

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 324.

Trading.

GENERAL ANNOTATION.

ADMINISTRATION.

The administration of this Chapter was vested in the Minister for Decentralization 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 this Chapter to—

“the Departmental Head”—should be read as references to the Secretary for Decentralization;

“the Department”—should be read as references to the Department of Decentralization.

TABLE OF CONTENTS.

| | <i>Page.</i> |
|-------------------------------------------|--------------|
| <i>Trading Act</i> | 3 |
| <i>Trading Regulation</i> | 9 |
| Subsidiary Legislation ¹ | — |
| Appendixes— | |
| 1. Source of Act. | |
| 2. Source of Regulation. | |

¹Subsidiary legislation has not been up-dated.

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 324.

Trading Act.

ARRANGEMENT OF SECTIONS.

PART I.—PRELIMINARY.

1. Interpretation—
 - "goods"
 - "licence"
 - "licensee"
 - "person to whom this Act applies"
 - "place of business"
 - "trader".
2. Application.

PART II.—LICENCES.

3. Application for licence.
4. Grant or refusal of licence.
5. Term of licence.
6. Fees.
7. Cancellation or suspension of licence.

PART III.—OFFENCES.

8. Unlicensed trading.
9. Discriminatory sales.
10. Price list to be displayed.
11. Weight of goods to be on all containers.
12. Refusal to sell.
13. Inspection of goods for sale.
14. Obstruction, etc.

PART IV.—MISCELLANEOUS.

15. Averments.
16. Regulations.

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 324.

Trading Act.

Being an Act relating to trading with certain persons¹.

PART I.—PRELIMINARY.

1. Interpretation.

In this Act, unless the contrary intention appears—

“goods” includes all chattels personal other than things in action and money, but does not include crops and things attached to or forming part of the land which are agreed to be severed before sale, or under contract of sale;

“licence” means a licence under Section 4;

“licensee” includes an agent or a servant of a licensee acting in the course of his employment;

“person to whom this Act applies” has the meaning given to it by Section 2;

“place of business” includes any building, vehicle or vessel in, from or on which a trader carries on business;

“trader” means a person carrying on the business of buying or selling goods.

2. Application.

The persons to whom this Act applies are the aboriginal natives of—

(a) the Island of New Guinea or of any island or archipelago adjacent to it; and

(b) any part of Papua New Guinea, Australia or Solomon Islands,

and aboriginal natives of—

(c) any island of the Pacific Ocean; or

(d) any of the East Indian Islands; or

(e) Malaysia,

who follow, adhere to, or adopt the customs, or live after the manner of, the aboriginal natives of Papua New Guinea.

PART II.—LICENCES.

3. Application for licence.

(1) Subject to Subsection (2), an application for a licence under this Act shall—

(a) be in the prescribed form; and

(b) be made to the District Officer nearest to the place of business of the applicant.

(2) When the place of business of the applicant is a vessel or vehicle, the application shall be made to the Departmental Head.

¹See, also, the *Licences Act (T.N.G.)* and the *Business Licences Act 1971* (the latter was not in force on the effective date).

4. Grant or refusal of licence.

(1) On application under Section 3, the Departmental Head, a District Officer or a person authorized in writing for the purpose by the Departmental Head or a District Officer may—

- (a) on payment of the prescribed fee (if any) grant to the applicant a licence in the prescribed form, on such terms and conditions as he thinks fit; or
- (b) refuse to grant a licence.

(2) Where the Departmental Head, a District Officer or an authorized person refuses to grant a licence, he shall notify the applicant, in writing, of the grounds on which the application has been refused.

(3) The applicant may, within one month of receipt of a notice under Subsection (2), appeal in writing to the Minister, against the refusal, stating the grounds on which he bases his appeal.

(4) Where a licence is granted on terms or conditions the applicant may, within one month of the granting of the licence, appeal in writing to the Minister, against the terms or conditions, stating the grounds on which he bases his appeal.

(5) The Minister, may—

- (a) confirm the refusal; or
- (b) order the granting of a licence; or
- (c) confirm, revoke or vary the terms or conditions of the licence,

and the decision of the Minister is final¹.

(6) *(Repealed.)*

(7) If the application is refused, the applicant is entitled to a refund of the licence fee.

(Amended by No. 25 of 1976, Schedule 33.)

5. Term of licence.

(1) Subject to Subsection (2), unless sooner cancelled or suspended a licence continues in force until 30 June following the date of grant.

(2) Where the licence is granted in the month of June in any year it shall, unless sooner cancelled or suspended, continue in force until 30 June in the following year.

6. Fees.

(1) Subject to Subsection (2), the fee for a licence is as prescribed.

(2) Where an applicant for a licence is a person who is the holder of a current trader's or pedlar's licence under the *Licences Act (T.N.G.)*, no fee is payable for the granting of a licence under this Act in respect of the area or place in respect of which the licence under that Act applies.

7. Cancellation or suspension of licence.

On the conviction of a licensee for an offence against this Act, the court may, either in addition to, or in substitution for, a fine, order the cancellation or suspension of the licence.

¹But see Constitution, Section 155.

PART III.—OFFENCES.

8. Unlicensed trading.

(1) A trader, other than the holder of a licence, who sells or offers to sell goods to, or buys or offers to buy goods from, any person to whom this Act applies is guilty of an offence.

(2) A licence must be held in respect of each place of business at which a trader carries on the business of selling goods to, or buying goods from, persons to whom this Act applies.

Penalty: A fine not exceeding K200.00.

9. Discriminatory sales.

A licensee who sells or offers to sell goods to a person to whom this Act applies otherwise than at the same price and on the same terms and conditions as those on which he sells or offers to sell similar goods to other persons is guilty of an offence.

Penalty: A fine not exceeding K200.00.

10. Price list to be displayed.

A licensee must display in a prominent and a well-lighted position in his place of business a price list setting out—

(a) in one column in separate items, the goods that he offers to sell; and

(b) in another column, opposite each item the price at which he offers to sell the goods to which the item relates.

Penalty: A fine not exceeding K100.00.

11. Weight of goods to be on all containers¹.

A licensee who sells or offers to sell goods by weight must mark on the bag, box, case, tin or other container in which the goods are packed, if not already so marked, the net weight of the goods in clearly legible figures or letters.

Penalty: A fine not exceeding K100.00.

12. Refusal to sell.

A licensee must not refuse without reasonable cause to sell to a person to whom this Act applies any goods held by him for sale if the person tenders in cash the price of the goods as shown in the price list referred to in Section 10.

Penalty: A fine not exceeding K100.00.

13. Inspection of goods for sale.

A District Officer or a person authorized in writing for the purpose by a District Officer may, at all reasonable times—

(a) enter and search any place of business where he has reason to believe that trading with persons to whom this Act applies is being carried on; and

(b) inspect any goods found in the place; and

(c) inspect and take copies of any accounts, books or documents; and

¹ See, also, the *Weights and Measures Act* and the *Packaging Act*.

- (d) require the occupant or owner of the place of business to answer any question relating to any transactions with persons to whom this Act applies.

14. **Obstruction, etc.**

A person who—

- (a) obstructs or hinders a person in the exercise of a power conferred by Section 13; or

- (b) refuses to furnish any information required under this Act,

is guilty of an offence.

Penalty: A fine not exceeding K100.00.

PART IV.—MISCELLANEOUS.

15. **Averments.**

In any prosecution for an offence against this Act, the averment of the prosecutor contained in the information or complaint that any person named in it is a person to whom this Act applies is prima facie evidence of the matter averred.

16. **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, prescribing matters for and in relation to—

- (a) the erection by a licensee of notice boards at his place of business, and the particulars to be stated on the boards; and
- (b) the conditions on which goods may be sold to or purchased from persons to whom this Act applies; and
- (c) the sale or purchase of goods by weight or measure¹; and
- (d) the quality of goods sold to, or purchased from, persons to whom this Act applies; and
- (e) the forms to be used for the purposes of this Act; and
- (f) the fees to be paid in respect of licences and renewals of licences; and
- (g) the provision of different classes of licences; and
- (h) the imposition of penalties of fines not exceeding K100.00 for offences against the regulations.

¹ See, also, the *Weights and Measures Act* and the *Packaging Act*.

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 324.

Trading Regulation.

ARRANGEMENT OF SECTIONS.

1. Application for licence.
2. Licence.
3. Fees.
4. Sale above displayed price.
5. Cash dockets.
6. Revocation of licence.

SCHEDULE.

FORM 1.—Application to Trade.

FORM 2.—Licence to Trade.

Vertical lines and horizontal lines on the right side of the page, possibly representing a margin or a table structure.

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 324.

Trading Regulation.

MADE under the *Trading Act*.

1. **Application for licence.**

An application for a licence shall be in Form 1.

2. **Licence.**

A licence shall be in Form 2.

3. **Fees.**

(1) Subject to this section, the fee for a licence is K6.00.

(2) When a licence is required for trading from a vehicle or vessel, the fee for the licence is K30.00.

(3) Where a licence is granted between 31 December in any year and 30 June in the following year, the fee for the licence is half the fee prescribed by Subsection (1) or (2), as the case may be.

4. **Sale above displayed price.**

A person who sells or offers for sale to a person to whom the Act applies any goods at a greater price than the price set out on the price list displayed in his place of business as required by Section 10 of the Act is guilty of an offence.

Penalty: A fine not exceeding K100.00.

5. **Cash dockets.**

(1) After the completion of a sale any item of which is of greater value than 50t, a trader must, on demand by the purchaser, supply him with a cash docket setting out in English or in a language understood by the purchaser, the details of each purchase and the amount charged.

Penalty: A fine not exceeding K100.00.

(2) Subsection (1) is sufficiently complied with if the purchaser is supplied with a cash register slip showing individually the amounts charged for each item.

6. **Revocation of licence¹.**

A person convicted more than once for any offence against this Regulation may have his licence or permit to trade revoked or cancelled by the court.

¹ But see Section 7 of the Act.

Ch. No. 324

Trading

SCHEDULE.

PAPUA NEW GUINEA.

Trading Act.

Act, Sec. 3.
Reg., Sec. 1.

Form 1.

APPLICATION TO TRADE.

TO

I apply for a licence under the *Trading Act* at (*insert name of place*) (or authorizing trading from on board the (*insert description of vehicle or name of vessel, as the case requires*)) in accordance with that Act I forward the sum of K being the prescribed fee.

Name in full:

Address:

Date:

PAPUA NEW GUINEA.

Trading Act.

Act, Sec. 4(1)
Reg., Sec. 2.

Form 2.

LICENCE TO TRADE.

I, , grant to of a licence under the *Trading Act* to trade in accordance with that Act at/from/on board* (*insert the name of the place, description of vehicle or name of vessel, as the case requires*).

This licence is in force, unless sooner cancelled or suspended, from this date until 30 June 19 .

This licence is granted subject to the following terms and conditions:—

Dated 19 .

(Departmental Head or District Officer or Authorized Person.)

*Strike out whichever is inapplicable.

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 324.

Trading.

APPENDIXES.

APPENDIX 1.

SOURCE OF THE TRADING ACT.

Part A.—Previous Legislation.

Trading with Natives Act, 1946 of the former Territory of Papua-New Guinea.

as amended by—

Trading with Natives Act 1952 (No. 106 of 1952)

Trading with Natives Act 1953 (No. 54 of 1953)

Statute Law Revision (Transfer of Powers) Act 1975 (No. 25 of 1975).

Part B.—Cross References.

| Section, etc. Revised Edition. | Previous Reference ¹ . | Section, etc., in Revised Edition. | Previous Reference ¹ . |
|--------------------------------------|--------------------------------------|------------------------------------------|--------------------------------------|
| 1 | 3 | 9 | 10 |
| 2 | 3 ("native") | 10 | 11 |
| 3 | 5 | 11 | 12 |
| 4 | 7, 8 | 12 | 13 |
| 5 | 9 | 13 | 14(1) |
| 6 | 6 | 14 | 14(2) |
| 7 | 17 | 15 | 16 |
| 8 | 4 | 16 | 18 |

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

APPENDIX 2.

SOURCE OF THE TRADING REGULATION.

Part A.—Previous Legislation.

Trading with Natives Regulations of the former Territory of Papua-New Guinea (Statutory Rules No. 2 of 1949)

as amended by—

Regulations No. 14 of 1952

Regulations No. 4 of 1953

Regulation No. 27 of 1955.

Part B.—Cross References.

| Section, etc., in Revised Edition. | Previous Reference ¹ . | Section, etc., in Revised Edition. | Previous Reference ¹ |
|------------------------------------------|--------------------------------------|------------------------------------------|------------------------------------|
| 1 | 2A | 6 | 6 |
| 2 | 2C | | |
| 3 | 2B | Schedule— | |
| 4 | 3 | Form 1 | |
| 5 | 4 | Form 2 | |

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