

Chapter 344.  
***Inter-group Fighting Act 1977.***

Certified on: / /20 .



INDEPENDENT STATE OF PAPUA NEW GUINEA.



Chapter 344.

*Inter-group Fighting Act 1977.*

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INDEPENDENT STATE OF PAPUA NEW GUINEA.



AN ACT

entitled

*Inter-group Fighting Act 1977,*

Being an Act to provide for—

- (a) the suppression of fighting between groups; and
  - (b) the creation of offences in relation to inter-group fighting,
- and for related purposes.

**PART I. – PRELIMINARY.**

**1. INTERPRETATION.**

In this Act unless the contrary intention appears—

“**Chairman**” means the Chairman of a Committee;

“**Committee**” means a Peace and Good Order Committee established by Section 5(1);

“**group**” or “**group of persons**” means a traditional kinship or other customary, social or community group, and includes—

- (a) a family; and
- (b) an extended family; and
- (c) a sub-clan; and
- (d) a clan; and
- (e) a moiety; and
- (f) a tribe; and
- (g) any other group of persons recognized by custom as having a common interest in a dispute;

“**inter-group fight**” is an inter-group fight within the meaning of Section 11(1);

“**Magistrate**” means a District Court Magistrate or a person appointed under Section 23(2) to be a Magistrate for the purposes of this Act;

“**officer**” means a District Officer, a member of the Police Force or a Village Peace Officer;

“**province**” includes the National Capital District;

“**this Act**” includes the regulations made under this Act.

## **2. PURPOSE OF THIS ACT.**

The purpose of this Act is to discourage fighting between groups of Papua New Guineans by providing for—

- (a) the creation of offences in relation to such fighting; and
- (b) the imposition of severe penalties for such offences; and
- (c) the collective punishment of the leaders of groups involved in fighting; and
- (d) the imprisonment of group leaders for non-payment of penalties imposed on them as a result of their group’s participation in such fighting.

## **3. NON-DEROGATION OF OTHER PROVISIONS.**

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

## **4. APPLICATION.**

(1) Subject to Subsections (2), (5) and (6), where the Peace and Good Order Committee for a province is satisfied that it is desirable in the interest of the preservation of peace and public order to do so, it may declare that the provisions of this Act apply and have full force and effect throughout the province or in such part of the province and for such period not exceeding three months, as it considers necessary to achieve the purpose of this Act and those provisions apply and have full force and effect accordingly.

(2) A declaration under Subsection (1) may be renewed by the Committee at any time for periods each not exceeding three months.

(3) A declaration under Subsection (1) or a renewal under Subsection (2) of a declaration shall come into effect immediately it is made or renewed, but as soon as practicable after it is so made or renewed shall be published in the National Gazette and shall be given such publicity in the area to which it relates as the Committee considers is the most practicable means available in the circumstances to bring the fact of the declaration or renewal, as the case may be, to the notice of the people of that area.

(4) Failure to comply with the requirements of Subsection (3) or with those requirements within a particular time, does not make the declaration or renewal invalid.

(5) The Committee may at any time, and shall, within three days of receiving a direction to do so from the Minister, revoke a declaration under Subsection (1) or a renewal of a notice under Subsection (2) and shall, as soon as practicable after the revocation, cause a notice of the revocation to be published in the National Gazette.

(6)<sup>1</sup> <sup>2</sup>Parts I, II and III and Sections 21, 23, 24 and 25 apply in all areas of Papua New Guinea.

(7) The provisions of this Act do not apply except as provided by this section.

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<sup>1</sup> Section 4(6) amended by No. 18 of 1981, s1.

<sup>2</sup> Section 4(6) amended by No. 18 of 1981, s1.

**PART II. – PEACE AND GOOD ORDER COMMITTEE.****5. PEACE AND GOOD ORDER COMMITTEE.**

(1) There is established in each province a Committee to be known as the Peace and Good Order Committee.

(2)<sup>3</sup> <sup>4</sup>Subject to Subsection (3), each Committee consists of–

- (a) the Provincial Governor, who shall be the Chairman; and
- (b) a Member of the National Parliament representing an electorate in the province, being a person other than the Provincial Governor appointed by the Provincial Executive; and
- (c) the officer for the time being in charge of the Police Force in the province or his nominee; and
- (d) the Provincial Administrator; and
- (e) a Senior District Court Magistrate residing in the province nominated by the Chief Magistrate.

(3)<sup>5</sup> <sup>6</sup>In the case of the National Capital District, the Committee consists of–

- (a) the Provincial Governor; and
- (b) the officer for the time being in charge of the Police Force in the National Capital District; and
- (c) the Manager of the National Capital Commission; and
- (d) the Departmental Head of the Department of the Prime Minister and National Executive Council.

**6. DEPUTY CHAIRMAN.**

(1) The Deputy Chairman of a Committee shall be–

- (a) in the case of a Committee under Section 5(2)–the person appointed under Section 5(2)(c); and
- (b) in the case of the Committee under Section 5(3)–the person appointed under Section 5(3)(b).

(2) The Deputy Chairman shall have all the powers and functions of the Chairman during the absence or inability to act of the Chairman.

<sup>3</sup> Section 5(2) repealed and replaced by *Provincial Governments and Local-level Governments (Consequential Amendments) Act 1995* (No. 17 of 1995), s3(a).

<sup>4</sup> Section 5(2) repealed and replaced by *Provincial Governments and Local-level Governments (Consequential Amendments) Act 1995* (No. 17 of 1995), s3(a).

<sup>5</sup> Section 5(3) repealed and replaced by *Provincial Governments and Local-level Governments (Consequential Amendments) Act 1995* (No. 17 of 1995), s3(b).

<sup>6</sup> Section 5(3) repealed and replaced by *Provincial Governments and Local-level Governments (Consequential Amendments) Act 1995* (No. 17 of 1995), s3(b).



**7. MEETINGS OF COMMITTEES.**

(1) A Committee shall meet at such times and places, as in the opinion of the Chairman, are necessary for the efficient conduct of its affairs.

(2) At a meeting of the Committee—

(a) a quorum—

(i) under Section 5(2)—is three; and

(ii) under Section 5(3)—is two; and

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

(c) questions arising shall be decided by a majority of the votes of the members present and voting; and

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

(3) A Committee shall cause minutes of its meetings to be kept.

(4) The exercise or the performance of any function of a Committee shall not be invalidated by reason only of a vacancy in the office of a member of the Committee.

(5) Subject to this Act, the procedures of a Committee are as determined by the Committee.

**8. POWERS, FUNCTIONS AND DUTIES OF COMMITTEE.**

(1) The primary function of a Committee is to keep in constant review the need to make or continue in effect declarations under Section 4 and to make, renew or revoke such declarations as the need arises.

(2) The Committee shall, from time to time, advise the Governments, both National and provincial, on what it considers to be the best use that can be made of available personnel, goods and services in areas the subject of declarations under Section 4 in order to achieve the objects of this Act and to protect life and property.

(3) As soon as practicable after a declaration or renewal of a declaration under Section 4 has been made, the Committee shall give a report of its actions and the reasons for its actions to the Minister and shall give to the Minister such further reports, and at such times, as he may require.

**9. CONSIDERATIONS TO BE TAKEN INTO ACCOUNT BY A COMMITTEE.**

(1) A Committee, when considering whether to make a declaration under Section 4 shall consider—

(a) whether there exists a serious dispute involving a group in the province; and

(b) where a dispute does exist—

(i) whether there is a likelihood of the dispute being settled by any lawful means; or

(ii) whether the dispute has resulted in, or may, in the immediate future, result in, a serious breach of the peace or a breakdown in law and order.

(2) When considering whether to renew a declaration under Section 4, a Committee shall consider whether—

- (a) there still exists a serious dispute involving a group in the province; and
- (b) the dispute has resulted in, or may, in the immediate future, result in a serious breach of the peace or a breakdown in law and order; and
- (c) any negotiations have been commenced between the groups which may result in a settlement of the dispute.

**PART III. – INTER-GROUP FIGHTING.**

**10. PREPARING TO FIGHT.**

<sup>7</sup>(1) For the purposes of this Act, a gathering of five or more persons, any one of whom is armed with an offensive weapon, which–

- (a) is taking part; or
- (b) appears to be about to take part; or
- (c) appears to be preparing to take part,

in a fight with any other group of persons or a member of that other group of persons, is an unlawful assembly.

(2) A person who takes part in an unlawful assembly referred to in Subsection (1) is guilty of an offence.

Penalty: Imprisonment for a term not less than two years and not exceeding four years.

(3) For the purposes of Subsection (2), a person who, without reasonable excuse (proof of which is on him) is present at an unlawful assembly referred to in Subsection (1), shall be deemed to have taken part in that unlawful assembly.

**11. TAKING PART IN INTER-GROUP FIGHT.**

<sup>8</sup>(1) For the purposes of this Act, an inter-group fight is deemed to have taken place if any member of an unlawful assembly referred to in Section 10(1) assaults or attempts to assault or commences to fight with a member of another group of persons.

(2) A person who takes part in an unlawful assembly, referred to in Section 10(1) which is involved in an inter-group fight, is guilty of an offence.

Penalty: In relation to an inter-group fight in which a person is killed–imprisonment for a term not less than four years and not exceeding six years.

In relation to an inter-group fight in which no person is killed–imprisonment for a term not less than three years and not exceeding five years.

(3) Subsection (2) shall not be construed as restricting the penalty to which a person may be subject under any other law for an offence arising out of or connected with an inter-group fight.

(3A)<sup>9</sup> <sup>10</sup>Where the Court after an enquiry under Section 15, determines that a person referred to in Subsection (2) is a principal offender or a leader of the fight, the following penalties apply–

- (a) in relation to an inter-group fight in which a person is killed–imprisonment for a term not less than 20 years and not more than 30 years; or
- (b) in relation to an inter-group fight in which no person is killed–imprisonment for a term not less than 10 years and not more than 20 years.

<sup>7</sup> Section 10 amended by No. 18 of 1981, s2, No. 13 of 1983, s1.

<sup>8</sup> Section 11 amended by No. 18 of 1981, s3, No. 13 of 1983, s2.

<sup>9</sup> Section 11(3A) inserted by No 9 of 2000.

<sup>10</sup> Section 11(3A) inserted by No 9 of 2000.

(4) For the purposes of Subsection (2), a person who, without reasonable excuse (proof of which is on him) is present at an unlawful assembly referred to Section 10(1) which is involved in an inter-group fight, shall be deemed to have taken part in that unlawful assembly.

**12. ORGANIZING, ETC., AN INTER-GROUP FIGHT.**

<sup>11</sup>A person who plans, organizes or assists in the planning or organizing of an unlawful assembly referred to in Section 10(1) is guilty of an offence.

Penalty: Imprisonment for a term not less than five years and not exceeding 10 years.

**13. INCITING, ETC., PERSON TO FIGHT.**

<sup>12</sup>A person who assists, aids, incites, encourages, urges or counsels any person to take part in an inter-group fight is guilty of an offence.

Penalty: Imprisonment for a term not less than five years and not exceeding 10 years.

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<sup>11</sup> Section 12 amended by No. 18 of 1981, s4; amended by No. 13 of 1983, s3; amended by No. 9 of 2000.

<sup>12</sup> Section 13 amended by No. 18 of 1981, s5; amended by No. 13 of 1983, s4; amended by No. 9 of 2000.

**PART IV. – GROUP PUNISHMENT.**

**14. NON-DEROGATION OF PART III.**

This Part is in addition to, and does not derogate, Part III.

**15. INQUIRY BY MAGISTRATE.**

<sup>13</sup>A Magistrate may, on his own initiative, and shall if requested to do so by any other Magistrate who has presided over proceedings arising from an inter-group fight, or by the Committee or an officer, conduct an inquiry into an inter-group fight to determine–

- (a) the nature and size of the groups, and where appropriate, the names of the groups, involved in the inter-group fight; and
- (b) the nature and details of the dispute or disputes which caused the inter-group fight; and
- (c) the names of the leaders of the groups involved in the dispute or disputes; and
- (d) whether the persons taking part in the fight were doing so on behalf of, and with the knowledge and approval of, a majority of the members of the group of which they are members; and
- (e) the prevalence of fighting between the groups involved in the fight or between a group involved in the fight and any other group or groups; and
- (f) whether any attempts have been made by any of the groups involved in the fight to settle the dispute by mediation, arbitration or other peaceful means; and
- (g) whether one or more of the groups has refused to attend mediation or arbitration proceedings or any other meeting concerned with negotiating peaceful settlement of the dispute or disputes; and
- (h) whether one or more of the groups has made unreasonable demands for payment of compensation leading to delays in negotiations; and
- (i) whether one or more of the groups has made threats of violence to any person or threats of damage to the property of any person in support of its claims for payment of compensation; and
- (j) where a dispute has been settled subject to the payment of compensation or the making of restitution, or both—whether the group or groups responsible for the payment of compensation or the making of restitution, or both, has or have refused or failed within a reasonable time, to pay that compensation or make the restitution, as the case may be.

**16. NOTICE TO SHOW CAUSE WHY PENALTY SHOULD NOT BE IMPOSED.**

<sup>14</sup>Where a Magistrate after conducting an inquiry under Section 15 is of the opinion that in all the circumstances the actions of the group may be such that a penalty should be imposed on its leaders for the group's part in the inter-group fight in respect of which the inquiry was held, the

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<sup>13</sup> Section 15 amended by No. 18 of 1981, s6.

<sup>14</sup> Section 16 amended by No. 18 of 1981, s7.

Magistrate shall by notice, either oral or written, served personally on those persons who are, in his opinion, leaders of the group, by an officer or a person appointed by the court for the purpose, call on those leaders to show cause, within the period specified in the notice, why a penalty should not be imposed on them on behalf of the group.

#### **17. IMPOSITION OF PENALTY.**

(1) Where, in the opinion of the Magistrate, the leaders of a group on whom a notice to show cause has been served, under Section 16, have failed to show cause or adequate cause why a penalty should not be imposed on them or any of them, those leaders, or such of them who have not shown cause or adequate cause, shall jointly and severally be liable, on behalf of the group, to a penalty of a fine not exceeding K20,000.00.

(2) In determining the penalty to be imposed under Subsection (1), the Magistrate shall, in addition to any other matter that he is bound to consider, take into account—

- (a) whether the group has previously been involved in inter-group fighting; and
- (b) the size of the group; and
- (c) the wealth of the group; and
- (d) the seriousness of the fight in which its members were involved; and
- (e) the likelihood of a recurrence of inter-group fighting involving the group; and
- (f) the apportionment of blame for the starting of the fight; and
- (g) the punishment that has already been imposed on individual members of the group.

(3) A person shall not be liable to a penalty under this section if—

- (a) at the time that the relevant inter-group fight took place he was not present in the area occupied by the group or where the fight took place; or
- (b) he satisfies the Magistrate that he did everything reasonably within his power to prevent the inter-group fight taking place.

(4)<sup>15</sup> <sup>16</sup>The Magistrate referred to in Subsection (1) shall not be the same Magistrate who conducted an inquiry under Section 15 into the inter-group fight, the group's part in which is the subject of the opinion under Subsection (1).

#### **18. MAGISTRATE MAY ORDER PENALTY TO BE PAID IN GOODS.**

(1) Where, in the opinion of the Magistrate—

- (a) the group on whose leaders he intends to impose a penalty is not able to pay the penalty in cash; or
- (b) it would act as a greater deterrent to involvement by the group in future inter-group fighting,

the Magistrate may, instead of ordering the payment of a penalty in cash, order that the penalty be paid in prescribed goods.

<sup>15</sup> Section 17(4) added by No. 18 of 1981, s8.

<sup>16</sup> Section 17(4) added by No. 18 of 1981, s8.

(2) Where no goods have been prescribed under Section 19 the Magistrate may, after due inquiry, determine the goods to be paid and, at the same time, shall determine a value for each unit of the goods.

(3) A penalty payable in prescribed goods shall not exceed in value the sum of K20,000.00.

(4) Goods received by or on behalf of the State in satisfaction of a penalty under Section 17 are forfeited to the State.

**19. REGULATION MAY PRESCRIBE GOODS AND VALUE OF GOODS.**

(1) A regulation may prescribe goods and the value of goods, for the purposes of Section 18.

(2) The regulation referred to in Subsection (1) may be expressed to apply in respect of the whole of the country or a part of the country.

**20. NON-PAYMENT OF GROUP PENALTY AN OFFENCE.**

<sup>17</sup>(1) The non-payment of a penalty imposed under Section 17 within three months after the date on which it was imposed is an offence.

Penalty: Any one or more of the persons liable for the penalty may be imprisoned for a period not exceeding six months.

(2) Where at any time after a person has been imprisoned for an offence under Subsection (1) and before his release, the penalty is paid in full or in part, any person may apply to a Magistrate to have the sentence of imprisonment reviewed.

(3) Where an application for a review is made to a Magistrate under Subsection (2), the Magistrate—

(a) shall, where the penalty has been paid in full, cancel the warrant of imprisonment and direct that any person being held in custody for an offence under Subsection (1) in respect of that penalty be released; and

(b) may, in any other case, reduce the term of imprisonment imposed on any person under the sentence being reviewed by such amount as, in his opinion, is proportional to the amount of the penalty paid, and shall amend the sentence of imprisonment accordingly.

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<sup>17</sup> Section 20 repealed and replaced by No. 18 of 1981, s9.

**PART V. – MISCELLANEOUS.****21. RECORDS OF PEACE-MAKING CEREMONIES TO BE KEPT.**

(1) Where a ceremony is held by two or more groups jointly or by one group for one or more other groups for the purpose of–

- (a) settling or attempting to settle a dispute; or
- (b) recognizing the settlement of a dispute; or
- (c) paying compensation for the death of or injury to any person or for damage to any property,

the leaders of the group or groups involved in the ceremony shall cause the details of the ceremony to be given to a District Officer within one month after the ceremony for recording in the records of the District Office for the district in which the group or groups, or any of them, reside.

(2) Where the details of a ceremony referred to in Subsection (1) are not given to a District Officer within one month after the ceremony, each of the leaders of the group or groups involved in the ceremony is guilty of an offence.

Penalty: A fine not exceeding K50.00.

**21A. COMPENSATION PAYMENT.**

<sup>18</sup>A group under Section 21 shall not hold a ceremony for the purpose of paying compensation for the death or injury to a person.

**22. POWERS OF MAGISTRATE ON INQUIRY.**

In conducting an inquiry under Section 15 a Magistrate has all the powers of a District Court, and, in addition–

- (a) is not bound by any rule of law, evidence, practice or procedure other than this Act; and
- (b) may call and examine witnesses; and
- (c) may otherwise inform himself on the matter before him in such manner as he thinks fit; and
- (d) may appoint such number of assessors to sit with and advise him as he considers necessary.

**23. PROCEEDINGS TO BE BROUGHT IN DISTRICT COURT ONLY.**

(1) Proceedings under this Act shall be brought in and dealt with by a District Court and shall not be–

- (a) brought in or transferred to a Local Court; or
- (b) brought in a Village Court.

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<sup>18</sup> Section 21A inserted by No 9 of 2000.



(2) The Judicial and Legal Services Commission may, by notice in the National Gazette, declare a person who is not a District Court Magistrate to be a Magistrate for the purposes of this Act and a person while so appointed shall be deemed to be and to have all the powers of a District Court Magistrate for and in relation to those purposes.

**24. JURISDICTION OF DISTRICT COURT.**

A District Court has jurisdiction in relation to all offences and all proceedings under this Act and where but for this section, a District Court would not have jurisdiction in relation to any offence specified in this Act, whether as to penalty or otherwise, it shall be deemed to have jurisdiction.

**24A. PROSECUTION FOR UNLAWFUL DEATH.**

<sup>19</sup>Notwithstanding a ceremony held under Section 21 or 21A, where death has resulted from an inter-group fight, the principals and leaders of the fight shall be liable to prosecution for wilful murder as accessories to the fact of the death under the *Criminal Code 1974*.

**25. 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 are necessary or convenient to be prescribed, for carrying out or giving effect to this Act.

Office of Legislative Counsel, PNG

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<sup>19</sup> Section 24A inserted by No 9 of 2000.