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**THE LAWS  
OF THE  
GILBERT ISLANDS**

*containing the  
Ordinances and Subsidiary Legislation  
thereunder*

*enacted before  
THE 1st DAY OF JANUARY 1977*

together with certain Orders in Council and  
other Provisions relating to the Gilbert Islands

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REVISED EDITION 1977

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IN 3 VOLUMES  
**VOLUME II**

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year the whole or part of such expenditure or loss or bad debt is recovered or the whole or part of such liability is released or the retention in whole or in part of such reserve or provision has become unnecessary, then any sums so recovered or released or no longer required as a reserve or a provision shall be deemed to be gains or profits of the year in which it is recovered or released or becomes no longer required.

(2) Where any sum is received by any person after the cessation of his business which, if it had been received prior to such cessation would have been included in the gains or profits from that business, then, to the extent to which that sum has not already been included in those gains or profits, that sum shall be deemed to be income of such person for the year in which such sum is received.

Provisions  
relating to  
income from  
employment

6. For the purposes of section 4 (a) (ii)—

(a) gains or profits include—

- (i) any wages, salary, leave pay, sick pay, payment in lieu of leave, fees, commission, bonus or gratuity; and any amount so received in respect of employment or services rendered in a year earlier than the year in which it is received shall be deemed to be income of such earlier year and for removing doubts it is hereby declared that any gratuity or any like payment received under a contract of employment on or in respect of the completion of a period of employment shall be deemed to be income of the years in which that period of employment fell, *pro rata*;
  - (ii) any amount received as compensation for the termination of any contract of service, whether or not provision is made in such contract for payment of such compensation;
  - (iii) the value of any benefits, advantages or facilities granted in respect of any employment or service rendered to the extent that, in the opinion of the Minister they exceed in value similar benefits, advantages or facilities provided for a public officer of similar status and category to the taxpayer;
- (b) the gains or profits from any employment exercised or services rendered in the Gilbert Islands shall be deemed to be derived from the Islands whether or not they are received in the Islands.

7. For the purposes of section 4 (a) (iii) gains or profits include any premium or like consideration received for the use or possession of property.

Provisions relating to income from the use of property

8. For the purposes of section 4 (b) a dividend paid by a resident company shall be deemed to be income of the year in which it is payable and to be of such gross amount as, after deduction of the tax which such company is entitled to deduct under section 26, is equal to the net amount received.

Provisions relating to income from dividends

9. For the purposes of this Ordinance any income chargeable to tax and received in any year by any person in his capacity as trustee, executor or administrator—

Trust income, etc., deemed income of trustee, beneficiary, etc.

- (a) to the extent to which it accrues to the credit of a beneficiary of the trust or estate, as the case may be, shall be deemed to be income of such beneficiary chargeable to tax for such year;
- (b) to the extent to which it does not so accrue, shall be deemed to be income of such trustee, executor or administrator, as the case may be, and to be income of a person other than an individual.

10. (1) Notwithstanding the other provisions of this Ordinance the income specified in Schedule 2 shall be exempt from tax to the extent there specified.

Exemptions. Declaration of pioneer company Schedule 2

(2) Where having regard to the economic and other benefits likely to accrue to the Gilbert Islands the Minister is of the opinion that it would be in the public interest so to do he may by order declare any company which proposes to commence a business in the Islands to be a pioneer company whereupon the provisions of Schedule 3 shall apply either in full or to such modified extent and upon such conditions as the Minister may by such order specify:

Schedule 3

Provided that a company shall not be declared to be a pioneer company if before the date of its application to be declared such a company it is engaged in any business.

(3) Application for an order under subsection (2) may be made to the Minister in accordance with the requirements set out in Schedule 3 and shall be made by the company which proposes to commence the business or by any other person intending to be concerned in the formation of such a company.

(4) Every order made under subsection (2) shall specify a date of production being the date by which in the opinion of the Minister the pioneer company may reasonably be expected to manufac-

ture or produce in marketable quantities the goods or produce or to provide the services specified in the application upon the basis of which the order is made.

(5) The terms of any order which it is proposed should be made under subsection (2) shall be published in the Islands in such manner as the Minister may direct together with a notice that any person who objects to the making of the order may state the grounds of his objection in writing to the Minister on or before such day, not being less than 1 month after the date of such publication, as may be specified in the notice and the order shall not finally be made before that day and until every valid objection thereto has been considered by the Minister:

Provided that where the terms of any proposed order have been varied in consequence of an objection thereto it shall be lawful for the Minister finally to make the order as so amended without further notice.

(6) An order made under subsection (2) may be revoked or amended with or without the agreement of the pioneer company in any case where it appears to the Minister that any estimate made in the relevant application or any information supplied by the applicant in or in connection with his application was recklessly or wilfully erroneous and misleading.

(7) Upon the revocation of an order made under subsection (2), notice thereof shall be published in the Islands in such manner as the Minister may direct and the revocation shall have effect for all the purposes of this Ordinance from the commencement of the year in which the order is revoked.

(8) The Minister may by order amend Schedule 3.

### PART III

#### ASCERTAINMENT OF TOTAL INCOME

Deductions  
allowed

11. (1) For the purpose of ascertaining the total income of any person for any year there shall be deducted all outgoings and expenses, the deduction of which is not prohibited by section 12 and which were wholly and exclusively incurred by such person during that year in the production of the income, including—

(a) the amount of interest paid upon borrowed money where the Minister is satisfied that the said money is employed in the production of income chargeable to tax:

Provided that this paragraph shall not apply to interest paid upon money borrowed for the purpose of acquiring a source of income outside the Gilbert Islands;

- (b) rent paid by any tenant of land or buildings occupied by him for the purpose of acquiring the income;
- (c) any sum expended upon the repair of premises, plant, machinery, implements or utensils employed in acquiring the income;
- (d) bad debts incurred in any business which are proved to the satisfaction of the Minister to have become bad during the year;
- (e) any sum contributed by an employer to an approved pension fund:

Provided that where such contribution is not an ordinary annual contribution the Minister may in his discretion direct that the sum shall be spread and deducted over a number of years;

- (f) such expenditure of a capital nature incurred upon scientific or other research for the purposes of a business as the Minister may consider to be just and reasonable;
- (g) any amount paid by way of alimony or allowance under a decree of divorce, a judicial order of separation or maintenance or a deed of separation or maintenance:

Provided that where the person claiming a deduction under this paragraph is entitled to any income which is not charged to tax under this Ordinance, such deduction shall be that proportion of the alimony or allowance which his total income, ascertained before any deduction under this paragraph, bears to his world income.

(2) For the purpose of ascertaining the amount of any income chargeable to tax under section 4 (a) there shall be deducted any amounts authorised by Schedule 4 and that Schedule may be amended by order made by the Minister. Schedule 4

(3) For the purpose of ascertaining the total income of a person for any year there shall be deducted the amount of any loss incurred in that year in a business carried on by that person and, where the amount of the loss is such that it cannot be wholly set off against his income from other sources for that year, the remainder shall be carried forward and deducted in ascertaining his total income for subsequent years in succession.

12. For the purpose of ascertaining the total income of any person no deduction shall be allowed for— Deductions not allowed

- (a) expenditure not wholly and exclusively incurred by him in the production of the income;
- (b) capital expenditure or for any loss, diminution or exhaustion of capital other than as authorised by section 11 (1) (f) and section 11 (2);
- (c) any sum recoverable under an insurance or contract of indemnity;
- (d) any income tax or tax of a similar nature apart from any deductions authorised by rules made under section 31 (2).

Transactions  
designed to  
avoid liability

**13.** (1) Where the Minister has reasonable grounds to believe that the main purpose or one of the main purposes for which a transaction was effected was the avoidance or reduction of liability to tax he may, if he deems it to be just and reasonable, direct that such adjustments shall be made as he considers appropriate so as to counteract the avoidance or reduction of liability to tax which would otherwise be effected by the transaction.

(2) Where a resident person carries on business with a non-resident person with whom he is closely connected and the course of such business is so arranged that it produces to the resident person either no profits or less than the profits which might have been expected if there had been no such connection, then the profits of the resident person from such business shall be such amount as the Minister considers might have been expected to accrue if the course of such business had been conducted by independent persons dealing at arm's length.

Accounting  
periods not  
coinciding  
with calendar  
year

**14.** (1) Where a person usually makes up the accounts of his business for a period of 12 months ending on some day other than the 31st day of December then, for the purpose of ascertaining his total income for any year, the income of such accounting period ending on such other day shall be taken to be income—

- (a) where the accounting period ends after the 30th day of June in any year, of the year in which such accounting period ends;
- (b) where the accounting period ends before the 1st day of July in any year, of the year preceding that in which such accounting period ends.

(2) Where a person makes up the accounts of his business for a period greater or less than 12 months the profits from that business for any year shall be computed on such basis as the Minister in his discretion shall think fit.

**15.** (1) Where an employer has established a scheme for the payment of pensions to his retired employees (or to dependants of deceased employees) the Minister may, subject to such conditions as he may impose, declare such scheme to be an approved pension fund.

Retirement  
benefits

(2) Where an individual has entered into a contract which the Minister is satisfied has as its principal object the provision for such individual (or for such individual and his wife jointly) of a life annuity in old age or upon retirement on the grounds of ill health or of a lump sum by way of endowment assurance, he may, subject to such conditions as he may require to be included in such contract, declare it to be an approved annuity contract.

#### PART IV

##### PERSONAL ALLOWANCES AND RATES OF TAX

**16.** An individual who for any year—

General

- (a) makes a claim in that behalf on the specified form containing such particulars and supported by such proof as the Minister may require, and
- (b) has furnished a return of income in respect of such year, shall, in respect of such year, be entitled to such personal allowances and of such amounts as are specified in this Part:

Provided that where an individual is entitled to personal allowances in respect of a period of assessment which is less than 12 months, the amount of those allowances shall be in the proportion which the period of assessment bears to 12 months.

**17.** A resident individual shall be entitled to a personal allowance of \$600, referred to in this Ordinance as the basic personal allowance:

Basic  
personal  
allowance

Provided that the basic personal allowance shall be \$1100 for a widower or widow who is entitled to a child allowance under section 19.

**18.** A resident individual who is married and whose wife is living with or is wholly maintained by him and is not assessed under section 33 as if she were unmarried shall be entitled to a personal allowance of \$600, referred to in this Ordinance as the wife allowance.

Wife  
allowance



tion) Order 1948 shall continue to apply to income of such years prior to 1972 as they would have applied to if they had not been repealed or revoked.

(2) Notwithstanding the foregoing provisions of this section—

- (a) section 10 and Schedule 3 shall apply to applications for pioneer relief made on or after 1st January 1973 and section 24B and Schedule 3 of the repealed Ordinance shall continue to apply to such applications made before that date;
- (b) where an annuity contract has been approved under section 3 (1) (c) (ii) of the repealed Ordinance or a fund or scheme has been approved under section 3 (1) (c) (iii) of that Ordinance such contract, fund or scheme shall be deemed for the purposes of this Ordinance to have been approved under section 15 of this Ordinance;
- (c) all arrangements declared under section 36 of the repealed Ordinance to have been made with a view to affording relief from double taxation shall be deemed to have been the subject of an order under section 30 of this Ordinance and shall continue to have effect accordingly.

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#### SCHEDULE 1

(Section 3)

#### RATES OF BASIC TAX

- 1. Emoluments paid monthly or at longer intervals—  
Exceeding \$58.50 per month ..... 3 cents per dollar per month
- 2. Emoluments paid at less than monthly intervals—  
Exceeding \$13.50 per week ..... 3 cents per dollar per week
- 3. Other income—  
Exceeding \$702 per year ..... 3 cents per dollar per year

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#### SCHEDULE 2

(Section 10(1))

#### EXEMPTIONS

- 1. The official emoluments of the Governor
- 2. Travelling, subsistence and entertainment allowances paid to officers in the public service and similar allowances paid to other persons so long as the Minister is satisfied that they are reasonable in amount

3. Education allowances paid to officers in the public service in respect of the education of their children

In this paragraph "children" means sons and daughters, including step-sons, step-daughters, adopted sons and adopted daughters, not having passed their 19th birthdays and being unmarried and wholly dependent upon officers in the public service

4. The following sums paid to designated officers as defined in the Overseas Service (Gilbert and Ellice Islands) Agreement, 1961—

- (a) the inducement allowance referred to in clause 3 (a) of that Agreement;
- (b) that part of a gratuity as defined in that Agreement referred to in clause 2 (d) of that Agreement; and
- (c) the special allowance referred to in clause 3 of the Overseas Service (Gilbert and Ellice Islands) Agreement, 1967

5. Sums paid in respect of any employment which are certified by the Minister to be similar to those described in paragraphs 3 and 4 as payable to public officers and designated officers respectively

6. Any pecuniary benefit or gratuity payable under the Schedule to the Gilbert and Ellice Islands Colony (Entitled Officers) Order 1971

*★* ( 7. The income of any religious, charitable, benevolent or educational institution approved by the Minister

8. Pensions granted in respect of wounds or disabilities suffered by members of Her Majesty's Forces while on active service in such Forces

9. Any amounts received by way of compensation for death or injuries, or by way of retiring gratuity

10. The income of an approved pension fund

11. The income of the South Pacific Commission and the income derived from funds of the Commission by persons employed thereby

12. The profits derived from a business of air transport carried on in the Gilbert Islands by a non-resident person who is declared exempt by the Minister

Cap. 14 13. The income of any co-operative society registered under the Co-operative Societies Ordinance

14. The income of any local authority established under the Local Government Ordinance or any Ordinance for the time being in force amending or replacing it

15. The official salary of and the income derived from sources outside the Gilbert Islands by the representative in the Islands of the Government of another country

16. The official emoluments of—

- (a) any member of Her Majesty's Forces of a member country of the Commonwealth; and
- (b) any person in the public service of the Government of such member country where such person is resident in the Gilbert Islands solely for the purposes of performing the duties of his office, where such emoluments are payable from the public funds of such member country and are subject to income tax in such member country

17. The emoluments payable out of overseas sources in respect of duties performed in the Gilbert Islands in connection with any technical assistance agreement to which the Government is a party to any non-resident person or to any person who is resident solely for the purpose of performing such duties, in any case where such agreement provides for the exemption of such emoluments

18. The income arising from a scholarship awarded to a person for the purpose of full-time instruction at a university, college, school or other place of instruction

19. The profits of the Gilbert Islands Development Authority

20. A gratuity received under a written contract of employment upon expiry, termination, renewal or extension of such contract, to an employee who is not during such employment a member of a pension fund (other than a pension fund to which he is a voluntary contributor and in respect of which no contributions are payable by his employer and out of which a pension will be paid to such employee in respect of such employment):

Provided that such a gratuity paid to an employee other than a public officer shall be exempt from tax only to the extent that in the opinion of the Minister the gratuity does not exceed in proportion to such employee's salary any such gratuity payable to public officers of a like category to such employee:

And provided further that such a gratuity shall be exempt from tax only to the extent that it is or is deemed by virtue of section 6 (a) (i) to be income of the year 1975 or a subsequent year.

### SCHEDULE 3

(Section 10 (2))

#### PIONEER RELIEF

1. In this Schedule unless the context otherwise requires—

Interpretation

“date of production” means the date of production specified in the relevant development order;

“development order” means an order made under section 10;

“tax concession period” means the period starting from the date of the development order and ending with the year in which the fifth anniversary of the date of production falls.

2. Every application made under the provisions of section 10 (2) shall contain the following particulars—

Particulars to be given in every application

- (a) the nature of the business which it is proposed that the company shall commence;
- (b) a detailed estimate of the benefits to the economy to be expected from such business;
- (c) the estimated date of production;
- (d) the estimated amount and purpose of the capital to be employed in the business and the sources from which that capital will be obtained;
- (e) the conditions under which workers will be employed, their numbers and provisions for their housing;
- (f) evidence that the business will be provided with effective and competent management; and