

THE UNDUE SUBDIVISION OF LAND PREVENTION ACT OF 1885⁽¹⁾ (QUEENSLAND, ADOPTED) IN ITS APPLICATION TO THE TERRITORY OF PAPUA.

An Act to make Provision for Regulating the Width of Streets and Lanes and to prevent the Subdivision of Land in such a manner as to be injurious to the Public Health.

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Preamble repealed by No. 3 of 1914, s. 2 and First Schedule.

BE it enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of Queensland in Parliament assembled and by the authority of the same as follows:—

1. In this Act the following terms shall have the meanings set against them respectively that is to say—

“Street”—A road laid out on any plan of subdivision of land or otherwise dedicated as a thoroughfare and forming the principal means or one of the principal means of access to any portion of land abutting upon it;

(1) *The Undue Subdivision of Land Prevention Act of 1885* of Queensland in its application to the Territory of Papua comprises the original *The Undue Subdivision of Land Prevention Act of 1885* of Queensland referred to in Part I of the following Table, as amended by the Ordinance of the Territory of Papua referred to in Part II of the following Table:—

TABLE.
PART I.—ACT OF THE STATE OF QUEENSLAND.

Citation of Act.	Ordinance by which adopted.	Date on which adoption took effect.
<i>The Undue Subdivision of Land Prevention Act of 1885</i> (49 Vic. No. 15) (a)	<i>The Courts and Laws Adopting Ordinance (Amended) of 1889</i> (No. 6 of 1889)	23.11.1889 (Supplement to British N.G. <i>Govt. Gaz.</i> of 23.11.1889)

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

PART II.—ORDINANCE 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 <i>Govt. Gaz.</i>	Date on which came into operation.
<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)

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“Lane”—A road laid out on any such plan or otherwise dedicated as a thoroughfare and forming an additional means of access to any portion of land abutting upon it to which there is also access by a street;

“Suburban or Country Land”—Any land which if it were Crown land would be suburban or country land within the meaning of “*The Crown Lands Act of 1884*”;⁽²⁾

“Instrument”—Any deed or other instrument whereby any land is conveyed leased released transferred or otherwise dealt with.

Minimum width of streets and lanes.

2. Every street laid out or dedicated after the passing of this Act shall be of the width of sixty-six feet at the least and every lane so laid out or dedicated shall be of the width of twenty-two feet at the least.

Mode of enforcement.

3. If any street or lane is laid out of a less width than that hereinbefore prescribed it shall nevertheless be deemed and taken to be of the prescribed width and a space of thirty-three feet on each side of the middle line of any such street and of eleven feet on each side of the middle line of any such lane shall by virtue of this Act without any further dedication thereof be and become a portion of such street or lane.

Registrar of Titles to enforce this Act.

4. If any plan of subdivision of land is lodged at the office of the Registrar of Titles showing a street or lane laid out contrary to the provisions of this Act the Registrar of Titles shall take notice of and give effect to the provisions of the last preceding section with respect to any land abutting upon any such street or lane which shall thereafter be transferred under the provisions of “*The Real Property Act of 1861*.”⁽³⁾

Dwelling-houses not to be erected within certain distance of lanes.

5. It shall not be lawful to erect a dwelling-house fronting a lane laid out after the passing of this Act at a less distance than thirty-three feet from the middle line of such lane or to use as a dwelling-house any building erected after the passing of this Act and being at a less distance than thirty-three feet from the middle line of a lane unless in either case the building is at the corner of a street and a lane.

Houses so erected or used to be deemed nuisances.

6. If any building is erected or used contrary to the provisions of the last preceding section such building shall be deemed to be

(2) *The Crown Lands Act of 1884* of Queensland has not been expressly adopted as a law of the Territory by any Ordinance of the Territory of Papua.

(3) *The Real Property Act of 1861* of Queensland was adopted as a law of British New Guinea by *The Courts and Laws Adopting Ordinance (Amended)* of 1889, and continued in force in the Territory of Papua by Section 6(1) of the *Papua Act, 1905*. It was repealed and replaced in the Territory of Papua by the *Real Property Ordinance, 1913-1939*.

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a nuisance within the meaning of Part V. of "*The Health Act of 1884*"⁽⁴⁾ and may be dealt with accordingly.

7. A registered proprietor of any suburban or country land held under the provisions of "*The Real Property Act of 1861*"⁽³⁾ who desires to transfer or otherwise deal with part of such land shall deposit with the Registrar of Titles a map or plan showing the proposed division of the land and the area of each portion thereof after division and being in other respects in conformity with the provisions of the one hundred and twentieth section of the said Act relating to maps and plans deposited under the provisions of that section.

Plan of subdivision of land to be lodged with Registrar of Titles in all cases.

8. After the passing of this Act it shall not be lawful to deposit with the Registrar of Titles any map or plan of subdivision of suburban or country land held under the provisions of "*The Real Property Act of 1861*"⁽³⁾ in which any allotment or portion of such land is shown as of a less area than sixteen perches unless such map or plan is deposited with and for the purpose of the registration of one of the instruments following that is to say—

Map showing undue subdivision not to be received except in certain cases.

- (1) An instrument executed in pursuance of an agreement in writing made before the passing of this Act;
- (2) A transfer or lease of land to the owner of land adjoining the land transferred or leased;
- (3) A transfer of land to Her Majesty or any person on behalf of Her Majesty or on account of the Public Service;
- (4) A transfer of land to or by the council of a municipality or board of a division;
- (5) A lease for a term of less than ten years.

9. After the passing of this Act it shall not be lawful to register any instrument dealing with any allotment or portion of suburban or country land which is of a less area than sixteen perches unless in one of the cases following that is to say—

Instruments to give effect to undue subdivision not to be registered.

- (1) When the instrument is a Deed of Grant from Her Majesty;
- (2) When the instrument is executed in pursuance of an agreement in writing made before the passing of this Act and such agreement is produced to the Registrar of Titles at the time of registration and the date of making the agreement is proved to his satisfaction;

(3) See footnote (3) printed on p. 2664.

(4) *The Health Act of 1884* of Queensland was adopted as a law of British New Guinea by *The Courts and Laws Adopting Ordinance (Amended)* of 1889, and continued in force in the Territory of Papua by Section 6(1) of the *Papua Act, 1905*. It was repealed and replaced in the Territory of Papua by the *Health Ordinance, 1912-1924*.

- (3) When the land is not held under the provisions of "*The Real Property Act of 1861*"⁽³⁾ and is the whole of a portion of land which has been conveyed to the person by whom the instrument is executed or his predecessors in title by an instrument executed before the passing of this Act or in pursuance of an agreement in writing made before the passing of this Act and registered in conformity with its provisions;
- (4) When the instrument is an application to bring such a portion of land as lastly described under the provisions of "*The Real Property Act of 1861*";⁽³⁾
- (5) When the land comprised in the instrument is the whole of the land comprised in
 - (a) A Deed of Grant; or
 - (b) A Certificate of Title registered before the passing of this Act; or
 - (c) A Certificate of Title registered after the passing of this Act in one of the cases hereinbefore in this section mentioned;
- (6) When the land comprised in the instrument is the whole of the land comprised in a subdivision delineated on a map or plan of subdivisions lodged with the Registrar-General or Registrar of Titles before the passing of this Act for the purpose of the transfer of one or more of the subdivisions comprised in such map or plan;
- (7) When the land comprised in the instrument is the whole residue of the land comprised in any such instrument as hereinbefore in this section mentioned after the registration of any such conveyance or transfer of portion thereof as is by this section permitted;
- (8) When the instrument is a conveyance or transfer of land to Her Majesty or any person on behalf of Her Majesty or on account of the public service;
- (9) When the instrument is a conveyance or transfer of land to or by the council of a municipality or board of a division;
- (10) When the instrument is a conveyance mortgage transfer or lease of land to the owner of land adjoining the land dealt with by the instrument;
- (11) When the instrument is a lease or assignment of a lease for a term of less than ten years and not containing an agreement for renewal.

The provisions of this section do not apply to instruments dealing with easements only.

(3) See footnote (3) printed on p. 2664.

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10. It shall not be lawful to execute any instrument which by this Act is forbidden to be registered. Instruments for undue subdivision of land prohibited.
11. The Governor at the request of the council of a municipality or board of a division may by Order in Council⁽⁵⁾ and subject to such conditions as may be imposed by the Order in Council⁽⁵⁾ suspend the operation of the Act or any part thereof with respect to any part of the municipality or division which is used principally for business purposes and not for purposes of residence. Power to suspend operation of Act.
12. Any person who offends against or evades or attempts to evade any of the provisions of this Act shall be liable to a penalty not exceeding one hundred pounds. Penalty for offences against and evasions of Act.
13. Any offence against this Act may be prosecuted in a summary way before any two justices. Mode of prosecution.
14. This Act may be cited as "*The Undue Subdivision of Land Prevention Act of 1885.*"⁽¹⁾ Short title.

(1) See footnote (1) printed on p. 2663.

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

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