

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 109.

Imports (General Levy).

GENERAL ANNOTATION.

ADMINISTRATION.

The administration of this Chapter was vested in the Minister for Finance at the date of preparation for inclusion.

The present administration may be ascertained by reference to the most recent Determination of Titles and Responsibilities of Ministers made under Section 148(1) of the Constitution.

References in, or in relation to this Chapter to—

“the Departmental Head”—should be read as references to the Secretary for Finance.

“the Department”—should be read as reference to the Department of Finance.

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¹Subsidiary legislation has not been up-dated.



INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 109.

Imports (General Levy) Act.

ARRANGEMENT OF SECTIONS.

PART I.—PRELIMINARY.

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 - “officer”
 - “owner”
 - “this Act”.
2. Application of Customs Act.
3. Effect on Bougainville Copper Agreement.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 109.

Imports (General Levy) Act.

Being an Act to impose a general import levy on imported goods.

PART I.—PRELIMINARY.

1. Interpretation.

In this Act—

“the Comptroller of Customs” means the person appointed to the office of Comptroller of Customs established under Section 3 of the *Customs Act*;

“the levy” means the General Import Levy imposed by Section 6;

“officer” includes all persons employed in the service of the Customs, and any person appointed under Section 4A to be an officer for the purposes of this Act;

“owner”, in relation to any goods, includes a person (other than an officer of Customs) being or holding himself out to be—

(a) the owner, importer, consignee or agent of; or

(b) a person possessed of, beneficially interested in, or having control of or power of disposition over,

the goods;

“this Act” includes the regulations.

(Amended by No. 47 of 1983, s. 1.)

2. Application of Customs Act.

The levy is not a duty of Customs within the meaning of the *Customs Act*, and that Act does not apply to or in relation to the levy.

3. Effect on Bougainville Copper Agreement.

This Act does not affect the operation of the *Mining (Bougainville Copper Agreement) Act*.

PART II.—ADMINISTRATION.

4. Administration of Act.

The Comptroller of Customs is responsible for the administration of this Act.

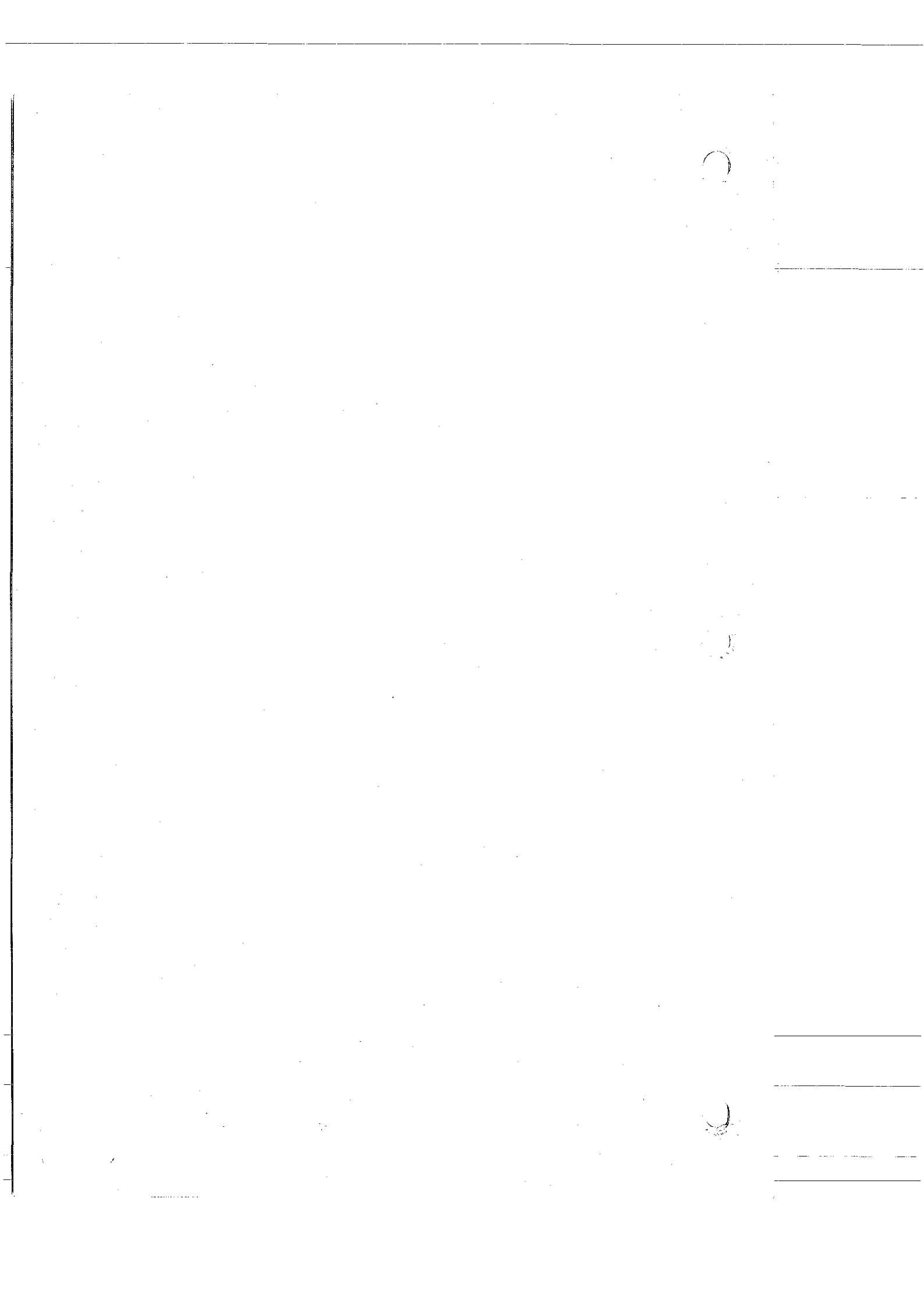
4A. Appointment of officers.

The Minister may, by notice in the National Gazette, appoint an officer of the Public Service or any other person to be an officer for the purposes of this Act.

(Added by No. 47 of 1983, s. 2.)

5. Delegation.

The Comptroller of Customs may, by instrument under his hand, delegate to an officer all or any of his powers and functions under this Act (except this power of delegation).



PART III.—IMPOSITION OF THE LEVY.

6. Imposition of General Import Levy.

(1) Subject to Sections 7 and 8, a General Import Levy—

(a) is imposed on all goods imported into the country for consumption in the country; and

(b) shall be charged, collected and paid on all goods entered for home consumption.

(2) The levy is at the rate of 4% of the value of the goods, calculated in accordance with Part IV.

(Amended by No. 42 of 1981, No. 33 of 1984.)

7. Goods not subject to levy.

The levy does not apply to—

- (a) the goods specified in the Schedule; and
- (b) prescribed goods.

8. Exemptions.

The Head of State, acting on advice, may, by notice in the National Gazette, exempt any goods or class of goods from the levy.

9. Payment of levy.

The levy is payable by the owner of the goods at the time when the goods are entered for home consumption with the Customs, and is recoverable by the State as a debt.

9A. Requirement of security, etc.

(1) The Comptroller of Customs may—

- (a) require and take security for compliance with this Act; and
- (b) pending the giving of the required security in relation to any goods subject to the levy, refuse to deliver the goods or to pass any entry relating to the goods.

(2) Where security is required for a specific purpose it may, by authority of the Comptroller of Customs be accepted to cover all transactions for such time and in such amount as he approves.

(Added by No. 23 of 1982, s. 1.)

9B. Securities.

(1) Where a security is required under this Part, it may, in the discretion of the Comptroller of Customs, be given—

- (a) by bond; or
- (b) by guarantee; or
- (c) by cash deposit,

or partly by one such method and partly by another.

(2) A bond or guarantee under Subsection (1) shall be in the prescribed form, and without sealing binds its subscribers—

- (a) as if sealed; and
- (b) unless otherwise provided in it—jointly and severally for the full amount.

(3) If at any time the Comptroller of Customs is not satisfied with the sufficiency of a security, he may require fresh security to be given.

(4) A security under this Part may be cancelled by the Comptroller of Customs after the expiry of a period of three years after—

- (a) the date of the security; or
- (b) the time specified for the performance of the conditions of the security.

(Added by No. 23 of 1982, s. 1.)

9C. Effect of securities.

(1) Where a security under this Part is put in suit by the Comptroller of Customs, the production of the security entitles the Comptroller, without further proof, to judgement for their stated liability against the persons appearing to have executed it, unless they prove—

- (a) compliance with the conditions of the security; or
- (b) that the security was not executed by them; or
- (c) release; or
- (d) satisfaction.

(2) Where it appears to the Court that a non-compliance with a security under this Part has occurred—

- (a) the security shall not be deemed to have been discharged or invalidated; and
- (b) the subscribers shall not be deemed to have been released or discharged from liability,

by reason of—

- (c) any extension of time or other concession; or
- (d) the Comptroller of Customs having consented to, or acquiesced in, a previous non-compliance with the conditions; or
- (e) the Comptroller having failed to take proceedings against the subscribers on a previous non-compliance with the condition.

(Added by No. 23 of 1982, s. 1.)

PART IV.—CALCULATION OF VALUE.

10. Interpretation of Part IV.

In this Part—

“current domestic value”, in relation to any imported goods sold to a purchaser in Papua New Guinea, means the amount for which the seller is selling, or would be prepared to sell, for cash at the date of importation, the same quantity of identical goods to any and every purchaser in the country of export for consumption in that country, less the amount of any duty, tax or charge that is not payable, or that would be remitted in that country in relation to the goods if they were exported;

“special deduction”, in relation to any goods, means any discount or other deduction allowed to the importer in Papua New Guinea that would not ordinarily be allowed to any and every purchaser at the date of importation of an equal quantity of identically similar goods.

11. Calculation of value.

(1) Subject to Subsection (2), for the purposes of this Act the value of imported goods is—

- (a) the amount paid or to be paid by the importer, plus any special deduction in respect of the goods; or

(b) if the Comptroller of Customs thinks it proper, the current domestic value of the goods,

plus all charges paid or payable or ordinarily payable for placing the goods free on board at the port of export.

(2) In the case of goods consigned for sale in Papua New Guinea, the value of the goods is the amount that would be the value of the goods within the meaning of Subsection (1) if the goods had been sold to an importer in Papua New Guinea at the date of exportation of the goods.

12. Value in absence of acceptable evidence.

In the absence of acceptable evidence of the value of any goods or of the amount of any component of the value, for the purposes of this Act the value or the amount of the component, as the case may be, is as determined by the Comptroller of Customs.

PART V.—MISCELLANEOUS.

13. Refunds in certain cases.

Where—

- (a) any goods have been damaged or pillaged during the voyage; or
- (b) any goods have, while subject to the control of the Customs, been damaged, pillaged, lost or destroyed; or
- (c) the levy or part of the levy on any goods has been paid through manifest error of fact or patent misconception of the law; or
- (d) the Collector is satisfied that, owing to a fault or defect in any goods, the importer of the goods has received a reduction in, or a refund in whole or in part of, the price paid or to be paid for the goods,

a refund, rebate or remission, as the case requires, of the whole or a part of the levy may be made on application in the prescribed manner and in the prescribed time.

14. Deferment in certain cases.

Notwithstanding this Act, where the Head of State, acting on advice, is satisfied that special circumstances exist the Head of State, acting on advice, may, by notice in the National Gazette, defer the payment of the levy payable under this Act for such time and on such conditions as are specified in the notice.

15. Levy on waste, etc.

The Comptroller of Customs may remit any duty on goods that have been wasted or lost in sorting, bottling, packing or repacking in a warehouse licensed for the purposes of the *Customs Act*.

16. Short-paid levy.

When the amount of the levy on any goods has been short-levied or erroneously refunded, the person—

- (a) who should have paid the amount short-levied; or
- (b) to whom the refund has been erroneously made,

shall pay the amount short-levied, or repay the amount erroneously refunded, as the case may be, on demand by the Comptroller of Customs made within 12 months after the date of the short-levy or refund.

17. Application of Customs decisions.

A decision or determination made under or for the purposes of the *Customs Act* as to the classification of any goods for the purposes of that Act or the *Customs Tariff Act* applies equally (to the extent to which it is applicable) to the classification of those goods for the purposes of this Act.

18. Failure to pay levy.

A person who is liable to pay an amount of the levy and who fails to pay the amount at the time when the payment is due under this Act is guilty of an offence.

Penalty: A fine not exceeding K600.00.

(Amended by No. 23 of 1982, s. 2.)

19. Regulations.

The Head of State, acting on advice, may make regulations, not inconsistent with this Act, prescribing all matters that by this Act are required or permitted to be prescribed, or that are necessary or convenient to be prescribed for carrying out or giving effect to this Act, and in particular for prescribing penalties of fines not exceeding K300.00 for offences against the regulations.

(Amended by No. 23 of 1982, s. 3.)

SCHEDULE.

Sec. 7.

GOODS NOT SUBJECT TO LEVY.

1. Goods imported by or on behalf of, or being the property of—

- (a) the State; or
- (b) Australia; or
- (c) the Australian Broadcasting Commission; or
- (d) * * *
- (e) the Overseas Telecommunications Commission (Australia); or
- (f) the University of Papua New Guinea; or
- (g) the Papua New Guinea University of Technology; or
- (h) the South Pacific Commission; or
- (i) the Papua New Guinea Development Bank; or
- (j) * * *
- (k) the Papua New Guinea Bankers' College; or
- (l) the Housing Commission; or
- (m) the National Broadcasting Commission,

and not intended for sale, exchange or trade.

(Amended by No. 47 of 1983, s. 4.)

2. Goods imported by or on behalf of, or being the property of, a Christian mission that the Comptroller of Customs is satisfied are—

- (a) church equipment, furniture and articles for use in connexion with the celebration of Divine worship; or
- (b) hospital furniture, equipment and medical supplies for use in hospitals; or
- (c) school equipment, furniture and educational requisites for use in instruction in a school or for free distribution or award to scholars.

3. Gifts for use by a Christian mission, as approved by the Comptroller of Customs.

4. Goods imported, with the written consent of the Head of State, acting on advice, by or on behalf of, or being the property of—

- (a) The Scour Association of Papua New Guinea; or
- (b) the Girl Guides Association of Papua New Guinea; or
- (c) the Papua New Guinea Division of the Australian Red Cross Society; or
- (d) the St. John Ambulance Association; or
- (e) the Young Women's Christian Association of Papua New Guinea; or
- (f) The British and Foreign Bible Society; or
- (g) the Papua and New Guinea Young Men's Christian Association Youth Clubs.

5. Goods that the Comptroller of Customs is satisfied are imported in connexion with a project sponsored by the United Nations or by an agency of the United Nations.

6. Goods that are imported by a Parents' and Citizens' Association or an Association formed for similar purposes, on condition that the goods—
 - (a) are used only for the purposes of education, in curricula determined under the *Education Act*, for a period of not less than three years from the date of import; and
 - (b) are not sold or otherwise disposed of within that period.
7. Goods that are imported by a Pre-School Parents' and Citizens' Association or an association formed for similar purposes, on condition that the goods—
 - (a) are used only for the purposes of the advancement of education, in curricula laid down by the Government, for a period of not less than three years from the date of import; and
 - (b) are not sold or otherwise disposed of within that period.
8. Drugs, being substances used as medicine or in the composition of medicines for internal or external use that are imported for such use; medical dressings, including cotton wool, gauze and lint; and spirits and spirituous preparations for medical or scientific purposes.
9. Invalids' chairs; artificial limbs, crutches and similar aids to the physically disabled; special apparatus and accessories that are used to increase the sense of hearing; surgical belts, trusses and the like; and artificial teeth and dentures imported by legally qualified dentists or registered dental mechanics.
10. Scientific, surgical, medical, dental, veterinary, chemical, mathematical and ophthalmic instruments, apparatus and appliances, including sensitized papers for use with them and X-ray films; spectacle frames and lenses for spectacles imported by an optician or medical practitioner or by an optical dispenser registered in a State of Australia or possessing qualifications acceptable to the Director of Health; and spectacles made to the prescription of an optician or medical practitioner.
11. Films in respect of which the Comptroller of Customs is satisfied as to their educational character, and records and tapes for gramophones, phonograms and other talking-machines for use in conjunction with such films.
12. School books and textbooks, pamphlets, charts, maps and plans and used and unused postage stamps. (*Replaced by No. 23 of 1982, s. 4.*)
13. Goods sent to Papua New Guinea for repair and return to the place of origin.
14. Goods that have been sent out of Papua New Guinea for repair, except in respect of the value of any new parts.
15. Goods that—
 - (a) having been properly entered for home consumption in Papua New Guinea, were exported; and
 - (b) have been brought back into the country by the exporter; and
 - (c) have remained the property of the exporter from the time of exportation until the time of re-importation.
16. Empty packages and containers that have been used in the export of goods from Papua New Guinea, on identification by the Customs.
17. Goods including domestic pets that the Comptroller of Customs is satisfied are the bona fide personal and household effects of passengers to and residents of Papua New Guinea.
18. Personal effects of a resident of Papua New Guinea who has died abroad, that are not intended for sale.
19. Bullion, coin and paper money, being legal tender, for circulation in Papua New Guinea.
20. Official medals and decorations awarded or to be awarded to individuals, including miniatures, medallions and certificates.
21. Cups, medals, shields and similar trophies, not being articles of general utility, when won abroad or proved to the satisfaction of the Comptroller of Customs to be specially for bestowal as honorary distinctions or prizes, where—
 - (a) the purposes for which they are to be presented are indelibly inscribed on them; and
 - (b) they are not imported or stocked for the purposes of trade.
22. Pictorial illustrations and casts and models for teaching purposes imported by and for the use of schools or public institutions; collections of antiques for public institutions; natural history specimens; curios, shells, models and wall diagrams for illustrations of natural history.

23. Materials and equipment imported by a scientific expedition approved by the Head of State, acting on advice, for use in the collection, preservation and treatment of specimens of flora and fauna.

24. Research materials and equipment and camping equipment the property of a recognized university or scientific institution declared to be imported solely for scientific research, where the research activities have been approved by the Head of State, acting on advice.

25. Portraits of the reigning Queen and Head of State, not being for sale.

26. Goods being—

(a) unframed photographic prints and transparencies, whether mounted or not; and

(b) developed negatives, developed strip films and developed cinematographic films,

of a non-commercial nature either taken by the importer or peculiarly associated with the importer, and not imported for sale or other commercial use.

27. Vehicles, ships or boats, as approved by the Comptroller of Customs, to be used for medical purposes.

28. UNICEF Christmas cards.

29. Goods imported by airfreight or packet, letter or parcel post, being goods which but for their inclusion in this Schedule would be liable for levy in an amount not exceeding K10.00 and not being goods which are, in the opinion of the Collector of Customs, part of a consignment of goods the aggregate value of which exceeds K10.00.

(Replaced by No. 47 of 1983, s. 4.)

30. Goods imported otherwise than by airfreight or packet, letter or parcel post and being, but for the operation of this exemption, liable for levy on a value not exceeding K80.00 and not being goods that are, in the opinion of the Comptroller of Customs, part of a consignment of goods the aggregate value of which exceeds K80.00.

31. Ships' stores and aircraft's stores consumed aboard oversea vessels or aircraft during visits to Papua New Guinea, but not including stores purchased in Papua New Guinea.

32. Goods imported for official use by Trade Commissioners representing British countries or by Consuls, where those Trade Commissioners or Consuls—

(a) are citizens of the countries that they represent; and

(b) are not engaged in any other trade, business or profession.

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER No. 109.

Imports (General Levy) Exemption Regulation.

ARRANGEMENT OF SECTIONS.

1. Prescribed goods.

SCHEDULE.

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 109.

Imports (General Levy) Exemption Regulation.

MADE under the *Imports (General Levy) Act.*

1. Prescribed goods.

For the purpose of Section 7 of the Act, the goods specified in the Schedule are prescribed goods.

SCHEDULE

Goods of a capital nature which are imported for a temporary period not exceeding six months and approved by the Comptroller of Customs in consultation with the Secretary for Finance subject to lodgement of securities in an amount equal to the general import levy ordinarily payable.

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 109.

Imports (General Levy).

SUBSIDIARY LEGISLATION.

Act, Section 8—Exemptions.

1. Aircraft and airlines equipment, namely—

(a) any aircraft imported into the country as a replacement for an aircraft operating in the country, where the Controller of Civil Aviation certifies that the replacement aircraft—

(i) is not an addition to the approved number of aircraft that the importer is already authorized to operate in the country; and

(ii) is substantially of the same pay-load rating as the aircraft being replaced; and

(b) aircraft spares that the Comptroller of Customs is satisfied—

(i) are for use in the maintenance of aircraft in transit through the country; or

(ii) are imported as replacements for spares exported or to be exported from the country in an unused condition; and

(c) ground equipment and consumable stores imported for use in connexion with the establishment, maintenance or operation of an international air service, as defined by the Controller of Civil Aviation.

2. Books, newspapers and magazines, on the terms and conditions laid down in Annexe A to the United Nations Agreement on the Importation of Educational, Scientific and Cultural Materials.

3. Cameras and other equipment brought into the country by film and television units for use in the production of films, provided that they or it are or is exported from the country within six months after their entry.

4. Fish in airtight containers (other than crustacean).

5. Flour.

6. Goods imported by or on behalf of, or by the property of—

(i) the National Parks Board; or

(ii) the Papua New Guinea Co-operative Education Trust.

7. Items of a capital nature, as approved by the Comptroller of Customs, imported for use solely in connexion with an approved survey of the natural resources of Papua New Guinea if they are re-exported from Papua New Guinea within a period of twelve months or such further period as the Comptroller of Customs, in writing, allows.

8. Meat in airtight containers.

9. Pedagogic material imported by a public or private educational or vocational training institution the aims of which are non-profit-making and which have been approved by the National Executive Council for the purpose of receiving pedagogic material on temporary admission.

10. Poultry in airtight containers.

11. Rice.

12. Sugar.

13. Vessels engaged in carrying out fishing surveys in accordance with a Statement of Understanding with the Government, if the vessels permanently depart Papua New Guinea within a period of 12 months from the date of arrival or such further period as the Comptroller of Customs, in writing, allows.

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 109.

Imports (General Levy).

APPENDIX 1.

SOURCE OF THE IMPORTS (GENERAL LEVY) ACT.

Previous Legislation.

Imports (General Levy) Act

as amended by—

Imports (General Levy) (Amendment) Act 1982 (No. 23 of 1982)

Imports (General Levy) (Amendment) Act 1983 (No. 47 of 1983).

APPENDIX 2.

SOURCE OF IMPORTS (GENERAL LEVY) EXEMPTION REGULATION.

Part A.—Previous Legislation.

Imports (General Levy) (Exemption) Regulation (Statutory Instrument No. 44 of 1976)

Imports (General Levy) (Amendment) Act 1984 (No. 33 of 1984).

Part B.—Cross References.

Section, etc., in Revised Edition.	Previous Reference ¹ .
1 Schedule	Schedule

¹Unless otherwise indicated, references are to the regulation set out in Part A.

