

Licences Regulation 1934

Unvalidated References:

Licences Act (T.N.G.) 1923

Constitution

This reprint of this Statutory Instrument incorporates all amendments, if any, made before 25 November 2006 and in force at 1 July 2001.

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Legislative Counsel

Dated 25 November 2006

INDEPENDENT STATE OF PAPUA NEW GUINEA.

Chapter 112.

Licences Regulation 1934

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Licences Regulation 1934

MADE under the *Licences Act (T.N.G.) 1923*.

Dated 200 .

PART I. – INTRODUCTORY.

1. CONSTITUTIONAL LIMITATION ON APPLICATION OF REGULATION.

By virtue of Section Sch. 2.6(2) (*adoption of pre-Independence laws*) of the *Constitution*, this Regulation applies in respect of the area that, immediately before Independence Day, formed the Territory of New Guinea.

2. INTERPRETATION.

In this Regulation, unless the contrary intention appears—

“**business area**” means an area declared under Section 4 to be a business area for the purpose of this Regulation;

“**licensing authority**” means a person authorized under Section 4 of the Act to grant licences;

“**plantation**” means any area of 50 or more hectares of freehold land, or land the subject of a State lease, that has been planted or is in the course of being planted;

“**trader’s licence**” means a general mercantile licence or a copra buyer’s licence.

3. APPLICATION.

Sections 5, 6, 7, 8, 9 and 10 do not apply to the application for or the issue of, a licence with respect to any place within a business area.

4. BUSINESS AREAS.

The Head of State, acting on advice, may, by notice in the National Gazette, declare an area to be a business area for the purposes of this Regulation.

PART II. – GRANT OF LICENCES.

5. LIMITATION ON APPLICANTS.

A person is not entitled to apply for a licence unless he is—

(a) at the time of his application for the licence, resident in the area in respect of which this Regulation applies; or

(b) the holder of a licence.

6. APPLICATION FOR LICENCE.

(1) An application for a general mercantile licence or a copra buyer’s licence shall be in Form 1.

(2) An application for a pedlar’s licence shall be in Form 2.

7. PLACE OF LODGEMENT OF APPLICATION.

(1) An application shall be lodged at the office of the licensing authority who is authorized for the area in which is situate the place or area in respect of which the licence is sought.

(2) Where the area for which a pedlar's licence is sought extends to two or more areas for which separate licensing authorities are authorized, the application shall be lodged at the office of the licensing authority authorized for the area in which the greater or greatest portion of the first mentioned area is situate.

8. TIME OF GRANT OF LICENCE.

Except as otherwise provided by this Regulation, a licence shall not be issued until the expiration of one month from the date of the lodging of the application.

9. POSTING-UP OF APPLICATION.

An application for a licence lodged in accordance with this Regulation shall be posted in a conspicuous position at the office of the licensing authority, and be kept posted there continuously for a period of 14 days.

10. OBJECTIONS.

(1) Written objections to the grant of a licence may be lodged at the office of the licensing authority during the period referred to in Section 9.

(2) Every objection lodged in accordance with Subsection (1) shall be investigated by the licensing authority promptly on the expiration of the period referred to in Section 9.

(3) On the completion of the investigation, the licensing authority may, personally or by post, serve a notice—

(a) on the applicant affected, that an objection has been lodged and requiring him, within seven days from the service of the notice, to lodge at his office a written answer to the objection; or

(b) on any objector, that he considers his objection frivolous and requiring him to state in writing, within seven days from the service of the notice, whether he desires the matter to be referred to the Head of State.

(4) Where the licensing authority requires the applicant to answer an objection lodged, he shall—

(a) as soon as is practicable after the expiration of the period referred to in Subsection (3)(a), notify the objector and the applicant by written notice served personally or by post of his decision to grant or to refuse the licence; and

(b) require, by written notice served personally or by post, an objector or applicant aggrieved by the decision to state in writing within seven days whether he desires the matter to be referred to the Head of State in accordance with this section.

(5) Where a person states that he desires a reference to the Head of State, the licensing authority shall promptly refer the application, together with every objection and answer lodged and the report of the investigation made by him.

(6) On a reference under this section, the Head of State, acting on advice, may order the licensing authority–

(a) to grant the licence; or

(b) to inform the applicant that his application has been refused.

11. FORM OF LICENCE.

(1) A general mercantile licence shall be in Form 3.

(2) A copra buyer's licence shall be in Form 4.

(3) A pedlar's licence shall be in Form 5.

12. FEES.

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

(2) Where a trader's licence is issued in respect of a plantation, no further fee is payable for a trader's licence issued in respect of a second place on the same plantation.

(3) The fee for a pedlar's licence is K30.00.

(4) The fee for–

(a) a licence issued during the last six months of a fiscal year; or

(b) a trader's licence issued for the third or any additional place on the same plantation,

is 50% of the fee otherwise payable.

(5) The fee for a licence shall be paid before the issue of the licence.

13. NUMBERING OF LICENCES.

(1) Before issuing a licence a licensing authority shall allot to, and inscribe on, the licence a distinctive letter and number.

(2) Where a trader's licence is about to be issued in respect of a place in succession to a trader's licence that is expiring and that was issued under this Regulation in respect of the same place, it shall receive the same distinctive letter and number as the earlier trader's licence.

14. REVOCATION OF LICENCE.

On the conviction of a licensee or the agent or employee of a licensee for an offence against this Regulation, the licensing authority may revoke the licence to which the offence relates.

PART III. – SPECIAL PROVISIONS RELATING TO TRADERS' LICENCES.

15. RESTRICTIONS ON GRANT OF TRADER'S LICENCE.

(1) Subject to Subsection (2), a trader's licence shall not be granted in respect of any place outside a business area, that is, by the nearest road, track or waterway over which produce generally can reasonably be transported a distance less than—

(a) 1,600m from the nearest point on the boundary of a plantation; or

(b) 800m from any place, situated on land held by any person in freehold or under a State lease in respect of which a trader's licence is held.

(2) The limit imposed by Subsection (1) does not prevent the grant of a trader's licence—

(a) in respect of a place outside a plantation for which a trader's licence is held on the date on which an application for a trader's licence in respect of a place is lodged; or

(b) to an owner of a plantation, in respect of any place on the plantation; or

(c) to an automatic citizen, in respect of any place distant more than 800 m from the nearest point on the boundary of a plantation.

16. LICENSED PREMISES.

(1) The holder of a trader's licence must ensure that—

(a) a permanent building or structure is maintained, to the satisfaction of the licensing authority, on the place in respect of which it is granted; and

(b) subject to Subsection (2), there is at all times affixed to some conspicuous external part of the building or structure referred to in Paragraph (a) a notice board—

(i) measuring not less than 609.60 mm in length and 304.80 mm in width; and

(ii) displaying in legible characters not less than 50.80 mm in height—

(A) the name by which the place is known; and

(B) the form of ownership under which the place is held; and

(C) the name of the licensee; and

(D) the distinctive letter and number of every trader's licence granted in respect of the place.

Penalty: A fine not exceeding K20.00.

(2) The licensing authority may exempt a building or structure from the provisions of Subsection (1)(b).

17. REVOCATION OF LICENCE WHEN TRADING DISCONTINUES.

(1) Where any place in respect of which a trader's licence has been granted, that is outside the boundaries of a business area or a plantation—

(a) has been closed or vacant; or

(b) is a place where business has not been carried on for a period of, or for periods that in the aggregate amount to, six months,

the licensing authority may, by written notice served on the licensee, personally or by post, require him to show cause within seven days from the service of the notice why the licence should not be revoked.

(2) If reasonable cause is not shown as required under Subsection (1), the licensing authority may revoke the licence.

18. ACTIVITIES IN BUSINESS AREAS.

The holder of a trader's licence issued in respect of a place within a business area, or the agent or employee of such a licensee, who—

(a) trades or carries on business under the licence otherwise than at the place specified in the licence; or

(b) collects, cuts or dries any coconut or undried kernel of a coconut at any place within the boundaries of a business area,

is guilty of an offence.

Penalty: A fine not exceeding K100.00 or in default imprisonment for a term not exceeding six months.

19. DEPOSITING AND CUTTING COCONUTS AND COPRA.

The holder of a trader's licence issued in respect of a place outside a business area, or the agent or employee of such a licensee, must not deposit or cut any coconuts or copra except at the place specified in the licence.

Penalty: A fine not exceeding K100.00 or in default imprisonment for a term not exceeding six months.

PART IV. – SPECIAL PROVISIONS RELATING TO PEDLARS' LICENCES.

20. LIMITATIONS.

(1) A pedlar's licence is not valid outside the area specified in the licence.

(2) A pedlar is entitled to trade within the limits within which any trader's licence is valid only with the consent of the holder of the trader's licence.

(3) A pedlar, or the agent or employee of a pedlar, who trades under a pedlar's licence in any place in which it is not valid is guilty of an offence.

Penalty: A fine not exceeding K50.00.

21. CUTTING COCONUTS, ETC.

The holder of a pedlar's licence, or the agent or employee of the holder of a pedlar's licence, must not cut or dry any coconut or undried kernel of the coconut at any place within a business area.

Penalty: A fine not exceeding K100.00 or in default imprisonment for a term not exceeding six months.

PART V. – MISCELLANEOUS.

22. PRODUCTION OF LICENCES.

(1) A trader's licence must be kept at the place in respect of which it is issued.

(2) A licensee, and in the case of a trader's licence an agent or employee of a licensee for the time being in charge of the place in respect of which the licence was granted, must, when required to do so by—

(a) the licensing authority; or

(b) a person authorized in writing by the licensing authority; or

(c) a member of the Police Force,

produce the licence.

Penalty: A fine not exceeding K20.00.

23. BUYING COPRA, ETC., ON CREDIT.

A licensee, or the agent or employee of a licensee, who buys or receives goods or commodities from a automatic citizens on credit is guilty of an offence.

Penalty: A fine not exceeding K100.00 or in default imprisonment for a term not exceeding six months.

24. TRANSPORT OF COCONUTS, ETC., DURING PROHIBITED HOURS.

(1) This section does not apply within a town.

(2) A licensee, or the agent or employee of a licensee, who uses a road for the transport of coconuts or copra between the hours of 7 p.m. and 5.30 a.m, is guilty of an offence.

Penalty: A fine not exceeding K100.00 or in default imprisonment for a term not exceeding six months.

25. RESPONSIBILITY FOR AGENT, ETC.

Where an agent or employee of a licensee commits, in the course of his employment, an offence against this Regulation, the licensee shall be deemed to be guilty of the offence.

SCHEDULE 1

PAPUA NEW GUINEA.

Licences Act (T.N.G.) 1923.

Form 1 – APPLICATION FOR GENERAL MERCANTILE LICENCE/COPRA BUYER'S LICENCE*.

Reg., Sec. 6(1). Form 1.

SCHEDULE.

Form 1.—Application for General Mercantile Licence/Copra Buyer's Licence.

PAPUA NEW GUINEA.

Licences Act (T.N.G.) 1923.

Reg., Sec. 6(1). Form 1.

APPLICATION FOR GENERAL MERCANTILE LICENCE/COPRA BUYER'S LICENCE*.

I/We* . . . of . . . apply for a general mercantile/copra buyer's licence* in respect of a place situate at . . . and being on an area of . . . held or proposed to be held by me/us* in freehold (*or* under lease from . . . expiring on . . .).

I/We* have been in occupation of the above-mentioned place since . . . and the proposed improvements on it consist of . . . the value of which I/we* estimate at K

In support of this application I/we* make the following statement:—

I, . . . , the above-named applicant (*or* one of the above-named applicants) do solemnly and sincerely declare that the above statements are true and correct in every particular.

And I make this solemn declaration by virtue of the *Oaths, Affirmations and Statutory Declarations Act*, conscientiously believing the statements contained in it to be true in every particular.

Declared at . . .

. . . 20..

Before me, . . .

(Signature of Applicant.)

*Strike out whichever is inapplicable.

Form 2.—Application for Pedlar's Licence.

PAPUA NEW GUINEA.

Licences Act (T.N.G.) 1923.

Reg., Sec. 6(2). Form 2.

APPLICATION FOR PEDLAR'S LICENCE.

I/We* . . . of . . . apply for a pedlar's licence for (*state the area for which licence desired*).

I am/We are* (*or I am not/we are not**) at present the holder of a pedlar's licence in the . . . Province.

The last pedlar's licence held by me/us* was in the . . . Province (*or Subdistrict*), and its number was

In support of this application I/we* make the following statement:—

I . . . the above-named applicant (*or one of the above-named applicants*) do solemnly and sincerely declare that the above statements are true and correct in every particular.

And I make this solemn declaration by virtue of the *Oaths, Affirmations and Statutory Declarations Act*, conscientiously believing the statements contained in it to be true in every particular.

Declared at . . .

. . . 20...

Before me, . . .

(Signature of Applicant.)

*Strike out whichever is inapplicable.

Form 3.—General Mercantile Licence.

PAPUA NEW GUINEA.

Licences Act (T.N.G.) 1923.

Reg., Sec. 11(1). Form 3.

GENERAL MERCANTILE LICENCE.

. . . of . . . is authorized to engage in general mercantile business, except the buying and selling of coconuts or copra, at . . . , until 30 June 20

Dated . . . 20...

Licensing Authority.

Form 4.—Copra Buyer's Licence.

PAPUA NEW GUINEA.

Licences Act (T.N.G.) 1923.

Reg., Sec. 11(2). Form 4.

COPRA BUYER'S LICENCE

. . . of . . . is authorized to engage in the business of buying and selling coconuts and copra at . . . until 30 June 20

Dated . . . 20...

Licensing Authority.

Form 5.—Pedlar's Licence.

PAPUA NEW GUINEA.

Licences Act (T.N.G.) 1923.

Reg., Sec. 11(3). Form 5.

PEDLAR'S LICENCE.

. . . of . . . is authorized to trade from a vehicle or vessel within (*specify the limits, if any*) until 30 June 20...

Dated . . . 20...

Licensing Authority.

Office of Legislative Counsel, PNG