

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER No. 368.

*Environmental Contaminants.*

GENERAL ANNOTATION.

ADMINISTRATION.

The administration of this Chapter was vested in the Minister for Environment and Conservation at the date of its preparation for inclusion.

The present administration may be ascertained by reference to the most recent Determination of Titles and Responsibilities of Ministers made under Section 148(1) of the Constitution.

References in, or in relation to, this Chapter to—

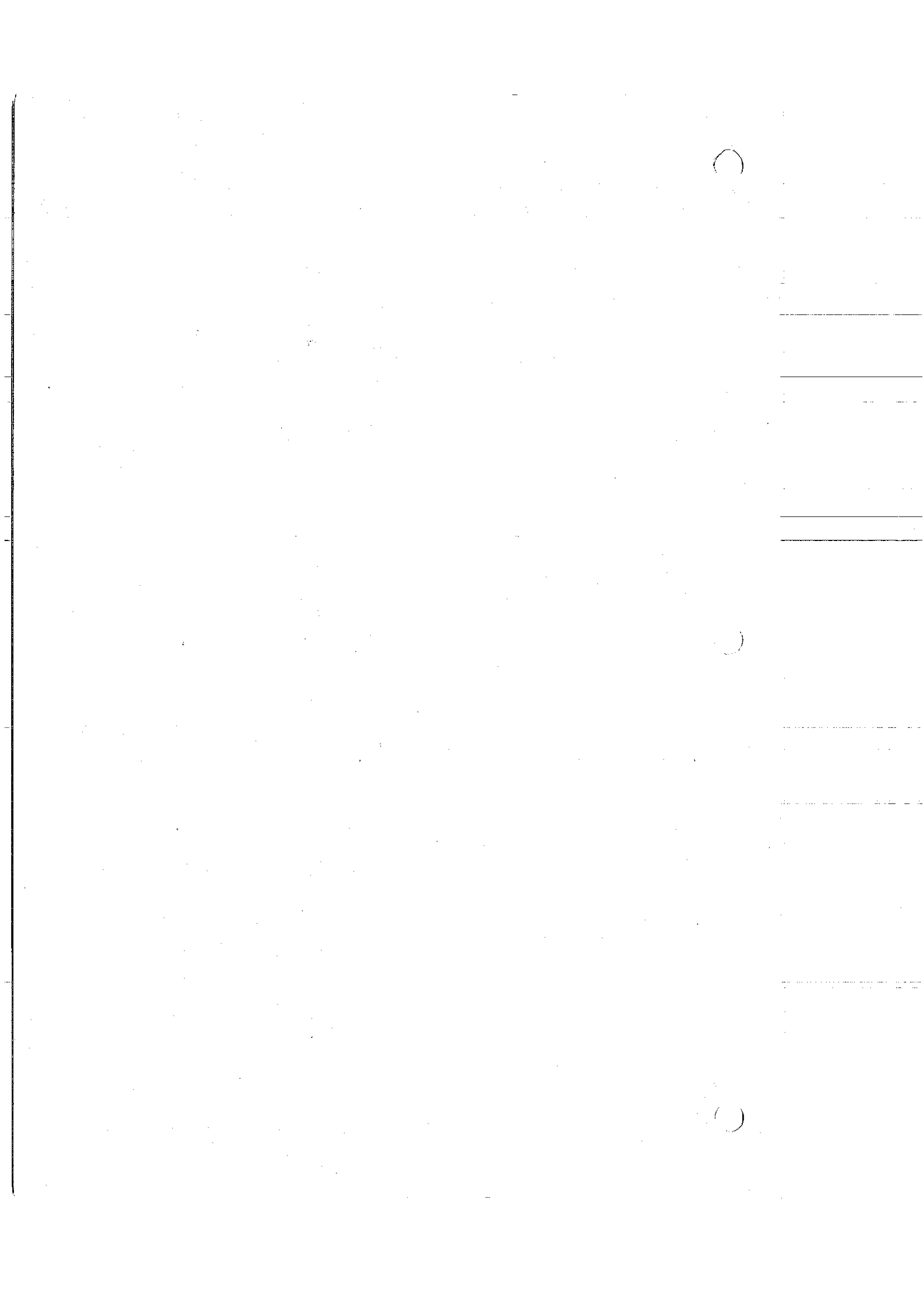
“the Departmental Head” should be read as references to the Secretary for Environment and Conservation;

“the Department” should be read as references to the Department of Environment and Conservation.

NOTE: Sections 1, 2, 3, 4, 49, 50, 51, 52 and 72 of this Act only had been brought into force at the time of this up-dating, therefore, it seems unnecessary to include the whole Act and only those sections have been included.

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CHAPTER No. 368.

*Environmental Contaminants Act.*

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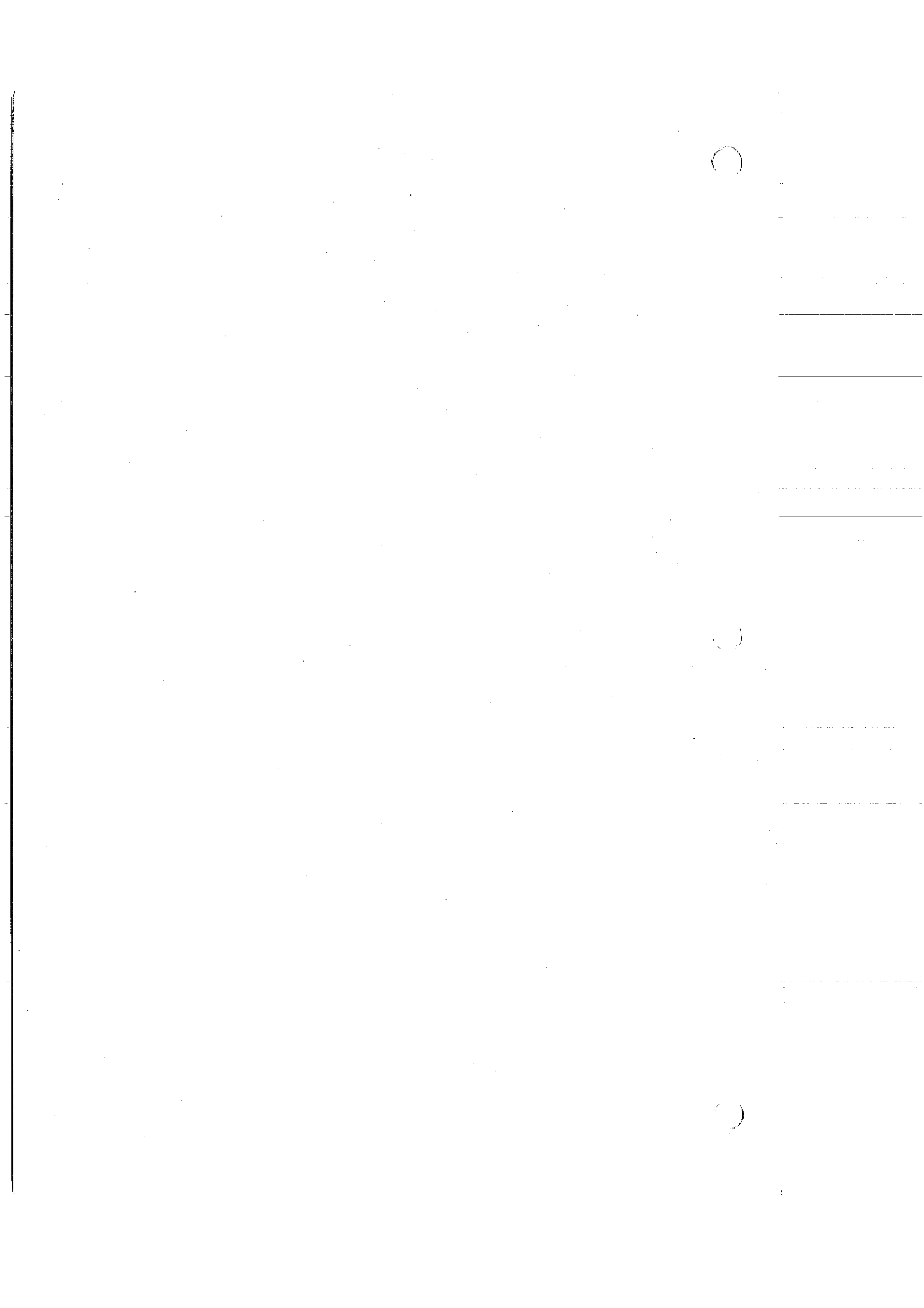
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INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 368.

*Environmental Contaminants Act.*

Being an Act—

- (a) relating to the prevention, abatement and control of environmental contamination; and
- (b) to provide for the protection of the environment in accordance with the fourth goal of the National Goals and Directive Principles; and
- (c) to give effect to those Goals and Principles under Section 25 (*implementation of the National Goals and Directive Principles*) of the Constitution;

and for related purposes.

PART I.—PRELIMINARY.

1. Compliance with Constitutional requirements.

(1) This Act, to the extent that it—

- (a) regulates or restricts a right or freedom referred to in Subdivision III.3.C of the Constitution, namely—
  - (i) the freedom from arbitrary search and entry conferred by Section 44 of the Constitution; and
  - (ii) the right to privacy conferred by Section 49 of the Constitution; and
- (b) regulates a right or freedom referred to in Subdivision III.3.C of the Constitution, namely, the right to freedom of information conferred by Section 51 of the Constitution,

is a law that is made for that purpose, taking into account the National Goals and the Basic Social Obligations, particularly the fourth goal of the National Goals and Directive Principles entitled "natural resources and environment".

(2) For the purposes of Section 29 of the Organic Law on Provincial Government, it is declared that this law relates to a matter of national interest.

2. Interpretation.

In this Act, unless the contrary intention appears—

- "analysis" means any test or examination (physical, chemical or biological) of any matter, substance or process for the purposes of determining its composition, qualities or its effect on any segment of the environment;
- "analyst" means an analyst appointed under Section 4;
- "beneficial use" means a use of the environment or any element or segment of the environment that it conducive to public benefit, welfare, safety or health or the health or productivity of flora or fauna;
- "Council" means the Environmental Contaminants Advisory Council established by Section 9;
- "Director" means the Director of the Office or Environment and Conservation and any Assistant Director of that Office;

"element", in relation to the environment, means any of the principal constituent parts of the environment including water, atmosphere, soil, vegetation, climate, sound, odour, aesthetics, flora and fauna;

"environment" means the total stock of physical, biological and social resources available to man and other species and the ecosystems of which they are a part;

"environmental contaminant" means—

(a) any substance whether liquid, solid, gaseous or radio-active, or any form of electromagnetic or thermal energy which, when discharged, emitted or deposited into the environment, causes or may cause, by reason of its properties, characteristics, the volume, amount and weight and point of its discharge, or other circumstances, a present or future alteration of the environment so as to affect adversely its beneficial use; and

(b) any substance, material or matter prescribed to be an environmental contaminant or a hazardous environmental contaminant;

"environmental officer" means an environmental officer appointed under Section 4;

"fauna" means a member of any species included in the animal kingdom other than man, whether native or introduced, and includes a micro-organism;

"flora" means a member of any species included in the plant kingdom, whether native or introduced, and includes a micro-organism;

"hazardous environmental contaminant" means a substance registered under Section 32(2) as a hazardous environmental contaminant;

"health inspector" means a person appointed to be an inspector of health under the *Public Health Act*;

"import" means import to the country;

"inspector" means an inspector appointed under Section 4;

"licence" means a licence issued under Part IV;

"litter" includes any bottle, tin, carton, package, paper, glass or other refuse, rubbish or unwanted thing or any abandoned vehicle or part thereof;

"noise abatement notice" means a noise abatement notice issued under Section 53(1);

"permit" means a permit issued under Part V;

"pollution" means any act which causes or may cause impairment of the quality of the environment for any use that can be made of it;

"premises" includes—

(a) any property or building or property and building together, any allotment, parcel or area of land held by lease or otherwise; and

(b) in relation to any trade or industry—any machinery, plant or vehicle used in connexion with it; and

(c) a ship and an aircraft;

"public place" includes any street, road, beach, foreshore, public reserve, garden, park, place of public recreation, river, stream, watercourse or lake open to or used by the public;

"the Register" means the Register of Hazardous Environmental Contaminants established under Section 32(1);

"segment", in relation to the environment, means any portion of the environment expressed in terms of volume, space, area, quantity, quality or time or any combination of them;

"ship" includes every description of vessel or craft designed for use on or in water;

"soil" includes earth, the subsoil, sand, rock, shale, minerals of every description and vegetation in the soil;

"this Act" includes the regulations;

"trade" means any business or undertaking carried on by persons, whether of a commercial or other nature;

"vehicle" includes any car, truck, bus, motor bike, tractor or other self-propelled machine and includes any ship or aircraft;

"water" includes any sea, river, stream, watercourse, reservoir, well, bore, tank, dam, canal, channel, lake, lagoon, swamp, open drain, coastal or underground water.

**3. Application to the State.**

This Act binds the State.

**PART II.—ADMINISTRATION.**

**4. Appointment of inspectors and analysts.**

The Minister may, by notice in the National Gazette appoint such persons as he considers necessary for the purpose of this Act to be—

- (a) inspectors; and
- (b) analysts; and
- (c) environmental officers.

**PART VI.—POLLUTION OFFENCES.**

**49. Litter.**

(1) A person who throws, drops, deposits or otherwise disposes of any litter in any public place, otherwise than by placing it in a place or receptacle provided for that purpose, is guilty of an offence.

Penalty: A fine not exceeding K200.00 or imprisonment for a term not exceeding one month.

(2) A person who throws, drops, deposits or otherwise disposes of any litter in or on any privately owned place, including any place owned by the State that is not a public place, without the express permission of the owner or occupier of that place, is guilty of an offence.

Penalty: A fine not exceeding K200.00 or imprisonment for a term not exceeding one month.

(3) An inspector, a member of the Police Force or a health inspector who observes or has reasonable cause to believe that a person has thrown, dropped, deposited or otherwise disposed of any litter whether in a public or other place, otherwise than by placing it in a

place or receptacle provided for that purpose, may direct that person to retrieve the litter and deposit it in an appropriate receptacle or as otherwise directed by the inspector, member of the Police Force or health inspector.

(4) A person who fails to comply with a direction under Subsection (3) is guilty of an offence.

Penalty: A fine not exceeding K50.00 or imprisonment for a term not exceeding one month.

**50. Breaking of glass.**

(1) Without derogating the provisions of Section 49, a person who breaks any glass in a public place and does not immediately collect and remove the broken glass from that public place or place it in a receptacle provided for litter in the public place, is guilty of an offence.

Penalty: A fine not exceeding K200.00 or imprisonment for a term not exceeding one month.

(2) An inspector, a member of the Police Force or a health inspector who observes or has reasonable cause to believe that a person has broken any glass in a public place, may direct that person to collect and remove the broken glass from that public place or place it in a receptacle provided for litter in the public place or as otherwise directed by the inspector, member of the Police Force or health inspector.

(3) A person who fails to comply with an order under Subsection (2) is guilty of an offence.

Penalty: A fine not exceeding K50.00 or imprisonment for a term not exceeding one month.

**51. Notice to remove litter.**

(1) Where litter is deposited in any public or private place, other than in a place or receptacle provided for that purpose, and the Director considers that the circumstances are such that the litter is or is likely to become—

- (a) detrimental to the health, safety or welfare of any person; or
- (b) unduly offensive to the senses of any person; or
- (c) a hazard to the environment,

the Director may, by written notice served on a person he considers has the means and equipment to do so direct that person to—

- (d) remove or dispose of the litter; or
- (e) take such action in relation to the litter as is specified in the notice.

(2) A person on whom a notice has been served under Subsection (1) who fails, without reasonable cause, to comply with the requirements of the notice, is guilty of an offence.

Penalty: A fine not exceeding K200.00.

(3) It is reasonable cause for not complying with the requirements of a notice served under Subsection (1) if the person on whom it is served is not in any way connected with the depositing of the litter or the premises on which it is deposited.

**PART VII.—NOISE.**

**52. Unreasonable noise.**

(1) A person is guilty of an offence under this section if he emits, or causes or permits to be emitted any noise in excess of a standard or level prescribed with respect to that type of noise.



(2) A person who emits or causes or permits to be emitted any noise which, in the circumstances of its emission, is unreasonable is guilty of an offence.

Penalty: A fine not exceeding K500.00.

Default penalty: A fine not exceeding K200.00.

(3) In determining whether for the purposes of Subsection (2) the emission of noise is unreasonable in the circumstances, the court shall take into account—

- (a) the time, place and circumstances of the emission; and
- (b) the usefulness (if any) of the activity giving rise to the emission; and
- (c) the practical possibility of the noise being mitigated to a reasonable level, frequency or duration; and
- (d) the malice, negligence or carelessness (if any) of the person causing or permitting the emission; and
- (e) any other factor which the court considers relevant in the circumstances of the case.

PART VIII.—MISCELLANEOUS.

72. Regulations.

(1) 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—

- (a) prescribing fees for the issue of licences and permits; and
- (b) regulating the registration of environmental contaminants and hazardous environmental contaminants and the removal from the Register of such contaminants; and
- (c) prescribing standards or criteria for determining when a matter or thing is poisonous, noxious, impure, detrimental to health, or within any other description referred to in this Act; and
- (d) prohibiting or regulating the discharge into the environment of any matter whether liquid, solid, gaseous, radio-active or any form of electromagnetic or thermal energy; and
- (e) prohibiting or regulating the use of any specified fuel; and
- (f) prohibiting or regulating the use of any specified aerosol; and
- (g) prescribing or regulating the importing, sale, manufacture or distribution of hazardous environmental contaminants; and
- (h) prescribing the labelling, packaging, transportation, storage, advertising or use of any hazardous environmental contaminant; and
- (i) prescribing standards or levels for the emission of various types of noise and the procedure by which they are to be tested or ascertained; and
- (j) regulating or prohibiting the burning of specified substances in the open; and
- (k) prescribing air or water quality standards; and
- (l) requiring payment of a deposit at the time of purchase of any material packaged or contained in any class of packaging or container and regulating the amounts, terms and conditions of deposits; and

- (m) prescribing the standards for matter that can safely be discharged to the water, atmosphere or land surface; and
- (n) prohibiting or prescribing the use of any packaging, equipment, facility, vehicle or ship capable of causing pollution or litter, or regulating the construction, or operation of any of them so as to prevent or minimize pollution or litter; and
- (o) prohibiting the use of any equipment, facility, instrument, device, vehicle or ship capable of emitting noise that does not meet a prescribed standard and regulating the construction, installation or operation of any of them so as to prevent or minimize the emission of noise; and
- (p) prescribing maximum permissible concentration, levels or amounts of environmental contaminants in any segment or element of the environment; and
- (q) prohibiting or regulating the amount or proportion of any segment of the environment that may be removed or otherwise taken for human consumption or use having regard to the amount, concentration or level of environmental contaminant contained in them; and
- (r) prescribing the design, function or operation of any machinery, equipment, facility or vehicle in order to regulate or control the movement or discharge of environmental contaminants; and
- (s) requiring the giving of special warning or alerts relating to the movement or discharge of environmental contaminants; and
- (t) regulating the establishment of new sites and the management of old sites for the disposal of environmental contaminants; and
- (u) further defining litter and receptacles to contain litter for the purposes of this Act; and
- (v) prohibiting or regulating particular activities having regard to the danger of exposure to and contact with environmental contaminants; and
- (w) prohibiting or regulating the trade in or disposal of any environmental contaminants; and
- (x) prohibiting or regulating the employment or conditions of employment of any person in work that involves the handling by that person of, or exposure of that person to, any environmental contaminant; and
- (y) providing for the protection of—
  - (i) persons from injury or illness or the risks of injury or illness; and
  - (ii) flora and fauna from damage or the risks of damage,arising out of or in the course of the handling, use or disposal of environmental contaminants; and
- (z) prescribing the requirements in relation to—
  - (i) buildings and other premises where an environmental contaminant or substance likely to cause litter is manufactured, treated, stored, sold, handled or used; and
  - (ii) vehicles in which an environmental contaminant is conveyed; and

- (za) prohibiting the use of a particular environmental contaminant for a particular purpose or in specified cases or circumstances; and
- (zb) prescribing restrictions or conditions as to the purposes for which or the means by which an environmental contaminant may be used; and
- (zc) the granting of certificates of competency in relation to the handling or use of environmental contaminants, and prohibiting the handling or use of, or any work or operation in connexion with, environmental contaminants or that may lead to exposure to environmental contaminants, except by or under the supervision of a person holding such a certificate; and
- (zd) the form of notification to affected parties in respect of applications for licences under this Act; and
- (ze) the suppression of dust or smoke; and
- (zf) giving effect to any international convention to which the State is a party or agreement between the State and any country or countries relating to the control of environmental contaminants and the protection of the environment; and
- (zg) prescribing penalties of fines not exceeding K5 000.00 or default penalties of fines not exceeding K1 000.00 for—
  - (i) offences against the regulations; or
  - (ii) offences against any provision of the Act where no penalty is provided.



THE INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 368.

*Environmental Contaminants Act.*

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APPENDIX.

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SOURCE OF THE ENVIRONMENTAL CONTAMINANTS ACT.

Previous Legislation.

*Environmental Contaminants Act.*

NOTE. Only Sections 1, 2, 3, 4, 49, 50, 51, 52 and 72 of this Act were in force at the time of this up-dating.

