

Chapter 64.
Fire Service Act 1962.

Certified on: / /20 .

INDEPENDENT STATE OF PAPUA NEW GUINEA.



Chapter 64.

Fire Service Act 1962.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.



AN ACT

entitled

Fire Service Act 1962,

Being an Act relating to the establishment of fire brigades, and for the protection of life and property from fire, and for related purposes.

PART I. – PRELIMINARY.

1. INTERPRETATION.

In this Act, unless the contrary intention appears–

“**building**” includes a building under construction;

¹“**Chief Fire Officer**” means the Chief Fire Officer appointed under Section 4;

“**fire area**” means a fire area declared under Section 2;

“**Fire Brigade**” means a Fire Brigade established under Section 3;

“**fireman**” means a fireman appointed under Section 8;

“**member of a Fire Brigade**” means an officer or a fireman or volunteer fireman;

“**occupier**”, in relation to any land, includes–

(a) a person who has, or is entitled to have, immediate possession of the land; and

(b) a person who is entitled to remove timber, minerals, petroleum or other things on or under the land,

whether solely or jointly with another person;

“**officer**” means–

¹ Section 1 (definition of “Chief Fire Officer”) added by *Fire Service (Amendment) Act 1993* (No. 2 of 1993), s1.

- (a) the Chief Fire Officer or a Fire Officer in the Fire Brigades Branch of the Department; or
- (b) in relation to any function, duty, responsibility or privilege of an officer that is vested, under Section 7, in a person—that person;

“owner” includes—

- (a) in relation to land other than customary land, a person who, whether as a beneficial owner, executor, administrator, trustee, mortgagee in possession, attorney, agent or otherwise, is in receipt of or is entitled to receive the rents and profits of the land, or would, if the land were let to a tenant, be entitled to receive the rents and profits, whether solely or jointly with another person; and
- (b) in relation to customary land, a person, or a member of a community, entitled by custom to the land, whether solely or jointly with another person or a member of another community;

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

“this Act” includes the regulations;

“volunteer fireman” means a person appointed to be a volunteer fireman under Section 9.

PART II. – ADMINISTRATION.

2. FIRE AREAS.

The Minister may, by notice in the National Gazette, declare a town or area to be a fire area.

3. FIRE BRIGADES.

The Minister may, by notice in the National Gazette, establish a Fire Brigade for a fire area.

4. CHIEF FIRE OFFICER.

²There shall be a Chief Fire Service Officer for the purposes of this Act whose manner of appointment, suspension and dismissal is as specified in the *Regulatory Statutory Authorities (Appointment to Certain Offices) Act 2004*.

5. CHIEF FIRE OFFICER.

Subject to this Act, the Chief Fire Officer is responsible for the organization, management and control of all Fire Brigades and for the protection of life and property in case of fire in fire areas.

6. DELEGATION.

The Chief Fire Officer may, by instrument under his hand, delegate to an officer all or any of his powers and functions under this Act (except this power of delegation).

7. VESTING OF POWERS OF OFFICERS.

The Minister may, by notice in the National Gazette, vest in a person some or all of the powers, functions, duties, responsibilities and privileges of an officer within the meaning of this Act.

8. FIREMEN.

(1) For the purposes of this Act, the Chief Fire Officer may appoint persons to be firemen.

(2)³ ⁴The terms and conditions of employment of firemen are as determined by the Minister after considering reports from the Departmental Head and the Departmental Head of the Department of Personnel Management.

² Section 4 repealed and replaced by *Fire Service (Amendment) Act* (No. 2 of 1993), s2; Substituted by No. 97 of 2006, Sched. 1.

³ Section 8(2) amended by *Public Service (Management) (Consequential Amendments) Act* 1986 (No. 29 of 1986), s16.

⁴ Section 8(2) amended by *Public Service (Management) (Consequential Amendments) Act* 1986 (No. 29 of 1986), s16.

9. VOLUNTEER FIREMEN.

(1) The Minister may appoint persons to be volunteer firemen.

(2) A volunteer fireman present at a fire has all the powers, functions, duties, responsibilities and privileges of a fireman.

PART III. – POWERS. ETC., OF THE FIRE SERVICE.

10. ALARMS OF FIRE.

On an alarm of fire, a Fire Brigade shall, notwithstanding anything to the contrary in any law, proceed with all speed to the fire, and endeavour by all possible means to extinguish the fire and to save lives and property endangered by the fire.

11. POWERS OF MEMBERS OF FIRE BRIGADES.

The senior member of a Fire Brigade present at a fire—

- (a) has full power to control and direct the members of all Fire Brigades engaged and all persons who assist at the fire; and
- (b) may, alone or with others under his command, enter and, if necessary, break into a building, vehicle, aircraft or vessel that is on fire or in the vicinity of the fire, for the purpose of taking such steps as he thinks necessary for extinguishing the fire or preventing its extension; and
- (c) may remove or cause to be removed from land or a building, vehicle, aircraft or vessel referred to in Paragraph (b), without responsibility for any consequent loss or damage, any inflammable, explosive or dangerous material found in or on it; and
- (d) may, for the purpose of extinguishing the fire or preventing its extension, cause any building that is on fire or in the vicinity of the fire to be pulled down wholly or partially, or to be otherwise destroyed or damaged; and
- (e) may cause a street, private road or thoroughfare or public place in the vicinity of the fire to be closed to traffic during the continuance of the fire; and
- (f) may, for the purpose of extinguishing the fire, without payment, use or cause to be used any water mains, pipes, pumps or hydrants and all water in them or in any well, tank or stream, and may cause water to be shut off from any main or pipe in order to obtain a greater pressure or supply of water; and
- (g) may, without responsibility for any consequent loss or damage, shut off or disconnect, or cause to be shut off or disconnected, the supply of electricity to a building that is on fire or in the vicinity of the fire, or order a person having control of any such supply of electricity to shut off or disconnect the supply; and
- (h) may remove, or order a member of a Fire Brigade to remove, a person, vehicle or thing who or which in his opinion interferes or is likely to interfere with the operations of a Fire Brigade engaged at the fire; and
- (i) may, at the time of the fire or afterwards, cause to be pulled down or shored up a wall or building damaged or likely to be damaged by fire

that in his opinion is, or is likely to become, dangerous to life or property; and

- (j) may take possession of a vessel at or near a wharf when the vessel or wharf is on fire or in the vicinity of the fire, and cause the vessel to be removed or, if it is necessary for the purpose of controlling, extinguishing or preventing the extension of the fire, sunk; and
- (k) may, without responsibility for any consequent loss or damage, take any property that is found on the land, building or vessel where the fire has occurred, and keep possession of it for safe custody, for any period not exceeding seven days; and
- (l) may cause the debris of the fire and any land, building, vehicle, aircraft or vessel where the fire occurred to be searched, and may remove and keep possession of materials that, in his opinion, may tend to prove the origin of the fire; and
- (m) may take such measures as appear to him to be necessary or expedient for the protection of life and property; and
- (n) generally may do all such other things as are reasonably necessary for controlling or extinguishing the fire or preventing its extension.

12. ASSISTANCE BY POLICE AT FIRES.

All members of the Police Force present at a fire shall support and assist the senior member of a Fire Brigade at the fire in the maintenance of his authority and in enforcing due obedience to his orders.

13. ASSISTANCE BY FIRE BRIGADES AT FIRES OUTSIDE THEIR FIRE AREAS.

On the occurrence of a fire outside the fire area for which a Fire Brigade is established, the senior officer on duty in the fire area may proceed with the Fire Brigade of which he is in charge to the place where the fire has occurred and assist in extinguishing the fire.

14. LIABILITY FOR DAMAGE BY FIRE BRIGADE.

No liability attaches to the State or a member of a Fire Brigade, or to a person who, at the request or under the authority of an officer, lends assistance at a fire, in respect of damage to property occasioned by a member of a Fire Brigade or any such person in the *bona fide* exercise of his duty at a fire, but damage so occasioned shall be deemed to be damage by fire within the meaning of any policy of insurance against fire covering the damaged property.

15⁵. **[REPEALED.]**

16. CERTIFICATE OF COMMENDATION.

The Chief Fire Officer may award a Certificate of Commendation to a member of a Fire Brigade for conduct that is of special merit.

⁵ Section 15 repealed by No. 32 of 1981, s1.

PART IV. – FIRE PREVENTION.

17. POWERS OF CHIEF FIRE OFFICER.

(1) The Chief Fire Officer has, in addition to the powers of an officer under this Act, free access at all reasonable times, either alone or with others under his command, to any land or building in a fire area, other than a private residence, for the purpose of ascertaining whether there exists in or on the land or building a potential danger to life or property from fire.

(2) Where the Chief Fire Officer is of the opinion that a potential danger to life or property from fire exists in or on any land or building in a fire area, other than a private residence, he may, by written notice to the owner or occupier of the land or building, require him to abate that danger within such time and in such manner as is specified in the notice and may, in the meantime, prohibit or restrict, absolutely or subject to such conditions as he thinks proper, the occupation or use of the land or building.

(3) A person aggrieved by a notice, prohibition or restriction under Subsection (2) may appeal to a District Court against the requirements of the notice or the prohibition or restriction within seven days after its receipt, or within such further time as the Court allows.

(4) On an appeal under Subsection (3), the Court shall inquire into the matter and may–

- (a) adjourn the hearing from time to time; and
- (b) affirm, disallow or vary the notice, prohibition or restriction; and
- (c) make such further or other order as to costs or otherwise as to it seems just.

(5) A person to whom a notice is given under Subsection (2) who fails to comply with the notice within the time specified in the notice, or if the notice is appealed against and is varied within such time and in such manner as the Court directs, is guilty of an offence.

Penalty: A fine not exceeding K40.00.

(6) Where the Chief Fire Officer prohibits or restricts the occupation or use of a building or land under Subsection (2), a person who occupies or uses the building or land, otherwise than in accordance with the conditions of the prohibition or restriction, before–

- (a) the Chief Fire Officer lifts the prohibition or restriction; or
- (b) an appeal under Subsection (3) is upheld,

is guilty of an offence.

Penalty: A fine not exceeding K200.00 and in addition, a fine not exceeding K10.00 for every day during which the offence continues.

(7) Where a person to whom a notice is given under Subsection (2) fails to comply with the notice within the time specified in the notice, or if the notice is appealed against and is varied within such time and in such manner as the Court directs, the Minister may cause the necessary works to be executed at the cost of the person, and all costs and expenses incurred in and about the execution and completion of those works are recoverable by the State from the person as a debt.

18. LIABILITY FOR DAMAGE WHERE NOTICE NOT COMPLIED WITH.

(1) Subject to Subsection (2), if—

- (a) a person has failed to comply with a notice under Section 17(2); and
- (b) a fire occurs on the land or in the building the subject of the notice,

he is liable to pay, in addition to any penalty to which he may be liable under this or any other Act—

- (c) the expenses incurred in fighting or extinguishing the fire and in saving or attempting to save lives and property endangered by the fire; and
- (d) the amount of any damage done to property by the fire.

(2) Subsection (1) does not apply if the person proves that the fire was not a result of the failure to comply with the notice.

(3) Subsection (1) applies whether or not an appeal is made under Section 17(3), unless a successful appeal is made.

(4) A reference in Subsection (1) to a notice under Section 17(2) shall include a reference to any such notice as varied under Section 17(4).

19. NEGLIGENTLY SETTING FIRE TO CROPS, ETC.

In an area declared under Section 22, a person who negligently sets fire to—

- (a) a crop of cultivated produce whether standing or cut; or
- (b) a crop of hay or grass, whether or not it is the natural or indigenous product of the soil, and whether or not it is under cultivation, and whether it is standing or cut; or
- (c) any standing trees, saplings or shrubs, whether indigenous or cultivated,

and by doing so injures or destroys the property of any other person, is guilty of an offence.

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

20. DAMAGE BY FIRE TO DIVIDING FENCE.

(1) If—

- (a) the occupier of any land in an area declared under Section 22 clears it of inflammable materials for the space of 4.572m from a fence dividing the land from the land of any other owner or occupier; and
- (b) the other owner or occupier neglects or omits so to clear his land; and
- (c) damage from fire happens to the dividing fence through the neglect or omission,

the owner or occupier neglecting or omitting to clear shall at his own expense cause the fence to be repaired and re-erected within one month after it has been so damaged.

(2) If the owner or occupier neglecting or omitting to clear refuses or omits to repair or re-erect the fence within one month, the owner or occupier who has cleared the land from inflammable material in accordance with Subsection (1) may repair or re-erect the dividing fence.

(3) All amounts expended in repairing or re-erecting a dividing fence as provided in this section are recoverable as a debt from the owner or occupier in default.

21. BURNING-OFF, ETC.

(1) A person who burns off or sets fire to, or causes or permits to be burned off or set fire to, any inflammable grasses, rubbish or other such materials in an area declared under Section 22, without the prior written permission of an officer, commissioned officer of the Police Force or District Officer, is guilty of an offence.

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

(2) A permission under Subsection (1) may be subject to such conditions as the person giving the permission thinks proper.

(3) A permission under Subsection (1) does not relieve a person of liability for any actionable damage sustained by any other person in consequence of the use of fire in pursuance of the permission.

22. APPLICATION OF SECTIONS 19-21.

Sections 19, 20 and 21 apply in areas which the Minister, by notice in the National Gazette, declares to be areas to which those sections apply.

23. DUTY TO CLEAR LAND.

(1) The Minister may, by notice in the National Gazette, declare an area to be an area to which this section applies.

(2) The occupier, or if there is no occupier the owner, of land in an area to which this section applies who fails to clear the land, and keep it clear, of inflammable grasses, rubbish and other such materials for the space of 4.572m from the boundaries of the land is guilty of an offence.

Penalty: A fine not exceeding K40.00.

24. CLEARANCE BY FIRE OFFICER, ETC.

(1) Where the occupier, or if there is no occupier the owner, of land in an area declared under Section 23 fails to clear the land as required by that section, an officer, commissioned officer of the Police Force or District Officer may, by force and with assistants if necessary, enter and clear the land and keep it clear of inflammable grasses, rubbish and other such materials for the space of 4.572m from the boundaries of the land, and the expense of so doing may be recovered by the State from the occupier, or if there is no occupier from the owner, as a debt.

(2) Subsection (1) does not affect the liability of a person under Section 23.

25. CUSTOMARY RIGHTS TO SET FIRE TO LAND.

(1) A person who, having the right by custom to set fire to any land for the purpose of hunting or otherwise—

- (a) sets fire to the land for that purpose without the prior approval of a District Officer or a Fire Officer; or
- (b) through the careless use of fire for that purpose, sets on fire any land other than the land over which he has that right; or
- (c) without reasonable excuse (proof of which is on him), sets fire to the land for that purpose without giving prior notice to a District Officer or Fire Officer and to all persons whose property is likely to be imperilled by the fire,

is guilty of an offence.

Penalty: A fine not exceeding K40.00 or imprisonment for a term not exceeding three months, or both.

(2) A person who, in the purported exercise of a right by custom to set fire to any land for the purpose of hunting or otherwise, sets fire to land over which he has no such right is guilty of an offence.

Penalty: A fine not exceeding K100.00 or imprisonment for a term not exceeding six months.

26. INJURING BRIDGES, ETC., BY CARELESSNESS.

A person who, by carelessness in the use of fire, injures or destroys a bridge or culvert (whether over a stream of water or not) or an approach to a bridge or a culvert, or a causeway or crossing along or over a public road, is guilty of an offence.

Penalty: A fine not exceeding K40.00.

27. LIGHTING FIRES UNDER WOODEN BRIDGES, ETC.

A person who lights a fire under a wooden bridge or wooden culvert over, on or under a road is guilty of an offence.

Penalty: A fine not exceeding K10.00.

PART V. – MISCELLANEOUS.

28. COMPENSATION TO MEMBERS OF FIRE BRIGADES.

(1) For the purposes of the *Workers' Compensation Act 1978*–

- (a) a person in whom powers, functions, duties, responsibilities or privileges are vested under Section 7; or
- (b) a volunteer fireman attending at a fire; or
- (c) a person who, at the request of or under the authority of an officer, lends assistance at the fire,

shall be deemed to be an employee of the State.

(2) Subject to Subsection (3), for the purposes of Section 20 of the *Workers' Compensation Act 1978*, the wages of a person referred to in Subsection (1) shall be deemed to be the total earnings of the person, including any pay and allowances under this Act.

(3) Section 2 of the *Workers' Compensation Act 1978* applies to the calculation of the wages of a person referred to in Subsection (1).

29. RIGHT TO SUE FOR COMPENSATION.

Subject to Section 14, this Act does not take away or interfere with the right of a person to sue for and recover under the underlying law or otherwise compensation for or in respect of any damage or injury occasioned by the reckless or negligent use of fire.

30. BADGES, ETC.

Badges or other distinguishing marks or articles may be provided for members of Fire Brigades, and a person who wears or bears about him any such badge or other distinguishing mark or article shall, until the contrary is proved, be deemed to be a member of a Fire Brigade.

31. HINDERING OR OBSTRUCTING MEMBER OF FIRE BRIGADE, ETC.

(1) A person who wilfully or negligently hinders or obstructs a member of a Fire Brigade in the performance of his duty is guilty of an offence.

Penalty: A fine not exceeding K100.00.

(2) A person who wilfully or negligently interferes with or damages any fire-fighting apparatus or hose being used or kept for the purpose of being used in connection with a fire or the prevention or control of fire generally is guilty of an offence.

Penalty: A fine not exceeding K100.00.

32. FALSE ALARM OF FIRE.

A person who wilfully gives a false alarm of fire is guilty of an offence.

Penalty: A fine not exceeding K40.00 or imprisonment for a term not exceeding three months.

33. INDUCING MEMBERS OF FIRE BRIGADES TO NEGLECT DUTY, ETC.

(1) A person who induces, or attempts to induce, a member of a Fire Brigade to neglect or omit to perform a duty is guilty of an offence.

Penalty: A fine not exceeding K100.00 or imprisonment for a term not exceeding six months.

(2) A person who induces, or attempts to induce, or does an act calculated to induce, a member of a Fire Brigade to withhold his services or to commit a breach of discipline is guilty of an offence.

Penalty: A fine not exceeding K100.00 or imprisonment for a term not exceeding six months.

34. UNAUTHORIZED USE OF UNIFORMS, ETC.

(1) A person other than a member of a Fire Brigade who, without lawful excuse (proof of which is on him), has in his possession a badge or uniform, or part of a uniform, of a member of a Fire Brigade, or assumes the description or designation of, or falsely pretends or represents himself to be, a member of a Fire Brigade, is guilty of an offence.

Penalty: A fine not exceeding K40.00 or imprisonment for a term not exceeding three months.

(2) A person other than a member of a Fire Brigade who unlawfully wears a uniform of a member of a Fire Brigade, or a colourable imitation of such a uniform, is guilty of an offence.

Penalty: A fine not exceeding K40.00 or imprisonment for a term not exceeding three months.

(3) A person who unlawfully—

(a) sells or supplies to another person; or

(b) employs a person, other than a member of a Fire Brigade, who wears; or

(c) induces a person, other than a member of a Fire Brigade, to wear,

a uniform of a member of a Fire Brigade, or a colourable imitation of such a uniform, is guilty of an offence.

Penalty: A fine not exceeding K100.00 or imprisonment for a term not exceeding six months.

35. ORDERS AND GENERAL INSTRUCTIONS.

(1) The Chief Fire Officer may issue such Orders and General instructions as are in his opinion desirable in relation to the discipline and conduct of officers, firemen and volunteer firemen.

(2) Orders and General instructions issued under Subsection (1) may be of general application or limited to a specified Fire Brigade or fire area, or to a class of officer, fireman or volunteer fireman.

36. 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, providing for—

- (a) the enrolment of firemen and volunteer firemen; and
- (b) the duties of firemen and volunteer firemen; and
- (c) the efficiency and discipline of firemen, and the punishment of offences against discipline by firemen; and
- (d) the pay, conditions of employment, duties and responsibilities of persons referred to in Section 7 (other than officers of the Public Service); and
- (e) payment of pensions to firemen and the conditions on which pensions are payable; and
- (f) the relationship between, and the relative functions and spheres of authority of, persons referred to in Section 7 and other officers; and
- (g) the protection of life and property from fire in fire areas; and
- (h) the provision of specialist services in connection with fire prevention or control to persons requiring them, and the fees to be charged for such services; and
- (i) penalties of fines not exceeding K40.00 or imprisonment for terms not exceeding three months for offences against the regulations.

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