

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 108.

Exports (Control and Valuation).

GENERAL ANNOTATION.

ADMINISTRATION.

The administration of this Chapter was vested in the Minister for Finance at the date of its preparation for inclusion.

The present administration may be ascertained by reference to the most recent Determination of Titles and Responsibilities of Ministers made under Section 148(1) of the Constitution.

References in or in relation to this Chapter to—

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

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

TABLE OF CONTENTS.

	<i>Page.</i>
<i>Exports (Control and Valuation) Act</i>	3
<i>Exports (Control and Valuation) Regulation</i>	11
Subsidiary Legislation ¹	17
Appendixes—	
1. Source of Act.	
2. Source of Regulation.	

¹Subsidiary legislation has not been up-dated.



INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 108.

Exports (Control and Valuation) Act.

ARRANGEMENT OF SECTIONS.

PART I.—PRELIMINARY.

1. Interpretation—
 - "export"
 - "export licensing officer"
 - "licence"
 - "prescribed goods"
 - "proper export value"
 - "the regulations"
 - "this Act".
2. Application.
3. Exceptions.

PART II.—EXPORT LICENSING OFFICERS.

4. Appointment of export licensing officers.
5. Exercise of Minister's powers by export licensing officers.

PART III.—EXPORT CONTROL.

6. Restriction on exports.

PART IV.—EXPORT LICENCES.

7. Classes of licences.
8. Applications for licences.
9. Grant and revocation, etc., of licences.
10. Terms and conditions of licences.
11. Security.
12. Additional information.

PART V.—MISCELLANEOUS.

13. Retention of records.
14. Translations of foreign documents.
15. General powers to obtain information.
16. False statements.
17. Indemnity.
18. Regulations.

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 108.

Exports (Control and Valuation) Act.

Being an Act relating to the control and valuation of certain exports.

PART I.—PRELIMINARY.

1. Interpretation.

(1) In this Act, unless the contrary intention appears—

“export” means, subject to Subsection (2), export—

- (a) in the course of trade or business; or
- (b) for the purpose of, or in the course of, sale or exchange;

“export licensing officer”, in relation to any prescribed goods, means a person appointed under Section 4 to be an export licensing officer in relation to those goods;

“licence” means a licence under Section 9;

“prescribed goods” means goods other than—

- (a) goods in the nature of samples or gifts, not exceeding K250.00 in value at any one time; and
- (b) personal and household effects; and
- (c) ship's or aircraft's stores, being goods for the use of the passengers or crew of, or for the service of, a ship or aircraft; and
- (d) in relation to any provision of this Act, any goods excepted from the application of that provision under Section 3; and
- (e) goods re-exported after display at trade fairs or similar exhibitions;

“proper export value”, in relation to any prescribed goods, means the amount that represents a return for the goods that is, in all the circumstances, satisfactory in the national interest;

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

“this Act” includes the regulations.

(2) Where goods are sold for export, this Act applies as though the sale were an exportation of the goods at the price at which they were sold.

2. Application.

(1) This Act applies with respect to the exportation of any prescribed goods notwithstanding that a licence or other authority for the exportation of the goods is in force under any other law.

(2) The grant of a licence with respect to any prescribed goods, or the exception of any goods from the application of this Act, does not absolve any person from the obligation to comply with any other law relating to the exportation of goods.

3. Exceptions.

(1) The Minister may, by notice in the National Gazette, except from the application of any provision of this Act any goods, or goods included in any class of goods.

(2) Without prejudice to the generality of Subsection (1), the exception of any goods from the application of this Act may be limited to—

- (a) any goods intended solely for use or consumption in any place specified by the Minister; or
- (b) any goods to be exported in a manner, or at or within a time, so specified.

PART II.—EXPORT LICENSING OFFICERS.

4. Appointment of export licensing officers.

The Minister may, by notice in the National Gazette, appoint an officer to be an export licensing officer in relation to any prescribed goods or class of prescribed goods.

5. Exercise of Minister's powers by export licensing officers.

(1) An export licensing officer has and may exercise, subject to any directions of the Minister, all the powers and functions of the Minister under this Act (except the powers and functions of the Minister under Section 3).

(2) An appeal lies to the Minister from any decision or determination of an export licensing officer under this Act.

(3) The decision of the Minister on the appeal is final¹.

(4) This section does not prevent the exercise of any power or function by the Minister.

PART III.—EXPORT CONTROL.

6. Restriction on exports.

(1) A person who exports any prescribed goods—

- (a) for a consideration that is less than the proper export value; or
- (b) for which no licence to export is in force; or
- (c) otherwise than in accordance with the terms and conditions (if any) to which the licence to export the goods is subject,

is guilty of an offence.

Penalty: A fine not exceeding K1 500.00 or imprisonment for a term not exceeding six months.

(2) Where the Minister is not satisfied that the consideration paid or payable in respect of any consignment of prescribed goods is less than the proper export value of the goods, he shall give his reasons to the person making entry of the goods for export.

(3) The provisions of the *Customs Act* relating to prohibited exports apply in relation to goods the exportation of which is prohibited under this section as if those provisions were contained in this Act, but a breach or contravention of those provisions is punishable as if it were an offence against this Act.

(Amended by No. 18 of 1982, Sched. 4.)

¹See Constitution, Section 155.

PART IV.—EXPORT LICENCES.

7. Classes of licences.

(1) A licence may be—

- (a) an ordinary licence; or
- (b) a special licence.

(2) An ordinary licence is a licence to export, during a period extending from the date of the grant of the licence to a date specified in the licence, the prescribed goods the subject of the licence, in one consignment and—

- (a) in the quantities; and
- (b) by the method of despatch; and
- (c) from the place,

specified in the licence.

(3) A special licence is a licence to export, during a period extending from the date of the grant of the licence to a date specified in the licence, or if a date is not so specified until the licence is revoked, prescribed goods of a class or kind specified in the licence from a place and to a country so specified.

8. Applications for licences.

(1) A person desiring to export prescribed goods may make application for a licence.

(2) An application for a licence—

- (a) shall be in the prescribed form; and
- (b) shall contain the prescribed information and particulars; and
- (c) shall be delivered to an export licensing officer together with such additional copies as the export licensing officer requires.

9. Grant and revocation, etc., of licences.

(1) The Minister may, in his discretion—

- (a) grant a licence in respect of—
 - (i) all the prescribed goods specified in an application; or
 - (ii) portion only of the goods; or
- (b) refuse to grant a licence.

(2) The Head of State, acting on advice, may revoke a licence at any time.

(3) Pending a decision under Subsection (2), the Minister may suspend a licence.

10. Terms and conditions of licences.

(1) A licence may be made subject to such terms and conditions as are determined by the Minister.

(2) The Minister may—

- (a) vary or modify the terms and conditions of any licence; and
- (b) direct that a licence granted free from terms and conditions shall be subject to such terms and conditions as he determines.

(3) A licensee who fails to comply with the terms and conditions to which the licence is subject is guilty of an offence.

Penalty: On conviction on indictment—a fine not exceeding K30 000.00 or imprisonment for a term not exceeding five years.

On summary conviction—a fine not exceeding K3 000.00 or imprisonment for a term not exceeding 12 months.

(Amended by No. 18 of 1982, Sched. 4.)

11. Security.

(1) Before a licence is granted, the applicant for the licence shall, if required by an export licensing officer, give security for compliance with the requirements of this Act and with the terms and conditions of the licence.

(2) Unless some other security is accepted as sufficient by the export licensing officer, any security required to be given under this Act shall be by bond—

- (a) in the prescribed form; and
- (b) executed by the applicant and by one or more sureties approved by the export licensing officer; and
- (c) conditioned for compliance by the licensee and all other persons bound by the security with—
 - (i) the requirements of this Act; and
 - (ii) the terms and conditions of the licence.

(3) Unless the export licensing officer otherwise determines, a bond or other security given in respect of a licence shall be for a sum equal to twice the proper export value of the prescribed goods to which the licence relates.

12. Additional information.

An applicant for a licence, or a licensee, shall supply to an export licensing officer any information additional to that supplied or required under Section 8(2)(b) that is required by the officer.

PART V.—MISCELLANEOUS.

13. Retention of records.

A person who exports any prescribed goods and who fails to keep in the country for the prescribed period the originals or certified copies of all documents and records retained by him relating to the prescribed goods is guilty of an offence.

Penalty: A fine not exceeding K300.00.

Default penalty: A fine not exceeding K30.00.

(Amended by No. 18 of 1982, Sched. 4.)

14. Translations of foreign documents.

If a document in a foreign language is presented to an export licensing officer for any purpose connected with this Act, the officer may require an English translation of the document—

- (a) to be made at the expense of the owner by a person approved by the officer;
or
- (b) to be verified in such manner as the officer approves.

15. General powers to obtain information.

(1) The Minister may, by written notice served on any person (including an officer), require him—

- (a) to furnish to the Minister, or to such other person as the Minister directs, such information as the Minister or that other person requires; or
- (b) to attend and give evidence before the Minister, or such other person as the Minister directs; or
- (c) to produce all books, documents and other papers in his custody or under his control,

with respect to any act, transaction, matter or thing prohibited by this Act, or to which any provision of this Act applies.

(2) The Minister may require the information or evidence to be given on oath or affirmation and either orally or in writing, and for that purpose the Minister or person before whom the evidence is given may administer an oath.

(3) A person who—

- (a) refuses or fails to comply with a requirement made under Subsection (1) or (2); or
- (b) with intent to evade the provisions of this Act, destroys, mutilates, defaces, secretes or removes any book, document or other paper,

is guilty of an offence.

Penalty: A fine not exceeding K1 500.00 or imprisonment for a term not exceeding six months.

(4) Where a person is obliged to answer questions orally under this section, he may not refuse to answer a question on the ground that the answer might tend to criminate him or make him liable to a penalty, but the answer given by him is not admissible in evidence in any proceedings against him other than proceedings in respect of the falsity of the answer or in respect of the refusal or failure to answer the question.

(Amended by No. 18 of 1982, Sched. 4.)

16. False statements.

A person who makes—

- (a) to the Minister; or
- (b) to an export licensing officer; or
- (c) in the records kept under Section 13,

a statement, oral or written, relating to any act, transaction, matter or thing to which any provision of this Act applies that—

- (d) he knows to be untrue in any particular; or
- (e) is misleading in any particular; or
- (f) is made by him without his having first made proper inquiries to ascertain its truth,

is guilty of an offence.

Penalty: A fine not exceeding K1 500.00 or imprisonment for a term not exceeding six months.

(Amended by No. 18 of 1982, Sched. 4.)

17. Indemnity.

No claim, action or proceeding shall be made or brought by any person against an export licensing officer in respect of any loss or damage arising out of any dealing, in good faith and without negligence, with any document delivered to an export licensing officer under this Act.

18. 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 penalties of fines not exceeding K300.00 for offences against the regulations.

(Amended by No. 18 of 1982, Sched. 4.)

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 108.

Exports (Control and Valuation) Regulation.

ARRANGEMENT OF SECTIONS.

1. Application for licences.
2. Licences.
3. Bond.
4. Period of retention of records.

SCHEDULE.—

- FORM 1.—Application for an Ordinary Licence to Export Goods.
FORM 2.—Application for Special Licence to Export Goods.
FORM 3.—Ordinary Export Licence.
FORM 4.—Special Export Licence.
FORM 5.—Bond.



)



INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 108.

Exports (Control and Valuation) Regulation.

MADE under the *Exports (Control and Valuation) Act.*

1. Application for licences.

(1) An application for an ordinary licence shall be in Form 1, and shall contain the information and particulars set out in that form.

(2) An application for a special licence shall be in Form 2, and shall contain the information and particulars set out in that form.

2. Licences.

(1) An ordinary licence shall be in Form 3.

(2) A special licence shall be in Form 4.

(3) A licence shall be endorsed on the relevant application.

3. Bond.

The bond required by Section 11(2) of the Act shall be in Form 5.

4. Period of retention of records.

For the purposes of Section 13 of the Act, the period for which a person who exports any prescribed goods must keep the originals or certified copies of all documents and records retained by him relating to the prescribed goods is five years.

SCHEDULE.

PAPUA NEW GUINEA.

Exports (Control and Valuation) Act.

Act, Sec. 8.

Form 1.

Reg., Sec. 1(1).

APPLICATION FOR AN ORDINARY LICENCE TO EXPORT GOODS.

Exporter (name and address):
Name of owner of goods at
time of export (if different
from exporter):

Registered Number of Licence:
Export Licensing Officer:

Exported under Bank of Papua New Guinea—

* General Authority:

* Specific Authority Number:

Bank in Papua New Guinea to which currency proceeds will be sold or credited and Branch:

Invoice value: K

(state whether f.o.b., c.i.f. or otherwise; state also the invoice value of the goods per unit, that is to say—

(a) in the case of goods sold to overseas buyers before export—the sale price according to the contract of sale; or

(b) in the case of goods shipped on consignment or any other goods not sold to overseas buyers before export—the estimated value of the goods in the principal markets of the country to which the goods are being consigned or shipped).

Consignee (name and address):

Buyer (if different from consignee):

Goods to be transported overseas by—

Ship (name)/Airline (name)/Post*

Port or airport of loading:

Port or airport of discharge:

Marks and numbers:

Final destination of goods:

Number and kind
of packages:

Description of goods:
Quantity (state unit):

I, _____, apply for an ordinary licence to export the goods as described in this application and declare that I am the exporter/duly authorized agent of the exporter* and that the particulars shown in this application are correct in every particular, and that the value of the goods represents a consideration that is not less than the proper export value of the goods.

(Signature of Exporter or Agent of Exporter.)

Address (if signed by agent):

Dated _____, 19 ____

* Strike out whichever is inapplicable.

Exports (Control and Valuation)

Ch. No. 108

PAPUA NEW GUINEA.
Exports (Control and Valuation) Act.

Act, Sec. 8.
Reg., Sec. 1(2).

Form 2.

APPLICATION FOR SPECIAL LICENCE TO EXPORT GOODS.

Exporter (*name and address*):
Name of owner of goods at time
of export (*if different*
from exporter):

Registered Number of Licence:
Export Licensing Officer:

Exported under Bank of Papua New Guinea—

* General Authority:

* Specific Authority Number:

Bank in Papua New Guinea to which currency proceeds will be sold or credited and Branch:

Invoice value: K

(*state whether f.o.b., c.i.f. or otherwise; state also the invoice value of the goods per unit, that is to say—*

(a) *in the case of goods sold to overseas buyers before export—the sale price according to the contract of sale; or*

(b) *in the case of goods shipped on consignment or any other goods not sold to overseas buyers before export—the estimated value of the goods in the principal markets of the country to which the goods are being consigned or shipped.*

Consignee (*name and address*):

Buyer (*if different from consignee*):

Port or airport of loading:

Marks and numbers:

Destination, countries:

Number and kind
of packages:

Description of goods:
Quantity (*state unit*):

I, _____, apply for a special licence to export the goods as described in this application and declare that I am the exporter/duly authorized agent of the exporter* and that the particulars shown in this application are correct in every particular, and that the value of the goods represents a consideration that is not less than the proper export value of the goods.

(*Signature of Exporter or Agent of Exporter.*)

Address (*if signed by agent*):

Dated _____, 19 ____

* Strike out whichever is inapplicable.

PAPUA NEW GUINEA.
Exports (Control and Valuation) Act.

Act, Sec. 9.
Reg., Sec. 2(1).

Form 3.

ORDINARY EXPORT LICENCE.

(*To be endorsed on application.*)

I grant a licence to export the goods specified in the above application in one consignment in the quantities, by the manner of despatch and from the place specified in it, during the period from the date of grant of this licence until _____

This licence is granted subject to the terms and conditions set out below/overleaf*.

Dated _____ 19 ____

Minister/Export Licensing Officer*.

* Strike out whichever is in applicable.

- Notes:—1. This licence is to be promptly returned to the Export Licensing Officer if the goods covered by it are not exported on the ship named in it or as otherwise indicated in it.
2. Short-shipment of any of the goods should promptly be notified, in writing, to the Export Licensing Officer.
3. This licence does not absolve any person from the obligation to comply with any other law relating to the exportation of goods.

Ch. No. 108

Exports (Control and Valuation)

PAPUA NEW GUINEA.

Exports (Control and Valuation) Act.

Act, Sec. 9.

Form 4.

Reg., Sec. 2(2).

SPECIAL EXPORT LICENCE.

(To be endorsed on application.)

I grant a licence to export to the country/countries* specified in the above application the goods so specified from the places so specified, during the period from the date of grant of this licence until

This licence is granted subject to the terms and conditions set out below/overleaf*.

Dated 19 .

Minister/Export Licensing Officer*.

* Strike out whichever is inapplicable.

- Notes:—
1. This licence is to be promptly returned to the Export Licensing Officer if the goods covered by it are not exported as indicated in it.
 2. Short-shipment of any of the goods should promptly be notified, in writing, to the Export Licensing Officer.
 3. This licence does not absolve any person from the obligation to comply with any other law relating to the exportation of goods.

PAPUA NEW GUINEA.

Export (Control and Valuation) Act.

Act, Sec. 11.

Form 5.

Reg., Sec. 3.

BOND.

Whereas the licensee has made an application dated 19 for a licence to export goods under the *Exports (Control and Valuation) Act*

We (*full name of licensee*), of (*address*), (*occupation*), (called in this Bond "the licensee") and (*full name of the first surety*), of (*address*), (*occupation*), and (*full name of the second surety*), of (*address*), (*occupation*), are jointly and severally held and firmly bound to the Independent State of Papua New Guinea in the sum of K to be paid to the State for which payment we bind ourselves jointly and each of us severally and respectively, and our respective executors and administrators, firmly by these presents.

The condition of this Bond is that if the licensee and all other persons bound by it punctually and faithfully observe and comply with the terms and conditions of the licence and with all the requirements of the *Exports (Control and Valuation) Act* relating to the licence, then this Bond shall be void and of no effect, but otherwise it remains in full force and effect:

Provided that no extension of time or other indulgence granted to the licensee for compliance with any conditions of the licence or with any requirements of the Act, and no neglect or forbearance to enforce such compliance, in any way releases any person bound by this Bond, or his executors or administrators, from his or their liability under it, and no waiver of any of the conditions or requirements of the Bond affects the liability of the licensee or any other person bound by it, or of his executors or administrators, under it.

Signed, sealed and delivered by the said (*licensee*) on 19 in the presence of:

Signed, sealed and delivered by the said (*first surety*) on 19 in the presence of:

Signed, sealed and delivered by the said (*second surety*) on 19 in the presence of:

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 108.

Exports (Control and Valuation).

SUBSIDIARY LEGISLATION.

1. Section 3—Exceptions.

All goods except logs, pearls, tuna fish and woodchips, "notwithstanding that these goods shall not be exported except for a consideration that is not less than the proper export value"¹.

2. Section 4—Appointment of ex officio export licensing officers.

Projects Officer (Trade Control).

Chief of Division (Policy and International Trade Relations). (Offices as at 16 October 1974).

¹ *Sic. See Papua New Guinea Gazette No. 81 of 28 November 1974, pp. 12, 15.*

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 108.

Exports (Control and Valuation).

APPENDIX 1.

SOURCE OF THE EXPORTS (CONTROL AND VALUATION) ACT.

Previous Legislation.

Exports (Control and Valuation) Act

as amended by—

Customs (Penalties) Act 1982 (No. 18 of 1982).

APPENDIX 2.

SOURCE OF THE EXPORTS (CONTROL AND VALUATION) REGULATION.

Part A.—Previous Legislation.

Exports (Control and Valuation) Regulations 1973 (Statutory Instrument No. 58 of 1973).

Part B.—Cross References.

Section, etc., in Revised Edition.	Previous Reference ¹ .	Section, etc., in Revised Edition.	Previous Reference ¹ .
1	3	Schedule—	
2	Forms 1, 2 (in part)	Form 1	Form 1 (in part)
3	4	Form 2	Form 2 (in part)
4	5	Form 3	Form 1 (in part)
		Form 4	Form 2 (in part)
		Form 5	Form 3

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