

No. 2 of 1991.

***Peace and Good Order Act 1991.***

Certified on: / /20 .



INDEPENDENT STATE OF PAPUA NEW GUINEA.



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INDEPENDENT STATE OF PAPUA NEW GUINEA.



AN ACT

entitled

***Peace and Good Order Act 1991,***

Being an Act to ensure the preservation of peace and good order at all times by controlling processions and public meetings in certain circumstances and at certain times, by creating an offence of being unlawfully on the land of another person, and for related purposes.

**PART I. – PRELIMINARY.**

**1. COMPLIANCE WITH CONSTITUTIONAL REQUIREMENTS.**

This Act, to the extent that it regulates or restricts a right or freedom referred to in Subdivision III.3.C. of the *Constitution*, namely–

- (a) the freedom from arbitrary search and entry conferred by Section 44 of the *Constitution*; and
- (b) the right to freedom of conscience, thought and religion conferred by Section 45 of the *Constitution*; and
- (c) the right to freedom of expression conferred by Section 46 of the *Constitution*; and
- (d) the right to privacy conferred by Section 49 of the *Constitution*; and
- (e) the right to freedom of movement conferred by Section 52 of the *Constitution*,

is a law that is made for the purpose of public order.

**2. INTERPRETATION.**

In this Act, unless the contrary intention appears–

“**appropriate Committee**” means–

- (a) in a province, the Provincial Committee for that province established under Section 5(1)(a); and
- (b) in the National Capital District—the National Capital District Committee established under Section 5(1)(b);

“**assembly**” means a gathering of 10 or more persons;

“**breach of the peace**” means a breach of the peace which constitutes an offence and for which a penalty of imprisonment may be imposed;

“**Court**” means a District Court;

“**Magistrate**” means a Principal Magistrate;

“**meeting**” means an assembly at which a matter of public interest is discussed or views are expressed on a matter and—

- (a) at which offensive weapons are carried; or
- (b) at which there are reasonable grounds for believing that there is likely to be a breach of the peace; or
- (c) that is likely—
  - (i) to endanger the safety of members of the public; or
  - (ii) to deprive a community or a substantial part of a community of supplies or services essential to life;

“**offensive weapons**” means—

- (a) any article made or adapted for use for causing injury to the person; or
- (b) any article intended by the individual having it with him for use for causing injury to the person; or
- (c) without prejudice to the general descriptions contained in Paragraphs (a) and (b), the following:—
  - (i) any imitation of a pistol, revolver, rifle, shotgun, machine gun or sub-machine gun, unless such article is obviously a child’s toy of a type, class and description approved by the Registrar of Firearms;
  - (ii) any article or device of a type or description commonly known as knuckle duster or metal knuckles or any article or device made or adapted for use as such;
  - (iii) a sap glove or a studded glove;
  - (iv) a mace, knobkerrie or similar device intended to be used as a blunt instrument, other than a ceremonial mace made or used solely as a symbol of authority on ceremonial occasions;

- (v) any article or device in the form of a flail in which the striking part is armed with spikes or studded with any protruding matter, any whip or lash which is comprised wholly or partly of any form of metal, or any article known as a cat of nine tails, whether or not it has nine leathers;
- (vi) any article commonly known as kung fu sticks, otherwise known as Munchiku, or any similar article;
- (vii) a pistol, capable of being concealed in the palm of the hand, but not including the standard ‘pocket’ or ‘purse’ pistol;
- (viii) a firearm which substantially duplicates a walking stick, walking cane or umbrella;
- (ix) a riding crop containing a knife or stiletto;
- (x) a walking stick, walking cane or umbrella containing a knife, stiletto or sword;
- (xi) a knife commonly known as a flick knife which has a blade which opens automatically on pressure of a button or similar release device;
- (xii) a crossbow, other than an antique crossbow used for ornamental purposes;
- (xiii) a cow prod, or similar device intended to cause an electrical shock upon the recipient;
- (xiv) a sling shot or similar device such as the thing commonly known as a catapult;

**“permit”** means a permit issued under Section 7;

**“procession”** means a procession of 10 or more persons or three or more vehicles, other than—

- (a) a procession held in a church or other place of religious worship for the purpose of a religious ceremony; or
- (b) in relation to a provision of this Act—a procession, or one of a class of processions excluded from the application of that provision by Section 3;

**“public authority”** includes a body (corporate or unincorporate) declared by the Minister, by notice published in the National Gazette, to be a public authority for the purposes of this Act;

**“public meeting”** includes a meeting in a public place and a meeting which the public or any section of the public are permitted to attend, whether on payment of money or otherwise, and whether or not members of the public are permitted to take part in the meeting otherwise than as spectators or bystanders;

**“public place”** includes—

- (a) a place to which free access is permitted to members of the public with the express or tacit consent of the owner or occupier of the place; and
- (b) a place to which members of the public are admitted on payment of money; and
- (c) a road, street, footway, court, alley or thoroughfare which members of the public are allowed to use, notwithstanding that the road, street, footway, court, alley or thoroughfare is on private property;

**“public procession”** means a procession in a public place, other than a casual procession held solely for private or personal purposes not connected with a matter of public interest;

**“senior commissioned officer of the Police Force”** means a commissioned officer of the Police Force of a rank of superintendent or above.

### **3. EXEMPTION OF CERTAIN PROCESSIONS AND MEETINGS.**

(1) The Minister may, by notice in the National Gazette, exclude—

- (a) a procession or a class of processions; or
- (b) a meeting or a class of meetings,

from the application of some or all of the provisions of this Act relating to processions and meetings, and those provisions do not apply accordingly.

(2) Nothing in Subsection (1) empowers the Minister to make unlawful anything that is otherwise lawful or to take away a defence of excuse otherwise available.



**PART II. – PROCESSIONS AND MEETINGS.**

***Division 1.***

***Processions and Meetings in Certain Areas.***

**4. APPLICATION OF DIVISION 1.**

(1) The Head of State, acting on advice, may, where he is satisfied that it is desirable in the interest of the preservation of peace and public order so to do, declare that the provisions of this Division are in force in the country, or part of the country, for a period not exceeding one month.

(2) A declaration under Subsection (1) shall—

- (a) be published in the National Gazette; and
- (b) be published in a newspaper circulating throughout the country; and
- (c) be broadcast on the National Broadcasting Corporation Service; and
- (d) specify the area to which it applies; and
- (e) specify the period, not exceeding one month, for which it applies; and
- (f) specify the reason for the making of the declaration.

(3) On the expiry of a declaration under Subsection (1), the Head of State, acting on advice, may, where he is satisfied that it is desirable in the interest of the preservation of peace and public order so to do, make a further declaration or series of declarations relating to the same area and the provisions of Subsection (2) shall apply to such further declaration or declarations.

(4) Where a declaration has been made under Subsection (1) or (3), the Minister shall present the declaration to the Parliament—

- (a) if the Parliament is then meeting—on the first sitting day next after the publication in the National Gazette; or
- (b) if the Parliament is not then meeting—on the first sitting day of the Parliament at the meeting next after the publication.

(5) A declaration under Subsection (1) or a renewal of a declaration under Subsection (3) may be revoked or varied by resolution of the Parliament.

**5. ESTABLISHMENT OF COMMITTEES AND THEIR FUNCTIONS.**

(1) For the purpose of this division there is established—

- (a) for each province, a Provincial Committee; and
- (b) for the National Capital District, a National Capital District Committee,

which shall consist of the person for the time being holding the office or carrying out the functions of—

- (c) the Provincial Administrator of the province or of the National Capital District ; and

(d) the senior commissioned officer of the Police Force being in control of the Province or of the National Capital District; and

(e)<sup>1</sup> the Governor of the Province or of the National Capital District.

(2) The functions of each Committee established under Subsection (1) are, in relation to the province for which it was established, or, in the case of the National Capital District Committee, in relation to the National Capital District—

(a) to receive and consider applications under Section 6 for permits to organize or hold a public procession or public meeting; and

(b) to issue permits in accordance with Section 7.

**6. PERSON MAY APPLY FOR PERMIT TO ORGANIZE OR HOLD A PUBLIC PROCESSION OR PUBLIC MEETING.**

(1) A person may apply to the appropriate Committee for a permit to organize or hold a public procession or public meeting.

(2) An application under Subsection (1)—

(a) may be made either orally or in writing; and

(b) shall be made to a member of the appropriate Committee; and

(c) shall contain details of the proposed location of the proposed procession or meeting, the reason for it, the arrangements for its organization and control and the anticipated number of persons likely to take part.

**7. CONSIDERATION OF APPLICATION, ETC., BY COMMITTEE.**

(1) Where a member of a Committee receives an application under Section 6(2), he shall, as soon as is practicable, call a meeting of the Committee to consider the application.

(2) At a meeting called under Subsection (1), the Committee shall consider the application and, unless it is satisfied on reasonable grounds that the procession or meeting is likely to be prejudicial to the maintenance of peace and public order, shall issue the permit.

(3) A permit under Subsection (2) shall specify—

(a) the name or names of the person or persons to whom the permit is issued; and

(b) the purpose for which the procession or meeting may be held; and

(c) the times within which the procession or meeting may be held; and

(d) in the case of a procession, the route which the procession may take; and

(e) in the case of a meeting, the place at which the meeting may be held; and

<sup>1</sup> Section 5(1)(e) repealed and replaced by No 17 of 1995 s 4.

- (f) any other condition which the appropriate Committee considers necessary to ensure that the procession or meeting, as the case may be, will not be prejudicial to the maintenance of peace and public order.

**8. APPEAL AGAINST REFUSAL OF PERMIT, ETC.**

(1) An applicant for a permit may appeal to a Magistrate against—

- (a) the refusal of the permit; or
- (b) any of the matters specified in the permit in accordance with Section 7(3).

(2) The Magistrate shall make a thorough investigation of the matter, without regard to legal form, and is not bound by any rules of evidence, but may inform himself on any relevant matters as he thinks proper.

(3) The Magistrate may—

- (a) confirm the refusal or the matters specified in the permit, as the case may be; or
- (b) reject the refusal and issue a permit; or
- (c) vary any of the matters specified in the permit.

(4) For the purposes of Subsection (3), the Magistrate has all the powers of a Committee under Section 7 and that section applies accordingly.

(5) The right of appeal conferred by Subsection (1) is in addition to and not in substitution for or derogation of any other right or remedy that a person may have under any other law.

**9. OFFENCES, ETC.**

(1) A person, who—

- (a) organizes or convenes a public procession; or
- (b) organizes, convenes or conducts a public meeting,

except in accordance with a permit issued under this Act by the appropriate Committee, is guilty of an offence.

Penalty: A fine not exceeding K1,000.00 or imprisonment for a term not exceeding 12 months, or both.

(2) For the purposes of Subsection (1), it is irrelevant that the accused person did not intend that the procession or meeting should take place, unless he proves that he took reasonable steps to prevent the procession or meeting being or becoming such a procession or meeting, and that he took no further part in it when to his knowledge it became such a procession or meeting.

(3) A person who—

- (a) is present on the occasion of a public procession or at a public meeting for which no permit has been issued under this section; or
- (b) is present on the occasion of a public procession or at a public meeting which is held or continues to be held in contravention of the conditions of the permit issued for it,

is guilty of an offence.

Penalty: A fine not exceeding K400.00 or imprisonment for a term not exceeding six months, or both.

(4) It is a defence to a charge of an offence against Subsection (3) if the accused person proves that—

- (a) he was unaware of the nature of the procession or meeting, or that a condition of the permit was contravened, as the case requires; or
- (b) he was present for some lawful purpose unconnected with the procession or meeting, and that he actually took no part in it except as a spectator or bystander; or
- (c) he was present in the performance of some public duty.

***Division 2.***

***General Provisions.***

**10. SENIOR COMMISSIONED OFFICER OF POLICE FORCE MAY STOP PROCESSION, ETC.**

(1) Where—

- (a) a public procession or meeting for which a permit is required is held, or is about to be held, without such a permit; or
- (b) a public procession or public meeting in respect of which a permit has been issued is held, or is about to be held, or continues to be held, in breach of a condition of the permit; or
- (c) it appears on reasonable grounds to a senior commissioned officer of the Police Force that if a public procession or public meeting (including a public procession or public meeting in respect of which a permit has been issued) is held or continues to be held it is likely to give rise to a breach of the peace,

a senior commissioned officer of the Police Force may give an order (either oral or in writing) prohibiting the holding of the procession or meeting or directing the procession or meeting to disperse, as the case requires.

(2) Where an order is made under Subsection (1), a person taking part in the procession, or who is present at the meeting, who fails to comply with the order immediately it becomes known to him, is guilty of an offence.

Penalty: A fine not exceeding K400.00 or imprisonment for a term not exceeding six months, or both.

(3) It is a defence to a charge of an offence against Subsection (2) if the accused person proves that he did not know that the order had been given.

**11. PROHIBITION OF OFFENSIVE WEAPONS AT PROCESSIONS AND MEETINGS.**

A person who, while present on the occasion of a public procession or at a public meeting, has with him, without lawful and reasonable excuse (proof of which is on him), an offensive weapon, is guilty of an offence.

Penalty: A fine not exceeding K1,000.00 or imprisonment for a term not exceeding one year, or both.

**12. PROHIBITION OF OFFENSIVE CONDUCT CONDUCTIVE TO BREACHES OF THE PEACE.**

A person who, while present on the occasion of a public procession or at a public meeting, uses threatening, abusive or insulting words or behaviour with intent to provoke a breach of the peace, or whereby a breach of the peace is likely to be occasioned, is guilty of an offence.

Penalty: A fine not exceeding K500.00 or imprisonment for a term not exceeding one year, or both.

**PART III. – PROVISIONS RELATING TO BREACHES OF THE PEACE.**

**13. STATEMENTS INTENDED TO CAUSE DISAFFECTION.**

(1) A person who prints or publishes any writing, or who publishes or makes to an assembly a statement, which is intended–

- (a) to encourage recourse to unlawful violence on the part of any person; or
- (b) to encourage disobedience to a law or to a lawful order; or
- (c) to encourage a person to achieve a lawful result by unlawful means; or
- (d) to lead to a breach of the peace,

is guilty of an offence.

Penalty: A fine not exceeding K1,000.00 or imprisonment for a term not exceeding one year, or both.

(2) A person cannot be convicted of an offence against Subsection (1) on the uncorroborated evidence of one witness.

**14. INCITING TO OR URGING THE COMMISSION OF OFFENCES.**

A person who–

- (a) incites to, urges, aids or encourages; or
- (b) prints or publishes any writing which incites to, urges, aids or encourages,

the commission of a breach of the peace or the carrying on of any operations for or by the commission of such a breach of the peace, is guilty of an offence.

Penalty: A fine not exceeding K1,000.00 or imprisonment for a term not exceeding one year, or both.

**15. CONTROL OF TRAFFIC.**

(1) A senior commissioned officer of the Police Force may, if on reasonable grounds he considers it necessary to do so for the preservation of peace and public order or for the prevention of an offence against a law in force in Papua New Guinea, erect or place barriers in or across a public road or street or in a public place in such a manner as he thinks fit, or cause them to be so erected or placed.

(2) A member of the Police Force may take all reasonable steps to prevent a vehicle passing a barrier erected under this section and may give a direction or signal to indicate where the driver of the vehicle is required to stop the vehicle.

(3) The driver of a vehicle, who does not comply with a direction or signal given by a member of the Police Force under Subsection (2), is guilty of an offence.

Penalty: A fine not exceeding K400.00 or imprisonment for a term not exceeding six months, or both.

**16. POWER TO ENTER AND SEARCH VEHICLE, ETC.**

(1) A member of the Police Force may, without warrant and using such force and assistance as is reasonably necessary, stop, detain and search a vessel, vehicle or aircraft if he suspects on reasonable grounds—

- (a) that the vessel, vehicle or aircraft, or anything contained in it, has been used, is being used or is likely to be used for or in connection with a breach of the peace; or
- (b) the evidence of the commission of an offence against this Act is likely to be found on the vessel, vehicle or aircraft,

and may seize any such evidence, weapon or thing so found.

(2) The power to search under this section includes the power to search a person who is in or on the vessel, vehicle or aircraft at the time when it is stopped, searched or detained and to seize any evidence, weapon or thing on that person which might, under Subsection (1), have been seized if it had been found in or on the vessel, vehicle or aircraft.

(3) A search of a female under this section shall only be carried out in private and with due regard to decency.

**17. POLICY MAY PREVENT BREACH OF PEACE.**

Where a member of the Police Force believes on reasonable grounds that a breach of the peace has occurred, is occurring or is likely to occur, he and any member of the Police Force acting on his lawful order may take such action as is reasonably necessary in the circumstances to prevent that breach of the peace from re-occurring, continuing or occurring, as the case may be.

**18. OBSTRUCTING POLICE.**

(1) A person shall not resist, obstruct or hinder a member of the Police Force in the execution of his duty under this Act.

Penalty: A fine not exceeding K400.00 or imprisonment for a term not exceeding six months, or both.

(2) Where a Court convicts a person for an offence against Subsection (1), the Court may order him to pay to the member of the Police Force against whom the offence was committed such sum as the Court thinks just as compensation for any bodily injury or damage to any property belonging to the member of the Police Force occasioned by or in the course of the commission of the offence.

**PART IV. – PERSONS UNLAWFULLY ON LAND.**

**19. UNLAWFULLY REMAINING ON LAND.**

(1) A person shall not wrongfully remain on or return to any land after having been requested to leave by the owner or occupier of the land.

Penalty: A fine not exceeding K1,000.00 or imprisonment for a term not exceeding one year, or both.

(2) It is a defence to a charge of an offence against Subsection (1) that the accused acted under a fair and reasonable belief that he had a right to remain on or return to the land.

(3) Subsection (1) does not apply to–

- (a) a person who has resided on, has been in occupation of, or has been on the land, apart from temporary absences, for a continuous period of more than 12 months before being requested to leave; or
- (b) a tenant or licensee who remains on the land after the end of his tenancy or licence.

(4) In this section–

“**land**” includes any premises and the land on which any premises are situated, as the case requires;

“**owner**” includes–

- (a) in the case of customary land–an owner of the land by custom; and
- (b) in the case of the Government land within the meaning of the *Land Act 1996*–the Departmental Head of the Department responsible for land matters, or a District Officer; and
- (c) in the case of land reserved or deemed to be reserved from lease or further lease under the *Land Act 1996*–the trustees or other persons under whose care, control or management the land is placed or, where there are no such trustees or persons, the Departmental Head of the Department responsible for land matters or a District Officer; and
- (d) in the case of land which is registered under a law in force in Papua New Guinea relating to the registration of interests in land–the registered proprietor of an interest in the land; and
- (e) in the case of land which is held under lease or under or for any other right, title, estate or interest by which the holder is entitled to exclusive possession of the land (whether against the world, or against a class to which the person referred to in Subsection (1) belongs, or against that person)–the person so holding; and



- (f) the agent of, or any other person acting with or under the authority (express or implied) of, the owner.

(5) Where, in any proceeding for a charge of an offence against Subsection (1), the Court is of the opinion that the land in question is Government land to which the public have a right of use or access without restriction, the Court shall not proceed to conviction unless it is satisfied that the request of the owner or occupier was reasonably made for purposes—

- (a) related to the use of the land; or
- (b) relating to the preservation of peace and public order.

**PART V. – MISCELLANEOUS.**

**20. INNOCENT ACTS.**

Nothing in this Act makes it unlawful for a person—

- (a) to point out in good faith errors or defects (or alleged errors or defects)—
  - (i) in the government of or the laws in force in Papua New Guinea;  
or
  - (ii) in the administration of justice,  
with a view to the reform of those errors or defects; or
- (b) to encourage in good faith another person to attempt to procure by lawful means the alteration of any matter or thing in Papua New Guinea established by law; or
- (c) to point out in good faith, in order to obtain their removal, any matters which are producing or have a tendency to produce feelings of ill will between different classes of communities of persons within Papua New Guinea; or
- (d) to do anything in good faith in connection with an industrial dispute.

**21. PROSECUTION OF OFFENCES.**

(1) A prosecution for an offence against Section 13 shall not be instituted, except by or with the consent of the Public Prosecutor, which may be evidenced by a telegram purporting to come from the Public Prosecutor.

(2) Proceedings under this Act shall be dealt with by a District Court constituted by a Magistrate and shall not be brought in or transferred to a Local Court.

**22. REGULATIONS.**

The Head of State, acting with, and in accordance with, the advice of the National Executive Council, 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.

**23. REPEAL.**

The *Public Order Act* (Chapter 273) is repealed.

**24. NON-DEROGATION OF CERTAIN OTHER PROVISIONS.**

The provisions of this Act are in addition to, and not in derogation or amendment of, the provisions of any other law.

Office of Legislative Counsel, PNG