

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 235.

Restaurants (Licensing).

GENERAL ANNOTATION.

ADMINISTRATION.

As at 13 February 1976 (the date of gazettal of the most comprehensive allocation of responsibilities to Ministers and Departments at about the effective date), the administration of this Chapter was vested in the Prime Minister and the Minister for Health.

Accordingly, as at that date, except where a different intention is clearly indicated, by note or in the text, references in and in relation to this Chapter to—

“the Minister”—should be read as references to the Prime Minister *or* the Minister for Health;

“the Departmental Head”—should be read as references to the Secretary to the Prime Minister¹ *or* the Secretary for Health;²

“the Department”—should be read as references to the Department of the Prime Minister³ *or* the Department of Health.⁴

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¹ Previously the Secretary, Department of the Prime Minister and Development Administration.

² Previously the Director of Public Health.

³ Previously the Department of the Prime Minister and Development Administration.

⁴ Previously the Department of Public Health.

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 235.

Restaurants (Licensing) Act.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 235.

Restaurants (Licensing) Act.

Being an Act relating to the licensing and sanitation of restaurants.

PART I.—PRELIMINARY.

1. Interpretation—

In this Act, unless the contrary intention appears—

“the Licensing Officer” means—

- (a) the Provincial Commissioner of the province in which are situated the premises in respect of which an application is made; or
- (b) a District Officer authorized under Section 5 to perform the powers and duties of the Licensing Officer;

“the Local Medical Authority”, in relation to a province or a part of a province, means a medical officer appointed under Section 3 for the province or the part of the province, as the case may be;

“prepared food”—

- (a) includes an article that—
 - (i) has been cooked or otherwise prepared as; or
 - (ii) is in course of cooking or other preparation for, food or drink by man; and
- (b) does not include drugs, patent medicines, water, milk, ice-cream, cool drinks, aerated waters, confectionery or alcoholic liquors;

“restaurant” means a building, part of a building, structure, vehicle or place in or from which prepared food—

- (a) is or is intended to be sold; or
- (b) is kept, offered or exposed for sale, for immediate consumption.

2. Application.

- (1) This Act applies to all towns.
- (2) The Minister may, by notice in the *National Gazette*, declare any place to be a place to which this Act applies.

3. Local Medical Authorities.

The Minister may, by notice in the *National Gazette*, appoint a medical officer to be the Local Medical Authority for a province or part of a province specified in the notice.

4. Powers of Health Inspectors, etc.

For the purposes of this Act, Health Inspectors and Assistant Health Inspectors have—

- (a) such of the powers and functions of a Local Medical Authority under this Act; and

(b) such other powers and functions,
as are prescribed in relation to them respectively.

5. Authorization to act as Licensing Officer.

A Provincial Commissioner may, in respect of the province administered by him, authorize in writing a District Officer to exercise and perform the powers and duties of the Licensing Officer under this Act.

PART II.—LICENSING.

6. Unlicensed restaurants.

A person other than a licensee who—

- (a) keeps a restaurant; or
- (b) keeps, offers or exposes for sale or sells prepared food in a restaurant,

is guilty of an offence.

Penalty: A fine not exceeding K100.00 or imprisonment for a term not exceeding six months, or both.

7. Licences.

Subject to Section 9, the Licensing Officer may grant a licence in the prescribed form for a restaurant.

8. Application for licence.

An application for a licence shall be made in writing in the prescribed form to the Licensing Officer.

9. Recommendations by Local Medical Authority.

A licence shall not be issued to a person unless a written recommendation signed by the Local Medical Authority has been endorsed on the application.

10. Review of application for licence.

(1) Notwithstanding anything in this Act where—

- (a) an application for a licence is refused by the Licensing Officer; or
- (b) the Local Medical Authority refuses to make a recommendation under Section 9 in relation to an application for a licence,

the applicant may make written application to the Minister to review the decision—

- (c) of the Licensing Officer to refuse the licence; or
- (d) of the Local Medical Authority to refuse to make the recommendation.

(2) On the receipt of an application under Subsection (1), the Minister may, after considering all the circumstances, refuse or grant the licence.

11. Duration of licence.

(1) Subject to Subsection (2) and to Section 15, a licence expires on 30 June after the date of issue.

(2) Subject to Section 15, where a licence is issued for a temporary purpose the licence is valid for the period specified in the licence.

12. Licensed premises.

(1) In an application for a licence, the premises to be used as a restaurant shall be specified.

(2) A licensee who uses as a restaurant premises other than the premises specified in the licence, is guilty of an offence.

Penalty: A fine not exceeding K100.00 or imprisonment for a term not exceeding six months, or both.

13. Licence to be displayed.

A licensee who fails to display the licence in a conspicuous position in the restaurant in respect of which the licence has been issued, throughout the time when the licence is in force, is guilty of an offence.

Penalty: A fine not exceeding K100.00 or imprisonment for a term not exceeding six months, or both.

14. Fees.

The fee for a licence is as prescribed.

15. Cancellation of licence.

If a licensee—

- (a) is convicted of an offence against this Act; or
- (b) gives false information or suppresses information in his application for a licence; or
- (c) obtains a licence by fraud or deceit,

the Licensing Officer may immediately revoke the licence.

16. Hotels, taverns and clubs.

(1) Notwithstanding this Act, the holder of a publican's licence, tavern licence or club licence under the *Liquor (Licensing) Act*—

- (a) shall be deemed to hold a licence under this Act for the premises in respect of which the publican's licence, tavern licence or club licence is in force; and
- (b) is exempt from the payment of a licence fee under this Act.

(2) Where a person referred to in Subsection (1) is convicted of an offence against this Act, in addition to any penalty for an offence against this Act the offence shall be deemed to be an offence against the *Liquor (Licensing) Act* for the purposes of Sections 82 and 86 of that Act.

PART III.—SANITATION OF RESTAURANTS.

17. Cleansing of premises used as restaurant.

A licensee must—

- (a) before 11a.m. on each day cleanse, or cause to be cleansed, every room or part of any premises used as a restaurant; and
- (b) when required by the Local Medical Authority, cleanse, or cause to be cleansed, with disinfectants every room or part of any premises used as a restaurant; and

- (c) when required by the Local Medical Authority, cause every room or every part of any premises used as a restaurant to be thoroughly scraped and whitewashed, or at least once in every year cause every room or part of any premises used as a restaurant to be painted or oiled,

to the satisfaction of the Local Medical Authority.

Penalty: A fine not exceeding K100.00 or imprisonment for a term not exceeding six months, or both.

18. Sleeping in restaurant.

A person who uses as a sleeping place, or permits any person to use as a sleeping place, any part of any premises that is used as a restaurant is guilty of an offence.

Penalty: A fine not exceeding K100.00 or imprisonment for a term not exceeding six months, or both.

19. Infected persons handling food, etc.

(1) A person suffering from an infectious skin disease or any other infectious disorder who prepares or handles, or is employed in preparing or handling—

- (a) an article of food for sale in a restaurant; or
- (b) a utensil or receptacle in which an article of food for sale in a restaurant is kept or served,

is guilty of an offence.

(2) A person who permits a person suffering from an infectious skin disease, or any other infectious disorder, to prepare or handle, or to be employed in preparing or handling—

- (a) an article of food for sale in a restaurant; or
- (b) a utensil or receptacle in which an article of food for sale in a restaurant is kept or served,

is guilty of an offence.

Penalty: A fine not exceeding K100.00 or imprisonment for a term not exceeding six months, or both.

20. Cleanliness of utensils.

A person who permits any premises used as a restaurant or any of the utensils and articles in a restaurant to be otherwise than in a clean and sanitary condition to the satisfaction of the Local Medical Authority, is guilty of an offence.

Penalty: A fine not exceeding K100.00 or imprisonment for a term not exceeding six months, or both.

21. Animals in restaurants.

A person who permits a dog or any poultry or other domestic animal to enter premises used as a restaurant is guilty of an offence.

Penalty: A fine not exceeding K100.00 or imprisonment for a term not exceeding six months, or both.

22. Chewing betel nut, etc., in restaurant.

A person who, while in a room or a portion of a room in a restaurant set aside for the preparation, packing or storage of food—

- (a) chews or has in his possession betel nuts; or
- (b) chews tobacco; or
- (c) smokes or expectorates,

is guilty of an offence.

Penalty: A fine not exceeding K100.00 or imprisonment for a term not exceeding six months, or both.

23. Refuse.

A person who permits waste food or refuse to be kept or to remain in or on premises used as a restaurant, otherwise than in a close-covered, water-tight, metal receptacle of a type approved by the Local Medical Authority, is guilty of an offence.

Penalty: A fine not exceeding K100.00 or imprisonment for a term not exceeding six months, or both.

24. Destruction of rats.

A licensee who fails—

- (a) to provide to the satisfaction of the Local Medical Authority, on the premises used by him as a restaurant, a sufficient number of rat-traps of a kind approved by the Local Medical Authority; or
- (b) to use the rat-traps to the satisfaction of the Local Medical Authority; or
- (c) to use, to the satisfaction of the Local Medical Authority, all reasonable means, including—
 - (i) the blocking of ways of access by rats; and
 - (ii) the destruction of the harbourage of rats; and
 - (iii) the protection of food from rats; and
 - (iv) the poisoning of rats and the killing of rats by other means,in order to keep premises used by him as a restaurant free from rats,

is guilty of an offence.

Penalty: A fine not exceeding K100.00 or imprisonment for a term not exceeding six months, or both.

25. Cleanliness of clothes and bodies.

A person engaged in the preparation or handling of food on premises used as a restaurant who fails to keep and maintain his clothes and body clean, to the satisfaction of the Local Medical Authority, is guilty of an offence.

Penalty: A fine not exceeding K100.00 or imprisonment for a term not exceeding six months, or both.

26. Selling damaged food.

A person who sells, or keeps or exposes for sale, damaged, deteriorated or decomposed food is guilty of an offence.

Penalty: A fine not exceeding K100.00 or imprisonment for a term not exceeding six months, or both.

27. Examination of persons handling food, etc.¹

The Departmental Head may, by written order, require—

- (a) a person who is employed in preparing or handling an article of food for sale; or
- (b) a person who is employed in preparing or handling a utensil or receptacle in which an article of food for sale is kept or served; or
- (c) an article of food for sale; or
- (d) a utensil or receptacle in which an article of food for sale is kept or served,

to submit, or be submitted, as the case may be, to—

- (e) a process specified in the order; or
- (f) a clinical or bacteriological examination,

for the purpose of ascertaining if he or it is likely to convey infection.

PART IV.—MISCELLANEOUS.

28. Entry on premises.

(1) For the purposes of this Act, the Local Medical Authority, or a person authorized in writing for the purpose by the Local Medical Authority, may at any reasonable time—

- (a) enter on any premises used as a restaurant; and
- (b) at his discretion—
 - (i) make an examination; or
 - (ii) remove goods for examination.

(2) A person who obstructs, hinders or impedes the Local Medical Authority or a person duly authorized by him in the exercise of any of the powers conferred by Subsection (1) is guilty of an offence.

Penalty: A fine not exceeding K100.00 or imprisonment for a term not exceeding six months, or both.

29. Failure to comply with lawful orders.

A person who disobeys a lawful order of the Local Medical Authority, or of the Departmental Head under Section 27, is guilty of an offence.

Penalty: A fine not exceeding K100.00 or imprisonment for a term not exceeding six months, or both.

¹ But see Constitution, Section 44.

30. Permitting offences.

A person who permits a contravention of any provision of this Act to be committed is guilty of an offence.

Penalty: A fine not exceeding K100.00 or imprisonment for a term not exceeding six months, or both.

31. 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 for prescribing penalties of fines not exceeding K100.00 or imprisonment for terms not exceeding six months, or both, for offences against the regulations.

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 235.

Restaurants (Licensing) Regulation.

ARRANGEMENT OF SECTIONS.

1. Prescribed forms.
2. Licence fees.
3. Powers of Health Inspectors.
4. Offences.

SCHEDULE.—

FORM 1.—Application for Licence to use Premises as Restaurant.

FORM 2.—Licence to use Premises as Restaurant.

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 235.

Restaurants (Licensing) Regulation.

MADE under the *Restaurants (Licensing) Act.*

1. Prescribed forms.

- (1) An application for a licence shall be in Form 1.
- (2) A licence shall be in Form 2.

2. Licence fees.

- (1) Subject to Subsections (2) and (3), the fee for a licence is K20.00.
- (2) Subject to Subsection (3), where a licence is issued during the first six months, of a calendar year, the fee is K10.00.
- (3) Where a licence is issued for a temporary purpose, the fee is—
 - (a) where the period for which the licence is valid does not exceed seven days—K1.00; and
 - (b) where the period for which the licence is valid exceeds seven days but does not exceed one month—K2.00; and
 - (c) where the period for which the licence is valid exceeds one month but does not exceed six months—K12.00.

3. Powers of Health Inspectors.

- (1) A Health Inspector has and may exercise the powers and functions of a Local Medical Authority under Sections 17, 20, 23, 24 and 25 of the Act.
- (2) For the purposes of the Act, a Health Inspector or an Assistant Health Inspector may—
 - (a) at any reasonable time—enter on any premises used as a restaurant; and
 - (b) at his discretion—make an examination of, or remove, goods for the purpose of examination.

4. Offences.

A person who—

- (a) disobeys a lawful order of a Health Inspector; or
- (b) obstructs, hinders or impedes a Health Inspector or an Assistant Health Inspector in the exercise of a power under Section 3,

is guilty of an offence.

Penalty: A fine not exceeding K100.00 or imprisonment for a term not exceeding six months.

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Restaurants (Licensing)

SCHEDULE.

PAPUA NEW GUINEA.

Restaurants (Licensing) Act.

Reg., Sec. 1(1).

Form 1.

APPLICATION FOR LICENCE TO USE PREMISES AS RESTAURANT.

Full name of applicant:

Address:

Occupation:

Nationality:

Detailed description and situation of premises in respect of which application is made:

I have not/have* been convicted of a breach of the *Restaurants (Licensing) Act*.

(If convicted of a breach insert details of convictions.)

Dated 19 .

(Signature of Applicant.)

To The Provincial Commissioner—

After an examination of the applicant and of the premises specified above, I recommend that this application be/be not* granted.

Local Medical Authority.

*Strike out whichever is inapplicable.

PAPUA NEW GUINEA.

Restaurants (Licensing) Act.

Reg., Sec. 1(2).

Form 2.

LICENCE TO USE PREMISES AS RESTAURANT.

(Insert full name of applicant) of (insert address of applicant) is licensed to use as a restaurant the premises owned by (insert full name of owner of premises) at (insert address of premises) comprising (insert full and detailed description of premises for which application is made) during the year ended 30 June 19 .

This licence is subject to the *Restaurants (Licensing) Act*.

Dated 19 .

Provincial Commissioner.

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 235.

Restaurants (Licensing).

SUBSIDIARY LEGISLATION.

1. Act, Section 2(2)—Declaration of places to which Act applies.

Jackson's Airport, Port Moresby, area adjoining the terminal described in *Territory of Papua and New Guinea Government Gazette No. 27 of 27 May 1965*, p. 423.

Kokopo Subdistrict, East New Britain Province (description as at 5 March 1955).

Land comprised in Portion 71, Milinch Granville Fourmil Moresby (description as at 4 May 1961).

Land comprised in Portion 736, Milinch Granville Fourmil Moresby (description as at 20 December 1965).

Malahang near Lae, Morobe Province—land from time to time occupied by Anderson's (Pacific) Trading Company Limited (description as at 28 March 1958).

Places outside town boundaries that are premises the subject of a publican's licence, tavern licence or club licence under the *Liquor (Licensing) Act*—Section 16 to apply.

Rabaul Subdistrict, East New Britain Province (description as at 5 March 1955).

2. Act, Section 3—Ex officio appointments of local medical authorities.

<i>Officer appointed.</i>	<i>Province or area for which appointed.</i>
Regional Medical Officer	Port Moresby
Regional Medical Officer	Rabaul
Regional Medical Officer	Lae
Regional Medical Officer	Goroka
Provincial Medical Officer	Western Province, Daru
Provincial Medical Officer	Gulf Province, Kerema
Provincial Medical Officer	Milne Bay Province, Samarai
Provincial Medical Officer	Northern Province, Popondetta
Provincial Medical Officer	Madang Province, Madang
Provincial Medical Officer	East Sepik Province, Wewak
Provincial Medical Officer	West Sepik Province, Vanimo
Provincial Medical Officer	Chimbu Province, Kundiawa
Provincial Medical Officer	Western Highlands Province, Mount Hagen
Provincial Medical Officer	Southern Highlands Province, Mendi
Provincial Medical Officer	West New Britain Province, Talasea
Provincial Medical Officer	New Ireland Province, Kavieng

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Officer appointed.

Province or area for which appointed.

Provincial Medical Officer
Provincial Medical Officer

Manus Province, Lorengau
Bougainville Province, Kieta
(offices as at 5 July 1967).

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 235.

Restaurants (Licensing).

APPENDIXES.

APPENDIX 1.

SOURCE OF THE RESTAURANTS (LICENSING) ACT.

Part A.—Previous Legislation.

Restaurants (Licensing) Act 1951 (No. 9 of 1952)
as amended by—

Restaurants (Licensing) Act 1956 (No. 17 of 1956)

Restaurants (Licensing) Act 1957 (No. 49 of 1957)

Restaurants (Licensing) Act 1959 (No. 32 of 1959)

Restaurants (Licensing) Act 1962 (No. 24 of 1962)

Restaurants (Licensing) Act 1964 (No. 44 of 1964)

Restaurants (Licensing) Act 1967 (No. 12 of 1967).

Part B.—Cross References.

Section, etc., in Revised Edition.	Previous Reference. ¹	Section, etc., in Revised Edition.	Previous Reference. ¹
1	3	17	15
2	4	18	17
3	4A	19	18
4	28A, 28B	20	19
5	5	21	20
6	6 (in part)	22	21
7	6 (in part)	23	22
8	7	24	23
9	8	25	24
10	9	26	25
11	12	27	26
12	10	28	27, 28
13	11	29	29(a)
14	13	30	29(a)(in part)
15	29A	31	30
16	14		

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

APPENDIX 2.

SOURCE OF THE RESTAURANTS (LICENSING) REGULATION.

Part A.—Previous Legislation.

Restaurants (Licensing) Regulations 1960 (Regulations No. 30 of 1960).

Part B.—Cross References.

Section, etc., in Revised Edition.	Previous Reference. ¹
1	Act 6, 7
2	3
3	4, 5
4	6
Schedule—	
Form 1	Act, Third Schedule
Form 2	Act, Second Schedule

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