

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 322.

Second-hand Dealers.

GENERAL ANNOTATION.

ADMINISTRATION.

As at 13 February 1976 (the date of gazettal of the most comprehensive allocation of responsibilities to Ministers and Departments at about the effective date), the administration of this Chapter was vested in the Minister for Health.

Accordingly, as at that date, except where a different intention is clearly indicated, by note or in the text, references in and in relation to this Chapter to—

“the Minister”—should be read as references to the Minister for Health;

“the Departmental Head”—should be read as references to the Secretary for Health¹;

“the Département”—should be read as references to the Department of Health².

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¹ Previously the Director of Public Health.

² Previously the Department of Public Health.





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CHAPTER NO. 322.

Second-hand Dealers Act.

ARRANGEMENT OF SECTIONS.

1. Interpretation—
 - "licence"
 - "licensee"
 - "licensing authority"
 - "the Register of Second-hand Articles"
 - "the regulations"
 - "second-hand clothing"
 - "second-hand dealer"
 - "this Act".
2. Other Acts not affected.
3. Licensing authority may exempt person or trade from Act.
4. Delegation.
5. Unlicensed person not to trade.
6. Licensing authority may grant licence.
7. Duration of licence.
8. Fees.
9. Record of licences to be kept and published.
10. Name of licensee, etc., to be displayed.
11. Record book to be kept showing purchases, etc.
12. Licence to be produced on demand.
13. Licensees, etc., to keep goods unaltered for three days.
14. Special conditions relating to sale, etc., of second-hand clothing.
15. Licensee to report goods answering description of stolen goods.
16. Restriction as to purchase of goods by licensee.
17. Licensee liable for person acting on his behalf.
18. Penalties.
19. Cancellation of licence.
20. Presumption that person prosecuted is unlicensed.
21. Regulations.







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CHAPTER NO. 322.

Second-hand Dealers Act.

Being an Act to provide for the licensing of second-hand dealers and to regulate the sale of second-hand articles, and for related purposes.

1. Interpretation.

In this Act, unless the contrary intention appears—

“licence” means a licence issued under Section 6;

“licensee” means a person licensed under Section 6;

“licensing authority” means, in relation to—

(a) second-hand clothing—the Director of Public Health; and

(b) all other second-hand goods—the Commissioner of Police;

“the Register of Second-hand Articles” means the register prescribed by Section 11;

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

“second-hand clothing” includes all articles of clothing, household linen and other articles commonly sold with second-hand clothing;

“second-hand dealer” includes every person who carries on the business of purchasing, selling or exchanging second-hand articles, but does not include—

(a) an auctioneer licensed under the *Auctioneers Act*, or

(b) a person purchasing such articles for the purpose of manufacturing other articles from them; or

(c) a person, class of person or trade exempted from the operation of this Act under Section 3;

“this Act” includes the regulations.

2. Other Acts not affected.

This Act does not affect the operation of—

(a) the *Licenses Act* (T.N.G.); or

(b) the *Trading Act*, or

(c) the *Transactions with Natives Act* 1958 (Adopted).

3. Licensing authority may exempt person or trade from Act.

A licensing authority may, generally or in a particular instance, by notice in the National Gazette, exempt from the provisions, or any of the provisions, of this Act any person or class of persons or trade to which the licensing authority is satisfied that that provision, or those provisions, should not apply.

4. Delegation.

(1) A licensing authority, by instrument, may delegate to an officer all or any of its powers and functions under this Act.

(2) For the purposes of Subsection (1), the Minister shall be deemed to be the licensing authority in relation to second-hand clothing.

5. Unlicensed person not to trade.

Subject to this Act, a person other than a licensee who—

- (a) carries on business as a second-hand dealer; or
- (b) in any way or by any method or device holds himself out to be a licensed second-hand dealer,

is guilty of an offence.

Penalty: A fine not exceeding K100.00.

Default penalty: A fine not exceeding K20.00.

6. Licensing authority may grant licence.

(1) On application in the prescribed form, a licensing authority may grant a licence in the prescribed form to a person to carry on business as a second-hand dealer in accordance with this Act.

(2) For the purposes of Subsection (1), the Minister shall be deemed to be the licensing authority in relation to second-hand clothing.

7. Duration of licence.

A licence is in force from the date of its issue until 1 January in the following year, and may be renewed annually.

8. Fees.

The fee for a licence is as prescribed.

9. Record of licences to be kept and published.

(1) A licensing authority shall cause an alphabetical record of any licences granted or cancelled under this Act to be kept in the prescribed form.

(2) The licensing authority shall cause to be published in the National Gazette the name and address of any person to whom a licence is issued.

10. Name of licensee, etc., to be displayed.

A licensee who carries on business at a shop or other premises must cause to be painted, and kept painted, his name in full and the words "Licensed Second-hand Dealer" in legible characters at least 50 mm high, so as constantly to be seen and read, on some conspicuous part of every shop or other premises where he carries on business as a second-hand dealer.

11. Record book to be kept showing purchases, etc.

(1) Every licensee must—

- (a) keep at his place of business a register to be known as the "Register of Second-hand Articles"; and
- (b) enter in that register the prescribed particulars with respect to all second-hand articles purchased, exchanged, or received by him in the course of his business.

(2) The Register of Second-hand Articles must be in the prescribed form, and the pages of the register must be numbered consecutively.

12. Licence to be produced on demand.

(1) A licensee must produce his licence and the Register of Second-hand Articles—

(a) at all reasonable times, on demand, for the purpose of inspection by any member of the Police Force having the general or special authority in writing of a justice to make the demand; and

(b) permit the member—

(i) to inspect all goods in his possession or under his control; and

(ii) to enter and inspect any shop or premises where he carries on the business of a second-hand dealer.

(2) On each occasion when a member of the Police Force obtains the production of a Register of Second-hand Articles he shall subscribe his name immediately after the last entry in that Register.

(3) Where any articles that have been stolen, embezzled or fraudulently obtained are found in the possession of a licensee, he must deposit the articles with the member of the Police Force on being informed by a member of the Police Force (authorized in accordance with Subsection (1)) that the articles were stolen, embezzled or fraudulently obtained.

(4) Where a licensee fails to comply with any requirement of this section, in addition to any action which may be brought against him as a receiver of stolen goods or otherwise he is liable to a fine not exceeding K10.00.

13. Licensees, etc., to keep goods unaltered for three days.

(1) A licensee must keep all second-hand articles and goods bought or received by him for a period of not less than three days after he receives them before he sells, disposes of or parts with the possession of them, or alters the form or condition of them in any manner.

(2) A person must not use, melt, cut or otherwise alter the form or condition of any second-hand articles or goods bought by him, for the purpose of—

(a) manufacturing, renovating, altering or repairing any articles or goods for sale; or

(b) of repairing or altering any goods in the way of trade,

until the expiration of not less than three days after the second-hand articles or goods have been received by him.

(3) Where a licensee, or a person referred to in Subsection (2), receives a written notice from a member of the Police Force with respect to any second-hand articles or goods in his possession, requiring him to keep them unaltered for a longer period than three days, he must keep the articles or goods unaltered in accordance with Subsection (2) for such further period, not exceeding four days, as is specified in the notice.

(4) During the period for which any second-hand articles or goods are required by this section to be kept unaltered, the articles or goods—

(a) must be kept separate and apart from all other goods of the same or a similar kind and description; and

(b) must not be allowed to be or become mixed or confused with any such goods.

(5) This section does not apply to goods that have been advertised for sale by auction, and have been sold at public auction in pursuance of that advertisement.

Penalty: A fine not exceeding K50.00.

14. Special conditions relating to sale, etc., of second-hand clothing.

Where articles of second-hand clothing are purchased, stored, sold or offered or exposed for sale or exchange, the vendor must comply with the special conditions prescribed.

15. Licensee to report goods answering description of stolen goods.

(1) Where any articles with respect to which information in writing that they have been stolen, embezzled, or fraudulently obtained is given by a member of the Police Force to a licensee are then in, or subsequently come into, the possession of the licensee, he must—

- (a) give information as soon as may be to a member of the Police Force that articles answering to the description of those articles are in his possession; and
- (b) state the name and address given by the person from whom the articles were received.

Penalty: A fine not exceeding K50.00.

(2) Notwithstanding this section, in the case of articles that may be difficult to trace out and identify a fine shall not be imposed under this section unless it appears to the District Court that the articles were knowingly concealed by the licensee.

16. Restriction as to purchase of goods by licensee.

A licensee, by himself or by any other person, must not purchase or receive any second-hand articles—

- (a) before 8 a.m. or after 9 p.m.; or
- (b) at any time from any person apparently under the age of 16 years.

17. Licensee liable for person acting on his behalf.

A licensee is personally liable and responsible for all acts and defaults, under this Act, of a person acting on his behalf as he would be liable and responsible if he had done the act or made the default.

18. Penalties.

Where a person contravenes or fails to comply with any of the requirements or provisions of this Act he is guilty of an offence and, where no other penalty is provided, is liable to a fine not exceeding K50.00 and a default penalty not exceeding K10.00.

19. Cancellation of licence.

In all proceedings against a licensee for any offence against this Act the District Court that convicts him, in addition to imposing the penalty, may cancel his licence.

20. Presumption that person prosecuted is unlicensed.

In a prosecution under this Act, the burden of proof that the defendant is or was at any time licensed under this Act is on him.

21. 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

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Act, and in particular for prescribing penalties of fines not exceeding K50.00 or default penalties of fines not exceeding K10.00 for offences against the regulations.







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Second-hand Dealers Regulation.

ARRANGEMENT OF SECTIONS.

PART I.—PRELIMINARY.

1. Interpretation—
 “Health Inspector”
 “licensed premises”
 “premises”.

PART II.—GENERAL PROVISIONS.

2. Record of licences.
3. Register of Second-hand Articles.
4. Forms for licences, etc.
5. Powers of Health Inspectors, etc.
6. Premises to be kept clean.
7. Fees.

PART III.—PROVISIONS RELATING TO SECOND-HAND CLOTHING ONLY.

8. Entries in Register of second-hand clothing in lots.
9. Second-hand clothing not to be stored, etc., with food.
10. Second-hand clothing to be clean.
11. Second-hand clothing exposed to infection not to be sold, etc.

SCHEDULES.

SCHEDULE 1.—

- FORM 1.—Record of Licences.
- FORM 2.—Record of Licences (Second-hand Clothing).
- FORM 3.—Register of Second-hand Articles (Other than Clothing).
- FORM 4.—Register of Second-hand Articles of Clothing.
- FORM 5.—Application for Licence as Second-hand Dealer.
- FORM 6.—Second-hand Dealer's Licence.

SCHEDULE 2.—Fees.







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CHAPTER NO. 322.

Second-hand Dealers Regulation.

MADE under the *Second-hand Dealers Act.*

PART I.—PRELIMINARY.

1. Interpretation.

In this Regulation, unless the contrary intention appears—

“Health Inspector” means an inspector appointed under the *Public Health Act*,

“licensed premises” means premises the subject of a licence under the Act;

“premises” includes any building or part of a building, store, room, stall, structure or area used by a licensee for the purposes of his business as a second-hand dealer.

PART II.—GENERAL PROVISIONS.

2. Record of licences.

For the purposes of Section 9 of the Act, the alphabetical record of licences—

- (a) for second-hand dealers (other than dealers in second-hand clothing)—shall be in Form 1; and
- (b) for licences for dealers in second-hand clothing—shall be in Form 2.

3. Register of Second-hand Articles.

(1) For the purposes of Section 11 of the Act the Register of Second-hand Articles (other than clothing) shall be in Form 3 and for second-hand articles of clothing shall be in Form 4 and shall contain—

- (a) the particulars set out in the Register; and
- (b) a proper and distinctive description of—
 - (i) each article purchased or received by the second-hand dealer; and
 - (ii) the articles (if any) exchanged or agreed to be exchanged for the article.

(2) An entry in the Registers of Second-hand Articles shall be made at the time when the transaction to which it relates takes place.

(3) The person from whom the article is purchased or received and the licensee shall each sign his name in the Register of Second-hand Articles in the space provided for the purpose.

(4) Where second-hand articles are purchased by a licensee at auction, the insertion in the Register of Second-hand Articles of a receipt from the auctioneer for the price paid for the articles, containing a description of the articles and signed by the auctioneer, shall be deemed to be a sufficient entry for the purposes of this section.

4. Forms for licences, etc.

(1) An application for a licence to carry on business as a second-hand dealer shall be in Form 5.

(2) A licence to carry on business as a second-hand dealer shall be in Form 6.

5. Powers of Health Inspectors, etc.

(1) A Health Inspector or a member of the Police Force may—

- (a) enter any licensed premises at any time during business hours; and
- (b) inspect the premises; and
- (c) inspect any second-hand articles purchased, stored, sold or offered or exposed for sale or exchange on or in the premises.

(2) A person who, without lawful excuse (proof of which is on him)—

- (a) refuses to permit a Health Inspector or member of the Police Force to enter or inspect premises under this section; or
- (b) directly or indirectly obstructs or hinders a Health Inspector or member of the Police Force from entering or inspecting premises in accordance with this section; or
- (c) refuses or fails to comply with an order of a Health Inspector or member of the Police Force given under this section,

is guilty of an offence.

Penalty: A fine not exceeding K50.00.

6. Premises to be kept clean.

Premises must be—

- (a) maintained in a clean condition; and
- (b) free from rats, cockroaches and other vermin.

Penalty: A fine not exceeding K50.00.

Default penalty: A fine not exceeding K10.00.

7. Fees.

The fees to be charged for an application, licence, or other thing provided for or required under the Act are the fees prescribed in Schedule 2.

PART III.—PROVISIONS RELATING TO SECOND-HAND CLOTHING ONLY.

8. Entries in Register of second-hand clothing in lots.

Where, on any particular occasion, any articles of second-hand clothing of the same kind and description are purchased, exchanged or received in a lot or parcel, it is sufficient compliance with Section 3 if the entry in the Register of Second-hand Articles relating to the purchase, exchange or receipt describes each lot or parcel without describing each of the articles comprising the lot or parcel.

9. Second-hand clothing not to be stored, etc., with food.

Articles of second-hand clothing must not be stored, sold or offered or exposed for sale or exchange in premises where food of any description is prepared, manufactured,

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handled, sold or offered or exposed for sale, unless the food is contained in hermetically sealed containers.

Penalty: A fine not exceeding K50.00.

Default penalty: A fine not exceeding K10.00.

10. Second-hand clothing to be clean.

Articles of second-hand clothing must—

- (a) be washed or dry-cleaned before being sold or exchanged; and
- (b) not be sold or exchanged in an unclean condition.

Penalty: A fine not exceeding K10.00.

11. Second-hand clothing exposed to infection not to be sold, etc.

(1) In this section, "infectious disease" means an infectious disease within the meaning of the *Public Health Act*, and this section is supplementary to, and not in derogation of, any law relating to infectious diseases.

(2) A person who stores, sells or offers or exposes for sale or exchange any article of second-hand clothing which has been exposed to infection from a person suffering from an infectious disease, unless it has been disinfected, is guilty of an offence.

(3) A person suffering from an infectious disease who enters on licensed premises or handles any clothing offered or exposed for sale or exchange by a licensee, within licensed premises or elsewhere, is guilty of an offence.

Penalty: A fine not exceeding K50.00.

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SCHEDULES.

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SCHEDULE 1.

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PAPUA NEW GUINEA.
Second-hand Dealers Act.

Reg., Sec. 2.

Form 1.

RECORD OF LICENCES.

Commissioner of Police—Licensing Authority.

Name of Licensee.	Address of Licensee.	Address where Business Carried on.
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PAPUA NEW GUINEA.
Second-hand Dealers Act.

Reg., Sec. 2.

Form 2.

RECORD OF LICENCES (SECOND-HAND CLOTHING).

Department of Public Health—Licensing Authority.

Name of Licensee.	Address of Licensee.	Address where Business Carried on.
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Second-hand Dealers Act.

Reg., Sec. 3.

Form 3.
Page No.

REGISTER OF SECOND-HAND ARTICLES
(OTHER THAN CLOTHING).

Date
 Name of *Vendor (*or* Transferor)
 Address of *Vendor (*or* Transferor)
 Description of Article
 Nature of Article(s) exchanged for Article(s) purchased (if any)
 Price paid
 Signature of *Vendor (*or* Transferor)
 Signature of *Licensee (*or* his duly appointed Agent)

*Strike out whichever is inapplicable.

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Reg., Sec. 3.

Form 4.
Page No.

REGISTER OF SECOND-HAND ARTICLES OF CLOTHING.

Date
 Name of *Vendor (*or* Transferor)
 Address of *Vendor (*or* Transferor)
 Description of Article (*or* Articles in lot or parcel)
 Nature of Article(s) exchanged for Article(s) purchased (if any)
 Price Paid
 Signature of *Vendor (*or* Transferor)
 Signature of *Licensee (*or* his duly appointed Agent)

*Strike out whichever is inapplicable.

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Second-hand Dealers Act.

Reg., Sec. 4(1).

Form 5.

APPLICATION FOR LICENCE AS SECOND-HAND DEALER.

*I _____ of _____
or _____
*I _____ (Secretary or other responsible officer) of (name of organization, etc., for
which application is made.)
of _____
apply for a licence as a second-hand dealer, in respect of my business (or the business of (name of
organization, etc., for which application is made.))
as a second-hand dealer for premises situated at _____
comprising _____
a plan of which premises is attached.

Nature of licence applied for (insert whether licence for second-hand dealer in clothing or otherwise.)

I agree to abide by the provisions of the *Second-hand Dealers Act*.

The prescribed fee of K _____ for a Second-hand Dealer's Licence is tendered.

Dated _____ 19 _____

(Signature of applicant.)

*Strike out whichever is inapplicable.

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Second-hand Dealers Act.

Reg., Sec. 4(2).

Form 6.

Licence No. _____

SECOND-HAND DEALER'S LICENCE.

This is to certify that _____
of _____
has this day been granted a Second-hand Dealer's Licence to trade as a second-hand dealer at premises
situated at _____ as described in the plan attached to the application for a licence as a
second-hand dealer.

This Licence expires on 31 December 19 _____

Dated _____ 19 _____

*Licensing Authority (or Delegate of Licensing Authority).

*Strike out whichever is inapplicable.

SCHEDULE 2.

Reg., Sec. 7.

FEES.

For the issue or renewal of a licence to carry on business as second-hand dealer.

K50.00.

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SUBSIDIARY LEGISLATION.

1. Act, Section 3—Class exemptions.

Exemption of following associations, organizations and societies when—

- (a) they do not purchase clothing for sale; and
- (b) they do not conduct the sale of clothing from fixed premises on a continuing basis,

from all provisions of Act and regulations except Act, Section 14 and Regulation Sections 9, 10 and 11:—

Local Pre-School Associations.

Parents' and Teachers' Associations.

Missions, Church Societies and Guilds.

2. Act, Section 4—Delegates of Commissioner of Police.

Assistant Commissioner (Services), Royal Papua New Guinea Constabulary.

Director Licensing Division, Royal Papua New Guinea Constabulary.

(offices as at 17 June 1975).

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APPENDIXES.

APPENDIX 1.

SOURCE OF THE SECOND-HAND DEALERS ACT.

Part A.—Previous Legislation.

Second-hand Dealers Act 1968 (No. 65 of 1968)

as amended by—

Statute Law Revision (Metric Conversion) Act 1974 (No. 49 of 1974).

Part B.—Cross References.

Section, etc., in Revised Edition.	Previous Reference ¹ .	Section, etc., in Revised Edition.	Previous Reference ¹ .
1	3	12	14
2	4	13	15
3	5	14	16
4	6	15	17
5	7	16	18
6	8	17	19
7	9	18	20
8	10	19	21
9	11	20	22
10	12	21	23
11	13		

¹ Unless otherwise indicated, references are to the Act set out in Part A.

APPENDIX 2.

SOURCE OF THE SECOND-HAND DEALERS REGULATION.

Part A.—Previous Legislation.

Second-hand Dealers Regulations 1969 (Statutory Instrument No. 25 of 1969).

Part B.—Cross References.

Section, etc., in Revised Edition.	Previous Reference ¹ .	Section, etc., in Revised Edition.	Previous Reference ¹ .
1	3(1)	11	13
2	4	Schedules—	Schedules—
3	5	Schedule 1	First Schedule
4	6	Form 1	Form 1
5	7	Form 2	Form 2
6	8	Form 3	Form 3
7	9	Form 4	Form 4
8	10	Form 5	Form 5
9	11	Form 6	Form 6
10	12	Schedule 2	Second Schedule

¹ Unless otherwise indicated, references are to the regulations set out in Part A.