

THE SETTLED LAND ACT OF 1886 RULES
OF 1886⁽¹⁾ (QUEENSLAND, ADOPTED) IN
THEIR APPLICATION TO THE TER-
RITORY OF PAPUA.

1. The expression "the Act" used in these Rules means "*The Settled Land Act of 1886.*"

Words defined by the Act when used in these Rules have the same meanings as in the Act.

The expression "the tenant for life" includes the tenant for life as defined by the Act, and any person having the powers of a tenant for life under the Act.

2. All applications to the court under the Act may be made by summons in chambers, and if in any case a petition shall be presented without the direction of a judge, no further costs shall be allowed than would be allowed upon a summons.

3. The forms in the Appendix to these Rules are to be followed as far as possible, with such modifications as the circumstances require. All summonses, petitions, affidavits, and other proceedings under the Act are to be entitled according to Form I. in the Appendix.

4. The persons to be served with notice of applications to the Court shall, in the first instance, be as follows:—

In the case of applications by the tenant for life under sections 20 and 61, the trustees.

In the case of applications under section 45, the trustees (if any), and the tenant for life if not the applicant.

In the case of applications under section 42, the tenant for life, or the trustees, as the case may be.

No other person shall in the first instance be served. Except as hereinbefore provided where an application under the Act is made by any person other than the tenant for life, the tenant for life alone shall be served in the first instance.

(1) Particulars of these Rules are as follows:—

RULES OF THE STATE OF QUEENSLAND.

Act under which made.	Ordinance by which adopted.	Date on which adoption took effect.
<i>The Judicature Act and, semble, The Settled Land Act of 1886</i>	<i>The Courts and Laws Adopting Ordinance (Amended) of 1889^(a) (No. 6 of 1889)</i>	23.11.1889 (Supplement to British N.G. Govt. Gaz. of 23.11.1889)

(a) Continued in force in the Territory of Papua by Section 6(1) of the *Papua Act 1905.*

5. Except in the cases mentioned in the last rule, applications by a tenant for life shall not in the first instance be served on any person.

6. The judge may require notice of any application under the Act to be served upon such persons as he thinks fit, and may give all necessary directions as to the persons (if any) to be served, and such directions may be added to or varied from time to time as the case may require. Where a petition is presented, the petitioner may, after the petition has been filed, apply by summons in chambers (Appendix, Form XXII.) for directions with regard to the persons on whom the petition ought to be served. If any person not already served is directed to be served with notice of an application, the application shall stand over generally, or until such time as the judge directs. The judge may in any particular case, upon such terms (if any) as he thinks fit, dispense with service upon any person upon whom, under these Rules, or under any direction of the judge, any application is to be served.

7. It shall be sufficient upon any application under the Act to verify by affidavit the title of the tenant for life and trustees or other persons interested in the application unless the judge in any particular case requires further evidence. Such affidavit may be in the form or to the effect of Form No. VII. in the Appendix.

8. Any sale authorized or directed by the Court under the Act shall be carried into effect out of Court, unless the judge shall otherwise order, and generally and in such manner as the judge may direct.

9. Where the Court authorizes a lease under Section 20 of the Act, the order may either approve a lease or grant already prepared or may direct that the lease or grant shall contain conditions specified in the order or such conditions as may be approved by the judge at Chambers without directing the lease or grant to be settled by the judge.

10. Any person directed by the tenant for life to pay into Court any capital money arising under the Act may apply by summons at Chambers for leave to pay the money into Court. (Appendix, Forms VIII., IX., X.)

11. The summons shall be supported by an affidavit setting forth—

- (1) The name and address of the person desiring to make the payment;

- (2) the place where he is to be served with notice of any proceeding relating to the money;
- (3) the amount of money to be paid into court and the account to the credit of which it is to be placed;
- (4) the name and address of the tenant for life under the settlement by whose direction the money is to be paid into Court;
- (5) the particulars of the transaction in respect of which the money is payable.

12. The order made upon the summons for payment into Court may contain directions for investment of the money on any securities authorised by section 30, subsection (1) of the Act, and for payment of the dividends to the tenant for life, either forthwith or upon production of the consent in writing of the applicant; the signature to such consent to be verified by the affidavit of a solicitor. But if the transaction in respect of which the money arises is not completed at the date of payment into court, the money shall not, without the consent of the applicant, be ordered to be invested in any securities other than those upon which cash under the control of the court may be invested.

13. Money paid into Court under the Act shall be paid to an account, to be entitled in the matter of the settlement, with a short description of the mode in which the money arises if it is necessary or desirable to identify it, and in the matter of the Act. (Appendix, Forms VIII., IX., X.)

14. Any person paying into court any capital money arising under the Act shall be entitled first to deduct the costs of paying the money into court.

15. In all cases not provided for by the Act or these Rules, the existing practice of the Court as to costs and otherwise, so far as the same may be applicable, shall apply to proceedings under the Act.

16. The fees and allowances to solicitors of the Court in respect to proceedings under the Act shall be those provided by the Rules of the Supreme Court as to costs for the time being in force, so far as they are applicable to such proceedings.

17. The fees to be taken by the officers of the Court in respect to proceedings under the Act shall be those provided by the Rules of the Supreme Court as to Court fees for the time being in force, so far as they are applicable to such proceedings.

18. These Rules may be cited as "*The Settled Land Act of 1886 Rules of 1886.*"⁽¹⁾

APPENDIX.

FORM I.

TITLE OF PROCEEDINGS.

In the Supreme Court }
of Queensland }

(Name of Judge.)

In the matter of the _____ estate (or, of the timber upon the
estate), situate at _____ (or, of the chattels),
settled by a settlement made by an indenture dated the _____ day of
and made between _____ (or, by the Will of
dated _____ or, as the case may be).

And in the matter of "*The Settled Land Act of 1886.*"

FORM II.

FORMAL PART OF SUMMONS.

Title as in Form I.

Let all parties concerned attend at the chambers of Mr Justice
on _____ day, the _____ day of _____, 18____, at

_____ o'clock in the forenoon, in the hearing of an application—
(a.) On the part of *A.B.*, the tenant for life (or, tenant in tail, or as the
case may be, describing the nature of the applicant's estate) under the above
mentioned settlement.

Or, (b.) On the part of *A.B.*, the tenant for life (or as the case may be)
under the above-mentioned settlement an infant, by *X.Y.*, his testamentary
guardian (or, guardian appointed by order dated the _____, or,
next friend.)

Or, (c.) On the part of *C.D.* and *E.F.*, the trustees of the above-mentioned
settlement for the purposes of the above-mentioned Act.

Or, (d.) On the part of *G.H.*, the tenant for life in remainder (or, tenant in
tail in remainder, or as the case may be, describing the applicant's interest)
under the above-mentioned settlement subject to the life interest of *A.B.*
(or as the case may be).

Or, (e.) On the part of *I.J.*, the purchaser of the lands (or, the timber upon
the lands, or, chattels, or as the case may be) settled by the above-mentioned
settlement.

Or, (f.) On the part of *I.J.*, the lessee under the mining lease dated the
_____ 18____, granted under the powers of the above-mentioned
Act of the mines and minerals under the lands settled by the above-mentioned
settlement.

Or, (g.) On the part of *I.J.* the mortgagee under a mortgage intended to be
created under section 18 of the above-mentioned Act of the lands settled
by the above-mentioned settlement.

Or, (h.) On the part of *K.L.*, interested under the contract hereinafter men-
tioned.

Dated the _____ day of _____ 18____.

This summons was taken out by _____ of _____,
solicitor for the applicant.

To _____
(Add the names of the persons (if any) on whom the summons is to be
served.)

(1) See footnote (1) printed on p. 2750.

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FORM III.

SUMMONS UNDER SECTION 20 FOR AUTHORITY TO GRANT A PARTICULAR LEASE
WHERE THE TENANT FOR LIFE HAS ENTERED INTO A CONTRACT.

Title as in Form I.

Formal parts as in Form II. (a.) or (b.)

1. That the conditional contract, dated the 18 ,
and made between the applicant (or the said X.Y.) of the one part and
of the other part, for a (building or mining) lease to the
said of the hereditaments therein
mentioned for the term, and upon the conditions therein stated, may,
pursuant to section 10 (or 15) of the above-mentioned Act be approved, and
that the said A.B. (or X.Y.) may be authorized to execute a lease in pur-
suance of the said contract.

2. That the costs of this application may be directed to be taxed as
between solicitor and client, and that the same when taxed may be paid out
of the property subject to the said settlement, and that for that purpose
all necessary documents may be given.

FORM IV.

SUMMONS UNDER SECTION 20 FOR AUTHORITY TO GRANT A PARTICULAR LEASE
WHEN NO CONTRACT HAS BEEN ENTERED INTO.

Title as in Form I.

Formal parts as in Form II. (a.) or (b.)

1. That the (building or mining) lease intended to be granted to
of the lands (or of the mansion house, &c.) settled by the said
settlement may, pursuant to section 20 of the above-mentioned Act be
approved, and that the applicant (or the said X.Y.) may be authorized to
execute the same.

2. (*Add application for costs as in Form III. 2.*)

FORM V.

SUMMONS UNDER SECTIONS 20, 62, 64, FOR A SALE OUT OF COURT OF THE
PRINCIPAL MANSION HOUSE AND DEMESNES, OR OF TIMBER OR CHATELS.

Title as in Form I.

Formal parts as in Form II. (a.) or (b.)

1. That the applicant (or in the case of an infant the said X.Y.)
may be authorized to sell the principal mansion house (or the timber ripe
and fit for cutting) on the land (or the furniture and chattels) settled by
the above-mentioned settlement in such manner and subject to such particulars,
conditions, and provisions as he may think fit.

2. That the costs of this application may be taxed as between solicitor
and client, and that C.D. and E.F., the trustees of the said settlement, may
be at liberty to pay the costs when taxed out of the proceeds of the said sale
(or, in the case of timber, out of the three-fourths of the proceeds of the
said sale to be set aside as capital money arising under the said Act), or if
this Form is not applicable as in Form III. 2.

The Settled Land Act of 1886 Rules of 1886 (Queensland, adopted).

FORM VI.

SUMMONS UNDER SECTIONS 20, 62, 64, FOR SALE BY THE COURT OF THE PRINCIPAL MANSION HOUSE AND DEMESNES, OR OF TIMBER OR CHATTELS.

Title as in Form I.

Formal parts as in Form II. (a.) or (b.)

1. That the principal mansion house (or the timber ripe and fit for cutting) on the land (or the furniture and chattels), settled by the above-mentioned settlement, may be sold under the direction of the Court.

2. (*Application for costs as in Form III. 2.*)

FORM VII.

AFFIDAVIT VERIFYING TITLE.

Title as in Form I.

I of make oath and say as follows:

1. By the above-mentioned settlement the above-mentioned lands (or certain chattels, *shortly describing them*) stand limited to uses (or upon trusts) under which A.B. is (or I am) beneficially entitled in possession as tenant for life (or tenant in tail or tenant in fee simple, with an executory gift over, or as the case may be.)

2. (*If it is the fact.*) The said A.B. is an infant of the age of years or thereabouts.

3. C.D. of and E.F. of are Trustees under the said settlement, with a power of sale of the said lands (or with power of consent to or approval of the exercise of a power of sale of the said lands, contained in the said settlement, or are the persons by the said settlement declared to be Trustees thereof for purposes of the above-mentioned Act.)

FORM VIII.

SUMMONS UNDER SECTION 31 BY PURCHASER FOR PAYMENT INTO COURT OF PURCHASE MONEY OF SETTLED LAND, TIMBER, OR CHATTELS.

Title as in Form I.

Formal parts as in Form II. (e.)

1. That the applicant may be at liberty to pay into Court to the credit of "In the matter of the settlement, dated the and made between (or will, &c.) proceeds of sale of the A. estate (or as the case may be), and in the matter of *The Settled Land Act, 1886*," the sum of £ on account of the purchase money of the said A. estate (or as the case may be) settled by the said settlement (or will, &c.).

2. That such directions may be given for the investment of the said sums when paid into Court, and the accumulation or payment of the dividends of the securities, representing the same as the Court may think proper.

FORM IX.

SUMMONS UNDER SECTION 31 FOR PAYMENT INTO COURT BY LESSEE UNDER A MINING LEASE (*see Section 11.*)

Title as in Form I.

Formal parts as in Form II. (f.)

1. That the applicant may be at liberty to pay into Court to the credit of "In the matter of the settlement dated the and made between (or the will &c.) mineral rents under lease dated the

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and in the matter of the *Settled Land Act, 1886,*'' the sum of £ being three-fourths (or one-fourth) of the rents payable by him under the said lease for the half-year ending the less £ the costs of payment into court.

2. That the applicant may be at liberty on or before the day of and the day of in every year during the term created by the said lease to pay into court to the credit aforesaid, so much of the rents payable by him under the said lease as is by section 17 of the above-mentioned Act directed to be set aside as capital money arising under the said Act, after deducting therefrom the costs of payment in, the amount paid in to be verified by affidavit.

3. That the said sum of £ and all other sums to be paid into court to the credit aforesaid may be invested in the purchase of (*name the investment*) to the like credit and that the dividends on the said when purchased may be paid to *A.B.*, the tenant for life under the above-mentioned settlement during his life or until further order.

FORM X.

SUMMONS UNDER SECTION 31 FOR PAYMENT INTO COURT BY MORTGAGEE.

(see Section 18.)

Title as in Form I.

Formal parts as in Form II (*g.*)

1. That the applicant may be at liberty to pay into court to the credit of "Money advanced on mortgage of lands settled by the settlement dated the and made between (*or the will &c.*) and in the matter of '*The Settled Land Act, 1886,*'' the sum of £ being the amount agreed to be advanced by him on mortgage of the lands comprised in the above mentioned settlement less the costs of payment in.

2. (*Add directions for investment as in Form VIII. 2.*)

FORM XI.

SUMMONS UNDER SECTION 35(1.)

Title as in Form I.

Formal parts as in Form II. (*a.*) or (*b.*)

1. That the scheme left at the Supreme Court office chambers this day for the execution for improvements on the lands settled by the above-mentioned settlement may be approved.

2. (*Add application for costs as in Form III. 2.*)

FORM XII.

SUMMONS UNDER SECTION 35 SUBSECTION (2.) (*b.*) FOR APPOINTMENT OF AN ENGINEER OR SURVEYOR.

Title as in Form I.

Formal parts as in Form II. (*a.*) or (*b.*)

1. That *M.N.* of Engineer (*or surveyor*) may be approved as Engineer (*or surveyor*) for the purposes of section 35 subsection (2.) (*b.*) of the above-mentioned Act.

2. (*Add application for costs as in Form III. 2.*)

The Settled Land Act of 1886 Rules of 1886 (Queensland, adopted).

FORM XIII.

NOMINATION OF AN ENGINEER OR SURVEYOR BY THE TRUSTEES.

Title as in Form I.

We *C.D.* of _____ and *E.F.* of _____ the Trustees
of the above-mentioned settlement for the purposes of the above-mentioned
Act, hereby nominate _____ of _____ Engineer, (or
surveyor,) for the purposes of section 35 subsection 2(b) of the said Act.
(Signed) *C.D.*
E.F.

FORM XIV.

SUMMONS UNDER SECTION 35 SUBSECTION (2) (c.)

Title as in Form I.

Formal parts as in Form II. (a.) or (b.)

1. That *C.D.* and *E.F.* the Trustees of the above-mentioned settlement for the purposes of the above-mentioned Act may be directed to apply the sum of £ _____ out of the capital money arising under the said Act in their hands subject to the said settlement in payment for (*describe the work or operation*) being (*part of*) an improvement executed upon the lands subject to the said settlement pursuant to a scheme approved by the said *C.D.* and *E.F.* under the said Act.

2. (*Add application for costs as in Form III. 2*)

FORM XV.

SUMMONS UNDER SECTION 35 SUBSECTION (3.)

Title as in Form I.

Formal parts as in Form II. (a.) or (b.)

1. That the sum of £ _____ may be ordered to be raised out of the _____ in court to the credit of _____ and that the sum when raised may be paid to _____ upon his undertaking to apply the same in payment for (*describe the works or operation*) being part of an improvement executed upon the land settled by the above-mentioned settlement pursuant to the scheme approved by Order dated the _____

2. (*Add application for costs as in Form III. 2*)

FORM XVI.

SUMMONS UNDER SECTION 26.

Title as in Form I.

Formal parts as in Form II. (a.) or (b.)

1. That the applicant may be at liberty to enforce (*or carry into effect or vary or rescind as the case may be*) the contract entered into between the applicant of the one part, and the _____ of the other part.

2. Or that such directions may be given relating to the said contract as the judge may think fit.

3. (*Add application for costs as in Form III. 2*)

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FORM XVII.

SUMMONS UNDER SECTION 61 FOR APPLICATION OF MONEY PAID FOR A LEASE OR REVERSION.

Title as in Form I.

Formal parts as in Form II. (a.), (b.), or (d.)

1. That the sum of £ being the proceeds of sale of a lease for years (or life or a reversion or other interest describing it) settled by the above-mentioned settlement, may, pursuant to section 61 of the above-mentioned Act, be directed to be applied for the benefit of the parties interested under the said settlement in such manner as the court may think fit.

2. (*Add application for costs as in Form III. 2.*)

FORM XVIII.

SUMMONS UNDER SECTION 45 FOR THE APPOINTMENT OF NEW TRUSTEES.

Title as in Form I.

Formal parts as in Form II. (a.), (b.), (c.), or (d.)

1. That G.H. and I.J. may be appointed Trustees under the above-mentioned settlement for the purposes of the above-mentioned Act.

2. (*Add application for costs as in Form III. 2.*)

FORM XIX.

SUMMONS UNDER SECTION 42.

Title as in Form I.

Formal parts as in Form II. (a.), (b.), or (c.)

1. That it may be declared that (*set out the declaration required*).

2. (*Add application for costs as in Form III. 2., or as the circumstances require.*)

FORM XX.

SUMMONS UNDER SECTION 58 FOR ADVICE AND DIRECTION.

Title as in Form I.

Formal parts as in Form II. (a.) to (h.)

For the opinion, advice, and direction of the Judge on the following questions:—

1. Whether
2. ”
3. ”

(*or if the questions involve complicated facts*)

for the opinion, advice, and direction of the Judge on the facts and questions submitted by the statement left in the Supreme Court Office this day.

(*Add application for costs as in Form III. 2.*)

FORM XXI.

SUMMONS UNDER SECTION 27 FOR APPOINTMENT OF PERSONS TO EXERCISE POWERS ON BEHALF OF INFANT.

Title as in Form I.

Formal parts as in Form II. (b.)

1. That the powers conferred upon a tenant for life by sections 13 to 19, both inclusive, and sections 21 to 25, both inclusive, of the above-mentioned

The Settled Land Act of 1886 Rules of 1886 (Queensland, adopted).

Act (or such other powers as it is desired to exercise) may be exercised by
the said on behalf of the said during his
minority.

2. (Add application for costs as in Form III. 2.)

FORM XXII.

SUMMONS FOR DIRECTIONS AS TO SERVICE OF PETITION.

Title is in Form I.

Formal parts as in Form II.

That directions may be given as to the persons to be served with the
petition presented in the above matter on the day of 18 .

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