

No. 5 of 2006.

Council of Elders (Head Tax) (Enabling) Act 2006.

Certified on: 27th June 2006.

AUTONOMOUS REGION OF BOUGAINVILLE

No. 5 of 2006.

Council of Elders (Head Tax) (Enabling) Act 2006.

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AUTONOMOUS REGION OF BOUGAINVILLE.

No. 5 of 2006

ACT

entitled

Council of Elders (Head Tax) (Enabling) Act 2006.

Being an Act made pursuant to the provisions of Section 154(1)(d)(iv)(c) (*outline of finances of Autonomous Bougainville Government and finance administration*) of the *Bougainville Constitution*, to enable the imposition of head taxes by Councils of Elders,

MADE by the House of Representatives to come into operation in accordance with a notice in the Bougainville Gazette by the Minister.

1. INTERPRETATION.

In this Act, unless the contrary intention appears -

"corporation" means a body or association corporate or unincorporated;

"Council of Elders" means a Council of Elders established under the *Council of Elders Act 1996* of the Bougainville Transitional Assembly as continued in operation by the *Organic Law on Peace-Building in Bougainville -Autonomous Bougainville Government and Bougainville Referendum*;

"Council of Elders area" means an area declared as such under the *Council of Elders Act 1996*;

"fiscal year" means the period from 1 January to 31 December in each year;

"Head Tax Appeal Tribunal" means a Head Tax Appeal Tribunal appointed under Section 14;

"Head Tax Relief Committee" means a Head Tax Relief Committee established under Section 11;

"resident" means -

(a) in the case of an individual - a person who has been resident in the Council of Elders area for more than 186 days during a fiscal year; or

(b) in the case of a corporation - a corporation that has carried on business in the Council of Elders area for more than 186 days during the fiscal year;

"Rule" means a Rule made in accordance with Part X of the *Council of Elders Act 1996*.

2. IMPOSITION OF HEAD TAX.

A Council of Elders may, by a Rule, impose a head tax in accordance with this Act.

3. FORM OF COUNCIL OF ELDERS RULE.

(1) A Council of Elders Rule enacted under Section 2 shall provide for the imposition of head tax as provided for by this Act.

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(2) A Council of Elders Rule enacted under Section 2 shall not impose that head tax in respect of periods prior to the date of the enactment of the Rule.

4. RATE OF TAX.

The rate of head tax that may be imposed shall be -

- (a) K20.00 per fiscal year for each individual resident aged 18 years or more; and
- (b) K100.00 per fiscal year for each resident corporation.

5. WHEN TAX IS PAYABLE.

Head tax imposed under this Act shall be payable on -

- (a) 1 March in each year; or
- (b) the day on which the Rule imposing a head tax is enacted by the Council of Elders; or
- (c) such later date as the Council of Elders Rule provides.

6. COMMUNITY SERVICE IN LIEU OF TAX.

(1) A Council of Elders Rule enacted under Section 2 may provide that individual persons liable to pay the head tax may, at the option of the Council of Elders, in lieu of payment of the head tax, provide community work to or for the Council of Elders, for a period not exceeding five working days for each year for which they are liable to pay the head tax, and such work shall be done -

- (a) on projects to be determined by the Council of Elders; and
- (b) at a time and place as directed by the Council of Elders, but not earlier than the date on which the head tax became due for payment, unless by agreement of the person liable to pay the head tax.

(2) A Council of Elders Rule enacted under Section 2 may provide that corporations liable to pay the head tax may, at the option of the Council of Elders, in lieu of payment of the head tax, provide community work to or for the Council of Elders, equivalent to the community work that would be performed by an individual person, for a period not exceeding 10 working days for each year for which they are liable to pay the head tax, and such work shall be done -

- (a) on projects to be determined by the Council of Elders; and
- (b) at a time agreed between the corporation and the Council of Elders, but not earlier than the date on which the head tax became due for payment, unless by agreement of the corporation liable to pay the head tax.

7. EXEMPTIONS.

(1) The following bodies are exempt from head tax:-

- (a) schools, school boards of management and associated bodies that operate subject to the provisions of the *Education Act* (Chapter 163) of the National Parliament;
- (b) hospitals, aid posts and health boards that operate subject to the provisions of the *National Health Administration Act 1997* of the National Parliament;
- (c) youth groups, women's groups and other bodies that operate as voluntary community organizations, are not operated for a profit and provide community services;

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- (d) religious bodies;
 - (e) such bodies as are approved charities under the provisions of the *Income Tax Act 1959* of the National Parliament;
 - (f) other bodies that are exempt from taxes by or under an Act of the National Parliament or a Bougainville law.
- (2) The following persons are exempt from head tax :-
- (a) persons who are exempted from payment of taxes by or under an Act of the National Parliament or a Bougainville law;
 - (b) during the period of their imprisonment, persons serving a term of imprisonment.
- (3) A Council of Elders Rule enacted under Section 2 may provide for other categories of persons or corporations to be exempt from the head tax.
- (4) The Minister responsible for local-level government may, by notice in the Bougainville Gazette, declare additional categories of persons or corporations that are exempt from the head tax.

8. APPOINTMENT OF COLLECTOR OF HEAD TAXES, ETC.,

- (1) A Council of Elders may appoint a Collector of Head Taxes and such number of Assistant Collectors as are required for efficient collection of the head tax.
- (2) The duties of Assistant Collectors are as prescribed by the Collector of Head Taxes.
- (3) Where the Council of Elders has not appointed a Collector of Head Taxes, the Clerk of the Council of Elders shall be the Collector of Head Taxes.

9. DUTIES OF THE COLLECTOR OF HEAD TAXES.

The Collector of Head Taxes shall be responsible for -

- (a) keeping a register of persons and corporations liable to pay head tax; and
- (b) issuing notices to pay the head tax, either to the public generally, or to individual persons and corporations; and
- (c) initiating proceedings in a Village Court, which may be brought, in the name of the Clerk or of the Chairman of the Council of Elders, to recover head tax payable that is due, has not been paid and in respect of which no request for relief from payment has been lodged to the Head Tax Relief Committee; and
- (d) issuing receipts to persons and corporations who have paid head tax; and
- (e) keeping a record of the persons and corporations who have paid head tax; and
- (f) keeping a record of the total amount of head tax collected in a fiscal year; and
- (s) paying, no later than five days after collection, all head tax collected to the Council of Elders or into a bank account in the name of the Council of Elders and nominated by the Council of Elders.

10. NON-PAYMENT OF HEAD TAX.

A Council of Elders Rule enacted under Section 2 shall provide that -

- (a) a person liable to pay head tax who, without reasonable cause (proof of which is on him), fails to pay the head tax at or within the prescribed time is guilty of an offence, punishable by a fine not exceeding K 100. 00 or by the performance of specified work: and
- (b) in a prosecution of an offence referred to in Paragraph (a), the burden of proof that a person -
 - (i) has paid the head tax for which he is liable; or
 - (ii) is exempt from paying head tax,is on that person; and
- (c) prosecution of an offence referred to in Paragraph (a), shall be made in a Village Court and may be appealed in a District Court; and
- (d) a conviction of an offence referred to in Paragraph (a), does not relieve the offender of the liability to pay the head tax.

11 ESTABLISHMENT OF A HEAD TAX RELIEF COMMITTEE.

(1) A Council of Elders imposing a head tax shall establish a Head Tax Relief Committee.

(2) The Head Tax Relief Committee established under Subsection (1) shall consist of not more than five members, who shall be appointed by the Council of Elders.

(3) A person involved in collection of the head tax shall not be eligible for appointment to the Head Tax Relief Committee.

12. APPLICATIONS FOR RELIEF FROM PAYMENT OF HEAD TAX.

(1) A person who is liable to pay head tax may apply to the Head Tax Relief Committee, no later than 90 days from the date that the head tax liability became payable, to request relief from payment of the head tax, on the grounds of-

- (a) hardship; or
- (b) insufficient means; or
- (c) that he is not a resident of the Council of Elders area.

(2) The Head Tax Relief Committee may, at its option, extend the 90-day time limit for applications for relief where sufficient grounds for that extension are provided to it.

(3) The Council of Elders may not take any action to recover head tax payable by an applicant for relief, until the Head Tax Relief Committee has considered the application and has made its decision.

13. PROCEEDINGS OF THE HEAD TAX RELIEF COMMITTEE.

(1) The Head Tax Relief Committee shall, no later than 60 days after receiving a request for relief from payment of head tax, consider the application for relief.

(2) The Head Tax Relief Committee shall not be bound by the rules of evidence or by legal procedure, but shall hear such evidence as is relevant and available.

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(3) The Head Tax Relief Committee may, in considering a request for relief from payment of head tax -

- (a) refuse the request; or
- (b) grant partial relief; or
- (c) grant full relief; or
- (d) order that the person requesting relief shall perform community service as provided in Section 6, in lieu of payment of the head tax; or
- (e) order a combination of partial relief from payment of the head tax and partial community service, calculated at the rate of one day's community service for each K10.00 reduction in the head tax payable.

14. HEAD TAX APPEAL TRIBUNAL.

(1) There shall be appointed a Head Tax Appeal Tribunal.

(2) The Head Tax Appeal Tribunal shall be a District Court Magistrate appointed for this purpose by notice in the Bougainville Gazette, by the Minister responsible for justice matters.

15. APPEALS TO THE HEAD TAX APPEAL TRIBUNAL.

A person who has applied for relief from payment of the head tax and is aggrieved by a decision of the Head Tax Relief Committee, may, no later than 60 days after he has received the decision of the Committee, request review of that decision by the Head Tax Appeal Tribunal.

16. PROCEEDINGS BY THE HEAD TAX APPEAL TRIBUNAL.

(1) The Head Tax Appeal Tribunal shall not be bound by the rules of evidence or by legal procedure, but shall hear such evidence as is relevant and available.

(2) The Head Tax Appeal Tribunal may, in considering an appeal against a decision of the Head Tax Relief Committee, confirm, annul or vary the decision of the Head Tax Relief Committee.

(3) Decisions by the Head Tax Appeal Tribunal are final and may not be further appealed.

17. ADDITIONAL DUTIES OF THE COLLECTOR OF HEAD TAX ETC.

A Council of Elders may prescribe -

- (a) the powers of the Collector of Head Tax and such additional duties as, in its view, are required for efficient collection of the head tax; and
- (b) procedures for -
 - (i) the collecting, recovering and furnishing of proof of payment of head tax; and
 - (ii) the compilation of records of taxable and non-taxable persons; and
 - (iii) the taking of taxation censuses at any time or times, the duties of persons in respect of such censuses, the information that persons shall be required to supply in respect of such censuses and all measures necessary for the effective taking of such censuses; and
- (c) provisions for the imposition of penalties of fines not exceeding K50.00 or imprisonment for terms not exceeding two weeks, or both, for offences against the powers, duties or procedures prescribed.

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I hereby certify that the foregoing is a fair copy of the *Council of Elders (Head Tax) (Enabling) Act 2006* which has been made by the House of Representatives.

Acting Clerk of the House of Representatives.

I, NICHOLAS PENIAI, Speaker of the House of Representatives, hereby certify that the *Council of Elders (Head Tax)(Enabling)Act 2006* was made by the House of Representatives in 13th June 2006 by an absolute majority of votes in accordance with the *Bougainville Constitution*.

Speaker of the House of Representatives.

