

Chapter 108.
Exports (Control and Valuation) Act 1973.

Certified on: / /20 .

INDEPENDENT STATE OF PAPUA NEW GUINEA.



Chapter 108.

Exports (Control and Valuation) Act 1973.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.



AN ACT

entitled

Exports (Control and Valuation) Act 1973,

Being an Act relating to the control and valuation of certain exports.

PART I. – PRELIMINARY.

1. INTERPRETATION.

(1) In this Act, unless the contrary intention appears—

“**export**” means, subject to Subsection (2), export—

- (a) in the course of trade or business; or
- (b) for the purpose of, or in the course of, sale or exchange;

“**export licensing officer**”, in relation to any prescribed goods, means a person appointed under Section 4 to be an export licensing officer in relation to those goods;

“**licence**” means a licence under Section 9;

“**prescribed goods**” means goods other than—

- (a) goods in the nature of samples or gifts, not exceeding K250.00 in value at any one time; and
- (b) personal and household effects; and
- (c) ship’s or aircraft’s stores, being goods for the use of the passengers or crew of, or for the service of, a ship or aircraft; and
- (d) in relation to any provision of this Act, any goods excepted from the application of that provision under Section 3; and
- (e) goods re-exported after display at trade fairs or similar exhibitions;

“proper export value”, in relation to any prescribed goods, means the amount that represents a return for the goods that is, in all the circumstances, satisfactory in the national interest;

“the regulations” means any regulations made under this Act;

“this Act” includes the regulations.

(2) Where goods are sold for export, this Act applies as though the sale were an exportation of the goods at the price at which they were sold.

2. APPLICATION.

(1) This Act applies with respect to the exportation of any prescribed goods notwithstanding that a licence or other authority for the exportation of the goods is in force under any other law.

(2) The grant of a licence with respect to any prescribed goods, or the exception of any goods from the application of this Act, does not absolve any person from the obligation to comply with any other law relating to the exportation of goods.

3. EXCEPTIONS.

(1) The Minister may, by notice in the National Gazette, except from the application of any provision of this Act any goods, or goods included in any class of goods.

(2) Without prejudice to the generality of Subsection (1), the exception of any goods from the application of this Act may be limited to—

- (a) any goods intended solely for use or consumption in any place specified by the Minister; or
- (b) any goods to be exported in a manner, or at or within a time, so specified.

PART II. – EXPORT LICENSING OFFICERS.

4. APPOINTMENT OF EXPORT LICENSING OFFICERS.

The Minister may, by notice in the National Gazette, appoint an officer to be an export licensing officer in relation to any prescribed goods or class of prescribed goods.

5. EXERCISE OF MINISTER’S POWERS BY EXPORT LICENSING OFFICERS.

(1) An export licensing officer has and may exercise, subject to any directions of the Minister, all the powers and functions of the Minister under this Act (except the powers and functions of the Minister under Section 3).

(2) An appeal lies to the Minister from any decision or determination of an export licensing officer under this Act.

(3) The decision of the Minister on the appeal is final.

(4) This section does not prevent the exercise of any power or function by the Minister.

PART III. – EXPORT CONTROL.**6. RESTRICTION ON EXPORTS.**

¹(1) A person who exports any prescribed goods–

- (a) for a consideration that is less than the proper export value; or
- (b) for which no licence to export is in force; or
- (c) otherwise than in accordance with the terms and conditions (if any) to which the licence to export the goods is subject,

is guilty of an offence.

Penalty: ²A fine not exceeding K3,000.00 or imprisonment for a term not exceeding six months.

(2) Where the Minister is not satisfied that the consideration paid or payable in respect of any consignment of prescribed goods is less than the proper export value of the goods, he shall give his reasons to the person making entry of the goods for export.

(3) The provisions of the *Customs Act 1951* relating to prohibited exports apply in relation to goods the exportation of which is prohibited under this section as if those provisions were contained in this Act, but a breach or contravention of those provisions is punishable as if it were an offence against this Act.

¹ Section 6 amended by No. 18 of 1982, Sched. 4.

² Section 6(1): Penalty clause amended by *Customs (Penalties) Act 1993* (No. 37 of 1993), s4, Schedule 4.

PART IV. – EXPORT LICENCES.

7. CLASSES OF LICENCES.

(1) A licence may be—

- (a) an ordinary licence; or
- (b) a special licence.

(2) An ordinary licence is a licence to export, during a period extending from the date of the grant of the licence to a date specified in the licence, the prescribed goods the subject of the licence, in one consignment and—

- (a) in the quantities; and
- (b) by the method of despatch; and
- (c) from the place,

specified in the licence.

(3) A special licence is a licence to export, during a period extending from the date of the grant of the licence to a date specified in the licence, or if a date is not so specified until the licence is revoked, prescribed goods of a class or kind specified in the licence from a place and to a country so specified.

8. APPLICATIONS FOR LICENCES.

(1) A person desiring to export prescribed goods may make application for a licence.

(2) An application for a licence—

- (a) shall be in the prescribed form; and
- (b) shall contain the prescribed information and particulars; and
- (c) shall be delivered to an export licensing officer together with such additional copies as the export licensing officer requires.

9. GRANT AND REVOCATION, ETC., OF LICENCES.

(1) The Minister may, in his discretion—

- (a) grant a licence in respect of—
 - (i) all the prescribed goods specified in an application; or
 - (ii) portion only of the goods; or
- (b) refuse to grant a licence.

(2) The Head of State, acting on advice, may revoke a licence at any time.

(3) Pending a decision under Subsection (2), the Minister may suspend a licence.

10. TERMS AND CONDITIONS OF LICENCES.

³(1) A licence may be made subject to such terms and conditions as are determined by the Minister.

(2) The Minister may—

- (a) vary or modify the terms and conditions of any licence; and
- (b) direct that a licence granted free from terms and conditions shall be subject to such terms and conditions as he determines.

(3) A licensee who fails to comply with the terms and conditions to which the licence is subject is guilty of an offence.

Penalty: ⁴On conviction on indictment—a fine not exceeding K50,000.00 or imprisonment for a term not exceeding five years.

On summary conviction—a fine not exceeding K5,000.00 or imprisonment for a term not exceeding 12 months.

11. SECURITY.

(1) Before a licence is granted, the applicant for the licence shall, if required by an export licensing officer, give security for compliance with the requirements of this Act and with the terms and conditions of the licence.

(2) Unless some other security is accepted as sufficient by the export licensing officer, any security required to be given under this Act shall be by bond—

- (a) in the prescribed form; and
- (b) executed by the applicant and by one or more sureties approved by the export licensing officer; and
- (c) conditioned for compliance by the licensee and all other persons bound by the security with—
 - (i) the requirements of this Act; and
 - (ii) the terms and conditions of the licence.

(3) Unless the export licensing officer otherwise determines, a bond or other security given in respect of a licence shall be for a sum equal to twice the proper export value of the prescribed goods to which the licence relates.

12. ADDITIONAL INFORMATION.

An applicant for a licence, or a licensee, shall supply to an export licensing officer any information additional to that supplied or required under Section 8(2)(b) that is required by the officer.

³ Section 10 amended by No. 18 of 1982, Sched. 4.

⁴ Section 10(3): Penalty clauses amended by *Customs (Penalties) Act* 1993 (No. 37 of 1993), s4, Schedule 4.

PART V. – MISCELLANEOUS.

13. RETENTION OF RECORDS.

⁵A person who exports any prescribed goods and who fails to keep in the country for the prescribed period the originals or certified copies of all documents and records retained by him relating to the prescribed goods is guilty of an offence.

Penalty: ⁶A fine not exceeding K500.00.

Default penalty: A fine not exceeding K50.00.

14. TRANSLATIONS OF FOREIGN DOCUMENTS.

If a document in a foreign language is presented to an export licensing officer for any purpose connected with this Act, the officer may require an English translation of the document—

- (a) to be made at the expense of the owner by a person approved by the officer; or
- (b) to be verified in such manner as the officer approves.

15. GENERAL POWERS TO OBTAIN INFORMATION.

⁷(1) The Minister may, by written notice served on any person (including an officer), require him—

- (a) to furnish to the Minister, or to such other person as the Minister directs, such information as the Minister or that other person requires; or
- (b) to attend and give evidence before the Minister, or such other person as the Minister directs; or
- (c) to produce all books, documents and other papers in his custody or under his control,

with respect to any act, transaction, matter or thing prohibited by this Act, or to which any provision of this Act applies.

(2) The Minister may require the information or evidence to be given on oath or affirmation and either orally or in writing, and for that purpose the Minister or person before whom the evidence is given may administer an oath.

(3) A person who—

- (a) refuses or fails to comply with a requirement made under Subsection (1) or (2); or

⁵ Section 13 amended by No. 18 of 1982, Sched. 4.

⁶ Section 13: Penalty clause amended by *Customs (Penalties) Act* 1993 (No. 37 of 1993), s4, Schedule 4.

⁷ Section 15 amended by No. 18 of 1982, Sched. 4.

- (b) with intent to evade the provisions of this Act, destroys, mutilates, defaces, secretes or removes any book, document or other paper,

is guilty of an offence.

Penalty: ⁸A fine not exceeding K3,000.00 or imprisonment for a term not exceeding six months.

(4) Where a person is obliged to answer questions orally under this section, he may not refuse to answer a question on the ground that the answer might tend to incriminate him or make him liable to a penalty, but the answer given by him is not admissible in evidence in any proceedings against him other than proceedings in respect of the falsity of the answer or in respect of the refusal or failure to answer the question.

16. FALSE STATEMENTS.

⁹A person who makes—

- (a) to the Minister; or
 (b) to an export licensing officer; or
 (c) in the records kept under Section 13,

a statement, oral or written, relating to any act, transaction, matter or thing to which any provision of this Act applies that—

- (d) he knows to be untrue in any particular; or
 (e) is misleading in any particular; or
 (f) is made by him without his having first made proper inquiries to ascertain its truth,

is guilty of an offence.

Penalty: ¹⁰A fine not exceeding K3,000.00 or imprisonment for a term not exceeding six months.

17. INDEMNITY.

No claim, action or proceeding shall be made or brought by any person against an export licensing officer in respect of any loss or damage arising out of any dealing, in good faith and without negligence, with any document delivered to an export licensing officer under this Act.

18. REGULATIONS.

¹¹The 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

⁸ Section 15(3): Penalty clause amended by *Customs (Penalties) Act* 1993 (No. 37 of 1993), s4, Schedule 4.

⁹ Section 16 amended by No. 18 of 1982, Sched. 4.

¹⁰ Section 16: Penalty clause amended by *Customs (Penalties) Act* 1993 (No. 37 of 1993), s4, Schedule 4.

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 K500.00 for offences against the regulations.

Office of Legislative Counsel, PNG

¹¹ Section 18 amended by No. 18 of 1982, Sched. 4; amended by *Customs (Penalties) Act* 1993 (No. 37 of 1993), s4, Schedule 4.