

Chapter 176.
Minimum Age (Sea) Act 1972.

Certified on: / /20 .

INDEPENDENT STATE OF PAPUA NEW GUINEA.



Chapter 176.

Minimum Age (Sea) Act 1972.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.



AN ACT

entitled

Minimum Age (Sea) Act 1972,

Being an Act to establish a minimum age for the employment of persons at sea, and for related purposes.

PART I. – PRELIMINARY.

1. INTERPRETATION.

In this Act, unless the contrary intention appears—

“**port**” means any place in or at which a vessel may obtain shelter or ship or unship goods or passengers;

“**vessel**” includes every class of vessel used in navigation by sea, except vessels belonging to the Defence Force or the naval, military or air forces of any other country and canoes.

2. APPLICATION.

This Act applies only to vessels employed or engaged in trading or going—

- (a) between Papua New Guinea and a place outside Papua New Guinea; or
- (b) between places in Papua New Guinea; or
- (c) exclusively within the limits of any port, bay, river or gulf in Papua New Guinea.

3. SAVING OF OTHER LAWS.

This Act is in addition to and not in derogation of any other law relating to employment.

4. APPLICATION TO STATE.

This Act binds the State and any instrumentality of the Government.

5. REGISTER.

(1) The person having command or charge of a vessel must keep, and on demand produce to a Controller (Marine Services) or a member of the Police Force, a register in which he has recorded particulars of—

- (a) the full name; and
- (b) the date or approximate date of birth; and
- (c) the terms and conditions of service,

of each person under 16 years of age employed on board the vessel.

Penalty: A fine not exceeding K100.00.

(2) Subsection (1) does not apply to—

- (a) a vessel on which only members of the same family are employed; or
- (b) a training vessel approved by the Superintendent (Marine Services).

PART II. – EMPLOYMENT AT SEA.

6. GENERAL MINIMUM AGE FOR EMPLOYMENT AT SEA.

(1) Subject to this Act, a person who engages another person who is under 18 years of age for service at sea in any capacity without a written certificate by a Controller (Marine Services) that he is satisfied that that other person has attained 15 years of age is guilty of an offence.

Penalty: A fine not exceeding K100.00.

(2) Subsection (1) does not apply to service in—

- (a) a vessel on which only members of the same family are employed; or
- (b) a training ship approved by the Superintendent (Marine Services).

7. EMPLOYMENT OF PERSONS UNDER 15 YEARS OF AGE.

(1) Notwithstanding anything in this Act (otherwise than in Section 3), a person may, with the written approval of the Director of Education or an officer authorized by him for the purpose, engage for service at sea another person who is under 15 but not under 14 years of age.

(2) An approval shall not be granted under Subsection (1) unless the Director of Education or the officer granting the approval, as the case may be, is satisfied, having due regard to the health of the person proposed to be engaged, that the engagement will be for his immediate and future benefit.

8. MEDICAL EXAMINATIONS.

(1) Subject to Subsection (2), a person who engages another person under 18 years of age for service at sea in any capacity is guilty of an offence unless that last-mentioned person produces to a Controller (Marine Services) a certificate signed by a medical practitioner that he is physically fit for service at sea in that capacity.

Penalty: A fine not exceeding K100.00.

(2) Where, at the time and place of the engagement, it is not practicable to produce the medical certificate required by Subsection (1), the person concerned may be engaged if he produces a certificate to the same effect signed by a medical assistant.

(3) An engagement by virtue of a certificate under Subsection (2) terminates—

- (a) on the departure of the vessel from the next port of call at which the services of a medical practitioner are available; or
- (b) at the end of a period of 14 days,

whichever first occurs, unless in the meantime a medical certificate as required by Subsection (1) is produced to a Controller (Marine Services).

(4) Except as provided by Subsections (2) and (3), and subject to Subsection (5), a person who—

- (a) employs another person under 18 years of age in service at sea in any capacity; or
- (b) allows any such person to be so employed,

unless within the preceding period of 12 months that other person has produced to a Controller (Marine Services) a certificate signed by a medical practitioner that he is physically fit for service at sea in that capacity, is guilty of an offence.

Penalty: A fine not exceeding K100.00.

Default penalty: A fine not exceeding K10.00.

(5) Where any period of 12 months referred to in Subsection (4) ends while the vessel is at sea or away from the country, the period is extended until the vessel reaches its first port of call in the country at which the services of a medical practitioner are available.

(6) Except as provided by Subsections (2) and (3), the engagement of a person who is under 18 years of age for service at sea in any capacity terminates—

- (a) at the expiration of the period of 12 months from the date on which he last produced to a Controller (Marine Services) a medical certificate as required by Subsection (4); or
- (b) where that period ends while the vessel is at sea or away from the country, on the arrival of the vessel at its next port of call in the country.

(7) This section does not apply to service in a vessel on which only members of the same family are employed.

PART III. – MISCELLANEOUS.

9. REPATRIATION IN CERTAIN CASES.

Where the engagement of a person for service at sea terminates by virtue of Section 8(3) or (6), the employer must repatriate the person engaged to the place of engagement—

- (a) in accordance with the terms of the engagement; or
- (b) when the terms of the engagement do not include provision for repatriation, then as though the engagement were the engagement of a casual worker under the *Employment Act 1978*,

and in the meantime is responsible for his health and well-being.

10. AVOIDANCE OF CERTAIN CONTRACTS.

(1) A contract for the engagement of a person for service at sea contrary to this Act is unlawful and void as against that person.

(2) If on a contract to which Subsection (1) applies an action is brought by or on behalf of the person contracted to be engaged, the court that deals with the matter may, whether or not the contract has been completely executed by the parties—

- (a) ignore the terms and conditions of the contract; and
- (b) make such order as the court thinks equitable and required by the merits of the case.

11. PROOF OF AGE.

For the purposes of this Act, where a question arises as to the age of a person engaged or proposed to be engaged for service at sea, the written certificate of a medical practitioner or medical assistant, given before the engagement, that the person has apparently attained the age specified in the certificate, is conclusive evidence that the person had, as at the date of the certificate, attained that age.

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