

Chapter 309.
Explosives Act (Adopted).

Certified on: / /20 .

INDEPENDENT STATE OF PAPUA NEW GUINEA.



Chapter 309.

Explosives Act (Adopted).

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INDEPENDENT STATE OF PAPUA NEW GUINEA.



AN ACT

entitled

Explosives Act (Adopted),

Being an Act relating to explosives adopted by Section Sch. 2.6 (*adoption of pre-Independence laws*) of, and Part I of Schedule 5 to, the *Constitution*.

PART I. – PRELIMINARY.

1. INTERPRETATION.

In this Act, unless the contrary intention appears—

“**explosives**” means—

- (a) any substances or articles capable of producing an explosive, incendiary or pyrotechnic effect; or
- (b) any prescribed substances; or
- (c) any containers that—
 - (i) have contained a substance or article referred to in Paragraph (a) or (b); and
 - (ii) have not been certified, as prescribed, to be free from explosives;

“**Government explosives area**” means any Government land declared by the regulations to be an explosives area and, where any such land consists of a part of the bed of the sea, or of a bay, estuary or river, includes the waters above the land;

“**Government land**” includes any land in, over or in connection with which the State has any estate, right, title, interest, power or privilege;

“**handling**” includes loading, unloading, discharging, stacking, stowing, storing and transporting, and any operation incidental to, or arising out of, any of those operations;

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

“vessel” means a ship, boat or other vessel used for any purpose on the sea or in navigation.

2. ACT TO BIND THE STATE.

This Act binds the State.

PART II. – HANDLING OF GOVERNMENT EXPLOSIVES.

3. INTERPRETATION OF PART II.

In this Part, “**vessel**” does not include a vessel belonging to the Defence Force or to the naval forces of another part of the Queen’s dominions.

4. EXPLOSIVES TO WHICH PART II APPLIES.

This Part applies to explosives that–

- (a) are the property of, or are in the possession or control of, the State; or
- (b) have been manufactured by the State and, under an arrangement made with the Government, are intended to be, or are being, exported from the country; or
- (c) are the property of, or are in the possession or control of, the government or the naval, military or air forces of another country and are in Papua New Guinea, with the approval of the Government for the purposes of, or for a purpose related to, the defence of Papua New Guinea.

5. REGULATIONS RELATING TO THE HANDLING OF EXPLOSIVES.

The regulations may make provision–

- (a) for or in relation to, or for or in relation to any matter arising out of or incidental to, the handling of explosives to which this Part applies; and
- (b) for or in relation to safety measures to be observed at, in or on a place, vehicle, aircraft or vessel at, in, on or in the vicinity of which there are explosives to which this Part applies.

6. ORDERS RELATING TO THE BERTHING OF VESSELS.

(1) The regulations may empower a person to direct, by order, that a vessel in which explosives to which this Part applies are, or are to be, loaded may, for a purpose or purposes specified in the order, be berthed in a port so specified.

(2) The regulations may provide that where–

- (a) the port specified in an order referred to in Subsection (1) is a prescribed port; and
- (b) the vessel to which the order relates is not provided with a berth in the port or is provided with a berth in the port that, in the opinion of the person who made the order, is not suitable for the purpose or purposes specified in the order,

that person may, by order, give any directions that are necessary for ensuring that the vessel is, for such period as is necessary, provided with a berth in the port that is suitable.

(3) Except in the case of explosives referred to in Section 4(b) or (c), regulations made for the purposes of Subsection (1) shall not be exercised otherwise than for a purpose related to the defence of Papua New Guinea.

7. ORDERS RELATING TO TRANSPORTING EXPLOSIVES BY RAILWAY.

(1) The regulations may empower a person to give, by order, such directions as are necessary for ensuring that any explosives to which this Part applies specified in the order are transported by railway, between such places, on such day or days and in such manner as are so specified.

(2) Except in the case of explosives referred to in Section 4(b) or (c), the powers conferred by regulations made for the purposes of Subsection (1) shall not be exercised otherwise than for a purpose related to the defence of Papua New Guinea.

8. INDEMNITY.

The State may indemnify a person from and against all actions, proceedings, claims, demands, costs and expenses relating to any loss, damage or injury to any person or property attributable to explosives, to which this Part applies, or to the handling of such explosives.

PART III. – CONTROL OF GOVERNMENT EXPLOSIVES AREAS.

9. REGULATIONS FOR THE CONTROL OF GOVERNMENT EXPLOSIVES AREAS.

(1) The regulations may make provision for ensuring the safety of persons who are, and the protection from damage of property that is, in or in the vicinity of a Government explosives area.

(2) Without limiting the generality of Subsection (1), the regulations may make provision–

- (a) for or in relation to, or for or in relation to any matter arising out of or incidental to, the handling of explosives and other goods in or in the vicinity of a Government explosives area; and
- (b) for or in relation to safety measures to be observed in or in the vicinity of a Government explosives area; and
- (c) prohibiting or regulating the entry of persons, vehicles, aircraft and vessels into, and the movement of persons, vehicles, aircraft and vessels within or over, a Government explosives area; and
- (d) for or in relation to the berthing of vessels in a Government explosives area; and
- (e) prescribing fees to be paid in respect of the use of facilities or services maintained, operated or provided by the State in a Government explosives area.

PART IV. – MISCELLANEOUS.**10. ORDERS.**

The regulations may empower a person to provide, by order, for any matter that may be provided for by the regulations.

11. DATE FROM WHICH ORDERS TAKE EFFECT.

An order made under the regulations takes effect—

- (a) in the case of an order required by the regulations to be published in the National Gazette—on the date of publication; and
- (b) in any other case—on the date on which the order is made,

or on such later date as is prescribed or as is fixed under the regulations.

12. PROOF OF INSTRUMENTS.

Evidence of an order or other instrument made or issued by a Minister or other person under, or having effect under, the regulations may, in any legal proceedings, be given by the production of—

- (a) a document purporting to be the order or other instrument and to be signed by the Minister or the other person; or
- (b) a document purporting to be certified to be a true copy of the order or other instrument by or on behalf of the Minister or the other person.

13. COMMITTEES OF ADVICE.

The regulations may make provision for or in relation to the establishment, and the functions and powers, of committees to advise the Minister on matters relating to, or to the handling of, explosives.

14. OFFENCES.

A person who contravenes, or fails to comply with, a provision of the regulations or of an order made under the regulations is guilty of an offence.

Penalty: (a) a fine not exceeding K1,000.00 or imprisonment for a term not exceeding six months, or both; and in addition, if the offence is a continuing offence, a fine not exceeding K200.00 for each day during which the offence continues; or

(b) such lesser penalty as is prescribed.

15. 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.

Office of Legislative Counsel, PNG