

Chapter 322.
Second-hand Dealers Act 1968.

Certified on: / /20 .

INDEPENDENT STATE OF PAPUA NEW GUINEA.



Chapter 322.

Second-hand Dealers Act 1968.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.



AN ACT

entitled

Second-hand Dealers Act 1968,

Being an Act to provide for the licensing of second-hand dealers and to regulate the sale of second-hand articles, and for related purposes.

1. **INTERPRETATION.**

In this Act, unless the contrary intention appears—

“**licence**” means a licence issued under Section 6;

“**licensee**” means a person licensed under Section 6;

“**licensing authority**” means, in relation to—

(a) second-hand clothing—the Director of Public Health; and

(b) all other second-hand goods—the Commissioner of Police;

“**the Register of Second-hand Articles**” means the register prescribed by Section 11;

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

“**second-hand clothing**” includes all articles of clothing, household linen and other articles commonly sold with second-hand clothing;

“**second-hand dealer**” includes every person who carries on the business of purchasing, selling or exchanging second-hand articles, but does not include—

(a) an auctioneer licensed under the *Auctioneers Act 1952*; or

(b) a person purchasing such articles for the purpose of manufacturing other articles from them; or

(c) a person, class of person or trade exempted from the operation of this Act under Section 3;

“**this Act**” includes the regulations.

2. OTHER ACTS NOT AFFECTED.

This Act does not affect the operation of—

- (a) the *Licenses Act* (T.N.G.) 1952; or
- (b) the *Trading Act 1946*; or
- (c) the *Transactions with Natives Act 1958* (Adopted).

3. LICENSING AUTHORITY MAY EXEMPT PERSON OR TRADE FROM ACT.

A licensing authority may, generally or in a particular instance, by notice in the National Gazette, exempt from the provisions, or any of the provisions, of this Act any person or class of persons or trade to which the licensing authority is satisfied that that provision, or those provisions, should not apply.

4. DELEGATION.

(1) A licensing authority, by instrument, may delegate to an officer all or any of its powers and functions under this Act.

(2) For the purposes of Subsection (1), the Minister shall be deemed to be the licensing authority in relation to second-hand clothing.

5. UNLICENSED PERSON NOT TO TRADE.

Subject to this Act, a person other than a licensee who—

- (a) carries on business as a second-hand dealer; or
- (b) in any way or by any method or device holds himself out to be a licensed second-hand dealer,

is guilty of an offence.

Penalty: A fine not exceeding K100.00.

Default penalty: A fine not exceeding K20.00.

6. LICENSING AUTHORITY MAY GRANT LICENCE.

(1) On application in the prescribed form, a licensing authority may grant a licence in the prescribed form to a person to carry on business as a second-hand dealer in accordance with this Act.

(2) For the purposes of Subsection (1), the Minister shall be deemed to be the licensing authority in relation to second-hand clothing.

7. DURATION OF LICENCE.

A licence is in force from the date of its issue until 1 January in the following year, and may be renewed annually.

8. FEES.

The fee for a licence is as prescribed.

9. RECORD OF LICENCES TO BE KEPT AND PUBLISHED.

(1) A licensing authority shall cause an alphabetical record of any licences granted or cancelled under this Act to be kept in the prescribed form.

(2) The licensing authority shall cause to be published in the National Gazette the name and address of any person to whom a licence is issued.

10. NAME OF LICENSEE, ETC., TO BE DISPLAYED.

A licensee who carries on business at a shop or other premises must cause to be painted, and kept painted, his name in full and the words "Licensed Second-hand Dealer" in legible characters at least 50 mm high, so as constantly to be seen and read, on some conspicuous part of every shop or other premises where he carries on business as a second-hand dealer.

11. RECORD BOOK TO BE KEPT SHOWING PURCHASES, ETC.

(1) Every licensee must—

- (a) keep at his place of business a register to be known as the "Register of Second-hand Articles"; and
- (b) enter in that register the prescribed particulars with respect to all second-hand articles purchased, exchanged, or received by him in the course of his business.

(2) The Register of Second-hand Articles must be in the prescribed form, and the pages of the register must be numbered consecutively.

12. LICENCE TO BE PRODUCED ON DEMAND.

(1) A licensee must produce his licence and the Register of Second-hand Articles—

- (a) at all reasonable times, on demand, for the purpose of inspection by any member of the Police Force having the general or special authority in writing of a justice to make the demand; and
- (b) permit the member—
 - (i) to inspect all goods in his possession or under his control; and

- (ii) to enter and inspect any shop or premises where he carries on the business of a second-hand dealer.

(2) On each occasion when a member of the Police Force obtains the production of a Register of Second-hand Articles he shall subscribe his name immediately after the last entry in that Register.

(3) Where any articles that have been stolen, embezzled or fraudulently obtained are found in the possession of a licensee, he must deposit the articles with the member of the Police Force on being informed by a member of the Police Force (authorized in accordance with Subsection (1)) that the articles were stolen, embezzled or fraudulently obtained.

(4) Where a licensee fails to comply with any requirement of this section, in addition to any action which may be brought against him as a receiver of stolen goods or otherwise he is liable to a fine not exceeding K10.00.

13. LICENSEES, ETC., TO KEEP GOODS UNALTERED FOR THREE DAYS.

(1) A licensee must keep all second-hand articles and goods bought or received by him for a period of not less than three days after he receives them before he sells, disposes of or parts with the possession of them, or alters the form or condition of them in any manner.

(2) A person must not use, melt, cut or otherwise alter the form or condition of any second-hand articles or goods bought by him, for the purpose of—

- (a) manufacturing, renovating, altering or repairing any articles or goods for sale; or
- (b) of repairing or altering any goods in the way of trade,

until the expiration of not less than three days after the second-hand articles or goods have been received by him.

(3) Where a licensee, or a person referred to in Subsection (2), receives a written notice from a member of the Police Force with respect to any second-hand articles or goods in his possession, requiring him to keep them unaltered for a longer period than three days, he must keep the articles or goods unaltered in accordance with Subsection (2) for such further period, not exceeding four days, as is specified in the notice.

(4) During the period for which any second-hand articles or goods are required by this section to be kept unaltered, the articles or goods—

- (a) must be kept separate and apart from all other goods of the same or a similar kind and description; and
- (b) must not be allowed to be or become mixed or confused with any such goods.

(5) This section does not apply to goods that have been advertised for sale by auction, and have been sold at public auction in pursuance of that advertisement.

Penalty: A fine not exceeding K50.00.

14. SPECIAL CONDITIONS RELATING TO SALE, ETC., OF SECOND-HAND CLOTHING.

Where articles of second-hand clothing are purchased, stored, sold or offered or exposed for sale or exchange, the vendor must comply with the special conditions prescribed.

15. LICENSEE TO REPORT GOODS ANSWERING DESCRIPTION OF STOLEN GOODS.

(1) Where any articles with respect to which information in writing that they have been stolen, embezzled, or fraudulently obtained is given by a member of the Police Force to a licensee are then in, or subsequently come into, the possession of the licensee, he must—

- (a) give information as soon as may be to a member of the Police Force that articles answering to the description of those articles are in his possession; and
- (b) state the name and address given by the person from whom the articles were received.

Penalty: A fine not exceeding K50.00.

(2) Notwithstanding this section, in the case of articles that may be difficult to trace out and identify a fine shall not be imposed under this section unless it appears to the District Court that the articles were knowingly concealed by the licensee.

16. RESTRICTION AS TO PURCHASE OF GOODS BY LICENSEE.

A licensee, by himself or by any other person, must not purchase or receive any second-hand articles—

- (a) before 8 a.m. or after 9 p.m.; or
- (b) at any time from any person apparently under the age of 16 years.

17. LICENSEE LIABLE FOR PERSON ACTING ON HIS BEHALF.

A licensee is personally liable and responsible for all acts and defaults, under this Act, of a person acting on his behalf as he would be liable and responsible if he had done the act or made the default.

18. PENALTIES.

Where a person contravenes or fails to comply with any of the requirements or provisions of this Act he is guilty of an offence and, where no other penalty is provided, is liable to a fine not exceeding K50.00 and a default penalty not exceeding K10.00.

19. CANCELLATION OF LICENCE.

In all proceedings against a licensee for any offence against this Act the District Court that convicts him, in addition to imposing the penalty, may cancel his licence.

20. PRESUMPTION THAT PERSON PROSECUTED IS UNLICENSED.

In a prosecution under this Act, the burden of proof that the defendant is or was at any time licensed under this Act is on him.

21. 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 for prescribing penalties of fines not exceeding K50.00 or default penalties of fines not exceeding K10.00 for offences against the regulations.

Office of Legislative Counsel, PNG