

Chapter 324.

***Trading Act 1949.***

Certified on: / /20 .



INDEPENDENT STATE OF PAPUA NEW GUINEA.



Chapter 324.

*Trading Act 1949.*

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# INDEPENDENT STATE OF PAPUA NEW GUINEA.



AN ACT

entitled

## *Trading Act 1949,*

Being an Act relating to trading with certain persons.

### 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.

**4. GRANT OR REFUSAL OF LICENCE.**

<sup>1</sup>(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 final.

(6) [*Repealed.*]

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

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<sup>1</sup> Section 4 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 1952* (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.

**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 CONTAINERS.**

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
- (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 measure; 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.

Office of Legislative Counsel, PNG