

P.N.D.C.L. 143

INTERNAL REVENUE SERVICE ACT, 1986

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P.N.D.C.L. 143

INTERNAL REVENUE SERVICE ACT, 1986¹

AN ACT in respect of the Internal Revenue Service established under article 190 of the Constitution and to provide for related matters.

*Establishment***1. Establishment of Internal Revenue Service**

In accordance with article 190 of the Constitution, "Internal Revenue Service" forms part of the Public Services.

2. Membership of the Service

The Service is made up of

- (a) the personnel of the Central Revenue Department existing immediately before the coming into force of this Act,
- (b) any other public officers transferred or seconded to the Service, and
- (c) any other persons employed by the Service.

3. The Board

(1) The governing body of the Service is the Internal Revenue Service Board.

(2) The Board consists of:

- (a) the Chairman and six other persons appointed by the President in accordance with article 70 of the Constitution,
- (b) the Commissioner of Internal Revenue, and
- (c) the Controller and Accountant-General.

(3) The Chairman shall hold office on the terms and conditions of service determined by the President.

(4) This section and the relevant provisions of this Act should be read and construed as one with the Revenue Agencies (Governing Board) Act, 1998 (Act 558) and where there is a conflict the 1998 Act shall prevail.

4. Functions of the Board

The Board is responsible for

- (a) ensuring the effective assessment and optimum collection of the taxes and penalties due to the Republic under the relevant laws administered by the Department before the coming into force of this Act, and any other tax laws of the Republic;

1. This Act was issued as the Internal Revenue Service Law, 1986 (P.N.D.C.L. 143) made on the 4th day of March, 1986 and notified in the *Gazette* on 4th April, 1986.

- (b) making recommendations to the Minister on tax policy, tax reform, tax legislation, tax treaties and tax exemptions;
- (c) ensuring that the amounts collected by the Service are paid into the Consolidated Fund unless otherwise provided in this Act;
- (d) generally controlling the management of the Service on matters of policy, subject to this Act;
- (e) *omitted*;²
- (f) drawing up a scheme of service prescribing the terms and conditions of service as well as the remuneration of the employees of the Service.

5. Tenure of office of members

(1) A member of the Board, other than the Commissioner for Internal Revenue and the Controller and Accountant-General shall hold office for a period not exceeding three years, and is eligible for re-appointment but for not more than three terms.

(2) A member of the Board may at any time resign from office by notice in writing addressed to the President and may be removed from office by the President.

(3) Except as otherwise provided, members of the Board shall hold office on the terms and conditions, including the allowances or remuneration determined by the President, on the recommendation of the Minister.

Administration

6. Meetings of the Board

(1) The Board shall meet at least once every three months at the times and places determined by the Chairman.

(2) A special meeting of the Board shall be called by the Commissioner of Internal Revenue in consultation with the Chairman.

(3) The Chairman shall preside at the meetings of the Board and in the absence of the chairman, a member of the Board appointed by the members present from among themselves shall preside.

(4) The quorum of every meeting of the Board is five.

(5) The Board may co-opt a person to act as an adviser at its meeting but a person so co-opted is not entitled to vote at the meeting on a matter for decision by the Board.

(6) The validity of the proceedings of the Board shall not be affected by a vacancy in its membership or a defect in the appointment of a member.

(7) Subject to this Act, the Board shall regulate its own procedure.

7. Committees of the Board

The Board may for the performance of its functions appoint committees and may assign to the Board determined by a Committee any of its functions.

2. As the appointing authority is the President under article 195 of the Constitution, the paragraph provides for appointing, promoting and disciplining (including dismissing) employees of the Service.

8. The Commissioner of Internal Revenue Service

The Head of the Service is the Commissioner of Internal Revenue who shall be appointed by the President in accordance with article 195 of the Constitution.

9. Functions of the Commissioner

Subject to the direction of the Board on matters of policy, the Commissioner of Internal Revenue is responsible for the day-to-day administration of the Service.

10. Deputy Commissioners

(1) There shall be three Deputy Commissioners of Internal Revenue who shall be appointed by the President in accordance with article 195 of the Constitution.

(2) The Deputy Commissioners of Internal Revenue shall head the Finance and Administration, Operations, Research, Planning and Monitoring Departments and any other Departments of the Service as the Board may direct and shall perform the functions that the Commissioner of Internal Revenue may in consultation with the Board, direct.

11. Co-operation with organisations

The public services and any other organisations shall co-operate with the Commissioner of Internal Revenue to ensure the effective assessment and optimum collection of direct taxes.

12. Staff of the Service

(1) The Board may engage the necessary staff for the proper and efficient performance of its functions.

(2) The Board may on the recommendation of the Commissioner of Internal Revenue engage the services of consultants or experts as are necessary.

(3) The staff, consultants and experts shall be engaged on the terms and conditions determined by the Board.

(4) *Omitted.*³

13. Secretary

(1) There shall be a secretary to the Board who shall be appointed by the President in accordance with article 195 of the Constitution.

(2) The secretary to the Board shall arrange the business of the Board and record and keep the minutes of the meetings of the Board.

(3) The secretary to the Board shall perform any other functions directed by the Board.

3. The appointing authority is the President under article 195 of the Constitution. The subsection provides that the Board may delegate any power of appointment conferred on it by this section to the Commissioner of Internal Revenue.

14. Administrative expenses

The administrative expenses of the Service including the salaries, operational and any other allowances, gratuities and pensions payable in respect of persons serving in the Service shall be a charge on the Consolidated Fund.

*Financial and Miscellaneous Provisions***15. Funds for the Service**

(1) The Government shall provide to the Service moneys required for performing the functions of the Service being moneys requested by the Service from the Government.

(2) The Service shall submit to the Minister at the times and in the form that the Minister shall direct, detailed estimates of the Services income and expenditure for the following year.

(3) Subject to the provisions of any other enactment, the expenditure of the Service shall be in accordance with the estimates as approved by the Minister.

16. Acquisition of property by the Service

The Service may for and in connection with the performance of its functions acquire, hold, manage, or dispose of movable or immovable property and may enter into contracts and transactions that are expedient.

17. Annual report and estimates

The Board shall every year submit to the Minister and to Parliament.

- (a) a report of its activities and operations during the preceding financial year within three months after the end of that financial year;
- (b) detailed estimates of its revenue and expenditure for the next financial year, three months before the commencement of each financial year.

18. Submission of returns of revenue

The Minister may at any time call for returns of revenue or revised revenue estimates from the Commissioner of Internal Revenue.

19. Internal auditor

(1) The Service shall have an internal auditor.

(2) Subject to this Act, and any other relevant enactment, the internal auditor is responsible to the Commissioner of Internal Revenue for the performance of functions under the Act or any other enactment.

(3) The internal auditor shall, at intervals of three months, prepare a report on the internal audit carried out during the period of three months immediately preceding the preparation of the report, and submit the report to the Commissioner of Internal Revenue.

(4) Without prejudice to the general effect of subsection (3) of this section, the internal auditor shall make in each report the necessary observations as to the conduct of the financial affairs of the Board during the period to which the report relates.

(5) The internal auditor shall send a copy of each report prepared under this section to each of the following

- (a) the Minister
- (b) the Auditor-General; and
- (c) the chairman of the Board.

(6) This section shall be read and construed as one with the Internal Audit Agency Act, 2000 (Act 592) and where there is conflict, that Act shall prevail.

20. Accounts

(1) The Service shall keep proper books of account and proper records in relation to them in the form approved by the Auditor-General.

(2) The Service shall keep separate records and accounts for

- (a) taxes and penalties collected and paid into the Consolidated Fund; and
- (b) funds provided for the administration of the Service under section 15.

(3) The financial year of the Service shall end on the 31st day of December in each year.

(4) The books and accounts of the Service shall each year be audited by the Auditor-General.

(5) The Auditor-General shall forward a copy of the report of the President and to Parliament within six months of the end of each financial year.

21. Transfer of assets and liabilities

(1) The rights, assets and property vested in, or in any manner held on behalf of or for the purposes of the Central Revenue Department immediately before the commencement of this Act shall be vested in the Service.

(2) The liabilities and obligations subsisting against the Central Revenue Department immediately before the commencement of this Act shall thereafter continue to subsist between the Service and the other party.

22. Regulations

The Minister on the recommendation of the Board may by legislative instrument make Regulations to give full effect to this Act and, in particular, provide guidelines for the administration of the laws administered by the Service.

23. Interpretation

(1) In this Act unless the context otherwise requires,

“**Board**” means the Internal Revenue Service Board;

“**Commissioner of Internal Revenue**” means the person appointed under section 8;

“**Department**” means the Central Revenue Department in existence immediately before the coming into force of this Act;

“Minister” means the Minister responsible for Finance.

(2) A reference in an enactment to the Commissioner of Income Tax or the Central Revenue Department shall be construed as references to the Commissioner of Internal Revenue and the Service respectively.

24. Modification of existing enactments

An enactment in force immediately before the commencement of this Act shall apply with the necessary modifications to give full effect to the provisions of this Act.

