

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 269.

*Discriminatory Practices.*

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 Justice.

Accordingly, as at that date, except where some other intention appears, 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 Justice;

“the Departmental Head”—should be read as references to the Secretary for Justice<sup>1</sup>;

“the Department”—should be read as references to the Department of Justice<sup>2</sup>.

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<sup>1</sup> Previously the Secretary for Law.

<sup>2</sup> Previously the Department of Law.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 269.

*Discriminatory Practices Act.*

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ARRANGEMENT OF SECTIONS.

1. Interpretation—
  - "discriminatory practice"
  - "licence"
  - "meeting"
  - "public meeting"
  - "public place"
  - "publish or distribute"
  - "written matter".
2. Prohibition of discrimination.
3. Offences on licensed premises.
4. Incitement to racial hatred, etc.
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INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 269.

*Discriminatory Practices Act.*

Being an Act to prohibit certain discriminatory practices, and for other purposes<sup>1</sup>.

1. Interpretation—

In this Act, unless the contrary intention appears—

“discriminatory practice” means discrimination either of an adverse or of a preferential kind practised by a person or group of persons against or in favour of another person or group of persons for reasons only of colour, race or ethnic, tribal or national origin, and in particular includes—

- (a) the setting aside of portion of any premises, vessel, aircraft or vehicle the subject of a licence for the exclusive use of persons or a class of persons of a certain colour, race or ethnic, tribal or national origin; and
- (b) the failure to attend to persons in the order that those persons enter or approach any premises, vessel, aircraft or vehicle the subject of a licence; and
- (c) the selling or buying of goods at different prices or on different terms to different persons or classes of persons; and
- (d) a course of conduct which—
  - (i) distinguishes between persons or classes of persons of differing colours, races or ethnic, tribal or national origins; and
  - (ii) may reasonably be expected to result in mental distress or suffering by a person or a member of that class of persons;

“licence” means—

- (a) a licence under the *Liquor (Licensing) Act*; or
- (b) a licence under the *Restaurants (Licensing) Act*; or
- (c) a trader's licence or pedlar's licence under the *Licences Act (T.N.G.)*; or
- (d) a licence under the *Agents for Natives Regulation (T.N.G.)*; or
- (e) a licence to keep a place of entertainment under the *Places of Entertainment Regulation (T.N.G.)*; or
- (f) a licence for a place of public entertainment under the *Places of Entertainment Act (Papua)*; or
- (g) a licence under the *Trading Act*; or
- (h) a licence under the *Sale of Meat Act*; or
- (i) a permit or special permit under the *Copra Act*; or
- (j) a registration under Section 40 or 44 of the *Cocoa Industry Act*; or
- (k) an exemption under Section 6 of the *Transactions with Natives Act 1958 (Adopted)*; or
- (l) a licence under the *Public Health (Barbers' Shops) Regulation*; or

<sup>1</sup> See also Constitution, Sections 34, 55, and the various provisions of Division III. 3 and Part IV. allowing discrimination or differentiation in relation to citizenship status.

(m) a motor omnibus licence, public motor vehicle licence, private hire car licence, or taxi-cab licence within the meaning of the *Motor Traffic Act*, or

(n) any other prescribed licence, permit or authority to buy, sell or deal or trade in goods,

and, where a business licensing rule has been made under the *Business Licences Act 1971*<sup>1</sup>, providing for a business licence that is the equivalent of a licence, permit, registration, exemption or authority referred to in the preceding provisions of this definition, includes that business licence;

“meeting” means a meeting held for the purpose of the discussion of matters of public interest or for the purpose of the expression of views on such matters;

“public meeting” includes a meeting in a public place, and a meeting that the public or any section of it are permitted to attend, whether on payment or otherwise;

“public place” means any highway, public park or garden, beach or public bridge, road, lane, footway, square, court, alley or passage, whether a thoroughfare or not, and includes any open space to which, for the time being, the public have access, whether on payment or otherwise;

“publish or distribute” means publish or distribute to the public at large or to any section of the public not consisting exclusively of members of an association of which the person publishing or distributing is a member;

“written matter” includes any writing, sign or visible representation (whether in the form of words, photographs, drawings or otherwise).

**2. Prohibition of discrimination.**

(1) The holder of a licence who without reasonable excuse, (proof of which is on him) carries out a discriminatory practice, or causes or permits a discriminatory practice to be carried out, in or in connexion with or incidental to—

(a) the business the subject of the licence; or

(b) the use of, or on, any premises, vessel, aircraft or vehicle the subject of the licence or used by virtue of the licence for the purposes of the business,

is guilty of an offence.

Penalty: A fine not exceeding K200.00.

(2) An offence against Subsection (1) shall not be deemed to have been committed where the conduct in question was required for the purpose of complying with a law.

**3. Offences on licensed premises.**

A person who, in or on premises the subject of a licence—

(a) acts in a threatening, abusive, insulting, provocative or offensive manner towards a person of a different colour, race or ethnic, tribal or national origin as such; or

(b) incites or endeavours to incite another person to so act,

is guilty of an offence.

Penalty: Imprisonment for a term not exceeding two months.

<sup>1</sup> Not in force on the effective date.

**4. Incitement to racial hatred, etc.**

A person who with intent to stir up hatred, ridicule or contempt against any section of the public distinguished by colour, race or ethnic, tribal or national origin—

(a) publishes or distributes any written matter that is threatening, abusive, insulting, provocative or offensive; or

(b) uses in any public place or at any public meeting words or behaviour that are or is threatening, abusive, insulting, provocative or offensive,

being matter, words or behaviour likely to stir up hatred, ridicule or contempt against that section on grounds of colour, race or ethnic, tribal or national origin, is guilty of an offence.

Penalty: On summary conviction—a fine not exceeding K400.00 or imprisonment for a term not exceeding six months, or both. On conviction on indictment—a fine not exceeding K2 000.00, or imprisonment for a term not exceeding two years, or both.

**5. Prosecutions only with consent.**

A prosecution for an offence against Section 2, 3 or 4 shall not be commenced without the consent of the Minister<sup>1</sup>.

**6. Consequences of conviction.**

(1) Where a person is convicted of an offence against Section 2, 3 or 4 the court that convicts him may—

(a) suspend for such time as it thinks proper or cancel all or any licences held by him; and

(b) disqualify him from holding all or any licences during such period as it thinks proper.

(2) A conviction for an offence against Section 2, 3 or 4 is good ground for the making of an order under Section 21 of the *Native Employment Act 1958* (Adopted).

**7. Offences in relation to complaints, etc.**

A person who knowingly makes, or causes, permits or procures to be made, a false statement in an information for an offence against Section 2, 3 or 4 is guilty of an offence.

Penalty: A fine not exceeding K200.00 or imprisonment for a term not exceeding six months, or both.

**8. 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.

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<sup>1</sup> See, also, *Constitution*, Sections 176 and 177.

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**Discriminatory Practices.**

APPENDIX.

SOURCE OF THE DISCRIMINATORY PRACTICES ACT.

Part A.—Previous Legislation.

Discriminatory Practices Act 1963 (No. 33 of 1963)

as amended by—

*Discriminatory Practices Act* 1967 (No. 24 of 1967)

*Discriminatory Practices (Amendment) Act* 1969 (No. 84 of 1969)

*Discriminatory Practices (Extension) Act* 1972 (No. 43 of 1972).

Part B.—Cross References.

Section, etc., in Revised Edition.	Previous Reference <sup>1</sup> .	Section, etc., in Revised Edition.	Previous Reference <sup>1</sup> .
1	3	5	6
2	4	6	7
3	5	7	8
4	5A	8	9

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

