

No. 18 of 1989.

***Classification of Publication (Censorship) Act 1989.***

Certified on: / /20 .



INDEPENDENT STATE OF PAPUA NEW GUINEA.



No. 18 of 1989.

*Classification of Publication (Censorship) Act 1989.*

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INDEPENDENT STATE OF PAPUA NEW GUINEA.



AN ACT

entitled

***Classification of Publication (Censorship) Act 1989,***

Being an Act to provide for—

- (a) the classification of publications; and
- (b) the prohibition of objectionable and unclassified publications; and
- (c) related purposes.

**PART I. – PRELIMINARY.**

**1. COMPLIANCE WITH CONSTITUTIONAL REQUIREMENTS.**

(1) This Act regulates or restricts the exercise of—

- (a) the freedom from arbitrary search and entry conferred by Section 44 of the *Constitution*; and
- (b) the freedom from expression conferred by Section 46 of the *Constitution*; and
- (c) the right to privacy conferred by Section 49 of the *Constitution*; and
- (d) the right to freedom of information conferred by Section 51 of the *Constitution*,

and to the extent that the regulation or restriction is necessary, taking into account the National Goals and Directive Principles and the Basic Social Obligations, for the purposes of giving effect to the public interests in public order and welfare, is a law that is made for that purpose.

(2) For the purposes of Section 29 of the *Organic Law on the Provincial Government*, it is hereby declared that this law relates to a matter of national interest.

2. **INTERPRETATION.**

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

“**adult**” means a person of or above the age of 18 years;

“**advertizing matter**” means any poster, picture, photograph, sketch, figure, handbill, slide, newspaper advertisement, programme and other matter intended for use in connection with the publishing of a publication;

“**Board**” means the Censorship Board;

“**broadcasting**” means the dissemination of any form of communication by the—

(a) wireless; or

(b) electrical cable,

transmission of writing, signs, signals, pictures, images and sounds of all kinds by means of the Hertzian waves intended to be received by—

(c) in the case of wireless transmission—the general public; and

(d) in the case of electrical cable transmission—subscribers, either directly or through the medium of relay stations;

“**Censor**” means the Chief Censor, the Deputy Chief Censor or a Deputy Censor or the Censorship Board;

“**Censorship Board**” means the Censorship Board established under this Act;

“**Chairman**” means the Chairman of the Censorship Board;

“**Chief Censor**” means the Chief Censor appointed under this Act;

“**classified**” means classified in accordance with this Act;

“**Court**” means District Court;

“**declared publication**” means a publication or class or category of publications declared under Section 37;

“**Deputy Censor**” means a Deputy Censor appointed under this Act;

“**Deputy Chief Censor**” means a Deputy Chief Censor appointed under this Act;

“**film**” means a cinematograph film, slide, video tape or video disc, television programme or any other form of recording from which a visual image can be produced;

“**licence**” means a licence under this Act;

“**member**” means a member of the Censorship Board;

“**minor**” means a person under the age of 18 years;

“**objectionable publication**” means a publication that—



- (a) describes, depicts, expresses or otherwise deals with matters of sex, drug misuse or addiction, crime, cruelty, blasphemy, immorality, violence or revolting or abhorrent phenomena in a manner that is likely to be offensive to a reasonable adult person and is undesirable in the interest of the public; or
- (b) depicts a child (whether engaged in sexual activity or otherwise) who is, or who is apparently, under the age of 18 years, in a manner that is likely to cause offence to a reasonable adult person and is undesirable in the interest of the public; or
- (c) promotes, incites or encourages terrorism;

**“prescribed activity”** means an activity referred to in Section 26;

**“publication premises”** means premises in or on which a prescribed activity is to be established or is being operated;

**“public place”** means any premises, street, road, footpath, public park, village, community, reserve or other place which the public are entitled to use;

**“publication”** means any book, paper, magazine, audio cassette, film or other written or sound or pictorial matter and advertising matter relating to such goods;

**“publish”** includes sell, offer for sale, let on hire, exhibit, screen, display, distribute or advertise;

**“publisher”** means a person who publishes a publication;

**“restricted publication”** means a publication that is classified as a restricted publication in accordance with this Act;

**“restricted publication area”** means an area in publication premises in which a restricted publication may be published;

**“terrorism”** has the same meaning as in the *National Intelligence Organization Act 1984*;

**“this Act”** includes the Regulations.

(2) A publication shall be deemed to be under customs control when it is deposited or held in a customs warehouse or licensed warehouse, or in a post office, vessel, vehicle, conveyance, aircraft or place from which it may not be removed except with the permission of a proper officer of customs in accordance with the *Customs Act 1951*.

### 3. APPLICATION.

The Act does not apply to a publication—

- (a) that is sponsored by the National Government or a Provincial Government; or

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- (b) that is being transhipped within Papua New Guinea for delivery at a place outside Papua New Guinea.

**PART II. – ADMINISTRATION.**

***Division 1.***

***The Censorship Board.***

**4. THE CENSORSHIP BOARD.**

(1) There is established a Board called the Censorship Board.

(2) The Board shall consist of:–

- (a) the Chief Censor or his delegate; and
- (b) a member of the Police Force nominated by the Commissioner for Police; and
- (c) an officer nominated by the Departmental Head of the Department responsible for education matters; and
- (d) a member representing and nominated by the National Council of Women; and
- (e) a member representing and nominated by the Melanesian Council of Churches; and
- (f) a lawyer nominated by the Departmental Head of the Department responsible for justice matters; and
- (g) a member representing the mass media industry; and
- (h) a member representing and nominated by the National Cultural Commission; and
- (i) a member representing and nominated by the National Youth Commission; and
- (j) a psychologist nominated by the Departmental Head of the Department responsible for health matters; and
- (k) two female members.

(3) The members of the Board referred to in Subsection (2)(b), (c), (d), (e), (f), (g), (h), (i), (j) and (k) shall–

- (a) be citizens; and
- (b)<sup>1</sup> be appointed in accordance with the *Regulatory Statutory Authorities (Appointment to Certain Offices) Act 2004*; and
- (c) be appointed for a term of three years and be eligible for re-appointment.

(4) The members of the Board (other than members who are officers of the National Public Service or any other State Service) shall be paid fees and allowances in accordance with the *Boards (Fees and Allowances) Act 1955*.

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<sup>1</sup> Section 4 Subsection (3) amended by No. 97 of 2006, Sched. 1.

**5. CHAIRMAN AND DEPUTY CHAIRMAN OF THE BOARD.**

(1) The Minister may appoint one of the members of the Board to be Chairman of the Board and another member to be Deputy Chairman of the Board.

(2) The Chief Censor is not eligible to be appointed as Chairman or Deputy Chairman of the Board.

**6. RESIGNATION OF APPOINTED MEMBERS.**

A member of the Board appointed under Section 4(2)(b), (c), (d), (e), (f), (g), (h), (i), (j) or (k) may resign his office by writing signed by him and delivered to the Minister.

**7. LEAVE OF ABSENCE.**

The Minister may grant leave of absence to a member of the Board on such terms and conditions as the Minister determines.

**8. VACATION OF OFFICE.**

(1) If a member of the Board—

(a) is absent, except on leave of absence granted under Section 7, from three consecutive meetings of the Board; or

(b) becomes permanently incapable of performing his duties; or

(c) resigns his office in accordance with Section 6; or

(d) fails to comply with the obligations under Section 9,

the Minister may terminate his appointment.

(2) Where the Minister believes that a member of the Board is guilty of misbehaviour or misconduct which has, or is likely to affect the performance of his functions and duties under this Act, the Minister shall give written notice to the member advising him of his intention to terminate the member's appointment, and shall in the notice specify the reasons for his decision.

(3) Within 14 days of the receipt of a notice under Subsection (2), the member may reply in writing to the Minister who shall consider the reply and as soon as is practicable deliver written notice of his decision to the member.

(4) Where the member referred to in Subsection (2) does not, within 14 days of the receipt of a notice under that subsection, reply to the Minister, his appointment is terminated.

**9. DISCLOSURE OF PECUNIARY INTEREST.**

(1) A member who has a direct or indirect pecuniary interest in a matter being considered or about to be considered by the Board, otherwise than as a member and in common with other members of an incorporated company consisting of not less

than 25 persons, shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest at the meeting of the Board.

(2) A disclosure under Subsection (1), shall be recorded in the minutes of the meeting of the Board and the member shall not—

- (a) be present during any deliberations of the Board with respect to that matter; or
- (b) take part in any decision of the Board with respect to that matter.

(3) Where a member fails, without reasonable excuse, to comply with the requirements of this section, the Minister shall terminate the appointment of the member.

#### **10. MEETINGS OF BOARD.**

(1) The Board shall hold at least four meetings each year, at such times and places as the Chairman shall appoint.

(2) The Chairman of the Board or, in his absence, the Deputy Chairman, shall preside at all meetings of the Board.

(3) At a meeting of the Board, a quorum is constituted by the Chairman or the Deputy Chairman and three members.

(4) A question arising at a meeting shall be determined by a majority of votes of the members present and voting.

(5) The person presiding at a meeting of the Board has a deliberative vote, and in the event of an equality of votes, also has a casting vote.

(6) The Board shall cause full minutes of its proceedings to be kept in such manner as the Minister directs.

(7) Subject to this Act, the Board may regulate its own proceedings.

#### **11. FUNCTIONS OF THE BOARD.**

The Board shall—

- (a) formulate policies on censorship; and
- (b) decide on matters or goods including publications either on its own motion or as referred to it by the Chief Censor, whether or not the matters or goods are matters or goods to which this Act applies; and
- (c) perform any function as may be required under this Act or any other law.

#### **12. POWERS OF THE BOARD.**

The Board has and may exercise such powers as are conferred by this Act and such other powers as are necessary or convenient to enable the Board to carry out its functions.

***Division 2.******Office of Censorship.*****13. OFFICE OF CENSORSHIP.**

(1) An Office of Censorship is hereby established.

(2) The Office of Censorship shall consist of a Chief Censor, a Deputy Chief Censor and such number of Deputy Censors and staff referred to in Section 14(3).

(3) The Chief Censor is the head of the Office of Censorship.

**14. APPOINTMENT OF CHIEF CENSOR AND OTHER CENSORS.**

(1)<sup>2</sup> <sup>3</sup>There shall be a Chief Censor whose manner of appointment, suspension and dismissal is as specified in the *Regulatory Statutory Authorities (Appointment to Certain Offices) Act 2004*.

(1A)<sup>4</sup> <sup>5</sup>The Head of State acting with, and in accordance with the advice of the Minister shall appoint a person to be the Deputy Chief Censor.

(2) The Minister may, by notice in the National Gazette appoint persons (including officers) to be Deputy Censors.

(3) Any other staff required for the purpose of this Act shall be officers or employees of the Public Service.

**15. CONDITIONS OF SERVICE OF THE CHIEF CENSOR AND DEPUTY CHIEF CENSOR.**

(1) Subject to the *Salaries and Conditions Monitoring Committee Act 1988*, the terms and conditions of service (including the tenure of office) of the Chief Censor and the Deputy Chief Censor are as determined by the Minister.

(2) Where—

(a) the Chief Censor; or

(b) the Deputy Chief Censor,

was, immediately before the date of his appointment under this Act, an officer of the Public Service, his service as the Chief Censor or the Deputy Chief Censor, as the case may be, shall, for the purpose of determining his existing and accruing rights, be counted as service in the Public Service.

(3) In Subsection (2), “existing and accruing rights” means rights in respect of—

(a) leave of absence on the ground of illness; and.

<sup>2</sup> Section 14 Subsection (1) substituted by No. 97 of 2006, Sched. 1.

<sup>3</sup> Section 14 Subsection (1) substituted by No. 97 of 2006, Sched. 1.

<sup>4</sup> Section 14 Subsection (1A) inserted by No. 97 of 2006, Sched. 1.

<sup>5</sup> Section 14 Subsection (1A) inserted by No. 97 of 2006, Sched. 1.

- (b) furlough or pay in lieu of furlough (including pay to dependants or personal representatives on the death of the officer).

**16. CONDITIONS OF SERVICE OF OTHER MEMBERS OF THE OFFICE.**

Subject to the *Salaries and Conditions Monitoring Committee Act 1988*, the terms and conditions of service (including the tenure of office) of Deputy Censors who are not officers of the Public Service are as determined by the Minister.

**17. FUNCTIONS OF THE CHIEF CENSOR.**

(1) The functions of the Chief Censor are—

- (a) to advise the Minister in respect of such matters relating to publishing and broadcasting as may be referred to him by the Minister; and
- (b) to exercise and perform such other functions, powers and duties in relation to publication and broadcasting as are conferred or imposed on him by or under this Act or any other law.

(2) The Chief Censor is administratively responsible to the Board for the efficient performance of his functions.

**18. POWERS OF THE CHIEF CENSOR.**

(1) For the purpose of the exercise and performance of his functions, the Chief Censor may—

- (a) commission publication, programme or audience research or market, technical or other surveys for the purpose of obtaining information not available to the Chief Censor; and
- (b) obtain such expert advice as the Chief Censor considers appropriate on any matter to be considered by him; and
- (c) by instrument under his hand, require a person to produce a document, book, paper or any other item in his possession or control; and
- (d) inspect any such document, book, paper or such other item; and
- (e) retain any such document, book, paper or such other item for a reasonable time; and
- (f) make copies of such material, or take extracts from any such document, book, paper or such item.

(2) In addition to the powers specified in Subsection (1) and this Act, the Chief Censor generally has such powers as are reasonably necessary or expedient to enable him to carry out his functions.

(3) A person who, when required under this section to do so, fails without reasonable excuse (proof of which is on him)—

- (a) to give evidence; or

- (b) to produce a document, book, paper or any such item in his possession or control,

is guilty of an offence.

Penalty: A fine not exceeding K1,000.00.

(4) It is a defence against a charge of an offence against Subsection (3)(b), if the defendant proves that the document, book, paper or such other item, was not relevant to the matter in connection with which the production was required.

#### **19. DELEGATION BY CHIEF CENSOR.**

(1) The Chief Censor may, by writing under his hand—

- (a) delegate to the Deputy Chief Censor or a Deputy Censor all or any of his powers, duties and functions under this Act (except this power of delegation); or
- (b) authorize any person or group to assist as directed by him for the purposes of the Act.

(2) For the purposes of Subsection (1)(b), the Chief Censor may—

- (a) appoint a member of the group to be the Chairman of the group; and
- (b) determine the functions, powers and procedures of the group.

#### ***Division 3.***

#### ***Miscellaneous.***

#### **20. MINISTER TO ISSUE DIRECTIONS.**

The Minister may from time to time issue to the Chief Censor and the Censorship Board directions of a general character not inconsistent with the provisions of this Act as to the exercise of their powers and the performance of their functions and duties which appear to him to give effect to government policy relating to the publishing of publications, and the Chief Censor and the Censorship Board shall give effect to all such directions.

#### **21. VALIDITY OF EXERCISE OF POWERS.**

No act or proceeding of the Board and no act done by any person acting as the Chairman or as a member of the Board, the Chief Censor, the Deputy Chief Censor or a Deputy Censor, is invalid by reason of a defect in the appointment of the Chairman, a member of the Board, the Chief Censor, the Deputy Chief Censor or a Deputy Censor.

#### **22. PROTECTION OF MEMBERS OF THE BOARD, CHIEF CENSOR, DEPUTY CHIEF CENSOR AND DEPUTY CENSORS.**

No action or proceeding, civil or criminal, lies against a member of the Board or the Chief Censor, the Deputy Chief Censor, or a Deputy Censor for or in respect of



any act or thing done in good faith by the member of the Board, the Chief Censor, Deputy Chief Censor or a Deputy Censor in his capacity as a member of the Board or the Chief Censor, Deputy Chief Censor or Deputy Censor.

**23. ANNUAL REPORT.**

(1) The Chief Censor shall, as soon as practicable after 31 December in each year, prepare and furnish to the Minister a report of the activities of the Office during the year ending on that date.

(2) The Minister shall cause a copy of each report furnished to him under Subsection (1) to be tabled at the first meeting of the Parliament after its receipt by him.

**PART III. – REGISTRATION OF PUBLICATION PREMISES.****24. OTHER LAWS NOT AFFECTED.**

(1) Nothing in this Part shall–

- (a) relieve any person from an obligation to obtain and comply with a licence under the *Radio Spectrum Act 1996* or any other law, in respect of a broadcasting station; or
- (b) affect the provisions of the *Radio Spectrum Act 1996* or any other law, with respect to a broadcasting station.

(2) Where a registration of the premises of a broadcasting station is revoked or suspended under this Act, a licence issued under the *Radio Spectrum Act 1996* in respect of that broadcasting station shall, for the purposes of that Act, be deemed to be revoked or, as the case may require, suspended for the same period as the period of suspension of the registration.

(3) Where a licence issued under the *Radio Spectrum Act 1996* in respect of a broadcasting station is revoked or suspended in accordance with the provisions of that Act, the registration under this Act in respect of the premises of that broadcasting station is revoked or as the case may require, suspended for the same period of suspension as the licence.

**25. REGISTER OF PUBLICATION PREMISES.**

(1) The Chief Censor shall keep or cause to be kept a register of publication premises registered under this Act.

(2) A register of publication premises shall be in such form as the Chief Censor shall determine.

**26. PRESCRIBED ACTIVITIES.**

For the purpose of this Part, the following activities are prescribed activities:–

- (a) a publisher;
- (b) the operation of a television station;
- (c) the operation of a radio station;
- (d) the operation of a cable television;
- (e) the operation of a film theatre;
- (f) any other activity declared by the Minister to be an activity to which this Part applies.

**27. PUBLICATION PREMISES TO BE REGISTERED.**

(1) A person shall not establish or operate a prescribed activity, unless the premises, in or on which the activity is to be established or is being operated, are registered under this Act as publication premises.

(2) A person who contravenes or fails to comply with Subsection (1), is guilty of an offence.

Penalty: A fine not exceeding K10,000.00.

Default penalty: A fine not exceeding K1,000.00.

(3) Where a person convicted of an offence under Subsection (2), is a corporation, every director of the corporation is, in addition to any penalty to which the corporation may be liable, liable on summary conviction to a fine not exceeding K1,000.00 or a term of imprisonment not exceeding six months.

**28. APPLICATION FOR REGISTRATION OF PREMISES.**

(1) A person may apply to the Chief Censor for the registration or for a renewal of registration as publication premises of the premises on or in which a prescribed activity is to be established or is being operated.

(2) An application under Subsection (1) shall be—

- (a) in the prescribed form; and
- (b) accompanied by the prescribed particulars; and
- (c) accompanied by the prescribed fee.

(3) An application for a renewal of registration shall be lodged not later than three months before the date of expiration of the registration.

**29. REGISTRATION OF PUBLICATION PREMISES.**

(1) The Chief Censor may, after consideration of an application—

- (a) register the premises; or
- (b) register the premises subject to conditions and restrictions; or
- (c) refuse to register the premises,

as publication premises.

(2) Where the Chief Censor has registered the premises under Subsection (1)(a) or (b), he shall issue to the applicant a certificate of registration which shall—

- (a) be in the prescribed form; and
- (b) specify the conditions and restrictions (if any) under which the registration is issued.

(3) Subject to Section 30, a certificate under Subsection (2) remains valid for a period of one year from the date of issue.

**30. SUSPENSION OR REVOCATION OF REGISTRATION.**

(1) Where—

- (a) the holder of a certificate of registration fails to comply with this Act, or with a condition or restriction of the registration; or
- (b) the Chief Censor considers that it would be in the public interest to do so,

the Chief Censor may, by written notice to the holder of the certificate, suspend for a period specified in the notice, or revoke, the registration.

(2) Before suspending or revoking the registration, the Chief Censor shall—

- (a) give written notice of his intention to do so to the holder of the certificate of registration; and
- (b) give the holder of the certificate an opportunity to make such written representations as he thinks fit within such period as is specified in the notice.

(3) The period of the licence continues to run during the period of suspension.

**31. CHANGE OF PUBLICATION PREMISES.**

(1) The Chief Censor may, on receipt of an application, approve a change of publication premises.

(2) An application for the purposes of Subsection (1), shall be—

- (a) in the prescribed form; and
- (b) accompanied by a statement of the reasons for the change of premises; and
- (c) accompanied by the prescribed fee.

**32. INSPECTION OF PREMISES.**

The Chief Censor, or a person authorized by the Chief Censor for that purpose, may, at all reasonable times, enter any publication premises or any premises in which any publication is being or is about to be published, and may examine any such publication, and if on such examination he has reasonable grounds for believing that an offence under this Act has been or is about to be committed in respect of any such publication he may seize the publication.

**PART IV. – STANDARDS FOR PUBLISHING AND BROADCASTING.**

**33. STANDARDS.**

(1) The Board shall, from time to time, determine standards to which publishing and broadcasting of all publications shall conform.

(2) In determining the standards under Subsection (1), the Board shall give effect, as far as possible, to–

- (a) the standards of morality, decency and propriety generally accepted by a reasonable adult person in Papua New Guinea; and
- (b) the principles that–
  - (i) an adult person is entitled to read and view what he wishes; and
  - (ii) a person is entitled to protection from exposure to unsolicited material that he finds offensive.

**PART V. – CLASSIFICATION OF PUBLICATIONS.*****Division 1.******General.*****34. GUIDELINES.**

(1) In this section, “**prescribed authority**” means the Censorship Board or the Chief Censor.

(2) The prescribed authority–

(a) in considering whether a publication is an objectionable publication, or is suitable or unsuitable for perusal or viewing by a minor, shall have regard to–

(i) the standards of morality, decency and propriety generally accepted by a reasonable adult person in Papua New Guinea; or

(ii) any literary, artistic or educational merit the publication may possess and to the general character of the publication, including whether it is of a medical, legal, scientific or military character; and

(b) in deciding what classification (if any) should be given to a publication, shall have regard to–

(i) the persons or class of persons, to or for whom, it is published or is intended to be published; and

(ii) the conditions or restrictions (if any) subject to which it should be published.

**35. IMPORTATION OF DECLARED PUBLICATIONS AND FILMS, ETC., AND REMOVAL OF DECLARED PUBLICATIONS AND FILMS, ETC., FROM CUSTOMS CONTROL.**

(1) No declared publication or film or advertizing matter relating to a film or any part of a declared publication or film or advertizing matter relating to a film which has not been classified under this Part shall be removed from customs control without the written permission of the Chief Censor.

(2) A declared publication or film or advertizing matter relating to a film or any part of a declared publication or film or advertizing matter relating to a film removed from customs control under Subsection (1) shall immediately be deposited with the Chief Censor by the importer.

(3) A person who–

(a) in contravention of Subsection (1), removes from customs control; or

(b) in contravention of Subsection (2), fails immediately to deposit with the Chief Censor,

a declared publication or film or advertizing matter relating to a film or part of a declared publication or film or advertizing matter relating to a film which has not been classified under this Part, is guilty of an offence.

Penalty: A fine not exceeding K1,000.00.

***Division 2.***

***Publications other than films.***

**36. INTERPRETATION.**

In this Division, “**publication**” means a publication other than a film or advertizing matter relating to a film.

**37. DECLARATION OF PUBLICATIONS.**

(1) The Minister may, by notice in the National Gazette, declare—

- (a) a publication; or
- (b) a class or category of publications,

to be a declared publication.

(2) A publication declared under Subsection (1) shall not be published unless classified in accordance with this Part.

(3) A person may request the Minister to declare a publication or a class or category of publications under Subsection (1) and the Minister may, at his discretion, comply with such a request.

**38. CONSIDERATION OF DECLARED PUBLICATION FOR CLASSIFICATION.**

(1) A declared publication shall be considered for classification on application by any person or at the instance of the Chief Censor.

(2) An application under Subsection (1) shall be—

- (a) in the prescribed form; and
- (b) lodged with the Chief Censor; and
- (c) accompanied by—
  - (i) the prescribed fee; and
  - (ii) a synopsis of the subject matter of the declared publication; and
  - (iii) a copy of the declared publication.

(3) On receipt of an application, the Chief Censor shall consider the declared publication the subject of the application and may—

- (a) classify the declared publication in accordance with this Division; or

- (b) refuse to classify the declared publication in accordance with this Division; or
- (c) before making a decision under Paragraph (a), require that a part of the declared publication be excised or amended.

(4) Where the Chief Censor has made a decision under Subsection (3)(a) or (b), he shall—

- (a) inform the applicant in writing, of his decision; and
- (b) cause notification of his decision to be published in the National Gazette within 30 days after the date on which the decision was made.

### **39. CLASSIFICATION OF DECLARED PUBLICATION.**

(1) Where the Chief Censor decides that a declared publication—

- (a) is not an objectionable publication; and
- (b) is suitable for perusal by a minor,

he shall classify the declared publication as an unrestricted publication.

(2) Subject to this section, where the Chief Censor decides that a declared publication—

- (a) describes, depicts, expresses or otherwise deals with matters of sex, drug misuse or addiction, crime, cruelty, violence or revolting or abhorrent phenomena in a manner that is not likely to be generally accepted by a reasonable adult person; or
- (b) is unsuitable for perusal by a minor,

the Chief Censor shall classify the declared publication as a restricted publication, which is to be available for adults only.

(3) The Chief Censor shall refuse to classify a declared publication where he is satisfied that the publication describes, depicts, expresses or otherwise deals with matters of sex, drug misuse or addiction, crime, cruelty, violence or revolting or abhorrent phenomena in such a manner that it offends against the standards of morality, decency and propriety generally accepted by a reasonable adult person.

(4) The Chief Censor shall refuse to classify a declared publication being a publication—

- (a) that depicts in pictorial form a child (whether engaged in sexual activity or otherwise) who is or who is apparently under the age of 18 years in a manner that is likely to cause offence to a reasonable adult person; or
- (b) that promotes, incites or encourages terrorism.

(5) Where the Chief Censor classifies a declared publication that is a single issue of a series of weekly, fortnightly or monthly periodic publications, he may declare that the classification applies to all future issues in the series, or to such



issues in that series as are specified in the declaration, and the classification shall apply to those issues accordingly.

**40. APPLICATION FOR REVIEW OF DECISION.**

(1) Where the Chief Censor has made a decision classifying or refusing to classify a declared publication—

- (a) the person who applied for the classification; or
- (b) the publisher of the declared publication; or
- (c) any other person,

may apply to the Board for a review of the decision.

(2) Where the Board has received an application by a person referred to in Subsection (1)(c), the Board shall cause a copy of the application to be issued to the person referred to in Subsection (1)(a).

(3) An application under Subsection (1) shall be—

- (a) in the prescribed form; and
- (b) signed by, or on behalf of, the applicant; and
- (c) accompanied by the prescribed fee; and
- (d) lodged with the Chairman—
  - (i) where the applicant is a person referred to in Subsection (1)(a) or (c)—within 30 days after the date on which he received written notification of the decision to which the application relates; and
  - (ii) where the applicant is a person referred to in Subsection (1)(b)—within 60 days after the date of publication of the notice of the decision in the National Gazette.

**41. REVIEW OF DECISION.**

(1) On receipt of an application under Section 40 for review of a decision, the Board shall review the decision and may—

- (a) confirm the decision; or
- (b) set aside the decision.

(2) Where the Board sets aside a decision under Subsection (1)(b), it may—

- (a) classify the publication; or
- (b) refuse to classify the publication; or
- (c) refer the matter back to the Chief Censor for reconsideration.

(3) The Chairman of the Board shall, within 21 days after the date on which the decision of the Board is made—

- (a) notify the applicant in writing of its decision; and

(b) cause a notice setting out the terms of its decision to be published in the National Gazette.

(4) The Chairman of the Board shall keep a record of all decisions made by the Board under this section.

(5) The Chairman of the Board shall provide copies of decisions of the Board to the Chief Censor.

(6) A decision made by the Board under this section shall take effect on the day on which the notice of the decision is published in the National Gazette in accordance with Subsection (3)(b).

(7) Subject to Section 155(5) (*The National Judicial System*) of the *Constitution*, the decision of the Board on the review is final.

***Division 3.***

***Films etc.***

**42. INTERPRETATION.**

In this Division, “**advertizing matter**” means advertizing matter relating to a film.

**43. FILMS ETC., PRODUCED IN PAPUA NEW GUINEA TO BE DEPOSITED.**

(1) The owner of any film produced in Papua New Guinea shall, within 14 days after the completion of the production of the film, deposit the film with the Chief Censor.

(2) A person who fails to deposit a film in accordance with Subsection (1) is guilty of an offence.

Penalty: A fine not exceeding K1,000.00.

**44. LIABILITY FOR DAMAGE TO DEPOSITED FILMS.**

All films deposited in or delivered to the Chief Censor shall be stored at the risk and expense of the owner and neither the Chief Censor nor the State shall be liable for any loss of, or damage to the films other than for loss or damage caused by some wilful act on the part of the Chief Censor, or his officers.

**45. APPLICATION FOR CLASSIFICATION OF A FILM.**

(1) A film shall be considered for classification on application by any person or at the instance of the Chief Censor.

(2) An application for the classification of a film shall be—

(a) in the prescribed form; and

(b) lodged with the Chief Censor; and

- (c) accompanied by—
  - (i) the prescribed fee; and
  - (ii) a synopsis of the story depicted by the film; and
  - (iii) a copy of any advertizing matter relating to the film.

(3) Where an application is made for a classification of a film that contains dialogue or captions in a foreign language, the applicant shall lodge a translation fee as prescribed.

**46. APPLICATIONS, ETC., FOR CLASSIFICATION OF ADVERTISING MATTER.**

(1) Advertizing matter shall be considered for classification on application by any person or at the instance of the Chief Censor or where submitted under Section 45(2)(c)(iii).

(2) An application for classification of advertizing matter shall—

- (a) be in the prescribed form; and
- (b) be lodged with the Chief Censor; and
- (c) be accompanied by—
  - (i) the prescribed fee; and
  - (ii) a copy of the advertizing matter.

(3) The Chief Censor may, if he thinks fit—

- (a) classify the advertizing matter as suitable for publication (subject to such conditions, if any, as he thinks fit); or
- (b) refuse to classify the advertizing matter as suitable for publication.

(4) The publication of advertizing matter—

- (a) shall not be in a form other than the form in which it was classified; and
- (b) shall be used without any addition or comment unless the written consent of the Chief Censor to the addition or comment has first been obtained.

**47. SCREENING OF FILMS OR EXHIBITION OF ADVERTISING MATTER.**

(1) The Chief Censor may require a film or advertizing matter that is the subject of an application for classification to be screened or exhibited and may direct the screening of a film or exhibition of advertizing matter to take place before—

- (a) the Board; or
- (b) a member of the Board; or
- (c) the Deputy Chief Censor or a Deputy Censor.

(2) Where the Chief Censor requires a film to be screened or advertizing matter to be exhibited, the film or advertizing matter shall be screened or exhibited as and when required by the Chief Censor.

(3) The screening or exhibition under this section shall be carried out at the risk of the person who applied for classification of the film or advertizing matter.

(4) At a screening of a film or exhibition of advertizing matter under Subsection (1), the person who applied for classification of the film or advertizing matter and any other persons approved by the Chief Censor are entitled to be present.

#### **48. CLASSIFICATION OF FILMS OR ADVERTIZING MATTER.**

(1) Where the Chief Censor decides that a film or advertizing matter—

- (a) is not an objectionable publication; or
- (b) a film or advertizing matter to which Subsection (2) applies,

the Chief Censor shall approve the classification of the film or advertizing matter—

- (c) as a “G” film or advertizing matter, where he is of the opinion that the film or advertizing is suitable for general exhibition; or
- (d) as a “PGR” film or advertizing matter, where he is of the opinion that the film or advertizing matter may be viewed by a person under the age of 18 years with the guidance of a parent or guardian of that person; or
- (e) as an “M” film or advertizing matter, where he is of the opinion that the film or advertizing matter cannot be recommended for viewing by persons under the age of 18 years.

(2) Subject to this section, where the Chief Censor decides that a film or advertizing matter—

- (a) describes, depicts, expresses or otherwise deals with matters of sex, drug misuse or addiction, crime, cruelty, violence or revolting or abhorrent phenomena in a manner that is likely to cause offence to a reasonable adult person; or
- (b) is unsuitable for viewing by a minor,

the Chief Censor shall approve the classification of the film or advertizing matter as a “R” film.

(3) The Chief Censor may, before classifying a film or advertizing matter under Subsection (1) or (2), require that a part of the film or advertizing matter be excised or amended.

(4) The Chief Censor shall refuse to approve the classification of a film or advertizing matter if he is satisfied that the film is an objectionable publication.

(5) The Chief Censor shall refuse to approve the classification of a film or advertizing matter that:—

- (a) depicts a child (whether engaged in sexual activity or otherwise) who is or who is apparently under the age of 18 years in a manner that is likely to cause offence to a reasonable adult person; or
- (b) promotes, incites or encourages terrorism.

**49. REFERENCE TO BOARD.**

(1) The Chief Censor may, after the screening of a film, refer the application for classification to the Censorship Board.

(2) Where the Chief Censor refers an application for classification to the Board under Subsection (1), the Chief Censor shall cause the film to be screened before the Board.

(3) After viewing the screening of the film, the Board shall—

- (a) classify; or
- (b) refuse to classify,

the film in accordance with Section 48.

**50. GRANT OF LICENCE OR CERTIFICATE ON CLASSIFICATION.**

(1) Where a film has been classified under this Division, the Chief Censor shall issue to the applicant for classification a licence for the publication of the film.

(2) A licence under Subsection (1) shall—

- (a) be in the prescribed form; and
- (b) specify details of the classification; and
- (c) otherwise contain such information as is prescribed.

(3) Where advertizing matter has been classified under this Division, the Chief Censor shall issue to the applicant for classification a certificate for the publication of the advertizing matter.

(4) A certificate under Subsection (3) shall—

- (a) be in the prescribed form; and
- (b) specify details of the classification; and
- (c) otherwise contain such information as is prescribed.

**51. OTHER PROVISIONS RELATING TO A LICENCE.**

A person, to whom a licence is issued under Section 50 in respect of a film, shall—

- (a) ensure that the licence accompanies the film at all times; and
- (b) where required by the Chief Censor to do so, display the licence or cause the licence to be displayed prominently on the premises where the film

is published, together with any notices which the Chief Censor considers necessary.

**52. RELEASE OF FILMS, ADVERTIZING MATTER ETC., FROM THE CHIEF CENSOR AND CUSTOMS CONTROL.**

(1) Subject to this Part, a film shall not be delivered from the Chief Censor or the customs control until it has been licensed in accordance with this Division.

(2) Subject to this Part, advertizing matter shall not be delivered from the Chief Censor or customs control until a certificate has been granted in accordance with this Division.

**53. NOTIFICATION OF DECISION CONCERNING CLASSIFICATION.**

(1) Where the Chief Censor or the Censorship Board makes a decision—

- (a) classifying; or
- (b) refusing to classify,

a film or advertizing matter, the Chief Censor shall give notification of the decision—

- (c) in writing to the person applying for classification; and
- (d) by notice in the National Gazette.

(2) A notice under Subsection (1) shall be in the prescribed form and, in the case of refusal to classify, shall give reasons for the refusal.

(3) A decision under Subsection (1) takes effect on the date on which the notice of the decision is published in the National Gazette.

**54. RETENTION OF PROHIBITED FILMS OR ADVERTIZING MATTER.**

Where the Chief Censor has refused to authorize the publication of a film or advertizing matter or any part of a film or advertizing matter, he may retain the film or advertizing matter or any excised part of the film or advertizing matter until it is exported or destroyed under Section 59.

**55. RECONSTRUCTION OF FILMS.**

(1) Where—

- (a) an application for classification of a film has been refused; and
- (b) the Board has not, on a review under this Division, directed the Chief Censor to classify the film,

the applicant may apply for permission to reconstruct the film.

(2) An application for permission to reconstruct a film shall be made within 14 days, or within such further time as the Chief Censor in any particular case allows, after the date of the notice of the refusal of the application for classification or the

date of the decision of the Board, as the case may be, and shall be accompanied by details of—

- (a) the grounds on which the applicant claims that reconstruction should be permitted; and
- (b) the proposed alterations or additions to, or deletions from, the film.

(3) The Chief Censor may approve or not approve of a plan for the reconstruction of a film, or may alter or amend the plan as he thinks fit.

(4) The Chief Censor may, on application by the applicant, classify the film if the film is reconstructed in accordance with the plan as approved, or as altered or amended by the Chief Censor.

(5) For the purpose of enabling a film to be reconstructed, the Chief Censor may grant permission for the film to be removed to a specified place, on the following conditions:—

- (a) that the film shall not be screened before any person other than the person who applied for the reconstruction and such other persons as are approved by the Chief Censor; and
- (b) that the film as reconstructed shall, within 14 days after removal from the Chief Censor, be returned to the Chief Censor or the place from which it was removed; and
- (c) that all matter eliminated from the film in the reconstruction of the film shall be properly tagged, described and forwarded to the Chief Censor.

(6) The applicant shall, when forwarding matter eliminated from a film to the Chief Censor, forward one positive print of the eliminated matter, which shall be filed by the Chief Censor and dealt with in such manner as the Chief Censor directs.

(7) If—

- (a) a positive film has been printed in the country from a negative film; and
- (b) part of the film is eliminated in the course of the reconstruction of the film,

the part eliminated shall be forwarded to the Chief Censor and dealt with in such manner as the Chief Censor directs.

(8) All matter eliminated from a film in the course of the reconstruction of the film shall, unless it is exported within 30 days after it is forwarded to the Chief Censor, be destroyed under the supervision of the Chief Censor.

## **56. EXAMINATION BEFORE CLASSIFICATION.**

(1) Subject to Subsection (2), the Chief Censor may grant to an applicant, who has applied for classification of a film, approval to remove the film to a specified place in a sealed container or package for the purpose of—

- (a) waxing; or

- (b) inspecting; or
- (c) repairing; or
- (d) making alterations to, or deletions from,

the film, or if the film is a negative film, printing a positive film from it, subject to the applicant depositing with the Chief Censor the appropriate classification fee.

(2) An approval under Subsection (1) is subject to the following conditions:—

- (a) that the applicant shall not remove the film, unless he has given to the Chief Censor at least 24 hours notice of the address of the place to which the film is to be removed;
- (b) that the film shall, within 24 hours or such further period as the Chief Censor in any particular case allows, be delivered to the place referred to in Paragraph (a);
- (c) that the film shall be treated, repaired or altered, or if it is a negative, shall be printed, under the supervision of an officer within 48 hours, or such further time as the Chief Censor in any particular case allows, after the film is delivered to that place;
- (d) that, if the film is a negative film or a soft positive film, not more than one positive film shall be printed from it;
- (e) that the film or a part of the film shall not otherwise be printed, reproduced or copied;
- (f) that no person other than the applicant and such number of persons approved by the Chief Censor shall be present at any screening of the film while it is removed;
- (g) that the film and, if a negative film has been delivered, the negative film and the resultant positive film shall be returned to the place from which the film was removed or to the office of the Chief Censor, within 14 days after the removal of the film by the applicant under this subsection;
- (h) that all matter eliminated from the film shall be properly tagged and described and shall be returned with the film.

(3) If the Chief Censor has not granted approval under Subsection (1), the applicant may arrange for the film to be screened at a place approved by the Chief Censor and may make, under the supervision of the Chief Censor or an officer authorized by the Chief Censor, such alterations or eliminations as the applicant thinks fit.

## **57. APPLICATION FOR REVIEW OF CLASSIFICATION.**

(1) Where the Chief Censor has made a decision classifying, or refusing to classify a film or advertizing matter—

- (a) the person who applied for the classification; or
- (b) the publisher of the film; or



- (c) any other person,

may apply to the Board for a review of the decision.

(2) Where the Board has received an application by a person referred to in Subsection (1)(c), the Board shall cause a copy of the application to be issued to the person referred to in Subsection (1)(a).

(3) An application under Subsection (1) shall be—

- (a) in the prescribed form; and
- (b) signed by, or on behalf of, the applicant; and
- (c) accompanied by the prescribed fee; and
- (d) lodged with the Chairman—
  - (i) where the applicant is a person referred to in Subsection (1)(a) or (c)—within 30 days after the date on which he received written notification of the decision to which the application relates; and
  - (ii) where the applicant is a person referred to in Subsection (1)(b)—within 60 days after the date of publication of the notice of the decision in the National Gazette.

## **58. REVIEW OF CLASSIFICATION.**

(1) On receipt of an application for review, the Board shall review that decision and may make a decision—

- (a) confirming the decision of the Chief Censor; or
- (b) setting aside that decision and directing the Chief Censor to classify or refuse to classify, the film or advertising matter in accordance with the findings of the Board.

(2) The Chairman shall, within 21 days after the date on which the decision of the Board is made—

- (a) notify the applicant in writing of the Board's decision; and
- (b) cause a notice setting out the terms of the decision to be published in the National Gazette.

(3) The Chairman shall keep a record of all decisions made by the Board under this section.

(4) The Chairman shall provide copies of all decisions made by the Board under this section to be forwarded to the Chief Censor.

(5) A decision made by the Board under this section shall take effect on the day on which a notice of the decision is published in the National Gazette in accordance with Subsection (2).

(6) Subject to Section 155(5) (*The National Judicial System*) of the *Constitution*, the decision of the Board on the review is final.

**59. REJECTED FILMS ETC.**

Where a film or advertizing matter is refused classification under this Division, the applicant shall either export the film or advertizing matter, or destroy it under the supervision of an officer appointed by the Chief Censor, within 30 days—

- (a) after the date on which the classification of the film or advertizing matter was refused; or
- (b) if an application is made to the Board against the decision of the Chief Censor to refuse classification of the film or advertizing matter and the decision of the Chief Censor is confirmed by the Board—after the date of the decision of the Board.

**60. DUPLICATE FILMS.**

(1) If the owner of a film makes a statutory declaration that duplicates, identical in detail, subject matter and footage of a film already classified and deposited with the Chief Censor, the Chief Censor may, without any further inspection, issue in respect of the film the appropriate classification and licence authorizing the publication of the film.

(2) The Chief Censor or Deputy Chief Censor is hereby authorized to take and receive declarations for the purposes of Subsection (1), which shall be admissible in evidence in any judicial proceedings.

(3) A person who makes a statutory declaration under this section which is false or incorrect in any particular is guilty of an offence and shall, on conviction—

- (a) if the declaration was false or incorrect to the knowledge of the maker, be liable to imprisonment for a term not exceeding six months; and
- (b) in any other case, be liable to a fine not exceeding K500.00,

and the licence issued in respect of any such film shall cease to be valid.

**61. APPLICATION OF DIVISION.**

Nothing in this Division applies to or in relation to an application for classification of a film where—

- (a) previous application for classification of the same film has been made but not determined; or
- (b) a decision approving, or refusing to approve, the classification of the film is the subject of an application for review by the Censorship Board and the Board has not determined that application.

***Division 4.***

***Miscellaneous.***

**62. CONDITIONS APPLYING TO RESTRICTED PUBLICATIONS.**

The following conditions apply in relation to a publication that is classified as a restricted publication:—

- (a) the publication shall not be sold, let on hire, displayed or delivered to a minor;
- (b) the publication shall not be published in a public place unless the publication is contained in a sealed package;
- (c) the sealed package referred to in Paragraph (b) must be made of opaque material and both the publication and the package shall bear the appropriate classification markings.

**63. CONDITIONS APPLYING TO “R” FILMS OR ADVERTIZING MATTER.**

The following conditions apply in relation to a film or advertizing matter that is classified as an “R” film:—

- (a) the film or advertizing matter shall not be sold, let on hire, displayed or delivered to a minor;
- (b) the film or advertizing matter shall not be published in a public place unless the container, wrapping and casing in which the film or advertizing matter is contained, bears the appropriate classification markings.

**64. REVOCATION OF CLASSIFICATIONS.**

(1) Subject to this section, the Chief Censor may, on application made in accordance with this section by any person or on his own motion, revoke the classification of a publication (other than a film) or a decision refusing to classify a publication (other than a film).

(2) Subject to this section, the Chief Censor may, on application made in accordance with this section or on his own motion, revoke—

- (a) the classification of a film or advertizing matter; or
- (b) the decision not to classify a film or advertizing matter.

(3) An application under this section:—

- (a) shall be in writing signed by or on behalf of the applicant; and
- (b) shall be lodged with the Chief Censor at any time after the expiration of the period of one month from the date on which the classification or decision to which the application relates, come into effect.

(4) The Chief Censor shall not, on his own motion, revoke a classification or a decision at any time before the expiration of the period of one month from the date on which the classification or decision came into effect.

(5) The Chief Censor shall not revoke a classification or a decision unless he is satisfied that it is proper to do so, having regard to the provisions in this Part relating to the classification of publications and conditions applying to classified publications.

(6) Where the Chief Censor revokes a classification or a decision under this section, he shall cause a notice of revocation to be published in the National Gazette.

#### **65. INTERDICTION OF CLASSIFIED FILMS, ETC.**

(1) A licence or certificate issued under Section 50 with respect to a film or advertizing matter shall cease to be valid when a notice to that effect given by the Chief Censor—

- (a) to the person who had submitted the film or advertizing matter for classification; or
- (b) to any person in possession of the film or advertizing matter; or
- (c) where the Chief Censor is not able to find any of the persons referred to in Paragraphs (a) or (b), is published in the National Gazette.

(2) On receipt or publication of a notice under Subsection (1), the person in whose possession or under whose control the film or advertizing matter is, shall within the time stated in the notice, return the licence or certificate to the Chief Censor and shall, if so required by the Chief Censor, return the film or advertizing matter for further examination and censorship.

(3) A person who fails to comply with Subsection (2) is guilty of an offence.

Penalty: A fine not exceeding K1,000.00.

#### **66. INSPECTION OF PREMISES ETC.**

(1) An officer may, at all reasonable times, enter any premises in which a film or publication is being or is about to be published, and may examine any such film, and if on such examination he has reasonable grounds for believing that an offence under this Act has been or is about to be committed in respect of any such film or publication he may seize the film or publication.

(2) For the purposes of Subsection (1), “officer” means—

- (a) the Chief Censor; or
- (b) the Deputy Chief Censor; or
- (c) a Deputy Censor; or
- (d) a police officer; or
- (e) a customs officer.

**67. LIABILITY FOR DAMAGE TO DEPOSITED PUBLICATIONS.**

All publications deposited with or delivered to the Chief Censor shall be stored at the risk and expense of the owner, and neither the Chief Censor nor the State shall be liable for any loss of, or damage to the applications other than for loss or damage caused by some wilful act on the part of the Chief Censor, or his officers.

**PART VI. – OFFENCES.*****Division 1.******Unclassified Publications.*****68. INTERPRETATION.**

In this Division, unless the contrary intention appears–

**“prescribed publication”** means an objectionable publication of the kind referred to in Paragraph (b) of the definition of objectionable publication in Section 2.

**69. PUBLISHING OF UNCLASSIFIED PUBLICATION.**

A person who has in his possession or publishes or causes to be published any publication–

- (a) which being a declared publication has not been classified under Division V.2; or
- (b) being a declared publication in respect of which a classification under Division V.2 has been set aside or revoked; or
- (c) being a film or advertizing matter relating to a film, in respect of which a licence or certificate has not been issued; or
- (d) being a film or advertizing matter relating to a film, in respect of which the licence or certificate issued has ceased to be valid; or
- (e) being a film or advertizing matter relating to a film, which, since the licence or certificate was issued, has been altered or tampered with in any way; or
- (f) in breach of any condition or restriction imposed in relation to the publication,

is guilty of an offence.

Penalty: A fine not exceeding K1,000.00.

**70. PUBLISHING OF OBJECTIONABLE PUBLICATIONS.**

(1) A person who publishes an objectionable publication, other than a prescribed publication, is guilty of an offence punishable–

- (a) in the case of a body corporate–by a fine not exceeding K5,000.00; and
- (b) in the case of an individual–by a fine not exceeding K1,000.00 or by imprisonment for a term not exceeding six months, or both.

(2) A person who publishes a prescribed publication is guilty of an offence, punishable–

- (a) in the case of a body corporate–by a fine not exceeding K10,000.00; and

- (b) in the case of an individual—by a fine not exceeding K1,000.00 or by imprisonment for a term not exceeding six months, or both.

**71. POSSESSION OF OBJECTIONABLE PUBLICATIONS.**

(1) A person who has in his possession an objectionable publication, other than a prescribed publication, is guilty of an offence punishable:—

- (a) in the case of a body corporate—by a fine not exceeding K5,000.00; and
- (b) in the case of an individual—by a fine not exceeding K1,000.00 or by imprisonment for a term not exceeding six months, or both.

(2) A person who has in his possession a prescribed publication is guilty of an offence punishable—

- (a) in the case of a body corporate—by a fine not exceeding K10,000.00; and
- (b) in the case of an individual—by a fine not exceeding K1,000.00 or by imprisonment for a term not exceeding six months, or both.

**72. KEEPING OBJECTIONABLE PUBLICATIONS AT PREMISES.**

(1) The occupier of premises who keeps or permits to be kept at or in the premises an objectionable publication, other than a prescribed publication, is guilty of an offence punishable—

- (a) in the case of a body corporate—by a fine not exceeding K5,000.00; and
- (b) in the case of an individual—by a fine not exceeding K1,000.00 or by imprisonment for a term not exceeding six months, or both.

(2) The occupier of premises who keeps or permits to be kept at or in those premises a prescribed publication is guilty of an offence punishable—

- (a) in the case of a body corporate—by a fine not exceeding K10,000.00; and
- (b) in the case of an individual—by a fine not exceeding K1,000.00 or by imprisonment for a term not exceeding six months, or both.

**73. PUBLISHING OBJECTIONABLE PUBLICATIONS IN A PUBLIC PLACE.**

(1) A person who exhibits or displays an objectionable publication, other than a prescribed publication, in a public place or in such a manner that it is visible to persons in or on a public place is guilty of an offence punishable—

- (a) in the case of a body corporate—by a fine not exceeding K5,000.00; and
- (b) in the case of an individual—by a fine not exceeding K1,000.00 or by imprisonment for a term not exceeding six months, or both.

(2) A person who exhibits or displays a prescribed publication in a public place, or in such a manner that it is visible to persons in or on a public place, is guilty of an offence punishable—

- (a) in the case of a body corporate—by a fine not exceeding K10,000.00; and
- (b) in the case of an individual—by a fine not exceeding K1,000.00 or by imprisonment for a term not exceeding six months, or both.

**74. MAKING OBJECTIONABLE PUBLICATIONS.**

(1) A person who involves himself in the printing or otherwise in the making of or producing an objectionable publication is guilty of an offence punishable—

- (a) in the case of a body corporate—by a fine not exceeding K5,000.00; and
- (b) in the case of an individual—by a fine not exceeding K1,000.00 or by imprisonment for a term not exceeding six months, or both.

(2) A person who involves himself in the printing or otherwise in the making of or producing a prescribed publication is guilty of an offence punishable—

- (a) in the case of a body corporate—by a fine not exceeding K10,000.00; and
- (b) in the case of an individual—by a fine not exceeding K1,000.00 or by imprisonment for a term not exceeding six months, or both.

**75. SUBSEQUENT CLASSIFICATION OF PUBLICATION.**

A person shall not be convicted of an offence under this Division in relation to an objectionable publication if he establishes that—

- (a) since the offence was alleged to have been committed the publication has been classified under this Act; and
- (b) the act alleged to constitute the offence did not infringe any conditions (other than the conditions relating to prescribed markings) that would have been applicable to the publication had it been so classified at the time when the act was done.

***Division 2.***

***Classified Publications.***

**76. PUBLISHING OF CLASSIFIED PUBLICATIONS.**

A person who publishes a classified publication otherwise than in accordance with the conditions or restrictions applicable to that publication, is guilty of an offence punishable—

- (a) in the case of a body corporate—by a fine not exceeding K2,000.00; and
- (b) in the case of an individual—by a fine not exceeding K500.00 or by imprisonment for a term not exceeding three months, or both.



***Division 3.***

***Restricted Publication Area.***

**77. RESTRICTED PUBLICATION AREA.**

(1) A person who is in charge of, or who has the management or control of, a restricted publication area shall not permit a minor to enter that area.

(2) A person who is in charge of a restricted publication area shall cause to be displayed in a prominent place, on or near each entrance to the area, so that it is clearly visible from outside the area, a notice containing such particulars as may be approved by the Chief Censor.

(3) A person who contravenes or fails to comply with Subsection (1) or (2) is guilty of an offence punishable—

(a) in the case of a body corporate—by a fine not exceeding K5,000.00; and

(b) in the case of an individual—by a fine not exceeding K500.00 or by imprisonment for a term not exceeding three months, or both.

(4) A person shall be not convicted of an offence against Subsection (1), if he adduces evidence that he believed on reasonable grounds that the person in relation to whom the offence is alleged to have been committed was of or above the age of 18 years and that evidence is not rebutted by the prosecutor.

**PART VII. – MISCELLANEOUS.****78. OFFICER INCLUDES POLICE ETC.**

A reference in this part to an officer shall be read as including a member of the Police Force or a customs officer.

**79. FORFEITURE AND RETURN OF PUBLICATIONS.**

(1) Where a person is convicted of an offence against this Act in relation to an objectionable publication, the Court may order that the publication be forfeited to the State.

(2) Where a publication has been lawfully seized by an officer as an objectionable publication but no person has been charged with an offence against this Act, in respect of that publication, the Court shall, on the application by an officer made within 30 days after seizure of the publication, issue a summons requiring the occupier of the premises from which the publication was seized, or the person from whom it was seized, or both, as the Court determines, to appear before the Court and show cause why the publication seized should not be forfeited to the State.

(3) Where the Court issues a summons under Subsection (2) in relation to a publication, the Court shall, so far as it considers it reasonably practicable to do so, cause notice of the proceedings to be given to every person whose name appears on the publication as the author, publisher, printer, manufacturer or owner of the publication.

(4) In proceedings under this section, the Court may permit a person who claims to be the author, publisher, printer, manufacturer or owner of the publication to which the proceedings relate, (whether or not a notice has been given to him under Subsection (3)), and who appears or is represented in the proceedings, to intervene in the proceedings for the purpose of maintaining that the publication is not objectionable.

(5) Upon the hearing of a summons issued under Subsection (2), the Court shall, if it is satisfied that there was a contravention of a provision of this Act in respect of the publication and that it is desirable that the publication be forfeited to the State, order the publication to be forfeited to the State.

(6) Subject to Subsection (7), a publication which is forfeited to the State under this section shall be held under the custody of the Chief Censor and destroyed or otherwise dealt with as directed by the Chief Censor.

(7) Where the Court has ordered a publication to be forfeited to the State, the Chief Censor shall not direct the destruction of the publication before the expiration of time allowed for instituting an appeal against the order, or if an appeal is lodged within time, before the determination of the appeal.

**80. EXEMPTIONS.**

(1) The Chief Censor may, by notice in writing, exempt a person or body specified in the notice from any or all of the provisions of this Act, subject to such conditions (if any), as are specified in the notice.

(2) The Chief Censor may, subject to any conditions that he may impose, exempt any publication or class of publications from the application of any of the provisions of this Act.

**81. DISPOSAL OF UNCLAIMED PUBLICATIONS.**

The Chief Censor may destroy or otherwise dispose of a publication which—

- (a) has been submitted to him in relation to an application for classification; and
- (b) has not been removed from his custody within two months of the publication in the National Gazette of the decision in respect of the application.

**82. 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, including—

- (a) the manner of submitting publications to the Chief Censor for the purpose of classification; and
- (b) the procedure in relation to the importation and publishing of publications; and
- (c) the imposition of a penalty not exceeding one year's imprisonment or a fine not exceeding K10,000.00 or both for a contravention of the regulations; and
- (d) fees to be paid in respect of applications and for other matters specified in the Act; and
- (e) forms to be used in connection with applications.

Office of Legislative Counsel, PNG