

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 331.

War Surplus Material.

GENERAL ANNOTATION.

ADMINISTRATION.

As at 13 February 1976 (the date of gazettal of the most comprehensive allocation of responsibilities to Ministers and Departments at about the effective date), the administration of this Chapter was not specifically vested in any Minister. It seems, therefore, that under Constitution, Section 148(2), it came within the political responsibilities of the Prime Minister.

This Chapter does not refer to "the Minister", "the Departmental Head" or "the Department".

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INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 331.

War Surplus Material Act.

ARRANGEMENT OF SECTIONS.

1. Interpretation—
 "purchaser"
 "the recent war"
 "war surplus material".
2. Ownership of war surplus material.
3. Determination of war surplus material.
4. Search, etc., by officer.
5. Search, etc., by purchaser.
6. General.
7. Compensation by the State.
8. Indemnity by purchaser.
9. Notification of war surplus material.
10. Delegation.
11. Regulations.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 331.

War Surplus Material Act.

Being an Act to facilitate the collection of war surplus material and for other purposes.

1. Interpretation.

In this Act—

“purchaser” means a person who has acquired from the State or the Administration of a former Territory a right, title or interest to or in war surplus material;

“the recent war” means the war with Germany that commenced on 3 September 1939, or any other war in which Australia became engaged after that date and before 23 October 1952;

“war surplus material” means any buildings, fittings or structures, or the materials comprising any building, fitting or structure, or any vehicles, machinery, equipment or chattels, that were acquired or used by any government or by the armed forces of any government in, or in connexion with, the prosecution of the recent war, and are located in the country.

2. Ownership of war surplus material.

In any proceedings, civil or criminal, in which the question of the ownership of war surplus material arises, the war surplus material shall, until the contrary is proved, be deemed for all purposes to be the absolute property of the State.

3. Determination of war surplus material.

In any civil proceedings to which the State is a party, and in any criminal proceedings, in which the question arises as to whether any property is or is not war surplus material, the property shall, until the contrary is proved, be deemed for all purposes to be war surplus material.

4. Search, etc., by officer¹.

(1) An officer or person authorized in writing by the Head of State, acting on advice, to do so may—

(a) at any reasonable time and without doing unreasonable damage, search for, collect and remove from any land war surplus material the property of the State; and

(b) for that purpose—

(i) enter on the land with such persons, machinery, equipment and vehicles as are reasonably necessary; and

(ii) use any road or other transport facility on the land.

¹ But see Constitution, Section 44.

(2) A person who hinders or obstructs an officer or person in the exercise of his powers under Subsection (1) is guilty of an offence.

Penalty: A fine not exceeding K200.00 or imprisonment for a term not exceeding 12 months.

5. Search, etc., by purchaser.

Subject to any conditions imposed by the Head of State, acting on advice, a purchaser may, without doing unreasonable damage—

(a) at any reasonable time and after giving not less than seven days' written notice to the occupier of the land, search for, collect and remove from any land war surplus material in or to which he has acquired a right, title or interest entitling him to its possession; and

(b) for that purpose—

(i) by himself or by such agents, servants and workmen as are reasonably necessary, enter on the land with such machinery, equipment and vehicles as are reasonably necessary; and

(ii) use any road or other transport facility on the land.

6. General.

A person who enters on land and searches for, collects and removes war surplus material under the powers conferred by this Act is not liable in respect of damage other than unreasonable damage caused in the exercise of those powers.

7. Compensation by the State.

(1) Where the owner or occupier of land suffers loss or damage as a result of the exercise, in relation to that land, of any of the powers conferred by this Act, compensation shall be paid by the State in accordance with this section.

(2) A claim for compensation under Subsection (1) shall be made in the prescribed manner.

(3) The amount of compensation shall be such sum—

(a) as is agreed on between the State and the claimant; or

(b) in default of agreement, as is determined by arbitration.

8. Indemnity by purchaser.

A purchaser entering on land in accordance with Section 5 shall indemnify and keep indemnified the State against all claims for unreasonable damage done as a result of the entry, the search for, collection or removal of war surplus material.

9. Notification of war surplus material.

(1) On written demand by the Head of State, acting on advice, or a delegate appointed under Section 10 for the purpose, a person must supply to the Head of State or the delegate, as the case may be, any information that he has concerning war surplus material, including particulars of and the location of the material.

Penalty: A fine not exceeding K200.00 or imprisonment for a term not exceeding 12 months.

(2) A person who wilfully supplies false or misleading information in reply to a demand under Subsection (1) is guilty of an offence.

Penalty: A fine not exceeding K200.00 or imprisonment for a term not exceeding 12 months.

10. Delegation.

(1) The Head of State, acting on advice, may, by notice in the National Gazette, delegate to an officer all or any of his powers under this Act or the regulations (except this power of delegation).¹

11. 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, prescribing the method of service of any notice or other document required under this Act or the regulations to be served.

¹ As at the effective date, all powers were delegated to the Secretary for Finance.

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War Surplus Material Regulation.

ARRANGEMENT OF SECTIONS.

1. Claims for compensation.
2. Service of notices, etc.

SCHEDULE.—

FORM 1.—Claim for Compensation.

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CHAPTER NO. 331.

War Surplus Material Regulation.

MADE under the *War Surplus Material Act.*

1. Claims for compensation.

(1) A claim for compensation shall be made by serving on the Secretary for Finance a claim in Form 1, specifying the amount claimed for compensation.

(2) If the Secretary for Finance thinks that the amount specified in the claim forwarded under Subsection (1) is excessive, he may serve on the claimant a written notice—

(a) that he thinks the amount specified to be excessive; and

(b) specifying the amount that he thinks sufficient compensation,

and, if the claimant does not, within a period specified in the notice, advise the Secretary that he agrees to accept the amount specified under Paragraph (b) in full satisfaction of his claim, the Secretary may refer the matter to arbitration.

2. Service of notices, etc.

A notice, claim or other document required under the Act or this Regulation to be served may be served personally or by post.

SCHEDULE.

PAPUA NEW GUINEA.
War Surplus Material Act.

Act, Sec. 7.

Form 1.

Reg., Sec. 1.

CLAIM FOR COMPENSATION.

To the Secretary for Finance.

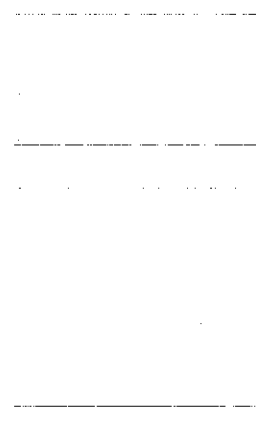
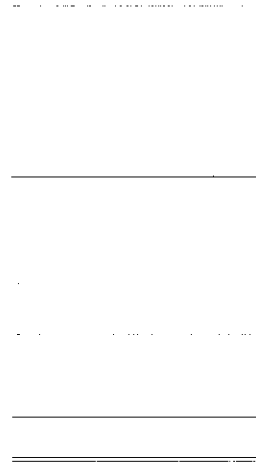
I, _____ of _____, being the owner (or occupier) of (describe land) _____ have suffered loss or damage as a result of the exercise, in relation to that land, of the powers conferred under the *War Surplus Material Act* on (name of person alleged to have caused loss or damage) _____ in the following circumstances :—

(describe alleged loss or damage and the circumstances in which it is alleged to have been suffered),
and I claim (amount of compensation claimed) as compensation for that loss or damage.

Dated

19 .

(Signature of Claimant.)



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SUBSIDIARY LEGISLATION.

Act, Section 10: Delegation.

See footnote to Section 10.

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APPENDIXES.

APPENDIX 1.

SOURCE OF THE WAR SURPLUS MATERIAL ACT.

Part A.—Previous Legislation.

War Surplus Material Act 1952 (No. 82 of 1952)

as amended by—

War Surplus Material Act 1953 (No. 24 of 1953).

Part B.—Cross References.

Section, etc., in Revised Edition.	Previous Reference ¹ .	Section, etc., in Revised Edition.	Previous Reference ¹ .
1	3	7	9, 10
2	4	8	11
3	5	9	12
4	6, 14	10	13
5	7	11	15
6	8		

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

APPENDIX 2.

SOURCE OF THE WAR SURPLUS MATERIAL REGULATION.

Part A.—Previous Legislation.

War Surplus Material Regulations 1952 (Regulations No. 34 of 1952).

Part B.—Cross References.

Section, etc., in Revised Edition.	Previous Reference ¹ .
1	3
2	4
Schedule— Form 1	Schedule— Form 1.

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