

Chapter 96.
Trade Licensing Act 1969.

Certified on: / /20 .

INDEPENDENT STATE OF PAPUA NEW GUINEA.



Chapter 96.

Trade Licensing Act 1969.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.



AN ACT

entitled

Trade Licensing Act 1969,

Being an Act to provide for the licensing of tradesmen in certain categories or classes of trades, and for related purposes.

PART I. – PRELIMINARY.

1. INTERPRETATION.

In this Act, unless the contrary intention appears—

“**the appropriate Board**”, in relation to a prescribed trade, means the Board established under Section 3 for that trade;

“**Board**” means a Trade Licensing Board established under Section 3;

“**business address**” includes, in the case of a licensed tradesman who is an employee, the address of the principal place of business of his employer;

“**the Chairman**”, in relation to a Board, means the Chairman of the Board;

“**employer**” means a person or an association of persons (corporate or unincorporate) who or which employs persons to perform any class of work within the scope of a prescribed trade;

“**licence**” means a licence as a tradesman granted under Section 18;

“**licensed tradesman**” means a person who has been licensed or provisionally licensed by the appropriate Board under this Act;

“**provisional licence**” means a provisional licence as a tradesman granted under Section 18;

“**the Register**”, in relation to a prescribed trade, means the Register kept under Section 14 in respect of that trade;

“**the Registrar**” means the Registrar of Trade Licensing Boards appointed under Section 13;

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

“this Act” includes the regulations;

“trade” means any trade or calling.

2. APPLICATION.

Nothing in this Act affects or applies to or in respect of—

(a)¹ the Electricity Industry Act (Ch. 78) under that Act; or

(b) any person in respect of a trade in which he is licensed under that Act.

¹ Section 2 Amended by No. 69 of 2006, s. 12.

PART II. – ADMINISTRATION.

Division 1.

Trade Licensing Boards.

3. ESTABLISHMENT OF BOARDS.

The Minister may establish a Trade Licensing Board for a prescribed trade or prescribed trades.

4. INCORPORATION OF BOARDS.

(1) A Board–

- (a) is a corporation; and
- (b) has perpetual succession; and
- (c) shall have a seal; and
- (d) may sue and be sued in its corporate name.

(2) All courts, Judges and persons acting judicially shall take judicial notice of the seal of the Board affixed to a document, and shall presume that it was duly affixed.

5. CONSTITUTION OF BOARDS.

(1) A Board shall consist of–

- (a) one member from each of such Departments of the Government and instrumentalities of the Government as the Minister considers appropriate to be represented in relation to the trade or trades for which the Board is established; and
- (b) one member who is a licensed tradesman in any of the trades for which the Board is established; and
- (c) one member who is suitably qualified to act as a consultant or adviser in respect of the trade or trades for which the Board is established,

appointed by the Minister by notice in the National Gazette.

(2) At any time when it is not, in the opinion of the Minister, practicable to appoint a suitable person to a Board in accordance with Subsection (1)(b), the Minister may appoint any person who, in his opinion, has appropriate experience and qualifications and is otherwise suitable for appointment.

(3) An appointment under Subsection (2) shall be for such period, not exceeding 12 months, as the Minister thinks proper, and may be renewed.

6. CHAIRMAN AND DEPUTY CHAIRMAN.

The Minister shall, by notice in the National Gazette, appoint a member of each Board to be the Chairman of the Board and another member to be the Deputy Chairman.

7. TENURE OF OFFICE.

(1) A member of a Board holds office subject to this Act for a term of three years, and is eligible for re-appointment.

(2) The Minister may at any time terminate the appointment of a member of a Board for misbehaviour or incapacity.

8. DISQUALIFICATIONS.

A person who—

- (a) is not of the full age of 21 years; or
- (b) is an undischarged bankrupt or insolvent; or
- (c) has been convicted of an offence punishable under a law of Papua New Guinea, or of Australia or a State or Territory of Australia, by death or imprisonment for one year or longer, and as a result of the conviction is subject to be sentenced to death or imprisonment, is under sentence of death or is undergoing imprisonment, or is under bond to appear for sentence if called on; or
- (d) is of unsound mind as that expression is used in the *Public Health Act 1973*,

is not qualified for appointment as a member of a Board.

9. VACATION OF OFFICE.

If a member of a Board—

- (a) dies; or
- (b) resigns his office in writing addressed to the Minister and the resignation is accepted by the Minister; or
- (c) is absent without leave of the Board, from two consecutive meetings of the Board; or
- (d) ceases to have the qualification by virtue of which he was appointed; or
- (e) becomes a person referred to in Section 8,

his seat becomes vacant and shall be filled as a casual vacancy under Section 10.

10. CASUAL VACANCIES.

In the event of a casual vacancy in a Board, a member shall be appointed in accordance with the appropriate provision of Section 5(1), and the person so appointed holds office, subject to this Act, for the residue of his predecessor's term of office.

11. MEETINGS OF BOARDS.

(1) Each Board shall meet at least once in each year.

(2) Subject to Subsection (3), a meeting of a Board shall be convened by the Chairman by written notice to the other members of the Board, and shall be held at the time and place specified in the notice.

(3) The Minister may, by written notice to each member, direct that a meeting be held at the time and place specified in the notice.

(4) At a meeting of a Board—

(a) the Chairman of the Board shall preside at all meetings at which he is present; and

(b) in the absence of the Chairman, the Deputy Chairman shall preside; and

(c) a quorum is as specified by the Minister, by notice in the National Gazette, in respect of the Board; and

(d) all matters before the meeting shall be decided by a majority of votes of the members present and voting; and

(e) the member presiding has a deliberative and, in the event of an equality of votes on a matter, also a casting vote.

(5) Subject to this Act, the procedure at meetings of a Board are as the Board determines.

12. FEES AND ALLOWANCES.

The members of each Board shall be paid such fees (if any) and allowances (if any) as the Minister determines.

PART III. – THE REGISTRAR AND REGISTRATION.

13. THE REGISTRAR.

The Minister shall, by notice in the National Gazette, appoint an officer to be the Registrar of Trade Licensing Boards.

14. REGISTERS.

The Registrar shall keep a register in the prescribed form in respect of each prescribed trade.

15. REGISTRATION.

(1) Where a Board authorizes the licensing of a person, the Registrar shall enter in the appropriate Register–

- (a) his name; and
- (b) his business address or addresses (if any) in the country, or, if he has no such business address, his place of residence, whether in the country or elsewhere; and
- (c) particulars of his qualifications; and
- (d) the licence number allotted to him; and
- (e) the date of his licence; and
- (f) whether his licence is provisional only; and
- (g) such other particulars (if any) as are prescribed.

(2) Each entry in the Register shall be signed by the Registrar.

PART IV. – LICENSING.

16. GRADES, ETC., OF LICENCES.

Where the appropriate Board thinks it proper to do so, there may be grades or categories of licences for any prescribed trade.

17. TRADE QUALIFICATIONS.

(1) The minimum qualifications for licensing or provisional licensing in a prescribed trade are as fixed by the appropriate Board.

(2) A Board may–

- (a) arrange for or approve theoretical or practical examinations in the prescribed trade for which it is established; and
- (b) appoint or revoke appointments of examiners or bodies of examiners to judge the results of the examinations.

18. LICENCES.

(1) A person may apply to the Board for–

- (a) a licence; or
- (b) a provisional licence,

as a licensed tradesman in a prescribed trade.

(2) An application under Subsection (1) shall–

- (a) be in the prescribed form; and
- (b) include such particulars as are required by the Board; and
- (c) be accompanied by the diploma, licence, certificate or other document (if any) evidencing the qualifications by virtue of which the application is made; and
- (d) include such other evidence or information as the Board requires.

(3) On being satisfied, by personal interview or otherwise, that the applicant possesses the minimum qualifications fixed by the Board under Section 17 for licensing or provisional licensing in the relevant prescribed trade, the Board may authorize the licensing or provisional licensing of the applicant.

(4) On the licensing or provisional licensing of a person under this section, the Registrar may issue to him a licence or provisional licence in the prescribed form.

19. SPECIAL PROVISION AS TO PROVISIONAL LICENCES.

(1) A provisional licence shall be granted for three months only and shall not be renewed.

(2) Before the expiration of a provisional licence, the Board–

- (a) may grant a certificate of registration without examination; or
- (b) require the person provisionally licensed to undergo theoretical or practical examinations, or both.

20. REFUSAL OF LICENCE.

Where a Board refuses to authorize the licensing of a person, the Board shall, if the person so requests, state in writing the reason for the refusal.

21. PERIOD OF LICENCES.

Subject to this Act, a licence (other than a provisional licence) expires on 30 June next following the date of issue.

22. PAYMENT OF LICENCE FEE.

(1) A licensed tradesman shall, before the issue of a licence, and afterwards before 1 July in each year, pay to the appropriate Board the prescribed annual licence fee.

(2) If a licensed tradesman fails to pay the annual licence fee for a period of 12 months after it has become payable, the Board may remove his name from the Register.

(3) A person whose name has been removed under Subsection (2) from the Register may apply to the Board to have his name restored to the Register and, on payment of the prescribed fee, the Board may restore his name.

23. ALTERATION OF REGISTER.

The appropriate Board shall cause to be removed from the Register the names of all licensed tradesmen who have died or have requested that their names be removed, and may cause any necessary alterations to be made to the particulars recorded in the Register.

24. DISCIPLINARY ACTION.

Where a licensed tradesman—

- (a) has his qualifications for being licensed, or any part of his qualifications, withdrawn or cancelled by the institution or body at which it was acquired or by which it was awarded; or
- (b) obtained his licence by fraud or mistake; or
- (c) is of unsound mind as that expression is used in the *Public Health Act 1973*; or
- (d) is found by the appropriate Board to be guilty of work that is so defective as, in the opinion of the Board, to make him unfit to be allowed to continue as a licensed tradesman,

the Board may—

- (e) order his name to be removed from the Register; or
- (f) order that his licence be suspended for such time as it specifies; or
- (g) reprimand him.

25. DISCIPLINARY INQUIRIES.

(1) Before taking action under Section 24 in relation to a licensed tradesman, a Board shall hold an inquiry, after giving notice to him of the matters to be inquired into and of the time and place at which the inquiry is to be held.

(2) At the inquiry the tradesman may be represented by a lawyer or an agent, who may examine witnesses and address the Board on his behalf.

(3) In conducting the inquiry, the Board is not bound by rules of evidence or legal procedure, but may inform itself in such manner as it thinks proper.

(4) The Attorney-General may appoint a lawyer to assist the board.

(5) Pending the holding of the inquiry, the Board may suspend the licence of the tradesman.

26. RECORD OF FINDINGS.

Where a Board takes action under Section 24 in relation to a person, the Board shall—

- (a) record the finding on which the decision was based and its reasons; and
- (b) if the person concerned so requests, furnish to him a copy of the finding and the reasons.

27. EFFECT OF SUSPENSION.

(1) For the purposes of this Act, a person whose licence is suspended under this Part shall, during the period of suspension not be deemed to be a person who is a licensed tradesman in the relevant trade.

(2) A Board may, by written notice, revoke the suspension, and may direct in the notice that the revocation have effect from a date specified in the notice.

(3) Where a Board revokes a suspension, the Board shall immediately return the licence to the holder.

28. SURRENDER OF LICENCE, ETC.

(1) Where the name of a person is removed from the Register or the licence of a person is suspended, the appropriate Board may, by written notice posted or otherwise delivered to him at his business address or one of his business addresses as last recorded in the Register, or at his last-known place of residence, require him,

within 14 days, or such further time as the Board allows, after receipt of the notice, to deliver his licence to the Board for cancellation.

(2) A person who fails to comply with a notice under Subsection (1) is guilty of an offence.

Penalty: A fine not exceeding K20.00.

Default penalty: A fine not exceeding K4.00.

(3) It is a defence to a prosecution for an offence against Subsection (2) if the accused satisfies the court that—

- (a) the licence has been destroyed; or
- (b) after diligent search, he has been unable to find the licence; or
- (c) for any other reason he was unable to comply with the notice.

29. APPLICATION FOR RE-LICENSING.

Where the name of a person has been removed from the Register under Section 24, he may apply for re-licensing, but is not entitled to be re-licensed without approval of the appropriate Board.

PART V. – APPEALS.

30. APPEAL TO NATIONAL COURT.

(1) Where a Board–

- (a) refuses an application for the licensing or re-licensing of a person; or
- (b) causes the name of a person to be removed from the Register; or
- (c) reprimands a person; or
- (d) suspends the licence of a person,

the person concerned may appeal to the National Court against the decision of the Board within 21 days, or such further time as the Court allows, after the decision was given.

(2) An appeal shall be in the nature of a re-hearing.

(3) The Board shall be the respondent on the appeal.

(4) The National Court may–

- (a) affirm, set aside or vary the decision of the Board; or
- (b) give such decision as to the Court seems proper; or
- (c) make such other order as seems to it proper.

PART VI. – OFFENCES GENERALLY.

31. PRETENDING TO BE LICENSED TRADESMAN.

A person, other than a licensed tradesman in the relevant prescribed trade, who—

- (a) pretends that he is or holds himself out to be a licensed tradesman; or
- (b) takes or uses the name or title of a licensed tradesman, or a name, title, addition or description implying that he is a licensed tradesman; or
- (c) practises as a licensed tradesman, or charges or receives a fee for work done as a licensed tradesman,

is guilty of an offence.

Penalty: A fine not exceeding K200.00.

Default penalty: A fine not exceeding K10.00.

32. FALSE STATEMENT IN APPLICATIONS.

A person who, in connection with an application for a licence under this Act, makes a false or misleading statement or produces a false certificate, testimonial or other document is guilty of an offence.

Penalty: A fine not exceeding K200.00.

PART VII. – MISCELLANEOUS.

33. PROOF OF LICENCE.

(1) A licence is evidence that the person specified in the licence was licensed under this Act–

- (a) on the date specified in the licence; and
- (b) in the trade and in respect of the qualifications so specified.

(2) A certificate purporting to be under the hand of the Registrar stating that any person was or was not licensed or provisionally licensed as a licensed tradesman in a specified trade, or that the licence of a person was suspended, on any date or during any period specified in the certificate is, in all courts and before all persons and bodies authorized to receive evidence, evidence of the matters stated.

34. JUDICIAL NOTICE OF SIGNATURE OF REGISTRAR.

Judicial notice shall be taken of the signature of the Registrar appearing on a licence or certificate issued under this Act and of the fact that the person by whom the licence or certificate purports to have been signed was, at the time when the licence or certificate was signed, the Registrar.

35. SUMMONING OF WITNESSES.

(1) The Chairman or the Deputy Chairman of a Board may, by writing under his hand, summon a person to attend before the Board at a time and place specified in the summons and then and there to give evidence and produce such books, documents or writings in his custody or under his control as he is required by the summons to produce.

(2) A summons under this section may be served–

- (a) personally; or
- (b) by sending it by post to the person at his place of abode or business last-known to the Chairman or the Deputy Chairman; or
- (c) by leaving it at that place of abode or business with some person apparently living or employed at that place and apparently not less than 16 years of age.

36. EXAMINATION ON OATH.

A member of a Board may administer an oath to a person appearing as a witness before the Board, whether the witness has been summoned or appears without being summoned, and the witness may be examined on oath.

37. FAILURE TO ATTEND OR TO PRODUCE DOCUMENTS.

(1) A person served with a summons to attend before a Board who refuses or fails, without reasonable excuse, to attend the Board or to produce the books, documents or writings in his custody or under his control that he is required by the summons to produce is guilty of an offence.

Penalty: A fine not exceeding K100.00.

Default penalty: A fine not exceeding K10.00.

(2) It is a defence to a prosecution for refusing or failing, without reasonable excuse, to produce a book, document or writing if the defendant proves that the book, document or writing was not relevant to the matter the subject of the Board's proceedings.

38. REFUSAL TO BE SWORN OR TO GIVE EVIDENCE.

(1) A person appearing as a witness before a Board who refuses to be sworn or to make an affirmation, or to answer a question relevant to the proceedings put to him by a member of the Board, is guilty of an offence.

Penalty: A fine not exceeding K100.00.

(2) A statement or disclosure made before a Board by a witness is not, except in an appeal under Part V or in proceedings for giving false testimony before the Board, admissible in evidence against him in any proceedings.

39. PROTECTION OF WITNESSES.

A witness before a Board has the same protection as a witness in a matter before the National Court.

40. FEES AND ALLOWANCES TO WITNESSES.

A person who attends for the purpose of giving evidence before a Board is entitled to receive such fees and allowances as the Chairman or, in his absence, the Deputy Chairman thinks fit to allow in accordance with the prescribed scale of fees and allowances.

41. INSPECTION OF BOOKS, ETC.

A Board may inspect books, documents or writings before it and retain them for such reasonable period as it thinks proper, and may make copies of such portions of them as are relevant in a matter before it.

42. 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 for prescribing—

- (a) the fees for any act, matter or thing under this Act; and
- (b) the forms to be used for the purposes of this Act and the manner in which any of them shall or may be signed, prepared or completed; and
- (c) the prescribed trades; and
- (d) the appointment and qualifications of inspectors and other officers, and their duties in relation to any prescribed trade; and
- (e) the training and examination of tradesmen; and
- (f) the powers, functions and duties of the Registrar; and
- (g) penalties of fines not exceeding K100.00 and default penalties of fines not exceeding K10.00 for offences against the regulations.

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