

LAND ORDINANCE, 1911-1940.⁽¹⁾

An Ordinance to amend and consolidate the Law regulating the Dealing with Lands in the Territory and for other purposes.

BE it enacted by the Lieutenant-Governor of the Territory of Papua with the advice and consent of the Legislative Council thereof as follows:—

1. This Ordinance may be cited as the *Land Ordinance, 1911-1940.*⁽¹⁾

In its construction the term—

“Lieutenant-Governor”⁽²⁾ means the Lieutenant-Governor in Council,⁽²⁾

Short title.

Amended by No. 2 of 1930, s. 2.

Interpretation.

Amended by No. 13 of 1931, s. 2.

^{*} (1) The *Land Ordinance, 1911-1940*, comprises the *Land Ordinance, 1911*, as amended by the other Ordinances referred to in the following Table:—

ORDINANCES OF THE LEGISLATIVE COUNCIL FOR THE TERRITORY OF PAPUA.

Short title, number and year.	Date of reservation by Lieut.-Gov.	Date on which assent of Gov.-Gen. in Council published in Papua Govt. Gaz.	Date on which came into operation.
<i>Land Ordinance, 1911</i> (No. 5 of 1912)	20.11.1911	1.8.1912	1.8.1912 (<i>Papua Govt. Gaz.</i> of 1.8.1912)
<i>Land Ordinance, 1912</i> (No. 2 of 1913)	16.7.1912	4.6.1913	4.6.1913 (<i>Papua Govt. Gaz.</i> of 4.6.1913)
<i>Land Ordinance, 1913</i> (No. 1 of 1914)	14.8.1913	4.2.1914	4.2.1914 (<i>Papua Govt. Gaz.</i> of 4.2.1914)
<i>Ordinances Revision Ordinance, 1913</i> (No. 3 of 1914)	14.8.1913	4.2.1914	4.2.1914 (<i>Papua Govt. Gaz.</i> of 4.2.1914)
<i>Land Ordinance, 1916</i> (No. 2 of 1917)	9.8.1916	2.5.1917	2.5.1917 (<i>Papua Govt. Gaz.</i> of 2.5.1917)
<i>Land Ordinance, 1918</i> (No. 8 of 1919)	11.9.1918	6.8.1919	6.8.1919 (<i>Papua Govt. Gaz.</i> of 6.8.1919)
<i>Land Ordinance, 1919</i> (No. 1 of 1920)	30.6.1919	3.3.1920	3.3.1920 (<i>Papua Govt. Gaz.</i> of 3.3.1920)
<i>Land Ordinance, 1922</i> (No. 16 of 1922)	28.7.1922	30.12.1922	30.12.1922 (<i>Papua Govt. Gaz.</i> of 30.12.1922)
<i>Land Ordinance, 1924</i> (No. 18 of 1924)	22.7.1924	24.12.1924	24.12.1924 (<i>Papua Govt. Gaz.</i> of 24.12.1924)
<i>Land Ordinance, 1926</i> (No. 10 of 1926)	19.7.1926	3.11.1926	3.11.1926 (<i>Papua Govt. Gaz.</i> of 3.11.1926)
<i>Land Ordinance, 1927</i> (No. 10 of 1927)	13.6.1927	7.11.1927	7.11.1927 (<i>Papua Govt. Gaz.</i> of 7.11.1927)
<i>Land Ordinance, 1931</i> (No. 13 of 1931)	16.7.1931	2.12.1931	2.12.1931 (<i>Papua Govt. Gaz.</i> of 2.12.1931)
<i>Land Ordinance, 1933</i> (No. 13 of 1933)	19.7.1933	18.12.1933	18.12.1933 (<i>Papua Govt. Gaz.</i> of 18.12.1933)
<i>Land Ordinance, 1935</i> (No. 14 of 1935)	18.7.1935	4.12.1935	4.12.1935 (<i>Papua Govt. Gaz.</i> of 4.12.1935)
<i>Land Ordinance, 1940</i> (No. 15 of 1940)	15.8.1940	6.11.1940	6.11.1940 (<i>Papua Govt. Gaz.</i> of 6.11.1940)

(2) See Section 19(2) of the *Ordinance Interpretation Ordinance, 1911-1940*.

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“Cattle” includes horses asses and mules;

“Town” includes the towns of Buna Daru Port Moresby and Samarai and such other localities as the Lieutenant-Governor⁽²⁾ shall so declare by notice⁽³⁾ to be published in the *Gazette*.

Repeal.
First Schedule.

2. The Ordinances mentioned in the First Schedule to this Ordinance are repealed.

Savings.

The repeal of the said Ordinances shall not except where it is in this Ordinance in any respect otherwise expressly provided—

- (1) affect the previous operation of any of the said Ordinances or anything duly done or contracted to be done or suffered thereunder;
- (2) affect any right claim privilege obligation penalty or liability acquired accrued incurred or continued under any of the said Ordinances;
- (3) affect any inquiry hearing legal proceeding or other remedy in respect of any right claim privilege obligation penalty or liability as aforesaid.

All lands which are subject to the provisions of the said Ordinances or any of them shall unless this Ordinance in any respect otherwise expressly provides continue to be subject to the provisions thereof until the same are surrendered or resumed or the existing title thereto is otherwise determined.

Any officer appointed body constituted or appointed and any office established under any of the repealed Ordinances shall continue and be deemed to have been appointed constituted or established as the case may be under this Ordinance.

Any Proclamation⁽⁴⁾ published or regulation⁽⁵⁾ made under any of the repealed Ordinances shall continue in force as if it or they had been published or made under this Ordinance.

Applications for leases made on or before the first day of June One thousand nine hundred and ten may be dealt with as if the Ordinances hereby repealed but in force at the date of the said

(2) See Section 19(2) of the *Ordinance Interpretation Ordinance*, 1911-1940.

(3) A Table containing particulars of Orders in Council and proclamations declaring localities to be towns and describing their boundaries is printed on p. 2437, and the Orders in Council and the Proclamation still in force are printed immediately after the Table.

(4) Particulars of proclamations continued in force by Section 2 are included in the relevant footnotes and Tables to this Ordinance.

(5) The following regulations made under the repealed Ordinances were continued in force by Section 2:—*Land Regulations* dated 28.11.1906, 19.12.1906, 19.12.1906, 11.9.1907, 17.9.1908, 18.6.1909, 23.3.1910, 14.11.1910, 15.3.1911, 18.3.1911, 13.4.1911, 12.9.1911, and *Survey Fees Regulations* dated 15.1.1910 and 30.6.1910. All these regulations were repealed by various regulations made under the *Land Ordinance*, 1911-1940. For the regulations now in force, see footnote (29) printed on p. 2401.

applications respectively were still in force. All subsequent applications for lease shall if granted be deemed to have been granted under this Ordinance.

I.—ACQUISITION OF LAND FROM NATIVES.

3. Save as hereinafter provided a native shall have no power to sell lease or otherwise deal with or dispose of any land and any contract made by him to do so shall be void.⁽⁶⁾

Natives have no power to deal in land.
Pap. No. 5 of 1906, s. 3.

4. A native who has acquired land which has been alienated by the Crown shall have power to sell or otherwise to dispose of the land but no contract made by him to do so shall be valid unless approved by the Government Secretary.

Exception in case of land alienated from the Crown.
Pap. *Ib.* s. 4.
Amended by No. 14 of 1935, s. 2.

5. If the native owners are willing to dispose of any land it shall be lawful for the Lieutenant-Governor⁽²⁾ to purchase or lease it upon such terms as may be agreed upon between him and the owners; but it shall not be lawful for him to purchase or lease any land until by sufficient inquiry he has become satisfied that the land is not required or likely to be required by the owners.^{(7) (8)}

Lieutenant-Governor may purchase land from natives.
Pap. *Ib.* s. 5.

6. Leases and purchases of land by the Crown from natives shall be authenticated by such instruments and in such manner as may be prescribed by regulations⁽⁹⁾ to be made under this Ordinance. Until such regulations are made the practice prescribed by the Second Schedule to this Ordinance shall be followed.

Authentication of Crown titles.
Pap. *Ib.* s. 6.

Second Schedule.

7.—(1.) The Lieutenant-Governor⁽²⁾ may agree with the owners of any lands held for the time being under any grant or lease from the Crown and with all persons having any estate or interest in such lands for the absolute purchase for and on behalf of the King for such consideration as the Lieutenant-Governor⁽²⁾ shall think proper of any such lands or any part thereof and of all estates and interest in such lands of what kind soever.

Repurchase by the Crown.
Pap. *Ib.* s. 7.
N.S.W. 26 of 1900, s. 44.

(2) See Section 19(2) of the *Ordinance Interpretation Ordinance*, 1911-1940.

(6) *Held*, by the High Court, that this section did not affect the value of native lands acquired pursuant to the *Lands (Kūa Kūa Aerodrome) Acquisition Ordinance*, 1939: *Geita Sebea v The Territory of Papua* (1941) 67 C.L.R. 544; 15 A.L.J. 357. The restriction imposed by this section could have no detrimental effect upon the determination of the value of native land when compulsorily acquired, because in the hands of the Crown it would be freed therefrom: *Per Williams J. in Geita Sebea v The Territory of Papua* (1941) 67 C.L.R. 544 at 557; 15 A.L.J. 357 at 359.

(7) A Table containing particulars of three Orders in Council which prohibit or restrict the purchase of land from natives in the areas therein specified is printed on p. 2441, and the Orders in Council are printed immediately after the Table.

(8) By an Order in Council (made under the *Land Ordinance*, 1911-1935) dated 8.3.1937 and published in *Papua Govt. Gaz.* of 7.4.1937 the Lieutenant-Governor ordered that:

"Officers to be instructed that in purchasing land they should be careful in each instance to ascertain whether presents in money, or money's worth, are being made, or promised, to the vendors.

"If it appears that such presents are being made, or promised, the officer should abandon the transaction and report immediately to the Government Secretary."

(9) No regulations have been made.

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(2.) All transfers leases or other instruments for effecting such purchase shall be taken in the name of the King.

Vesting of title
to lands already
repurchased.

(3.) In all cases where the freehold estate of any person in land in respect of which a Crown grant has issued or a lease of or any interest in such land has been heretofore acquired by the Crown under any Ordinance for the time being in force regulating the dealing with lands in the Territory and the transfer lease or other instrument affecting such land shall have been taken in the name of some officer of the Government appointed in that behalf and shall have been recorded in the office of the Registrar of Titles in pursuance of the provisions of any such Ordinance the estate right title and interest in such land shall from the commencement of this Ordinance vest in the King in all respects as if such transfer lease or other instrument had been taken in the name of the King instead of in the name of such officer of the Government.

Waste or vacant
land taken
possession of by
the Crown.
Pap. No. 5 of
1906, s. 8.

8. The Lieutenant-Governor⁽²⁾ may from time to time by Order in Council⁽¹⁰⁾ published in the *Gazette* declare that any land which has never been alienated by the Crown and of which there appears to be no owner will unless cause be shown to the contrary within the period specified in such Order become Crown land.

Every such Order in Council shall set forth the name or names (if any) by which such land is known with a description thereof made from an actual survey or a diagrammatic sketch of the same the position of the land an estimate of its area and a statement showing as far as known how long it has been unused by natives.

From and after the expiration of the time limited by such Order in Council the lands referred to therein shall be and be deemed to be vested in His Majesty for an estate in fee-simple:

Provided that the Lieutenant-Governor⁽²⁾ shall at any time before the expiration of the time so limited and may at any time thereafter take into consideration any claim to such land or any interest therein made by or on behalf of any alleged owner thereof and if he allows such claim may either by another Order in Council⁽¹⁰⁾ published in the *Gazette* declare that the Crown disclaims its title to such land in which case the land shall not then vest in His Majesty or become Crown land or if it has so vested shall be divested from His Majesty and cease to be Crown land or he may acquire the right of such owner in manner hereinbefore provided.

(2) See Section 19(2) of the *Ordinance Interpretation Ordinance*, 1911-1940.

(10) A Table containing particulars of Orders in Council, made pursuant to Section 8, declaring waste or vacant land to be Crown Land, is printed on p. 2443, and the Orders in Council are printed immediately after the Table. (Particulars of notices made pursuant to Section 23 of *The Crown Lands Ordinance* of 1890, and Orders in Council made pursuant to Section 11 of *The Land Ordinance* of 1899 or Section 8 of *The Land Ordinance* of 1906, which sections were in similar terms to the present Section 8, are included in the Table, and the notices and Orders in Council—other than an Order in Council which was followed by an Order in Council disclaiming and divesting Crown title to the land therein described—are printed after the Table. Although these notices and Orders in Council were not expressly continued in force, the acquisition of waste and vacant lands thereunder was not affected by the repeal of the Ordinances under which they were made: See Section 2 of the present Ordinance.)

9. It shall be lawful for the Lieutenant-Governor⁽²⁾ by Proclamation⁽¹¹⁾ in the *Gazette* to appoint a Board or Boards to decide all questions as to waste and vacant lands or lands alleged to be waste and vacant and all cases of disputed ownership of land in which a Papuan native is a claimant. The Board in giving its decision shall be guided by the principles of equity and good conscience and shall not be bound by rules of evidence or legal procedure.

Boards may be appointed to decide claims to native lands. Pap. No. 7 of 1908, s. 4.

An appeal shall lie from the Board to the Central Court.⁽²⁾ The practice regulating such appeals shall be as laid down in regulations⁽¹²⁾ to be made by the Chief Judicial Officer⁽¹³⁾ and published in the *Gazette*.

II.—LEASES BY THE CROWN.

10. No estate in fee-simple or other estate in freehold shall be granted of any land the property of His Majesty; but leases may be granted by the Lieutenant-Governor⁽²⁾ as hereinafter provided.

No freehold to be granted by the Crown; leases may be for 99 years.

Leases under this Ordinance may be for any period not exceeding ninety-nine years unless a lesser maximum period is hereinafter provided in respect of any particular classes of leases in which case they shall not exceed such lesser maximum period.

Cf. Pap. No. 5 of 1906, s. 19.

Every lease the term whereof commences after the first day of June One thousand nine hundred and ten shall except as may be expressly stated therein be deemed to contain a reservation of all mines minerals coal shale and mineral oils and of the right of access for the purpose of searching and working for them; and may also contain any condition or reservation which the Lieutenant-Governor⁽²⁾ may consider necessary in the public interest.

Reservation of mines and minerals, etc. Pap. *ib.* s. 10. Pap. No. 16 of 1910, s. 10. Amended by No. 1 of 1920, s. 2.

Except for purely temporary purposes or by virtue of some right or permission under this or some other Ordinance—

Unauthorized occupation of native lands and Crown lands. Pap. No. 5 of 1906, s. 10.

(1) no person other than a native shall occupy any land owned by natives; and

(2) no person shall occupy any land the property of His Majesty.

Any person who does so and who refuses to leave within a reasonable time after receiving written notice to quit from a resident magistrate or assistant resident magistrate may be forcibly ejected and shall be liable on summary conviction to a penalty not exceeding Forty pounds and in default of payment to imprisonment with hard labour for a period not exceeding three months.

(2) See Section 19(2) of the *Ordinance Interpretation Ordinance*, 1911-1940.

(11) No proclamation has been published in *Papua Govt. Gaz.*

(12) No regulations have been made.

(13) See Section 4 of the *Central Court Ordinance*, 1925.

Application for lease of unsurveyed land may be granted.

11.—(1.) When an application for a lease made under this Ordinance or any Ordinance hereby repealed is for land which is wholly or partly unsurveyed or for which for any reason a lease from the Crown in accordance with such application cannot immediately issue the Lieutenant-Governor⁽²⁾ may nevertheless if he thinks fit grant the application.

Proviso.

(2.) Provided that by the granting of the application the Government shall not be held to guarantee the position boundaries or area of the land described therein or the title of the Crown thereto; and the granting of the application shall be taken to be subject to survey and for such only of the land described therein as is land of the Crown.

Assignments of interest in granted application before issue of lease.

12.—(1.) When any application for a lease under this Ordinance has been granted by the Lieutenant-Governor⁽²⁾ the interest of the applicant therein may be assigned notwithstanding that a lease from the Crown has not been issued in respect thereof.

Form of such assignment.

(2.) An assignment under the provisions of this section shall be in one of the forms set out in the Third Schedule hereto according as the land affected by the assignment is unsurveyed or surveyed at the date of the application being made for a lease thereof. The assignment may be registered in the office of the Department of Lands at Port Moresby and shall be accompanied by a fee of Ten shillings.

(3.) The provisions and conditions of Section fifteen of this Ordinance regarding the assignment of leases shall apply and extend to assignments under this section and no such last-mentioned assignment shall be capable of registration until the provisions and conditions of that section have been complied with.

Effect of assignment of interest before issue of lease.

13. Upon registration of such an assignment as aforesaid in the Department of Lands the assignee shall thereupon succeed to all the rights (if any) of the assignor under the granted application for the lease and may in like manner and subject to the like conditions assign his interest therein and the lease may be issued to and in the name of the assignee under the last registered assignment.

Register of assignments of interest before issue of lease.

14. There shall be kept in the Department of Lands at Port Moresby registers wherein shall be entered particulars of all assignments made under the provisions of the three last preceding sections and such other particulars as may be prescribed by regulations.

Such registers shall be open for public inspection at any reasonable time during office hours on payment of a fee prescribed as aforesaid.

(2) See Section 19(2) of the *Ordinance Interpretation Ordinance*, 1911-1940.

14A. Any lessee under this Ordinance or the Ordinances hereby repealed or any of them may surrender his lease at any time during the currency thereof. No surrender shall be of any force or effect until accepted in writing by the Lieutenant-Governor⁽²⁾ or by the Commissioner for Lands by his direction and such surrender has been duly produced for registration under the provisions of the *Real Property Ordinance, 1913-1917.*⁽¹⁴⁾

Leases may be surrendered.
Cf. S.A. 722 of 1899, s. 85.
Inserted by No. 1 of 1914, s. 2; amended by No. 13 of 1931, s. 3.

15.—(1.) Subject to the provisions of this section leases under this Ordinance may be assigned or otherwise dealt with provided that the rent due, if any, has been paid and that the improvement conditions to which they are respectively subject have been complied with; or in any other case if the Lieutenant-Governor⁽²⁾ has given his assent thereto in writing.

Assignment of lease.
Pap. No. 7 of 1910, s. 1.
Sub-section (1) amended by No. 1 of 1920, s. 3; amended by No. 13 of 1931, s. 4.

* * * * *

Sub-section (2) repealed by No. 13 of 1931, s. 5.

(3.) A Statutory Declaration made by the person intending to assign or otherwise deal with leases under this Ordinance shall be deemed prima facie proof of the fulfilment of the improvement conditions.

Sub-section (3) amended by No. 1 of 1920, s. 3, and by No. 10 of 1926, s. 2; substituted by No. 13 of 1931, s. 6.

(4.) Assignments by will or by operation of law shall not be affected by this section but except as aforesaid no transfer sub-lease or mortgage or other alienation of land which has been leased under this Ordinance shall be valid.

Pap. *Ib.* s. 1.

15A. No lessee of land under this Ordinance or the Ordinances hereby repealed shall transfer assign or otherwise deal with part only of the land comprised in his lease without the consent of the Lieutenant-Governor⁽²⁾ and unless the lessee complies with the conditions of this section.

When part of land in lease is permitted to be assigned original lease to be surrendered.
Inserted by No. 1 of 1914, s. 3.

When any lessee under this Ordinance or under the Ordinances hereby repealed or any of them has at any time heretofore or shall at any time hereafter obtain the consent of the Lieutenant-Governor⁽²⁾ to the transfer or assignment of part only of the land comprised in his lease and shall be desirous of taking advantage thereof—

Amended by No. 13 of 1931, s. 7.

- (a) the lessee shall surrender his lease;
- (b) the Lieutenant-Governor⁽²⁾ shall grant a lease of the part of the land consent for the assignment or transfer of which has been given to the permitted assignee or transferee or if no assignee or transferee is named in such consent then to the person nominated in that behalf by the lessee so surrendering the lease and

(2) See Section 19(2) of the *Ordinance Interpretation Ordinance, 1911-1940.*

(14) Now the *Real Property Ordinance, 1913-1939.*

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shall grant a lease to such lessee for the balance of the land comprised in the lease so surrendered;

(c) every new lease so granted shall be for the unexpired period of the term of and for the same purposes and subject to the same terms conditions and regulations as the lease so surrendered and shall (for the purpose of identification only) refer to the registration number (if any) and date of such last-mentioned lease;

(d) the lessee shall pay a fee of One pound for the preparation and Ten shillings for the registration of each new lease and shall furnish to the Commissioner for Lands a surveyor's description and plan of the land to be included in each new lease.

Paragraph (d) amended by No. 13 of 1931, s. 8.

If land is under repealed Ordinances it is to continue subject thereto Section 15B inserted by No. 1 of 1914, s. 3.

15B.—(1.) If the land comprised in the lease so surrendered under the provisions of the last preceding section is subject to the provisions of the Ordinances hereby repealed or any of them the same shall subject to Subsection (2.) of this section notwithstanding such surrender or anything in this Ordinance contained continue to be subject to the provisions thereof as if the new leases granted in respect thereof had been granted thereunder instead of under this Ordinance.

but becomes a "Crown Lease" under Section 24 of this Ordinance.

(2.) For all the purposes of Section twenty-four of this Ordinance such new leases shall be deemed to have been granted under this Ordinance.

Constitution of the Land Board. Section 16 amended by No. 13 of 1931, ss. 9 and 10; substituted by No. 13 of 1933, s. 2.

16.—(1.) A Board shall be appointed by the Lieutenant-Governor⁽²⁾ under the title of the "Land Board."

(2.) The Board shall consist of four members one of whom shall be the officer ordinarily administering the Department of the Commissioner for Lands.

(3.) The Board shall have a chairman and a deputy-chairman appointed from the members of the Board by the Lieutenant-Governor.⁽²⁾

(4.) At meetings of the Board the chairman shall preside and in his absence the deputy-chairman shall preside and while so presiding shall have all the powers and authority of the chairman.

(5.) Two members of the Board of whom the chairman or deputy-chairman shall be one shall form a quorum.

(6.) The Lieutenant-Governor⁽²⁾ may cancel the appointment of any chairman deputy-chairman or member of the Board as and when he may think fit.

(2) See Section 19(2) of the Ordinance Interpretation Ordinance, 1911-1940.

Land Ordinance, 1911-1940.

(7.) The method of dealing with vacancies on the Board whether temporary or permanent and all other matters of routine may be provided by regulation under this Ordinance.

16A. Applications for leases and all other applications which under this Ordinance must be decided by the Lieutenant-Governor⁽²⁾ shall be considered first by the Land Board which shall report thereon to the Lieutenant-Governor.⁽²⁾

Applicants may go into possession with permission.
Inserted by No. 13 of 1933, s. 3.

An applicant for a lease may while awaiting the result of his application with the permission of the nearest Resident Magistrate (not including Assistant Resident Magistrate) signified in writing go into occupation of the land applied for where it is the property of the Crown.

17.—(1.) So soon as may be after the passing of this Ordinance and thereafter when the Lieutenant-Governor⁽²⁾ thinks advisable all lands in the Territory except land in townships and land which has been alienated by the Crown shall so far as possible be classified according as in the opinion of the officer carrying out the classification they are or are not suitable for agriculture.

Classification of lands.
Pap. No. 5 of 1906, s. 12.

Lands classified as suitable for agriculture are hereinafter referred to as lands of "Class A"; lands classified as not suitable for agriculture are referred to as lands of "Class B."

(2.) The Lieutenant-Governor⁽²⁾ may by Proclamation⁽¹⁵⁾ in the *Gazette* declare any unclassified lands of the Territory except as aforesaid to be lands of "Class B."

Until any such lands of the Territory have been otherwise classified or proclaimed under the foregoing provisions they shall be deemed to be lands of "Class A."

18.—(1.) So soon as may be after the passing of this Ordinance and thereafter from time to time as the Lieutenant-Governor⁽²⁾ thinks advisable an assessment shall be made of the unimproved value of such of the unassessed land of the Territory as has not been alienated by the Crown and is capable of assessment.

Unimproved value of land to be assessed.
Cf. Pap. No. 5 of 1906, s. 13, and No. 5 of 1912, s. 18.
Section 18 substituted by No. 2 of 1917, s. 2.

(2.) The assessment shall be published in the *Gazette* and shall subject to the provisions of this Ordinance be the basis on which rents shall be determined.

(3.) Until such assessment is made the assessment made under the provisions of Section thirteen of *The Land Ordinance of 1906* hereby repealed made on the 28th November, 1906, and published in the *Gazette* of 19th December, 1906, shall be deemed to have been made and published under the *Land Ordinance, 1911*,⁽¹⁶⁾ immediately after the commencement thereof.

(2) See Section 19(2) of the *Ordinance Interpretation Ordinance, 1911-1940*.

(15) A Table containing particulars of proclamations made pursuant to Section 17 (declaring land to be "Class B") is printed on p. 2471, and the proclamations are printed immediately after the Table.

(16) See now Regulation 17 of the *Land Regulations, 1938*, printed on p. 2408.

(4.) Land which has been or may hereafter be acquired by purchase or lease by the Lieutenant-Governor⁽²⁾ from the native owners under the provisions of Section five land which has been acquired or may hereafter be acquired as Crown land by declaration under the provisions of Section eight of this Ordinance and land which by reason of its having been alienated by the Crown has not been heretofore assessed and which may have heretofore since reverted or may hereafter revert to the Crown shall in the absence of any other assessment thereof be subject as from the date of such acquisition or reversion to the assessment existing at the time being and made or deemed to have been made under this Ordinance in respect of lands of the same class or description.

(5.) The unimproved value of a piece of land shall be taken to be the sum which the land might reasonably be expected to realize if all the improvements on the land were removed and it were sold without them.

18A.—(1.) The Lieutenant-Governor⁽²⁾ may if he thinks advisable so to do cause any land assessed or deemed to be assessed before or after the commencement of this section under the provisions of this Ordinance or any Ordinance hereby repealed to be re-assessed whenever the same shall not be comprised in any lease existing at the time of such re-assessment.

(2.) Such re-assessment may be made from time to time.

(3.) Every such re-assessment shall be published in the *Gazette* and such re-assessment (or in the case of more than one re-assessment in respect of the same land then the last re-assessment so made) shall be the basis on which rents shall be determined in respect of the land so re-assessed.

(4.) Notwithstanding anything contained in this Ordinance or in any Ordinance hereby repealed all re-assessments of land made and published in the *Gazette* before the commencement of this section shall be and be deemed to be valid for all purposes.

(5.) The provisions of Subsection (5.) of the last preceding section shall apply to any re-assessment under the provisions of this section.

19. Survey fees shall be payable in respect of applications for leases of an area exceeding one hundred acres according to a scale to be from time to time fixed by the Lieutenant-Governor in Council⁽²⁾ and published in the *Gazette*.⁽¹⁷⁾

The fees shall unless it is otherwise provided by regulation⁽¹⁷⁾ be deposited with the application and shall be returned if the application is not granted.

(2) See Section 19(2) of the *Ordinance Interpretation Ordinance*, 1911-1940.

(17) See Regulation 13 and Schedule 9 of the *Land Regulations*, 1938, printed on p. 2405.

Unimproved value of land may be re-assessed in certain cases. Section 18A inserted by No. 10 of 1926, s. 3.

Survey fees to be paid upon application for over 100 acres. Cf. Pap. No. 30 of 1909, s. 1.

20. Survey fees shall also be paid in respect of applications for One hundred acres or any less area by or on behalf of any person who is already the holder or promisee of freehold or leasehold land under this Ordinance or any Ordinance hereby repealed exceeding in the aggregate an area of Fifty acres.

Also in some cases where 100 acres or less are applied for.
Substituted by No. 13 of 1931, s. 11.

The transfer or assignment of a lease or granted application for a lease of One hundred acres or any less area to any person who is already the holder or promisee of freehold or leasehold land under this Ordinance or any Ordinance hereby repealed exceeding in the aggregate Fifty acres shall be conditional on payment by the transferee of survey fees in respect of the lease or granted application sought to be transferred or assigned.

Nothing in this section shall apply to applications for a Mission lease.

The survey fees shall unless otherwise provided by regulation⁽¹⁷⁾ be deposited with the application for lease and shall be returned if the application is not granted.

21. The Lieutenant-Governor in Council⁽²⁾ may make regulations⁽¹⁷⁾ fixing from time to time the amount of the fees to be paid in respect of such applications and also the rate of fees to be paid to surveyors in respect of surveys carried out by them for the Government and prescribing other matters of detail necessary for the carrying out of this Ordinance.

Regulations.
Pap. No. 30 of 1909, s. 3.

The regulations shall be published in the *Gazette* and shall thereupon have the force of law.

22. If the fees are not paid as prescribed in this Ordinance or the regulations thereunder the land applied for shall not be granted or if already granted may be forfeited by notice in the *Gazette*.

Forfeiture for non-payment of fees.
Pap. Ib. s. 4.
Marginal note amended by No. 3 of 1914, s. 3 and Second Schedule.

23. With every application for a lease under this Ordinance (except an application for a Mission lease under Section Thirty-six) a deposit shall be paid according to the following scale:—

Deposit payable with application for a lease.
Pap. No. 5 of 1909, s. 1.

One pound (£1) where the area applied for is one hundred acres or less;

Two pounds (£2) where the area applied for is more than a hundred but not more than five hundred acres;

Five pounds (£5) where the area applied for is more than five hundred acres but not more than a thousand acres; and

Amended by No. 2 of 1917, s. 3, No. 18 of 1924, s. 2, and by No. 13 of 1931, s. 12.

(2) See Section 19(2) of the *Ordinance Interpretation Ordinance, 1911-1940*.

(17) See Regulation 13 and Schedule 9 of the *Land Regulations, 1938*, printed on p. 2405.

LAND—

Five pounds (£5) for every additional thousand acres or portion of a thousand acres.

The deposit shall be returned if the improvement conditions to which the land comprised in the lease may be subject and which are thereby required to be completed within five years or any less period are so completed.

Register of
Crown Leases.
Cf. Pap. No. 5 of
1906, s. 15.

S.A. 380 of
1886, ss. 91
and 93.

Amended by
No. 2 of 1917,
s. 4, No. 8 of
1919, s. 2, and
by No. 13 of
1931, s. 13.

24. Leases granted under this Ordinance or any Ordinance hereby repealed shall when executed be deemed to be Crown leases and shall be in the form provided by *The Real Property Ordinance of 1889*⁽¹⁸⁾ or to the like effect which may be altered from time to time with the approval of the Lieutenant-Governor⁽²⁾ and shall be in duplicate and after being duly executed shall be forwarded to the Registrar of Titles who shall bind one copy in a book wherein leases under the Ordinances hereby repealed have heretofore been entered to be called the "Register of Crown Leases" and shall forward the other to the person entitled thereto.

The Registrar of Titles shall mark on each part of every Crown lease a copy whereof shall be bound in the Register of Crown leases the volume and folio as appearing in the Register of Crown leases; and such Crown lease shall thereupon be deemed subject to the provisions of and to be registered under such last-mentioned Ordinance and may be transferred mortgaged and dealt with for all the purposes and in like manner but subject always to the provisions of the Ordinance under which it was granted as if it had been granted by a registered proprietor of land under *The Real Property Ordinance of 1889*⁽¹⁸⁾ and registered in the Register Book in the ordinary way excepting only that any entries which ordinarily would require to be made in the Register Book shall be made in the Register of Crown leases and on the folio constituted by the Crown lease.

A fee of One pound shall be paid for the preparation of a lease granted under this Ordinance and Ten shillings for the registration thereof. Such fees shall accompany the application for the lease.

Agricultural
leases of lands
of "Class A."

Pap. No. 5 of
1906, s. 16.

25.—(1.) Agricultural leases of lands of "Class A" may be granted by the Lieutenant-Governor.⁽²⁾

(2.) In the case of an agricultural lease for more than thirty years the rent shall be determined at five per centum per annum of the unimproved value of the land; but no rent shall be payable for the first period of ten years except in respect of leases referred to in Subsection (3.) of this section. Rent shall not exceed Sixpence an acre per annum during the second period of ten years. The unimproved value of the land shall be appraised every twenty

(2) See Section 19(2) of the *Ordinance Interpretation Ordinance, 1911-1940.*

(18) Repealed and replaced by the *Real Property Ordinance, 1913-1939.*

years during the currency of the lease and the rent determined accordingly; but if on any appraisal the rent is raised by more than one-third the lessee may disclaim the lease and shall thereupon be entitled to receive compensation for his improvements. The amount of compensation shall be determined in the manner to be provided by regulation.

(3.) Rent determined as aforesaid shall be immediately payable in respect of agricultural leases granted after the first day of June One thousand nine hundred and ten for a term exceeding thirty years—

- (a) if the area granted exceeds one thousand acres; or
- (b) if the area granted together with the area of any agricultural lease for a term exceeding thirty years which is already held by the applicant or in which he has an interest (other than an interest as a shareholder in a registered company) exceeds one thousand acres.

Land which the applicant holds in the name of any other person shall be deemed to be land held by him. All the provisions of Sub-section (2.) of this section shall apply to agricultural leases first mentioned in this subsection except the provision that no rent shall be payable for the first period of ten years.

(3A.) Rent determined as aforesaid shall be immediately payable in respect of agricultural leases granted in the circumstances set out in Section 41A of this Ordinance. All the provisions of Sub-section (2.) of this section shall apply to agricultural leases granted in the circumstances referred to in this subsection or any of them except the provision that no rent shall be payable for the first period of ten years.

(4.) In the case of a lease for thirty years or less rent shall be paid during the whole time at the rate of five per centum per annum on the unimproved value; but the rent shall not exceed Sixpence per annum an acre during the first ten years. At the end of ten years and thereafter every ten years during the currency of the lease the unimproved value of the land shall be appraised and the rent determined accordingly.

26. Notwithstanding that any land may have been classified proclaimed or assessed as land of "Class B" an agricultural lease may be granted thereof by the Lieutenant-Governor⁽²⁾ under the provisions and conditions of the last preceding section and thereupon the land comprised in such lease shall be deemed to be land of "Class A" and to have been classified assessed and leased as such.

Agricultural leases in certain cases to be subject to rent from commencement of lease.

Pap. No. 16 of 1910, ss. 12 and 13.

Sub-section (3A) inserted by No. 2 of 1917, s. 5.

Pap. No. 5 of 1906, s. 16 (1) (b).

Agricultural lease may be granted over "Class B" lands. New.

* * * * *

Section 27 repealed by No. 13 of 1931, s. 14.

(2) See Section 19(2) of the Ordinance Interpretation Ordinance, 1911-1940.

Pastoral leases of "Class B" lands.

28.—(1.) Pastoral leases of lands of "Class B" may be granted by the Lieutenant-Governor.⁽²⁾

Pap. No. 5 of 1906, s. 16
(2) (a).

Sub-section (2) amended by No. 16 of 1922, s. 2.

(2.) In the case of a lease for more than thirty years the rent shall be determined at two and a-half per centum per annum of the unimproved value of the land; but no rent shall be payable for the first period of ten years and not more than Twenty-five shillings per annum for every thousand acres during the second period of ten years. The unimproved value of the land shall be appraised every twenty years during the currency of the lease and the rent determined accordingly. If on any appraisal the rent is raised by more than one-fourth the lessee may disclaim the lease and shall thereupon be entitled to receive compensation for his improvements. The amount of compensation shall be determined in manner to be provided by regulation.

Pap. No. 5 of 1906, s. 16
(2) (b).

Sub-section (3) amended by No. 16 of 1922, s. 2.

(3.) In the case of a lease for thirty years or less rent shall be paid during the whole time at the rate of two and a-half per centum per annum on the unimproved value; but the rent shall not exceed Twenty-five shillings per annum for every thousand acres during the first ten years. At the end of ten years and thereafter every ten years during the currency of the lease the unimproved value of the land shall be appraised and the rent determined accordingly.

Method of appraisal of certain land.
Section 28A inserted by No. 10 of 1927, s. 2.

28A. Whenever by the Ordinances hereby repealed or any of them or by this Ordinance it is provided with reference to land comprised in any lease granted thereunder before the commencement of this section (other than leases of Town allotments) that the unimproved value of the land shall be appraised at specified periods of every twenty years or every ten years as the case may be during the currency of the lease and the rent determined accordingly it shall be a sufficient compliance with any such provision but so far only as it relates to the appraisal to be made—

- (a) at the termination of the first of the specified periods of twenty years; and
- (b) at the termination of the first and second of the specified periods of ten years

as the case may require if the appraisal is made by an order⁽¹⁹⁾ of the Lieutenant-Governor in Council⁽²⁾ without any inspection of the land by placing each lease in one of three categories whereupon the following provisions shall apply:—

First category: If the lease is so placed in the First category the appraisal so made of the unimproved value of the land comprised therein shall be and be deemed to have been increased to double the value upon which rent was determined for the preceding or last preceding

(2) See Section 19(2) of the *Ordinance Interpretation Ordinance, 1911-1940.*

(19) No Order in Council has been published in *Papua Govt. Gaz.*

period (or for such part of such period as rent was payable as the case may require) and the rent shall be increased by one hundred per centum.

Second category: If the lease is so placed in the Second category the appraisalment so made of the unimproved value of the land comprised therein shall be and be deemed to have been increased in the case of an agricultural lease by one-third or in the case of a pastoral lease by one-fourth of the value upon which rent was determined for the preceding or last preceding period (or for such part of such period as rent was payable as the case may require) and the rent shall be increased by one-third or one-fourth as the case may be.

Third category: If the lease is so placed in the Third category the appraisalment so made of the unimproved value of the land comprised therein shall be and be deemed to be the same as that upon which the rent made payable for the whole or any part of the preceding or last preceding period was determined and the rent shall be determined accordingly.

29. No pastoral lease shall be granted except in respect of land which has been declared by Proclamation⁽¹⁵⁾ to be land of "Class B."

"Class B" land to be proclaimed before pastoral lease granted.

Pap. No. 16 of 1910, s. 4.

30. Agricultural and pastoral leases shall be subject to improvement conditions. In either of such class of leases and whether in the case of land of "Class A" or land of "Class B" improvements may at the option of the lessee be either pastoral or agricultural or partly pastoral and partly agricultural.

Improvement conditions attached to agricultural and pastoral leases.

Cf. Pap. No. 5 of 1906, s. 17;

Pap. No. 7 of 1908, s. 3.

(1) Agricultural improvements shall be as follows:—Of the land suitable for cultivation the following proportions shall be planted with plants to be approved by regulation⁽²⁰⁾ under this Ordinance in a good and husbandlike manner:—

Paragraph (1) amended by No. 2 of 1917, s. 6.

- (a) One fifth in the first period of five years of the term;
- (b) Two fifths in the first period of ten years of the term;
- (c) Three fourths in the first period of twenty years of the term;

and the proportions respectively to be so planted shall from the expiration of each such period be kept so planted during the remainder of the term of the lease.

(2) See Section 19(2) of the *Ordinance Interpretation Ordinance*, 1911-1940.

(15) A Table containing particulars of proclamations made pursuant to Section 17 (declaring land to be "Class B") is printed on p. 2471, and the proclamations are printed immediately after the Table.

(20) See Regulation 3 and Schedule 1 of the *Land Regulations*, 1938, printed on p. 2405.

LAND—

(2) Pastoral improvements—

- (a) The land shall be stocked within ten years and be kept stocked for the remainder of the term. Land upon which there are twenty head of cattle or one hundred head of sheep to the square mile shall be considered stocked;
- (b) Ten head of cattle or fifty head of sheep to the square mile shall be on the land within five years.

Proviso amended by No. 13 of 1933, s. 4.

Provided always that if at any time during the first five years of a pastoral or an agricultural lease it appears to the Land Board that reasonable efforts are not being made to fulfil the improvement conditions they may recommend the Lieutenant-Governor⁽²⁾ to cancel the lease; and thereupon it shall be lawful for the Lieutenant-Governor⁽²⁾ by notice in the *Gazette* to cancel the lease accordingly.

All native reserves shall be fenced by the lessee in manner to be provided by Regulation.

If any damage is done to native reserves by trespass of stock before the fencing is complete the amount of compensation shall be assessed by the resident magistrate of the Division and shall be paid by the lessee into the Treasury for distribution among the natives who have suffered loss within three months. If not so paid the amount may be recovered by levy and distress in the manner provided by the Ordinances relating to proceedings before justices of the peace and the lease may be forfeited. If the fence is injured by the natives either wilfully or through carelessness it shall be the duty of the resident magistrate to see that they repair it and the lessee shall not be liable for any trespass which occurs by reason of the injury to the fence.

Paragraph added by No. 2 of 1917, s. 6.

Notwithstanding anything contained in this Ordinance the provisions of this section shall apply as well to leases of land of "Class A" and land of "Class B" granted under *The Land Ordinance* of 1906 hereby repealed as to land comprised in agricultural and pastoral leases heretofore or hereafter granted under this Ordinance.

Definition added by No. 13 of 1933, s. 5.

For the purposes of this section the words "lease" or "leases" shall include and be deemed always to have included a granted application for a lease.

Certain agricultural leases subject to agricultural improvements. Inserted by No. 18 of 1924, s. 3.

30A. Notwithstanding anything contained in the last preceding section hereof the improvements to be effected in the case of agricultural leases granted after the commencement of this section shall be entirely agricultural as set out in paragraph numbered (1) of that section:

(2) See Section 19(2) of the *Ordinance Interpretation Ordinance*, 1911-1940.

Provided that at any time during the currency of any such lease on the written application of the lessee the Lieutenant-Governor⁽²⁾ for any reason appearing to him to be sufficient may by order direct that for the remainder of the term reserved by the lease or for any lesser period the improvements to be effected thereon may at the option of the lessee be either agricultural or pastoral as set out in paragraphs numbered (1) and (2) respectively of the last preceding section hereof or partly pastoral and partly agricultural; and the Lieutenant-Governor⁽²⁾ may by the same order direct that so far as such improvements are pastoral the number of cattle or sheep with which the land is required by the said paragraph (2) to be stocked and kept stocked shall in the case of any such lease be increased to a number to be stated in the order. From the date of the order the improvements directed thereby to be effected shall for the period stated therein be deemed to be the improvement conditions of such lease.

31.—(1.) The conditions specified in the last section may be relaxed or modified by the Lieutenant-Governor⁽²⁾ in any case in which it appears to him that special hardship would be caused to the lessee by insisting on them.

Proviso.
Improvement conditions may be relaxed.
Pap. No. 5 of 1906, s. 18.

(2.) If in any case submitted to him for the relaxation or modification of conditions of improvement the Lieutenant-Governor⁽²⁾ shall think fit so to do he may make it a condition of his compliance that the lessee shall surrender his lease and accept a new lease for—

Sub-section (2) added by No. 1 of 1914, s. 4.

(a) the area actually improved; and

(b) such further area (if any) in respect of which the Lieutenant-Governor⁽²⁾ may deem the lessee to be able without hardship to comply with conditions of improvement

less any area which the Lieutenant-Governor⁽²⁾ on the advice of the Commissioner for Lands deems necessary for roads of access to any land included on the surrendered lease but not to be included in the new lease.

(3.) If the lessee accepts the condition so imposed he shall—

Sub-section (3) added by No. 1 of 1914, s. 4.

(a) surrender his lease;

(b) accept a new lease for the area mentioned in paragraphs (a) and (b) of the foregoing subsection for the unexpired term of and for the same purposes and subject to the same terms conditions and regulations as the lease so surrendered which new lease shall (for the purposes of identification only) refer to the registration number (if any) and date of such surrendered lease;

(c) pay a fee of One pound for the preparation and Ten shillings for the registration of the new lease and the

(2) See Section 19(2) of the Ordinance Interpretation Ordinance, 1911-1940.

cost of survey rendered necessary for the reduction in area below that contained in the original lease and by roads of access; and

- (d) if the cost of survey of the original lease was borne by the Government pay the whole or any portion thereof which the Lieutenant-Governor⁽²⁾ may require.

Sub-section (4) added by No. 1 of 1914, s. 4.

(4.) Section 15B of this Ordinance shall apply to such new lease and the land comprised therein.

Mining on agricultural or pastoral leases. Pap. No. 4 of 1908, s. 4.

32. Land comprised in agricultural leases and pastoral leases shall within the limits of a mineral field or goldfield be subject to the provisions of Part VII of *The Mining Act of 1898* (Queensland adopted)⁽²¹⁾ and the provisions of that part which relate to searching and mining for gold and silver shall as regards such land apply also to searching and mining for other minerals; and the said Part shall be read as if the words "gold and silver" included all other minerals.

Leases of Town allotments; rent. Pap. No. 5 of 1906, s. 19.

Amended by No. 10 of 1927, s. 3.

33. Leases of Town allotments may be granted by the Lieutenant-Governor.⁽²⁾ The rent shall be determined at ten per centum per annum of the unimproved value of the land but the rent shall not be less than One pound a year for a quarter of an acre allotment.

Section 33A inserted by No. 10 of 1926, s. 4; substituted by No. 10 of 1927, s. 4.

33A.—(1.) Notwithstanding anything contained in the last preceding section—

Assessment of rent for Town lots leases granted after 13th Oct., 1926.

- (a) rent in respect of land comprised in leases of Town allotments granted after the commencement of this section shall be determined at five per centum per annum of the unimproved value of the land but the rent shall not be less than One pound a year for a quarter acre allotment;

Periodical re-assessment of rent of all leases of Town lots during currency.

- (b) the unimproved value of the land comprised in any lease of a Town allotment whenever granted (whether before or after the commencement of this section and whether under the provisions of this Ordinance or of any Ordinance hereby repealed) shall be appraised every twenty years during the currency of the lease and the rent shall be determined at five per centum of the unimproved value so appraised.

Commencement of section.

(2.) This section shall be deemed to have commenced on the thirtieth day of October One thousand nine hundred and twenty-six.

(2) See Section 19(2) of the *Ordinance Interpretation Ordinance*, 1911-1940.

(21) Repealed and replaced in the Territory of Papua by the *Mining Ordinance*, 1937-1939: see now Part VIII. of that Ordinance.

Land Ordinance, 1911-1940.

33B.—(1.) Any lessee of a Town allotment who is not satisfied with the appraisalment of his lease may within thirty days of the notification to him of such appraisalment or in the case of an appraisalment after the date when this section is deemed to have commenced and prior to the promulgation of this Ordinance within thirty days of such promulgation give notice in writing to the Commissioner for Lands that he desires such appraisalment to be reviewed upon such grounds as are set forth in such notice.

Application to review appraisalment of a Town allotment.

Section 33B inserted by No. 10 of 1927, s. 4; repealed by No. 13 of 1931, s. 15; re-inserted by No. 15 of 1940, s. 2.

(2.) Upon receipt of any such notice the Commissioner for Lands shall forthwith take steps to cause the notice to be laid before the Lieutenant-Governor⁽²⁾ who may review the appraisalment and whose decision thereon shall be final.

(3.) Pending the result of an application for the review of an appraisalment pursuant to this section the liability to pay the rent shall continue unaffected.

(4.) This section shall be deemed to have commenced on the first day of January, One thousand nine hundred and forty.

34. Leases of Town allotments shall be subject to improvement conditions as follows:—

Improvements.

Cf. Pap. No. 5 of 1906, s. 20.

Pap. No. 7 of 1908, s. 5.

(1) The improvements shall be to such amount as may upon the advice of the Land Board be from time to time prescribed by regulation⁽²²⁾ under this Ordinance either generally or in the case of a particular town or locality; the improvements shall be erected on the allotment within nine months from the commencement of the lease and improvements of the same value shall be maintained thereon in good repair during the currency of the lease;

(2) In addition to the improvements mentioned in Subsection (1.) a Town allotment shall be fenced in such manner as may be provided by regulation.

35. A lease for business purposes of land not included in the area of a township may be granted by the Lieutenant-Governor⁽²⁾ for business purposes under the following conditions:—

Lease for business purposes.

Pap. No. 5 of 1906, s. 21.

(1) The area comprised in a lease shall not exceed ten acres;

(2) The rent shall be at the rate of not less than Ten shillings an acre per annum but in no case shall be less than One pound in the aggregate;

Paragraph (2) amended by No. 13 of 1933, s. 6.

(3) The applicant shall state in his application the purposes for which he requires the lease;

(2) See Section 19(2) of the *Ordinance Interpretation Ordinance, 1911-1940.*

(22) See Regulation 15 of the *Land Regulations, 1938*, printed on p. 2408, the *Land (Port Moresby Improvement Conditions) Regulations, 1931*, printed on p. 2420, and the *Land (Samarai Improvement Conditions) Regulations, 1931*, printed on p. 2429.

LAND—

- (4) Improvements of not less than Fifty pounds in value shall be erected within two years of the commencement of the lease and improvements to that value shall be maintained thereon during the currency of the lease.

Lease to missions.
Pap. No. 5 of
1906, s. 22.

36. A lease to be called a "mission lease" of land not included in the area of a township may be granted by the Lieutenant-Governor⁽²⁾ rent free to a corporation having for its object the establishment of Christian missions or to any person in trust for any institution or body having such objects subject to the following conditions:—

- (1) The area comprised in a lease shall not exceed five acres;
- (2) Land shall not be leased under this section except for the purpose of erecting thereon a dwelling-house for members of the mission a school a church or other building;
- (3) The applicant shall specify the building which he intends to erect upon the land applied for;
- (4) The building so specified shall be erected within three years of the commencement of the lease and the building or some building substituted for it and of equal value shall be kept in good repair during the currency of the lease.

Trading licences.
Pap. No. 5 of
1906, s. 22, as
altered by Pap.
No. 16 of 1910,
s. 8.

37. A resident magistrate may grant annual licences for trading purposes but the land in respect of which a licence is granted shall not exceed three acres. The fee for the granting of a licence shall be One pound. The licence shall be in force until the first day of January next after the granting thereof; it may be renewed annually and One pound shall be payable in respect thereof each year in advance.

A licence shall be in such form as may be prescribed by the regulations and shall entitle the holder to enter upon and occupy the land in respect of which it is granted and to fence it in and to erect buildings thereon and otherwise to make use of it for the purposes of trading.

A licence shall not grant any right or privilege which may confer on the licensee exclusive rights as to anchorage or the procuring of fresh water or firewood or which may obstruct or prevent vessels traders or fishermen from obtaining shelter ashore or afloat in case of need.

A licence shall be irrevocable during the currency of the year for which it was granted except by special order of the Lieutenant-Governor.⁽²⁾

(2) See Section 19(2) of the *Ordinance Interpretation Ordinance*, 1911-1940.

38. Leases of Crown lands not included in any town or township to be called "residence leases" may be granted by the Lieutenant-Governor⁽²⁾ for residence purposes under the following conditions:—

Leases may be granted for residence purposes.
Pap. No. 16 of 1910, s. 5.

- (1) The area comprised in any lease shall not exceed five acres;
- (2) The rent shall be at the rate of not less than Ten shillings an acre but in no case shall be less than One pound per annum in the aggregate;
- (3) Improvements shall be effected on the leasehold of such a value within such time and of such nature as may be prescribed by regulation under this Ordinance and improvements of the same value shall be maintained thereon during the currency of the lease;
- (4) In addition to the improvements mentioned in Sub-section (3.) the land comprised in the lease shall be fenced and kept fenced in such manner as may be provided by regulation.

39. Special leases may be granted by the Lieutenant-Governor⁽²⁾ to any *bona fide* discoverer of any guano phosphates animal or vegetable or mineral manures or any substance used as a manure or as a constituent thereof or other valuable substance (not being coal shale or mineral oil or a metal or metalliferous ore) on any land vested in the Crown and not subject to a lease under this Ordinance or any Ordinance hereby repealed of any portion of the lands on which such discovery was made not exceeding six hundred and forty acres.

Special leases to discoverers.
Crown Land Act, N.T., No. 501 of 1890, s. 77.
Amended by No. 8 of 1919, s. 3.

Every such lease shall be granted on such terms and conditions and at such rent and royalty as the Lieutenant-Governor in Council⁽²⁾ shall think fit.

A copy of every such lease shall be laid before the Legislative Council within one month from the date thereof or if the Legislative Council be not then in session then during the next meeting thereof.

40. Special leases may be granted by the Lieutenant-Governor⁽²⁾ of any Government building not required for Government purposes or of any lands the property of the Crown for any term not exceeding twenty-five years from the date thereof at such rent with or without royalty and upon such terms and conditions as may be prescribed by regulation under this Ordinance or as may be otherwise directed by the Governor in Council⁽²³⁾ for any of the following purposes that is to say:—

Other special leases.
N.T. *Id.*, s. 78, altered.

(2) See Section 19(2) of the *Ordinance Interpretation Ordinance, 1911-1940.*

(23) The words "the Governor in Council" appeared in the original Ordinance. The word "Governor" has now been omitted, and "Lieutenant-Governor" inserted in its stead, by the Second Schedule of the *Ordinances Reprint and Revision Ordinance 1947* of the Territory of Papua-New Guinea.

LAND—

Paragraph (1)
amended by
No. 1 of 1920,
s. 4.

- (1) For obtaining and removing therefrom guano phosphates animal vegetable or mineral manures or any substance used as a manure or a constituent thereof or any other valuable substance except metals metaliferous ores coal shale or mineral oils;
- (2) For obtaining and removing therefrom stone and clay or other earth;
- (3) For sites of bulk stores;
- (4) For sites of bathing-houses or bathing places;
- (5) For sites for tanneries factories sawmills or papermills;
- (6) For sites for wharves jetties quays piers landing-places;
- (7) For the working of mineral springs;
- (8) For sites for slips for ship or boat building or repairing;
- (9) For the manufacture of salt;
- (10) For sites for smelting works or any works approved by the Lieutenant-Governor in Council;⁽²⁾
- (11) For any purposes for which licences may be granted under this Ordinance;
- (12) For any purpose approved by the Lieutenant-Governor in Council.⁽²⁾

The area of a special lease under this section shall be of such reasonable extent as in the opinion of the Lieutenant-Governor⁽²⁾ will enable the particular object or industry for which the lease is required to be carried on successfully.

Special private
cemetery leases.
Inserted by
No. 13 of 1931,
s. 16.

40A. A Special Lease may be granted of any land the property of the Crown for use as a private cemetery. The area term and conditions of any such lease shall be as the Lieutenant-Governor⁽²⁾ may determine.

Implied
covenant as to
user.
*Crown Land
Act, N.T.,
No. 501 of 1890,
s. 80.*
Amended by
No. 8 of 1919,
s. 4.

41. In every special lease shall be implied a covenant on the part of the lessee that he will use the land *bona fide* for the purpose for which it shall have been demised and that he will not use it for any other purpose.

Leases under
former
Ordinances may
be surrendered.
Inserted by
No. 2 of 1917,
s. 7.

41A. Any lessee of land comprised in a lease granted under the provisions of *The Crown Land Ordinance of 1890* (No. 7 of 1890) or *The Land Ordinance of 1899* (No. 4 of 1899) who has performed and observed the covenants and conditions contained therein or imposed by the Ordinance under which the lease was

(2) See Section 19(2) of the *Ordinance Interpretation Ordinance, 1911-1940.*

granted may with the permission of the Lieutenant-Governor⁽²⁾ surrender his lease and obtain a new lease under the provisions of this Ordinance for the same or the like purposes as the surrendered lease and for such term inclusive of the unexpired term of the surrendered lease as the Lieutenant-Governor⁽²⁾ may in either case approve.

42. The Lieutenant-Governor⁽²⁾ or any person authorized by him in that behalf may grant licences to enter upon any land the property of the Crown to be described in such licences and to occupy the same for any of the following purposes:—

Licences.
Crown Land Act, N.T., No. 501 of 1890, s. 81.

- (1) To strip dig and take away any bark gravel stone limestone salt guano manure shell seaweed sand loam clay or other earth;
- (2) For fishermen's residences and drying-grounds;
- (3) For manufactories fellmongering establishments slaughter-houses brick or lime kilns or sawmills;
- (4) For any of the purposes for which special leases may be granted under this Ordinance;
- (5) For any other purpose approved by the Lieutenant-Governor.⁽²⁾

43. Every licence issued under the last preceding section shall bear the date on which it is issued and shall continue in force for a period not exceeding one year from such date and shall be subject to the payment of such fee and subject to such royalty on the material so stripped dug or taken away and subject also to such restrictions limitations and conditions as may be provided by regulation under this Ordinance.

Conditions of licences.
N.T. Ib. s. 82.

44.—(1.) The term of a lease under this Ordinance the period (if any) during which no rent is payable and the time within which improvement conditions must be fulfilled shall be calculated from the date on which the application for the lease was granted:

Date from which time calculated.
Pap. No. 7 of 1908, s. 2.

Provided that in the case of a lease granted by way of renewal or in continuation of an expired lease granted under this Ordinance or under any Ordinance hereby repealed the term shall be calculated from the day following the termination of such expired lease.

Proviso added by No. 16 of 1922, s. 3.

(2.) The area specified in any order granting the application for a lease or if no area be specified therein the area specified in the application shall until the area is ascertained by survey be taken to be the area granted.

Area how calculated.
Pap. No. 10 of 1910, s. 15.

45.—(1.) If for any special reason the Lieutenant-Governor⁽²⁾ thinks fit—

Certain leases may be sold by auction or by tender.

(2) See Section 19(2) of the *Ordinance Interpretation Ordinance, 1911-1940.*

LAND—

Section 45
amended by
No. 1 of 1920,
s. 5, and by No.
10 of 1926, s. 5;
substituted by
No. 13 of 1933,
s. 7.

(a) a lease of any land that has been granted under lease by the Crown and has reverted to the Crown either by forfeiture or by surrender or otherwise may be offered and sold either by auction or tender.

The lease so offered and sold shall be subject to such terms as to rent length of tenure improvement conditions and otherwise as the Lieutenant-Governor⁽²⁾ may determine.

(b) a lease of any portion of such land may be offered and sold either by auction or tender subject to such terms as to rent length of tenure improvement conditions and otherwise as the Lieutenant-Governor⁽²⁾ may determine.

(2.) The sale by auction or tender under the preceding subsection shall be carried out in such manner as may be prescribed by regulation and at such upset price as may either generally or in any particular case or class of case be directed by the Lieutenant-Governor.⁽²⁾

Improvements
the property of
Government to be
valued.

46.—(1.) Before any lease is granted under this Ordinance in respect of any land upon which there are improvements which are the property of the Crown the value of such improvements shall be assessed in such manner as the Lieutenant-Governor⁽²⁾ may direct.

Value to be paid
by lessee.

Sub-section (2)
amended by
No. 2 of 1917,
s. 8.

(2.) The value of the improvements so ascertained shall except in such cases where the Lieutenant-Governor⁽²⁾ orders otherwise, either be paid for by the lessee or the same shall be taken into consideration in computing the rent to be paid for such land in such manner in either case as may be prescribed.

Crown lands
never leased
but with
improvements.
Inserted by
No. 15 of 1940,
s. 3.

46A. When the Crown has improved land which has never been granted under a lease by the Crown the Lieutenant-Governor⁽²⁾ may direct that a lease of such land be offered and sold by auction or tender. The terms and conditions of any such lease shall be such as the Lieutenant-Governor⁽²⁾ determines.

Rent when
payable.
Cf. Pap. No. 5 of
1906, s. 24.

47. Rent up to the first day of the next ensuing January shall be payable on the granting of an application for a lease and thereafter annually in advance on the first day of January in each year:

Provided that in the case of agricultural leases and pastoral leases upon which no rent shall be payable under this Ordinance for the first period of ten years rent up to the first day of January next following the date of the expiration of the first period of ten years shall be payable on the date of such expiration and thereafter annually in advance on the first day of January in each year.

(2) See Section 19(2) of the *Ordinance Interpretation Ordinance, 1911-1940.*

Land Ordinance, 1911-1940.

47A.—(1.) If the lessee under any lease granted whether before or after the commencement of this section under this Ordinance or any Ordinance hereby repealed does not on or before the twenty-eighth day of February in any year pay the rent which was due by him on the first day of January then preceding he shall pay the same on or before the thirtieth day of June then following together with a fine of One shilling in the pound.

Fine for late payment of rent. Cf. W.A. 62 Vic. No. 37, s. 136. Section 47A inserted by No. 16 of 1922, s. 4; amended by No. 13 of 1933, s. 8.

(2.) The amount of the fine shall be paid and be recoverable in the same manner as rent under this Ordinance.

(3.) A fine may be remitted by the Lieutenant-Governor⁽²⁾ upon any ground appearing to him to be fit and proper.

48. The Commissioner for Lands shall on the first day of January or as soon as conveniently may be thereafter in every year prepare a list of the names of all persons from whom rent is due showing the amount of rent payable by them respectively.

List of lessees and rents payable. Cf. Pap. No. 5 of 1908, s. 25. Substituted by No. 16 of 1922, s. 5.

49. The list shall be published in the *Gazette* and a copy of the *Gazette* containing a list purporting to be a list prepared under the last section shall be received in any Court as prima facie evidence that the rent in each case is due and unpaid and that payment thereof where necessary has been lawfully demanded.

List to be published and received in evidence. Pap. *Ib.* s. 26.

50. Rent in respect of leases under this Ordinance may be recovered in like manner as any other rent is recoverable and if it is levied by distress an order signed by the Lieutenant-Governor⁽²⁾ shall be sufficient warrant and authority to distrain.

How rent is recoverable. Pap. *Ib.* s. 27.

51. Rent and licence fees payable under this Ordinance shall be paid to the Treasurer and shall be accounted for by him in the Revenue Account of the Territory.

Rent, etc. to be paid to the Treasurer. Pap. No. 7 of 1908, s. 1.

52. It shall be lawful for the Lieutenant-Governor⁽²⁾ by notice in the *Gazette* to declare a lease forfeited—

Forfeiture for non-payment of rent or failure to fulfil conditions. Pap. No. 5 of 1906, s. 29.

(1) if rent remains due and unpaid for a period of more than six months; or

(2) if a lessee refuses or neglects to fulfil any of the conditions imposed by this Ordinance or the regulations made thereunder in respect of his lease.

And thereupon the lease shall be void as from the date of the *Gazette* in which the notice appears.

The Registrar of Titles shall make an entry to that effect in the Register of Crown Leases: New.

(2) See Section 19(2) of the *Ordinance Interpretation Ordinance, 1911-1940.*

LAND—

Fine may be imposed for non-fulfilment of improvement conditions.

Pap. No. 16 of 1910, s. 9.

Provided that whenever any lease granted under this Ordinance or any Ordinance amending the same is liable to forfeiture for any of the reasons mentioned in Subsection (2.) of this section the Lieutenant-Governor⁽²⁾ if he thinks fit instead of declaring the lease forfeited may impose a fine upon the lessee and allow a further time for fulfilment of improvement conditions. The fine shall not exceed One hundred pounds and may be made payable either at once or by instalments at intervals to be prescribed by regulation.

Payment of the fine shall not relieve the lessee from obligation to fulfil the conditions of improvement but fulfilment of the conditions of improvement by the lessee shall relieve him from the payment of any instalments of the fine to become due after the date of such fulfilment.

The amount of any fine or instalment shall be recoverable in a summary way. Non-payment thereof shall render the lease liable to forfeiture.

This proviso shall not apply to agricultural or pastoral leases.

Occupation after expiration or forfeiture of lease.

Pap. No. 5 of 1906, s. 30.

53. A person who after expiration or forfeiture of a lease holds over or refuses or neglects to deliver up possession to a person authorized by the Lieutenant-Governor⁽²⁾ to take possession may be forcibly dispossessed and if necessary his servants may be forcibly ejected from the land.

When compensation will be given for improvements.

Pap. 1b. s. 31.

54. If a lease is forfeited there shall be no compensation for improvements. If a lease expires by effluxion of time the value of the improvements shall be paid by the incoming to the outgoing tenant; and if there is no incoming tenant the Lieutenant-Governor⁽²⁾ may if he thinks fit order that a sum not exceeding the value of the improvements shall be paid to the outgoing tenant.

Compensation for improvements under this section shall be arrived at in manner to be provided by regulation.

Forfeited allotments to be sold by auction or offered by tender.

Pap. No. 5 of 1909, s. 2.

Amended by No. 10 of 1926, s. 6.

Returns of improvements to be made to the Commissioner for Lands.

Pap. No. 16 of 1910, s. 10.

55. Town allotments which have been forfeited shall before being again leased be first offered by auction or tender in such manner as may be provided by Regulation and at such upset price as may either generally or in any particular case or classes of cases be directed by the Lieutenant-Governor.⁽²⁾

56. Every lessee of land held under a lease which is subject to improvement conditions or the agent or manager of such lessee shall furnish to the Commissioner for Lands returns verified by declaration in relation to improvements effected on the land comprised in his lease.

(2) See Section 19(2) of the Ordinance Interpretation Ordinance, 1911-1940.

Land Ordinance, 1911-1940.

The returns shall be in such form contain such particulars and be furnished at such times as shall be prescribed by regulation.

Such regulations may provide for a penalty to be recoverable in a summary way of not exceeding Twenty pounds for the first and not exceeding One hundred pounds for the second or any subsequent breach thereof:

Provided that if any lessee shall persistently refuse or neglect to furnish such return so verified in respect of any lease such lease shall be liable to forfeiture.

56A.—(1.) The Commissioner for Lands may at any time cause an inspection to be made of the land included in any lease subject to improvement conditions in order to ascertain whether the improvement conditions in connection therewith have been or are being observed.

Inspection of improvements.
Section 56A inserted by No. 2 of 1913, s. 2.

(2.) In the case of a pastoral lease or of any lease the improvements whereon are or may be pastoral or partly pastoral the Commissioner for Lands may by notice in writing require the lessee for the purpose of any such inspection to muster and produce upon the land comprised in the lease on a day and to the person to be respectively named in the notice all cattle and sheep wherewith the land shall be then stocked. If any lessee fails to comply with the requirements of any such notice he shall be liable to a penalty not exceeding Fifty pounds and the lease shall be liable to forfeiture.

Pastoral lessee may be required to muster.

(3.) The provisions of this section shall notwithstanding anything contained in this Ordinance apply as well to leases granted under any Ordinance repealed by this Ordinance as to leases now or hereafter to be granted under this Ordinance.

Provisions of section retrospective.

III.—RESERVATION AND ACQUISITION OF LAND FOR PUBLIC PURPOSES.

57. The Lieutenant-Governor⁽²⁾ may from time to time grant in trust or by Proclamation⁽²⁴⁾ reserve from lease either temporarily or permanently any Crown land which in his opinion is or may be required—

Reservation from lease.

Cf. Pap. No. 5 of 1906, s. 32; Pap. No. 7 of 1908, s. 5.

(2) See Section 19(2) of the *Ordinance Interpretation Ordinance, 1911-1940.*

(24) A Table containing particulars of Proclamations reserving land from lease for the purposes therein specified (made pursuant to either Section 57 of the present Ordinance or Section 32 of *The Land Ordinance of 1906* and continued in force by the present Section 2) is printed on p. 2476, and the proclamations still in force are printed immediately after the Table. Particulars of Orders in Council made under *The Land Ordinance of 1899* and *The Land Ordinance of 1906* reserving lands for the purposes therein specified have also been included in the Table and the Orders in Council are printed after the Table. Although these Orders in Council were not expressly continued in force the reservations made thereunder were not affected by the repeal of the Ordinances under which they were made: Section 2 of the present Ordinance. Certain of the proclamations and one of the Orders in Council by which land was reserved, also placed under the control of trustees the lands therein reserved. See also footnote (27) printed on p. 2400.

LAND—

- (1) for public defence safety or utility; or
- (2) for quays piers wharves jetties or landing-places; or
- (3) for telegraphs telephones railways roads bridges ferries canals or other works used as a means of communication or for any work required for the purpose of making use of any such work; or
- (4) for camping-places for travelling stock; or
- (5) for reservoirs aqueducts or watercourses; or
- (6) for markets abattoirs public baths or wash-houses; or
- (7) for mechanics' institutes schools of arts libraries museums or other institutions used for public non-scholastic instruction; or
- (8) for public gardens parks or experimental farms or agricultural horticultural pastoral or industrial societies or State plantations or State forests; or
- (9) for grammar schools State schools hospitals asylums infirmaries or establishments for the relief of indigent persons; or
- (10) for places for the interment of the dead; or
- (11) for the recreation convenience health amusement or enjoyment of the people; or
- (12) for otherwise facilitating the improvement or settlement of the Territory; or
- (13) for native reserves; or
- (14) for any special purpose which may be approved⁽²⁵⁾ by resolution of the Legislative Council.

(25) Those special purposes approved by resolution of the Legislative Council that have been specified in proclamations reserving land from lease under Section 57 are set out in the following Table.

Purpose.	Date on which proclamation made.	Date on which published in Papua Govt. Gaz.
"A Government Slip Site"	31.5.1937	7.7.1937
"Purposes connected with a prison"	3.9.1940	3.10.1940
"Commonwealth buildings"	16.4.1941 } 4.11.1941 }	7.5.1941 } 3.12.1941 }
"Government buildings"	3.6.1941 } 9.9.1941 } 18.11.1941 }	20.6.1941 } 25.9.1941 } 3.12.1941 }
"An Aerodrome"	11.11.1941	3.12.1941

Land Ordinance, 1911-1940.

58. It shall be lawful for the Lieutenant-Governor⁽²⁾ by notice ⁽²⁶⁾ in the *Gazette* to acquire or resume land for any of the following purposes:--

- (1) Public defence or safety;
- (2) Quays piers wharves jetties or landing-places;
- (3) Telegraphs telephones railways roads bridges ferries canals or other works used as a means of communication or for any work required for the purpose of making use of any such work;
- (4) Camping-places for travelling stock;
- (5) Reservoirs aqueducts or watercourses;
- (6) Hospitals;
- (7) Native reserves;
- (8) Commons;
- (9) Public utility convenience or health;
- (10) Any public purpose which the Lieutenant-Governor⁽²⁾ may deem to be necessary.

Acquisition of resumption of land.

Pap. No. 5 of 1906, s. 33.

Amended by No. 2 of 1913, s. 3.

This section shall apply to any land whatsoever both land occupied by or the property of native Papuans and land which has been leased or otherwise disposed of under this or any other Ordinance but no land shall be acquired or resumed under this Ordinance which is situated within two hundred yards of any dwelling-house if attached thereto and used in connection therewith as a yard garden orchard plantation park or avenue unless the owner consents or the purpose of the acquisition or resumption cannot be otherwise secured.

59. No acquisition or resumption shall be made until the expiration of three months after notice⁽²⁶⁾ in the *Gazette* of the intention to resume; during this time any person feeling aggrieved may address to the Lieutenant-Governor⁽²⁾ any objection he may have thereto.

Notice of intended resumption.

Pap. *Ib.* s. 34.

60. Full compensation shall be paid for the land acquired or resumed. Compensation shall be assessed in manner provided by regulations hereunder.

Compensation.

Pap. *Ib.* s. 35.

(2) See Section 19(2) of the *Ordinance Interpretation Ordinance, 1911-1940.*

(26) A Table containing particulars of a notice of intention to acquire land made pursuant to Section 59, and particulars of notices of acquisition or resumption of land made pursuant to Section 58, is printed on p. 2550, and the notices are printed immediately after the Table. (A notice of intention to resume certain land for a road and a notice of resumption of that land pursuant to Section 33 of *The Land Ordinance* of 1906 have been included in the Table and are printed after the Table. Although these notices were not expressly continued in force, the resumption made thereunder was not affected by the repeal of *The Land Ordinance* of 1906: Section 2 of the present Ordinance.)

Land may be placed under control of trustees.

Pap. No. 5 of 1906, s. 36.

61. The Lieutenant-Governor⁽²⁾ may by a Proclamation or Proclamations⁽²⁷⁾ and without issuing any deed of grant place any lands reserved resumed or acquired either temporarily or permanently for any purpose hereinbefore mentioned under the control of trustees and may declare the style or title of such trustees and the trusts for the carrying out of which such land is placed under their control and may empower such trustees to make by-laws⁽²⁸⁾ for carrying out the objects of the trust and to impose penalties not exceeding in any case Five pounds for any breach thereof.

No such by-laws shall have effect until they have been approved by the Lieutenant-Governor⁽²⁾ and published in the *Gazette*. Upon such approval and publication they shall have the force of law.

Title of trustees.
Pap. 1b. s. 37.

62. When in any Proclamation made under the last preceding section the style or title of any trustees is declared then for the purpose of any action or proceeding in any Court it shall be sufficient to describe such trustees by such style or title without

(2) See Section 19(2) of the *Ordinance Interpretation Ordinance*, 1911-1940.

(27) For particulars of proclamations placing land under the control of trustees pursuant to Section 61, see the Table printed on p. 2476. See also footnote (24) printed on p. 2397.

(28) Particulars of By-laws made pursuant to powers conferred by Section 61 are set out in the following Table. By-laws no longer in force are shown in italics.

Short title and number and year (if any).	Date on which made by Trustees.	Date on which approved by Lieut.-Gov. in Council.	Date on which published in Papua Govt. Gaz.	Page on which printed.
<i>Port Moresby Common By-laws</i> ^(a)	17.3.1914	20.3.1914	1.4.1914	—
<i>Port Moresby Recreation Reserve By-laws</i> , (S.R. 1917, No. 4) ^(b)	18.1.1917	7.2.1917	7.3.1917	—
<i>Samarai Swimming Baths By-laws</i> , 1928 (S.R. 1928, No. 11) ^(c)	Undated	4.9.1928	3.10.1928	2435
<i>Port Moresby Swimming Baths By-laws</i> , 1939 (S.R. 1939, No. 11) ^(d)	24.6.1939	3.7.1939	5.7.1939	2433

(a) These By-laws are not now in force. They were made under powers conferred by a Proclamation (made pursuant to Sections 57 and 61) dated 12.3.1914 and published in Papua Govt. Gaz. of 16.3.1914. This Proclamation was revoked by Proclamation dated 26.10.1925 and published in Papua Govt. Gaz. of 4.11.1925.

(b) These By-laws are not now in force. They were made under powers conferred by a Proclamation (made pursuant to Sections 57 and 61) dated 29.4.1915 and published in Papua Govt. Gaz. of 7.4.1915. This Proclamation was successively revoked by Proclamation dated 16.12.1924 and published in Papua Govt. Gaz. of 24.12.1924, Proclamation dated 21.1.1929 and published in Papua Govt. Gaz. of 6.2.1929, and Proclamation dated 15.6.1932 and published in Papua Govt. Gaz. of 6.7.1932, the last of these Proclamations being still in force. Each of these Proclamations placed different areas, all described as the Port Moresby Recreation Reserve, under the control of trustees and empowered such trustees to make By-laws, but did not continue in force By-laws made under the revoked Proclamation.

(c) Made under powers conferred by a Proclamation (made pursuant to Sections 57 and 61) dated 16.12.1914, published in Papua Govt. Gaz. of 6.1.1915 and printed on p. 2488.

(d) Made under powers conferred by a Proclamation (made pursuant to Sections 57 and 61) dated 7.6.1939, published in Papua Govt. Gaz. of 7.6.1939 and printed on p. 2534.

naming any of them and in any indictment or information it shall be sufficient to describe them by such style or title as owners of any property real or personal and they may by such style or title sue and be sued and shall for the purposes of any action or proceeding be deemed to be the absolute owners of the land placed under their control and no action or proceeding shall abate by reason of the death removal or retirement of any such trustee.

IV.—GENERAL.

63. A surveyor or other officer and any person acting under his orders may from time to time without making compensation enter upon the land of any person for the purpose of carrying on any survey authorized by or necessary under this or any other Ordinance and may fix and place any object post stone or boundary mark in the ground or upon any wall tree or post and may dig up the ground for any such purpose and may cut down or remove any scrub or timber which may obstruct any survey line: Provided that as little damage shall be done as possible.

Surveyor may enter private lands.
Pap. No. 5 of 1906, s. 38.

64. All land applied for under this Ordinance shall be measured to the cardinal points unless the measuring surveyor decides that the natural features will not permit of it. An applicant shall put in a datum post the approximate position of which shall be stated on his application from which the land shall be described to the cardinal points.

Land to be measured to the cardinal points.
Pap. *Ib.* s. 39.

65. Any person who wilfully obliterates removes or defaces any boundary or survey mark or any land mark or beacon made or erected by the authority of the Chief Government Surveyor or by or under the direction of any authorized Government officer is liable on summary conviction to a fine not exceeding Ten pounds or in default of payment to imprisonment for a period not exceeding three months with or without hard labour.

Penalty for obliterating survey marks.
Pap. *Ib.* s. 40.

66. In addition to the matters already mentioned in this Ordinance regulations⁽²⁹⁾ may be made by the Lieutenant-Governor⁽²⁾ dealing with all matters of detail necessary to the due administration of this Ordinance. The regulations shall upon publication in the *Gazette* have the force of law.

Regulations.
Pap. *Ib.* s. 41.

(2) See Section 19(2) of the *Ordinance Interpretation Ordinance*, 1911-1940.

(29) See the *Land Regulations*, 1938, printed on p. 2405, the *Land (Port Moresby Improvement Conditions) Regulations*, 1931, printed on p. 2420, and the *Land (Samarai Improvement Conditions) Regulations*, 1931, printed on p. 2429.

LAND—

Section 2.
Amended by
No. 3 of 1914,
s. 3 and Second
Schedule.

FIRST SCHEDULE.

The Land Ordinance of 1906 (No. 5 of 1906).
The Land Ordinance of 1908 (No. 7 of 1908).
The Land Ordinance of 1909 (No. 5 of 1909).
The Survey Fees Ordinance of 1909 (No. 30 of 1909).
The Land Ordinance of 1909 (No. 7 of 1910).
The Survey Fees Ordinance of 1910 (No. 13 of 1910).
The Amending Land Ordinance of 1910 (No. 16 of 1910).

Section 6.

SECOND SCHEDULE.

AUTHENTICATION OF LEASES AND PURCHASES OF LAND BY THE CROWN FROM NATIVES.

(1) When an estate in fee-simple in land in respect of which no Crown grant has ever issued is acquired by the Crown from a native the acquisition by and transfer to the Crown of such estate shall be taken in the name of His Majesty.

(2) When a leasehold estate in such land is so acquired by the Crown or any interest in such land or the produce thereof is acquired by the Crown the acquisition of such estate or interest shall be taken in the name of His Majesty.

(3) Every transfer or other transaction relating to any such acquisition shall be authenticated by an instrument in writing under the hand of the Lieutenant-Governor⁽²⁾ or some officer of Government appointed by the Lieutenant-Governor in Council⁽²⁾ to sign the same and under the hand of the owner of such land estate or interest or some person authorized by the owner to sign the same on his behalf.

(4) Every such instrument shall set forth—

- (i) a description of the land which is the subject-matter of the transfer or other transaction giving the native name and (if any) the English name of the land its position and boundaries an estimate of its area and as accurately as may be a delineation of its shape; ●
- (ii) the name of the vendor lessor or other owner;
- (iii) the condition of the land as to occupation;
- (iv) the price or rent paid or to be paid and if paid the name of the person to whom and the name of the person (if any) in whose presence payment has been made;
- (v) the name of the interpreter (if any) employed in the transfer or other transactions between the parties;
- (vi) such further facts as the Lieutenant-Governor⁽²⁾ directs to be set forth therein.

(5) Every such instrument shall be sealed with the seal of the Territory.

(6) Every such instrument shall be recorded by the Registrar of Titles in a separate register in the same manner as instruments are directed to be recorded under the provisions of *The Real Property Ordinance of 1889*.⁽¹⁸⁾

(7) Every such instrument when sealed with the seal of the Territory and duly recorded as aforesaid shall be conclusive evidence of the facts therein set forth and of the title of the Crown to the lands of the estate or interest therein referred to.

Section 12.

THIRD SCHEDULE.

(Form 1.)
PAPUA.

ASSIGNMENT OF INTEREST IN A GRANTED APPLICATION FOR A LEASE OF UNSURVEYED LANDS.

(*Land Ordinance, 1911.*)

I _____ of _____ being the applicant [or the

(2) See Section 19(2) of the *Ordinance Interpretation Ordinance, 1911-1940.*

(18) Repealed and replaced by the *Real Property Ordinance, 1913-1939.*

Land Ordinance, 1911-1940.

registered assignee of the rights of an applicant] for a of
the unsurveyed land described in the Schedule hereunder written the application
for which has been granted subject to a survey of the said land and for so
much thereof only as is land of the Crown in consideration of the sum of
this day paid to me by of the
receipt of which sum I do hereby acknowledge assign and transfer all my
right and interest in and under the said application to the said

Schedule.

Dated at this day of , 191 .
Signature of transferor—
Witness to signature of transferor—
Accepted as above.
Signature of transferee—
Witness to signature of transferee—

(Form 2.)
PAPUA.

Section 12.

ASSIGNMENT OF INTEREST IN A GRANTED APPLICATION FOR A LEASE OF
SURVEYED LANDS.
(*Land Ordinance, 1911.*)

I of being the applicant [*or* the
registered assignee of the rights of an applicant] for a of
the surveyed land described in the Schedule hereunder written the application
for which has been granted in consideration of the sum of
this day paid to me by of the receipt of
which sum I do hereby acknowledge hereby assign and transfer all my right
and interest in and under the said application to the said

Schedule.

Dated at this day of , 191 .
Signature of assignor—
Witness to signature of assignor—
Accepted as above.
Signature of assignee—
Witness to signature of assignee—

LAND—