some conspicuous part of the land concerned.

9. Effect of failure to receive notice.

The failure by a person to receive a notice under Section 5 or 6 does not in any way affect that person's liability for the amount of land tax to which the notice relates.

PART III.—PAYMENT OF TAX.

10. Due date for payment of tax.

- (1) The amount of land tax for a fiscal year shall become due and payable on the date fixed by the Commission being a date not earlier than the date specified in a law by virtue of Subsection (2).
- (2) The Commission may specify in a law imposing land tax that the amount of the tax shall be reduced by such amount as is specified in the law if the tax is paid before a date specified in the law.

11. Payment of tax, etc., when valuation objected to.

- (1) The fact that an objection has been made, or that an appeal is pending, under the Valuation Act 1967 in relation to a valuation attributed to a parcel of taxable land by the Valuation Roll shall not in the meantime affect the receipt, levy or recovery of any tax, calculated by reference to that valuation.
- (2) Where on the determination of the objection or appeal it appears that the tax received, levied, or recovered is different from the tax that should have been received, levied or recovered, the taxpayer or the Commission is liable to pay or refund, as the case requires, the amount of the difference.

12. Penalty for failure to pay.

- (1) A taxpayer who, without reasonable excuse (proof of which is on him) fails to pay any amount of land tax when it becomes due, or within such further period as is allowed by the Commission, is guilty of an offence.

Penalty: A fine not exceeding K500.00 and in the case of a continuing offence a fine not exceeding K50.00 for each day for which the offence continues.

- (2) For the purposes of Subsection (1), where the whole of any land tax payable in respect of any land is paid by any of the persons referred to in Section 7(2) the payment is a reasonable excuse for a failure by the other to pay the tax.

PART IV.—INTEREST AND CHARGE.

13. Interest.

- (1) If any amount of land tax remains unpaid three months after the date fixed under Section 10, the Commission may determine that interest be charged on the amount at the rate of 15% per annum, simple interest, calculated on the basis of each complete month for which the amount remains unpaid after that date.
- (2) Any amount of interest charged under Subsection (1) shall be deemed to be part of the land tax.

14. Tax liens.

- (1) Subject to Subsection (2), land tax payable on any land is a charge on the land in priority to all other charges and encumbrances, but such a charge is of no effect against a bona fide purchaser for value who at the time of the purchase made due inquiry but had no knowledge of the liability.
- (2) A charge under Subsection (1) ranks equally with other charges under any other law.
- (3) For the purposes of Subsection (1) a purchaser shall be deemed to have made due inquiry if he has obtained a certificate from the Commission as to the liability.
- (4) The Commission may charge a fee, determined by the Commission, for the issue of a certificate under Subsection (3).

15. Recovery of land tax.

- (1) Any amount of land tax, including interest under Section 12, payable under this Regulation is recoverable as a debt due to the Commission.
- (2) In any proceedings for the recovery of land tax imposed by the Commission, objection to the validity or the tax shall not be allowed nor avail to prevent the recovery of the tax.