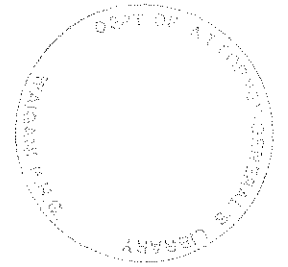


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No. 16 of 1994.

Environmental Contaminants (Amendment) Act 1994.

Certified on : 11 AUGUST 1994



"46K. EXPORT PERMIT REGISTER TO BE KEPT AND COPIES PROVIDED."

"46L. OFFENCES."

12. Litter (Amendment of Section 49).
13. Application for licence or permit to be in name of person real or corporate (Amendment of Section 70).
14. New Section 70A.

"70A. FURTHER CONDITIONS ETC., TO APPLY TO PERMIT, EXPORT PERMIT OR LICENCE."

"70B. GIVING FALSE OR MISLEADING INFORMATION TO OBTAIN PERMIT ETC.,

"70C. MINISTER TO ACT ACCORDING TO TREATY ETC."

15. Breaking of glass (Amendment of Section 50).
16. Notice to remove litter (Amendment of Section 51).
17. Unreasonable notice (Amendment of Section 52).
18. Noise abatement notice (Amendment of Section 53).
19. Information (Amendment of Section 57).
20. Court may order abatement action (Amendment of Section 60).
21. Abatement practices to be adopted (Amendment of Section 66).
22. Inquiry (Amendment of Section 67).
23. Regulations (Amendment of Section 72).

INDEPENDENT STATE OF PAPUA NEW GUINEA.

No. of 1994.

Environmental Contaminants (Amendment) Act 1994.

ARRANGEMENT OF SECTIONS.

1. Interpretation (Amendment of Section 2)
 "Director"
 "export"
 'export permit'.
2. Appointment of Inspectors and analysts (Amendment of Section 4).
3. Identification of Inspectors (Amendment of Section 5).
4. Obstruction of Inspector (Amendment of Section 8).
5. Minister to be notified of discharge etc., of environmental contaminant out of the normal course of events (Amendment of Section 30).
6. Offences (Amendment of Section 31).
7. Hazardous environmental contaminant not to be imported, etc., without permit (Amendment of Section 33).
8. Consideration of application and granting of permit (Amendment of Section 37).
9. Permit to be returned to the Minister (Amendment of Section 43).
10. Offences (Amendment of Section 46).
11. New Part VA.

"PART VA. - EXPORTATION OF HAZARDOUS ENVIRONMENTAL CONTAMINANTS.

"46A. RESTRICTION ON EXPORT OF HAZARDOUS ENVIRONMENTAL CONTAMINANTS GENERALLY."

"46B. APPLICATION FOR EXPORT PERMIT."

"46C. DUTIES OF MINISTER ON RECEIPT OF APPLICATION FOR EXPORT PERMIT."

"46D. PERSONS AGGRIEVED BY APPLICATION MAY MAKE REPRESENTATIONS."

"46E. CONSIDERATION OF APPLICATION AND GRANTING OF AN EXPORT PERMIT."

"46F. NOTICE TO BE GIVEN ON REFUSAL OF EXPORT PERMIT."

"46G. TRANSFER OF EXPORT PERMIT."

"46H. DURATION OF EXPORT PERMIT."

"46I. REVOCATION AND SUSPENSION OF AN EXPORT PERMIT."

"46J. EXPORT PERMIT TO BE RETURNED TO THE MINISTER."

Environmental Contaminants (Amendment)

5. **MINISTER TO BE NOTIFIED OF DISCHARGE ETC., OF ENVIRONMENTAL CONTAMINANT OUT OF THE NORMAL COURSE OF EVENTS (AMENDMENT OF SECTION 30).**

Section 30(2) of the Principal Act is amended by repealing the penalty provision and replacing it with the following:-

"Penalty: A fine not exceeding K5,000.00."

6. **OFFENCES (AMENDMENT OF SECTION 31).**

Section 31(1) the Principal Act is amended by repealing the penalty provision and the default penalty provision and replacing them with the following:-

"Penalty: For a first offence, subject to Subsection (3) - a fine not exceeding K5,000.00.
For a second and subsequent offence, where the person convicted of the offence is -

- (a) a corporation - a fine not exceeding K50,000.00; and
- (b) other than a corporation - a fine not exceeding K10,000.00.

Default Penalty: A fine not exceeding K5,000.00."

7. **HAZARDOUS ENVIRONMENTAL CONTAMINANT NOT TO BE IMPORTED, ETC., WITHOUT PERMIT (AMENDMENT OF SECTION 33).**

Section 33 of the Principal Act is amended -

- (a) in Subsection (1), by repealing the penalty provision and the default penalty provision and replacing them with the following:-

"Penalty: For a first offence - a fine not exceeding K5,000.00.

For a second and subsequent offence, where the person convicted is -

- (a) a corporation - a fine not exceeding K50,000.00; and
- (b) other than a corporation - a fine not exceeding K10,000.00.

Default penalty: A fine not exceeding K5,000.00."; and

- (b) in Subsection (3), by repealing the amount "K500.00" and replacing it with the following:-
"K5,000.00".

8. **CONSIDERATION OF APPLICATION AND GRANTING OF PERMIT (AMENDMENT OF SECTION 37).**

Section 37 of the Principal Act is amended -

- (a) in Subsection (1) by inserting after the words "subject to conditions" the following:-

"(which may include a limit on the total amount to be imported in any one year, or a prohibition of the import of the hazardous environmental contaminant from certain countries or states)"; and

- (b) in Subsection (3) by inserting after the words "subject to conditions" the following:-

"(which may include a limit on the total amount to be imported in one year, or a prohibition of the import of the hazardous environmental contaminant from certain countries or states)"; and

INDEPENDENT STATE OF PAPUA NEW GUINEA.

No. of 1994.

AN ACT

entitled

Environmental Contaminants (Amendment) Act 1994,

Being an Act to amend the *Environmental Contaminants Act* (Chapter 368),

MADE by the National Parliament.

1. INTERPRETATION (AMENDMENT OF SECTION 2).

Section 2 of the Principal Act is amended -

(a) by repealing the definition of "Director" and replacing it with the following:-

"'Director' means the Departmental Head of the Department responsible for environment and conservation matters;"

(b) by inserting after the definition of "environmental officer" the following definitions:-

"'export' means export from Papua New Guinea to another country or state;

'export permit' means an export permit granted under Section 46E;"

2. APPOINTMENT OF INSPECTORS AND ANALYSTS (AMENDMENT OF SECTION 4).

Section 4 of the Principal Act is amended by repealing the word "Minister" and replacing it with the following:-

"Director"

3. IDENTIFICATION OF INSPECTORS (AMENDMENT OF SECTION 5).

Section 5 of the Principal Act is amended by repealing the word "Minister" and replacing it with the following:-

"Director".

4. OBSTRUCTION OF INSPECTOR (AMENDMENT OF SECTION 8).

Section 8 of the Principal Act is amended by repealing the penalty provision and replacing it with the following:-

"Penalty: A fine not exceeding K10,000.00."

Environmental Contaminants (Amendment)

***46B. APPLICATION FOR EXPORT PERMIT.**

(1) A person, who wishes to export a hazardous environmental contaminant restricted under Section 46A, may apply to the Minister for an export permit to export that hazardous environmental contaminant.

- "(2) An application under Subsection (1) shall -
- (a) be lodged with the Director; and
 - (b) be in the prescribed form; and
 - (c) specify the name and amount of the hazardous environmental contaminant the subject of the application; and
 - (d) contain such other information as is prescribed; and
 - (e) be accompanied with the prescribed fee.

"(3) The Minister may require the applicant to provide such additional information in relation to the application as the Minister considers necessary and failure to provide such information may lead to refusal by the Minister to issue the export permit requested.

***46C. DUTIES OF MINISTER ON RECEIPT OF APPLICATION FOR EXPORT PERMIT.**

(1) Where the Minister has received an application under Section 46B(1), together with any additional information required by him under Section 46B(2), he may give notice of the application in such manner as he considers appropriate.

- "(2) A notice under Subsection (1) shall state -
- (a) the name of the applicant; and
 - (b) the proposed port of export; and
 - (c) the hazardous environmental contaminant referred to in the application; and
 - (d) that any person likely to be aggrieved by the granting of the export permit to the applicant, may make representation to the Minister within 28 days.

***46D. PERSON AGGRIEVED BY APPLICATION MAY MAKE REPRESENTATIONS.**

Where under Section 46C the Minister has given notice of an application under Section 46B, any person likely to be aggrieved by the granting of an export permit to the applicant may make written representation to the Minister within 28 days.

***46E. CONSIDERATION OF APPLICATION AND GRANTING OF AN EXPORT PERMIT.**

(1) The Minister may, after considering -

- (a) an application under Section 46B(1) together with all other information supplied under Section 46B(1) and (2); and
- (b) any representation made under Section 46D,

approve or refuse the application, or approve the application subject to conditions that may prohibit the export to certain countries or states.

"(2) Where the Minister approves an application, or approves the application subject to conditions, he may grant the applicant an export permit in the prescribed form.

Environmental Contaminants (Amendment)

(c) by adding the following new subsection:-

"(6) If so required by the Minister, the holder of an import permit issued under Section 37(1) shall submit to the Director details of -

- (a) each import of a hazardous environmental contaminant within 14 days of such an import being made; and
- (b) by 31 January of each year the annual total import of hazardous environmental contaminants for the preceding year."

9. PERMIT TO BE RETURNED TO THE MINISTER (AMENDMENT OF SECTION 43).

Section 43(2) of the Principal Act is amended by repealing the penalty provision and the default penalty provision and replacing them with the following:-

"Penalty: A fine not exceeding K1,000.00.

Default penalty: A fine not exceeding K500.00."

10. OFFENCES (AMENDMENT OF SECTION 46).

Section 46 of the Principal Act is amended by repealing the penalty provision and the default penalty provision and replacing them with the following:-

"Penalty: Where the person convicted of an offence is -

- (a) a corporation - a fine not exceeding K50,000.00;
- (b) other than a corporation - a fine not exceeding K10,000.00.

Default penalty: A fine not exceeding K5,000.00."

11. NEW PART VA.

The Principal Act is amended by inserting after Part V the following new part:-

"PART VA. - EXPORTATION OF HAZARDOUS ENVIRONMENTAL CONTAMINANTS.

"46A. RESTRICTION ON EXPORT OF HAZARDOUS ENVIRONMENTAL CONTAMINANTS GENERALLY.

(1) The Minister may, by notice in the National Gazette, restrict or prohibit, either generally or specifically with regards to type or destination, the export of hazardous environmental contaminants to other countries or states or to a territory of a country or state.

"(2) A person who contravenes or fails to comply with Subsection (1) is guilty of an offence.

Penalty: Where the person convicted of an offence is -

- (a) a corporation - a fine not exceeding K50,000.00; and
- (b) other than a corporation - a fine not exceeding K10,000.00.

Default penalty: A fine not exceeding K5,000.00."

Environmental Contaminants (Amendment)

***46J. EXPORT PERMIT TO BE RETURNED TO THE MINISTER.**

(1) The Minister may, by notice in writing served on the holder of an export permit, require that the holder returns the export permit -

- (a) where it has been revoked or suspended under Section 46I; or
- (b) for revocation or variation of any condition, limitation or restriction to which the export is subject; or
- (c) for the inclusion of any new condition, limitation or restriction in the export permit that, in accordance with the Act, may be imposed.

"(2) The holder or, where an export permit has been revoked, the former holder, of an export permit who fails to return his permit within 30 days immediately after the service upon him of a notice under Subsection (1), is guilty of an offence.

Penalty: A fine not exceeding K100.00.

Default penalty: A fine not exceeding K50.00.

***46K. EXPORT PERMIT TO BE KEPT AND COPIES PROVIDED.**

(1) The Minister shall retain the original of each export permit and each export permit application, and shall make available to any member of the public on request a copy thereof.

"(2) The Minister may require a person seeking a copy of an export permit or export permit application to pay a fee based upon the reasonable costs of reproducing that export permit or export permit application.

"(3) The Minister shall keep a register of all export permit applications received by him and all export permits issued.

***46L. OFFENCES.**

A person, who, being the holder of an export permit, contravenes or fails to comply with a condition, limitation or restriction to which the export permit is subject, is guilty of an offence.

Penalty: Where the person convicted of an offence is -

- (a) a corporation - a fine not exceeding K50,000.00; and
- (b) other than a corporation - a fine not exceeding - K10,000.00.

Default penalty: A fine not exceeding K5,000.00."

12. LETTER (AMENDMENT OF SECTION 49).

Section 49 of the Principal Act is amended -

- (a) by repealing the penalty provision and substituting the following:-

"Penalty: A fine not exceeding K2,000.00 or imprisonment for a term not exceeding one month."; and

- (b) in Subsection (2) by repealing the penalty provision and substituting the following:-

"Penalty: A fine not exceeding K2,000.00 or imprisonment for a term not exceeding one month.".

Environmental Contaminants (Amendment)

"(3) The Director shall, as soon as practicable, notify the person to whom the export permit has been granted of the prescribed fee and the fee shall be payable to the Director within 30 days by the person to whom the licence has been granted.

"(4) An export permit may be granted in respect of more than one hazardous environmental contaminant.

"(5) If so required by the Minister, an export permit holder shall submit details of each export of a hazardous environmental contaminant to the Director within 14 days of such an export being made.

"46F. NOTICE TO BE GIVEN ON REFUSAL OF EXPORT PERMIT.

Where the Minister refuses to grant an export permit under Section 46E, he shall serve on the applicant a notice in writing setting out the grounds for refusing the application.

"46G. TRANSFER OF EXPORT PERMIT.

(1) An export permit may, with the approval in writing of the Minister and subject to Subsection (3), be transferred from the export permit holder to another person where such other person advises the Minister in writing that he assumes the responsibility for compliance with the conditions of the export permit and, upon written approval by the Minister being given to the transferee, he shall be deemed to be the permittee to whom the permit was originally granted.

"(2) An application for approval to transfer an export permit shall be in writing and the prescribed form, and shall be accompanied by -

- (a) the export permit holder's copy of the export permit; and
- (b) a transfer fee, being one half of the annual fee paid or payable for that export permit; and
- (c) written advice by the transferee that he assumes responsibility for compliance with the export permit conditions.

"(3) The Minister may grant the transfer of an export permit subject to such conditions as he thinks fit, and such conditions shall be deemed to be conditions of the original grant in addition to other conditions imposed on the export permit at the time the original export permit was granted.

"46H. DURATION OF EXPORT PERMIT.

Subject to Section 46D, a permit shall remain in force until revoked, suspended or sooner surrendered by the export permit holder.

"46I. REVOCATION AND SUSPENSION OF AN EXPORT PERMIT.

The Minister may, by notice in writing served on an export permit holder, revoke or suspend the export permit for any breach of this Act or the conditions, limitations or restrictions to which the export permit is subject.

Environmental Contaminants (Amendment)

(b) in Subsection (3), by repealing the amount "K500.00" and replacing it with the following:-

"K2,000.00".

16. NOTICE TO REMOVE LITTER (AMENDMENT OF SECTION 51).

Section 51(2) of the Principal Act is amended by repealing the amount "K200.00" and replacing it with the following:-

"K2,000.00".

17. UNREASONABLE NOISE (AMENDMENT OF SECTION 52).

Section 52(1) of the Principal Act is amended by repealing the penalty provision and replacing it with the following:-

"Penalty: Where the person convicted of an offence is -
(a) a corporation - a fine not exceeding K10,000.00;
and
(b) other than a corporation - a fine not exceeding
K5,000.00."

18. NOISE ABATEMENT NOTICE (AMENDMENT OF SECTION 53).

Section 53 of the Principal Act is amended by repealing the penalty provision and the default penalty provision and replacing them with the following:-

"Penalty: Where the person convicted of an offence is -
(a) a corporation - a fine not exceeding K10,000.00;
and
(b) other than a corporation - a fine not exceeding
K5,000.00.

Default penalty: A fine not exceeding K2,000.00."

19. INFORMATION (AMENDMENT OF SECTION 57).

Section 57(2) of the Principal Act is amended by repealing the penalty provision and the default penalty provision and replacing them with the following:-

"Penalty: A fine not exceeding K5,000.00.
Default penalty: A fine not exceeding K2,000.00."

20. COURT MAY ORDER ABATEMENT ACTION (AMENDMENT OF SECTION 60).

Section 60 of the Principal Act is amended by repealing the penalty provision and the default penalty provision and replacing them with the following:-

"Penalty: Where the person convicted of an offence is -
(a) a corporation - a fine not exceeding K10,000.00;
and
(b) other than a corporation - a fine not exceeding
K5,000.00.

Default penalty: A fine not exceeding K2,000.00."

Environmental Contaminants (Amendment)

13. APPLICATION FOR LICENCE OR PERMIT TO BE IN NAME OR PERSON REAL OR CORPORATE (AMENDMENT OF SECTION 70).

Section 70 of the Principal Act is amended by adding the following new Paragraph:-

"(c) or an export permit under Section 46D."

14. NEW SECTION 70A.

The Principal Act is amended by adding after Section 70 the following new sections:-

"70A. FURTHER CONDITIONS ETC., TO APPLY TO PERMIT, EXPORT PERMIT OR LICENCE.

(1) The Minister may, at any time -

(a) apply to a permit, export permit or licence conditions not otherwise specifically provided for in this Act; and

(b) vary or revoke any condition of a permit, export permit or licence,

in order to give effect to any obligations which apply to an International Treaty which Papua New Guinea has ratified or to which Papua New Guinea has acceded and to which effect is given by Regulation.

"(2) Where the Minister takes action under Subsection (1), he shall immediately notify the holder of the permit, export permit or licence, as the case may be, of the conditions applied or of any condition varied or revoked and the provisions of this Act relating to compliance with conditions of a permit, export permit or licence shall apply with respect to any such condition applied or varied under this section."

"70B. GIVING FALSE OR MISLEADING INFORMATION TO OBTAIN PERMIT ETC.,

A person who gives false or misleading information to obtain a licence, permit or export permit is guilty of an offence.

Penalty: Where the person convicted of an offence is -

(a) a corporation - a fine not exceeding K50,000.00; and

(b) other than a corporation - a fine not exceeding K10,000.00.

Default penalty: K5,000.00.

"70C. MINISTER TO ACT ACCORDING TO TREATY ETC.,

When exercising his powers under this Act, the Minister shall not act contrary to any International Treaty to which Papua New Guinea has acceded or ratified and to which effect is given through Regulations."

15. BREAKING OF GLASS (AMENDMENT OF SECTION 50).

Section 50 of the Principal Act is amended -

(a) in Subsection (1), by repealing the amount "K200.00" and replacing it with the following:-

"K2,000.00"; and

Environmental Contaminants (Amendment)

21. ABATEMENT PRACTICES TO BE ADOPTED (AMENDMENT OF SECTION 66).

Section 66(3) of the Principal Act is amended by repealing the penalty provision and the default penalty provision and replacing them with the following:-

"Penalty: Where the person convicted of an offence is -
(a) a corporation - a fine not exceeding K10,000.00;
and
(b) other than a corporation - a fine not exceeding
K5,000.00."

Default penalty: A fine not exceeding K2,000.00."

22. INQUIRY (AMENDMENT OF SECTION 67).

Section 67 of the Principal Act is amended -

(a) in Subsection (6) by repealing the amount "K500.00" and replacing it with the following:-

"K5,000.00".

(b) in Subsection (7) by repealing the amount "K500.00" and replacing it with the following:-

"K5,000.00".

23. REGULATIONS (AMENDMENT OF SECTION 72).

Section 72 of the Principal Act is amended by repealing Paragraph (ag) and replacing it with the following:-

"(ag) prescribing penalties for -
(i) offences against the regulations; or
(ii) offences against the provisions of this Act where
no penalty is provided in the provision,
not exceeding -
(iii) where the person convicted of the offence is a
corporation - K50,000.00; and
(iv) where the person convicted of an offence is other
than a corporation - K10,000.00,
and default penalties not exceeding K2,000.00".

I hereby certify that the above is a fair print of the *Environmental Contaminants (Amendment) Act* 1994 which has been made by the National Parliament.

Clerk of the National Parliament.

I hereby certify that the *Environmental Contaminants (Amendment) Act* 1994 was made by the National Parliament on 8 June 1994.

Speaker of the National Parliament.

