

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 110B.

Industrial Development (Wage Subsidy).

GENERAL ANNOTATION.

ADMINISTRATION.

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

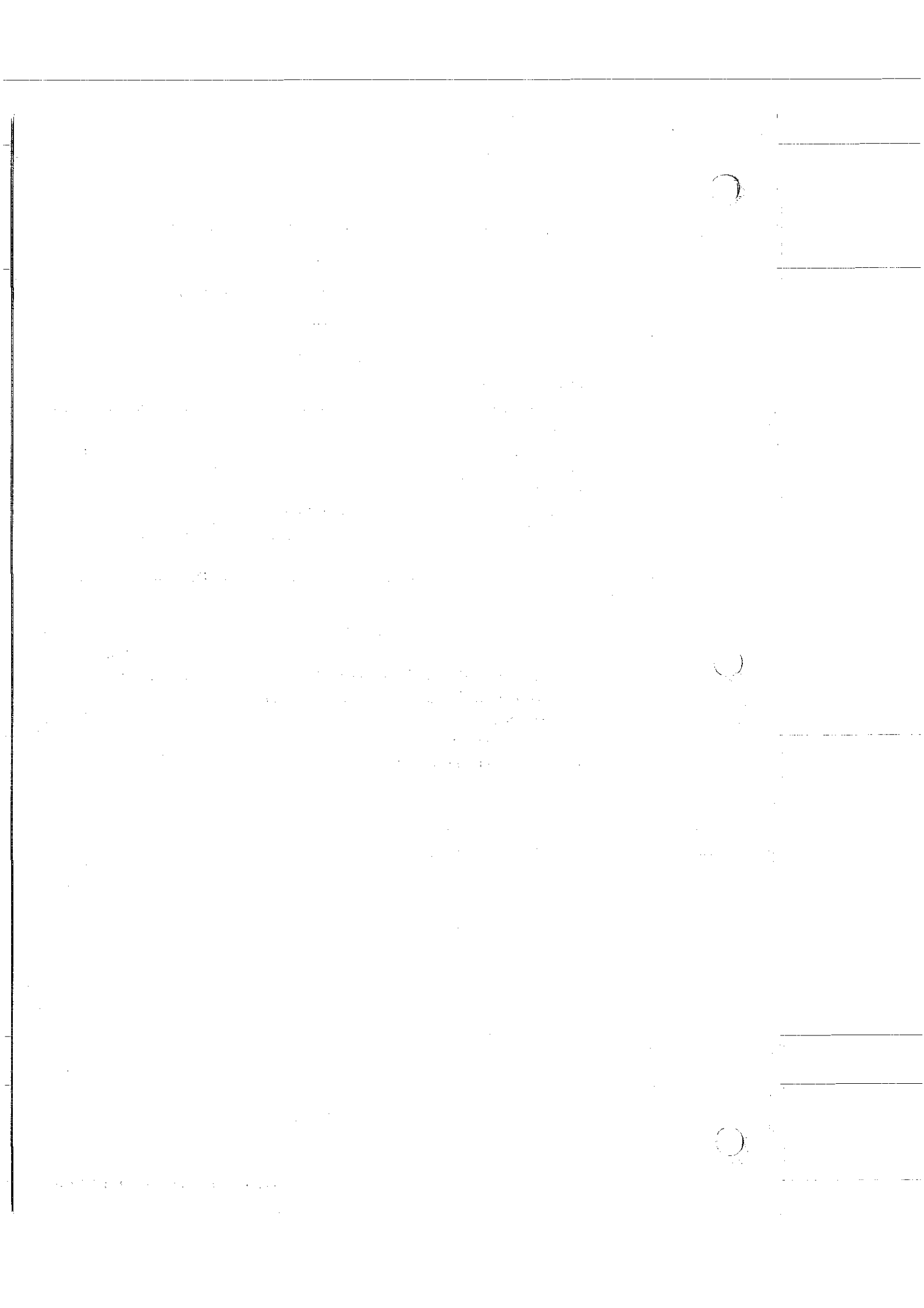
References in and in relation to the Chapter to—

“the Departmental Head” - should be read as references to the Secretary for Finance;

“the Department” - should be read as references to the Department of Finance.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 110B.

Industrial Development (Wage Subsidy) Act.

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Industrial Development (Wage Subsidy)

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INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO 110B

Industrial Development (Wage Subsidy) Act.

Being and Act providing for incentives to new businesses and for other purposes, to be incorporated and read as one with the *Income Tax Act 1959*.

PART I.—PRELIMINARY.

1. Interpretation.

In this Act, unless the contrary intention appears—

“Certificate” means a New Product Manufacturing Certificate;

“import quota without import parity pricing” occurs where—

(a) a company manufactures a product for which an import quota exists and for which there does not exist any written agreement between the company and the State tying the domestic price to the price of actual or potential imports; or

(b) in the case of price controlled products—the maximum domestic price as set by the Price Controller is not tied to the price of actual or potential imports;

“Interim Certificate” means an Interim Certificate issued under Section 7(2);

“minimum wage” means the minimum wage set by the Minimum Wages Board under the *Industrial Relations Act* and—

(a) in urban areas shall be the minimum wage payable to general labourers over 19 years of age in that location; and

(b) in rural areas shall be the minimum rural wage;

“new business” means a business in relation to which a Certificate or an Interim Certificate is in force, or, for the purposes of Section 18, has been in force;

“new manufactured product” means a product declared to be a new manufactured product under Section 4;

“New Product Manufacturing Certificate” means a Certificate in force under Section 6.

“permanently employed” means continual employment within the particular new business for a period not less than one calendar month within the period of three months immediately preceding the claim for subsidy;

“Price Controller” means the Price Controller appointed under the *Prices Regulation Act*;

“Review Tribunal” means a person appointed by the Minister under Section 12;

“subsidy period” in relation to a new business means the period of time referred to in Section 14 that is applicable to the new business;

"tariff protection" occurs where the tariff on the finished product exceeds by 15% or more the weighted average of the tariff on the component parts;

"this Act" includes the regulations.

2. Administration.

The Chief Collector has the general administration of this Act and may exercise such powers and functions as are conferred on him or as are prescribed, including—

- (a) the determination and publication of the list of new products provided for under Section 4; and
- (b) the issue of Certificates under Section 6.

3. Delegation.

The Chief Collector may, by writing under his hand, delegate all or any of his powers and functions under this Act (except this power of delegation).

4. Declaration of new manufactured products.

(1) The Chief Collector may, by notice in the National Gazette, declare a product to be a new manufactured product, for the purposes of issuing a Certificate under Section 6.

(2) A declaration under Subsection (1) may be made by reference to a list of categorized products or industries.

5. Application for Certificate.

(1) A company which intends to produce a new manufactured product which is not subject to—

- (a) quota protection without import parity pricing; or
- (b) tariff protection,

may apply to the Chief Collector for the issue of a New Product Manufacturing Certificate.

(2) An application for Certificate shall—

- (a) be in the prescribed form; and
- (b) contain the prescribed particulars and such other information as the Chief Collector in any particular case requires.

6. Grant of Certificate.

(1) Subject to this section and Section 7, the Chief Collector shall consider an application under Section 5 within 21 days of receiving the application, and issue to the application—

- (a) a Certificate in the prescribed form; or
- (b) a formal notice refusing the application.

(2) The Chief Collector shall notify in the National Gazette the granting of a Certificate.

(3) A Certificate may be made subject to such conditions as the Chief Collector thinks proper.

(4) A Certificate shall not be issued—

- (a) otherwise than to a corporation incorporated under the *Companies Act*; and
- (b) unless the Chief Collector is satisfied that the applicant manufactures or intends to manufacture a new manufactured product.

(5) A certificate is effective with effect from the first day of the month preceding the lodging by the new business of the first claim for subsidy.

7. Objection against disallowance of application.

(1) A person who is in receipt of a formal notice disallowing his application may, within 30 days, lodge with the Chief Collector an objection to the disallowance of his application together with a fee of K20.00.

(2) On receipt of an objection under Subsection (1), where the objection is accompanied by a fee of K20.00, the Chief Collector shall—

(a) forward the objection to the Review Tribunal; and

(b) issue to the applicant an Interim Certificate which shall remain in force until such time as the objection has been finalized.

(3) The Review Tribunal shall deal with an objection forwarded to it under Subsection (2) in the manner provided in Section 13.

8. New business to manufacture only new manufactured product.

During its incentive period a new business shall not carry on any industry other than the manufacture of any new manufactured product in respect of which it holds a Certificate, except with the prior consent of the Chief Collector, who may impose such terms and conditions as he thinks proper.

9. Records, etc.

A new business shall keep such books and records and shall, from time to time, furnish such information and accounts to such persons and authorities as are prescribed, or as the Chief Collector in any particular case directs.

10. Cancellation of Certificate.

(1) Where—

(a) application is made by or on behalf of a new business for the cancellation of its Certificate; or

(b) the conditions of the Certificate are not complied with; or

(c) the Certificate was obtained wholly or partly by virtue of a false or misleading statement; or

(d) a provision of this Act is contravened in relation to the new business; or

(e) the new business ceases to be a corporation,

the Chief Collector may, after giving the new business a reasonable opportunity to make any written representations that it may desire to make, cancel the Certificate.

(2) Where a Certificate is cancelled under Subsection (1)(c), the Chief Collector may direct that the cancellation shall have effect as though the Certificate has not been issued in the first instance.

11. Objections against cancellation of Certificate.

(1) A person aggrieved by an act or decision of the Chief Collector under Section 10 may, within 30 days, lodge with the Chief Collector a written objection against the cancellation, stating fully and in detail the grounds on which he relies together with a fee of K20.00 and request the Chief Collector—

(a) to refer the decision to the Review Tribunal; or

(b) to treat his objection as an appeal and to forward it to the National Court.

(2) An objection lodged under this section shall be referred by the Chief Collector to the Review Tribunal or the National Court in accordance with the request made under Subsection (1).

(3) On a reference to the Review Tribunal or an appeal to the National Court—

(a) the person who made the objection is limited to the grounds stated in his objection; and

(b) the burden of proving that the Certificate should not have been cancelled lies on that person.

PART II.—OBJECTIONS AND APPEALS.

12. Appointment of Review Tribunal.

(1) The Minister may, by notice in the National Gazette, appoint a suitably qualified person to be the Review Tribunal for the purposes of this Act.

(2) A person appointed under Subsection (1) shall be appointed for such period and on such terms and conditions as the Minister determines, subject to the provisions of the *Salaries and Conditions Monitoring Committee Act*.

13. Reference to the Review Tribunal.

(1) For the purposes of determining an objection lodged under Section 7 or 11, the Review Tribunal has, subject to this section, all the powers and functions of the Chief Collector in the granting of a Certificate and the decision of the Review Tribunal on an objection, shall for all purposes (except for the purpose of objection) be deemed to be the decision of the Chief Collector.

(2) On receipt of an objection under Section 7 or 11, the Review Tribunal shall, subject to this section, make such inquiry in relation to it as the Review Tribunal thinks necessary or desirable.

(3) A submission made or required to be made to the Review Tribunal shall be made—

(a) by statutory declaration; or

(b) orally on oath or affirmation.

(4) Section 37 of the *Interpretation Act* applies to and in relation to proceedings before the Review Tribunal as if the Tribunal were a person authorized by law to hear and determine a matter and a person making a submission to the Tribunal was the witness legally called.

(5) On a reference to the Review Tribunal, it shall give a written decision and may—

(a) in respect of an objection under Section 7—

(i) issue a Certificate effective from the date on which the Interim Certificate was issued; or

(ii) confirm the Chief Collector's formal notice of disallowance; or

(b) in respect of an objection under Section 11—

(i) set aside the Chief Collector's decision to cancel the certificate; or

(ii) confirm the cancellation under Section 10.

PART III.—SUBSIDY PAYMENT.

14. Subsidy period.

The subsidy offered to a new business extends from the date on which the Certificate is first issued or first becomes effective, whichever is the later date, and ends on the fifth anniversary of that date.

15. Calculation of subsidy.

(1) The new business is eligible to apply for a monthly subsidy payment calculated as—

$$a \times b \times c$$

where—

a = the number of citizens permanently employed by the new business; and

b = the minimum wage; and

c = the applicable percentage provided for in Subsection (3).

(2) The minimum wage applicable is that applicable to the location in which the employment is exercised.

(3) The percentage of the minimum wage payable as a monthly subsidy throughout the subsidy period shall be—

First year of subsidy period	40%
Second year of subsidy period	30%
Third year of subsidy period	20%
Fourth year of subsidy period	15%
Fifth year of subsidy period	10%.

16. Claim for Subsidy.

(1) A new business qualifying for the payment of a subsidy calculated in terms of Section 15 shall—

(a) prepare a statement containing—

(i) the name of each employee in respect of which the amount of the subsidy is being claimed; and

(ii) the location at which each employee was employed; and

(iii) the date on which each new permanent employee commenced; and

(b) not later than the seventh day of the month following the month in respect of which the subsidy is being claimed furnish to the Chief Collector the statement required under Paragraph (a) together with—

(i) a statement of the total number of employees; and

(ii) a statement of the total salary or wages paid in the preceding month; and

(iii) a statement of the total salary or wages tax deductions made from employees' salaries or wages in the preceding month; and

(iv) payment of the total amount of deductions made in the preceding month,

as required by Section 299G of the *Income Tax Act 1959*.

17. Payment of subsidy.

Where the Chief Collector receives from a new business a claim for subsidy in respect of the salary or wages paid in the preceding month, he shall assess the amount of the subsidy and pay the new business that amount out of the Consolidated Revenue Fund, which is appropriated accordingly.

18. Refund of subsidy payments.

(1) Notwithstanding this Act, where a Certificate is cancelled the new business shall refund to the Chief Collector—

(a) where the Certificate was cancelled under Section 10(1)(a), (b), (d) or (e)—the total amount of the subsidy received after the date of the application, non-compliance, contravention or cessation, as the case may be, giving rise to the cancellation; or

(b) where the Certificate was cancelled under Section 10(1)(c)—the total amount of the subsidy received.

(2) Where an Interim Certificate issued under Section 7 expires as the result of a decision of the Review Tribunal under Section 13(5)(a)(ii), the objecting new business shall refund to the Chief Collector the total amount of the subsidy received.

(3) A refund payable under this section is a debt due to the State and may be recovered in a court by proceedings commenced in the name of the Chief Collector.

19. Penalty for late payment.

(1) Where an amount becomes due under Section 18 the due date for repayment of the subsidy is deemed to be the fourteenth day following the day on which the Certificate or Interim Certificate was cancelled and interest is due and payable at the rate of 20% per annum on that amount.

(2) The Chief Collector may, in any case, for reasons that he thinks sufficient, remit the interest or any part of the interest.

PART IV.—MISCELLANEOUS.**20. Verification of statements.**

All applications, statements, representations or information made or furnished to the Chief Collector under or for the purposes of this Act shall, if the Chief Collector so requires, be verified by statutory declaration in such form as the Chief Collector requires or as is prescribed.

21. Secrecy.

A person who acts or has acted under this Act and who, otherwise than in the performance of his duty under this Act, makes a record of, or divulges to any person, other than a person to whom he is authorized by law to divulge it, any information acquired by him in the course of his duty under this Act, is guilty of an offence.

Penalty: A fine not exceeding K200.00.

22. Circumstances in which Certificate lapses.

Where, in respect of a new manufactured product—

(a) more than one Certificate is issued; and

(b) a claim for subsidy under this act is made in respect of one or more of the Certificates,

a Certificate, in respect of which no claim is made within a period of two years from the date of the first claim under Paragraph (b), shall lapse, unless the Chief Collector is satisfied that reasonable progress towards production has been made.

23. 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 K40.00 for offences against the regulations.

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 110B.

Industrial Development (Wage Subsidy) Regulation.

ARRANGEMENT OF SECTIONS.

1. Application for Certificate.
2. Particulars to be contained in application for Certificate.
3. Certificate and Interim Certificate.
4. Application for wage subsidy payment.
5. Formal notice refusing applications.
6. Notice of objection against refusal of application.

SCHEDULE 1.

FORM 1.—Application Form for New Product Manufacturing Certificate.

FORM 2.—New Product Manufacturing Certificate.

FORM 3.—New Product Manufacturing Interim Certificate.

FORM 4.—Refusal of Certificate.

FORM 5.—Application for Wage Subsidy.

FORM 6.—Notice of Objection Against Refusal of Application.

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 110B.

Industrial Development (Wage Subsidy) Regulations.

MADE under the *Industrial Development (Wage Subsidy) Act.*

1. Application for Certificate.

An application for a New Product Manufacturing Certificate shall be in Form 1.

2. Particulars to be contained in application for Certificate.

An application for a New Product Manufacturing Certificate shall contain the following particulars—

- (a) name, registered and postal address of applicant company; and
- (b) date and number of certificate of incorporation; and
- (c) name and address of applicant; and
- (d) name of company to be registered; and
- (e) new product industry in which applicant intends to participate; and
- (f) description of new product; and
- (g) particulars of capital structure, or proposed capital structure; and
- (h) particulars of assets on which capital will be expended as at the date of commencement of operations; and
- (i) location where the enterprise will be carried on; and
- (j) copy of recent feasibility study, and estimated date of commercial production and level of production and estimated date of commercial production and level of production and estimated quantity intended for export (if any); and
- (k) estimated quantity and value of production for first year; and
- (l) estimated number of persons to be employed and capacity in which they are to be employed; and
- (m) details of other relief and assistance proposed to be sought from the State in connexion with the carrying on of the business to which the application relates.

3. Certificate and Interim Certificate.

(1) A new Product Manufacturing Certificate shall be in Form 2.

(2) An Interim Certificate shall be in Form 3.

4. Application for wage subsidy payment.

An application for wage subsidy shall be in Form 5.

5. Formal notice refusing application.

A formal notice refusing an application for a New Product Manufacturing Certificate shall be in Form 4.

6. Notice of objection against refusal of application.

A notice of objection against refusal of application shall be in Form 6.

SCHEDULE 1.

PAPUA NEW GUINEA.

Industrial Development (Wage Subsidy) Act.

Reg., Sec. 1.

Form 1.

APPLICATION FORM FOR NEW PRODUCT MANUFACTURING CERTIFICATE.

The Chief Collector of Taxes,

I apply for a New Product Manufacturing Certificate and in support of my application provide the following particulars:—

1. (i) Full name of the applicant company.
- (ii) Registered address of the company.
- (iii) Postal address, if different from that given above.
- (iv) Date and No. of Certificate of Incorporation.

OR

- (i) Full name of applicant who proposes to register a company for the purposes of this application, if successful.
 - (ii) Usual address of the applicant.
 - (iii) Postal address of applicant if different from that given above.
 - (iv) Full name of the company the applicant proposes to register.
2. (i) The New Product Industry in which the applicant intends to participate.
 - (ii) Description of the new products to be produced.
 3. Give particulars of the capital structure of the company or the proposed capital structure.
 4. Give particulars of the assets on which the capital will be expended, as at the date of commencement of operations:—

(i)	(ii)
Particulars of assets.	Estimated expenditure
(Buildings, plant, equipment, etc.)	on assets in Column (i).

5. Specify the location where the enterprise will be carried on.
6. Enclose a copy of a recent feasibility study, and give the estimated date of commercial production at that location and the estimated level of production at that date; the estimated quantity of the product intended for export (if any) should also be stated.

NOTE: The feasibility study included shall not be more than six months old.

7. Give the estimated quantity and value of the production of the new product for one year after the commencement of production, and indicate how that estimate has been arrived at:—

(i)	(ii)	(iii)
Product.	Quantity.	Value.

8. The estimated number of persons to be employed in the business is as follows—

Years 1 - 5

Citizens.

Non-citizens.

Managerial supervisory functions

Skilled workers

Clerical and office duties

Unskilled labour

9. Give details of any other relief or assistance that the applicant proposes to seek from the State in connexion with the carrying on of the business to which this application relates.

I declare that the particulars given in this application are, to the best of my knowledge, true and that any estimates given in this application have been made in good faith and with all due care.

Industrial Development (Wage Subsidy)

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Dated _____, 19____ (Signature of Applicant)
(Designation).

PAPUA NEW GUINEA

Industrial Development (Wage Subsidy) Act.

Reg., Sec. 3(1).

Form 2.

NEW PRODUCT MANUFACTURING CERTIFICATE.

This is to certify that

of _____, having satisfied the Minister that the *Industrial Development (Wage Subsidy) Act* has been complied with, is acknowledged as the producer of a new product and as such is entitled to claim the wage subsidy in respect of those citizens permanently employed.

This Certificate is granted subject to the following conditions:—

- (i) The company continues to operate for the purpose of achieving those aims set out in the company's application for the Certificate.
- (ii) The company does not, except with the leave of the Chief Collector, vary its production otherwise than to produce another new product.
- (iii) This Certificate will lapse where the holder is unable to satisfy the Chief Collector that reasonable progress has been made towards the commencement of commercial production within two years of the first claim for a subsidy payment by a competitor being the holder of a Certificate issued in respect of the same new product.

Dated _____, 19____ Chief Collector of Taxes.

PAPUA NEW GUINEA.

Industrial Development (Wage Subsidy) Act.

Reg., Sec. 3(2).

Form 3.

NEW PRODUCT MANUFACTURING INTERIM CERTIFICATE.

This is to certify that

of _____ has lodged an unsuccessful application for a New Product Manufacturing Certificate with the Chief Collector and has formally objected against the refusal to grant such certificate. The holder is authorized to lodge claims for the wage subsidy until such time as the objection has been determined.

This Certificate is granted subject to the following conditions:—

- (i) That it shall cease to be valid on the determination of the objection by the company.
- (ii) That in cases where the refusal of the application is maintained, any moneys paid under this Certificate are refunded to the Chief Collector.
- (iii) That the company continue to operate for the purpose of achieving those aims set out in the company's application for a New Product Manufacturing Certificate.
- (iv) That the company does not, except with the leave of the Chief Collector, vary its production otherwise than to produce a new product.
- (v) That the company shall, within 21 days of receiving a request for further information, supply the information to the Chief Collector for the Review Tribunal ensuring that the objection might be determined.

Dated _____, 19____ Chief Collector of Taxes.

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Industrial Development (Wage Subsidy)

PAPUA NEW GUINEA.

Industrial Development (Wage Subsidy) Act.

Reg., Sec. 5.

Form 4.

REFUSAL OF CERTIFICATE.

Applicant.

Dear Sir,

Re: *Industrial Development (Wage Subsidy) Act*

I desire to inform you that your application for a New Product Manufacturing Certificate dated 19 , has been considered and has been refused.

Should you be dissatisfied with this decision you may lodge an objection to the disallowance and have the matter referred to the Review Tribunal.

It is necessary, however, that you make your objection in writing within 30 days after service of this notification.

Your request must be accompanied by a fee of K20.00 otherwise it cannot be referred to the Review Tribunal.

Yours faithfully,

(Chief Collector of Taxes.)

PAPUA NEW GUINEA.

Industrial Development (Wage Subsidy) Act.

Reg., Sec. 4.

Form 5.

APPLICATION FOR WAGE SUBSIDY.

Certificate No. :

Full name:

Registered address:

Principal location of the business:

Number of Citizens permanently employed.

Month of claim. Name of employer. Location at which employed. Date of commencement (to be provided in respect of new employees).

Declaration.

I, the person lodging this claim declare that the particulars shown in it and in the accompanying statement are true and correct in every particular.

Dated

19

(Signature)

(Position)

Industrial Development (Wage Subsidy)

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PAPUA NEW GUINEA.

Industrial Development (Wage Subsidy) Act.

Reg., Sec. 6.

Form 6.

NOTICE OF OBJECTION AGAINST REFUSAL OF APPLICATION.

I object against the refusal of my application for a New Product Manufacturing Certificate and claim that a Certificate should have been issued.

The grounds on which I rely are—

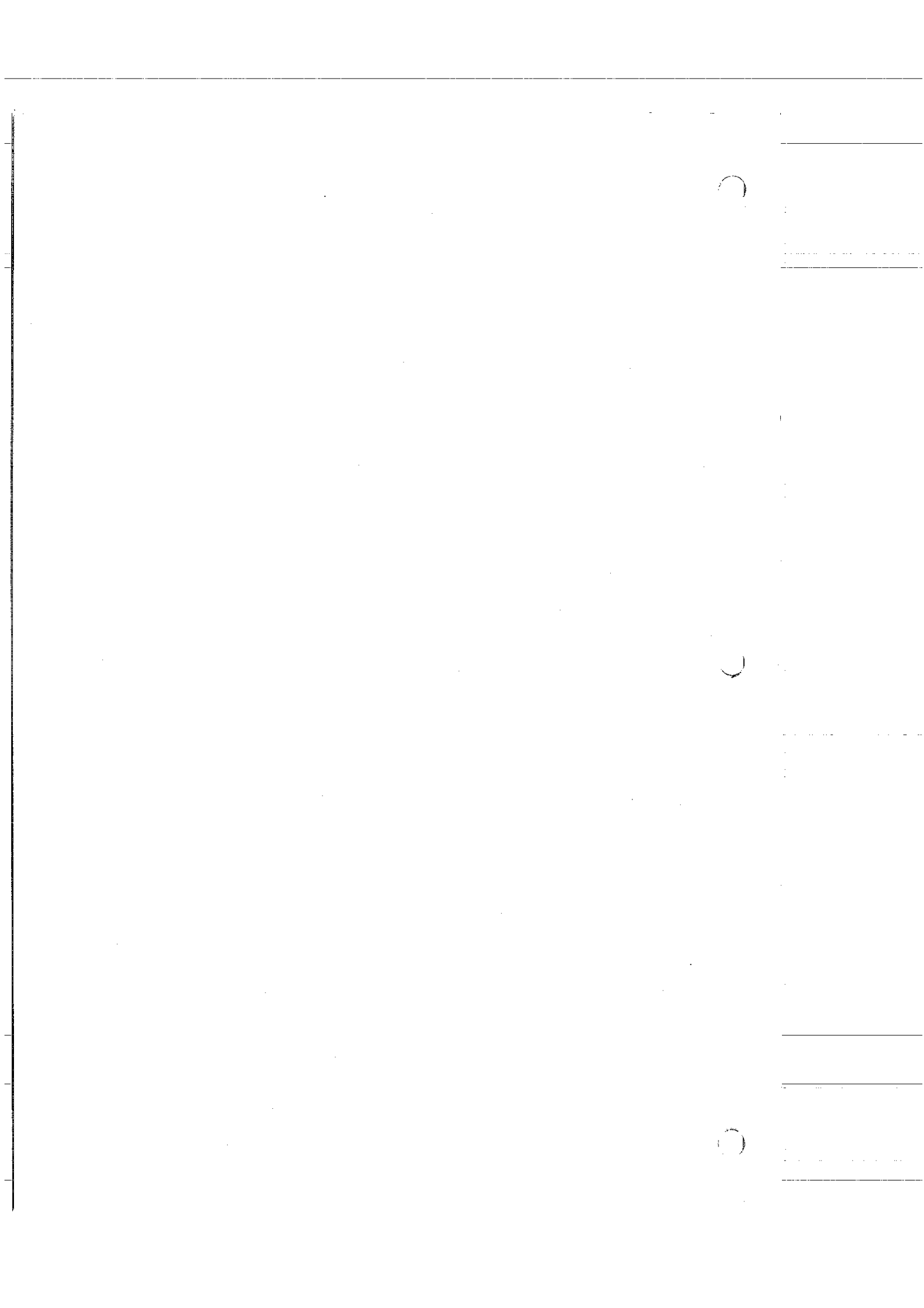
(Section 11 of the Act states that the objection should be in writing and stating fully the grounds on which the objector relies)

Dated

19

(Signature)

(Address)



INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 110B.

Industrial Development (Wage Subsidy).

APPENDIX 1.

SOURCE OF THE INDUSTRIAL DEVELOPMENT(WAGE SUBSIDY) ACT.

Part A.—Previous Legislation.

Industrial Development (Wage Subsidy) Act 1984 (No. 37 of 1984).

Part B. Cross References.

Section, etc., in Revised Edition.	Previous Reference ¹ .
1	1
2	2
3	3
4	4
5	5
6	6
7	7
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16	16
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18	18
19	19
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21	21
22	22
23	23

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

APPENDIX 2.

SOURCE OF THE INDUSTRIAL DEVELOPMENT (WAGE SUBSIDY)
REGULATION.

Part A.—Previous Legislation.

Industrial Development (Wage Subsidy) Regulation 1984 (Statutory Instrument No. 28
of 1984).

Part B.—Cross References.

Section, etc., in Revised Edition.	Previous Reference ¹
1	1
2	2
3	3
4	4
5	5
6	6
Schedule 1	Schedule.

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