

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 190.

Land Redistribution.

GENERAL ANNOTATION.

ADMINISTRATION.

As at 13 February 1976 (the date of gazettal of the most comprehensive allocation of responsibilities to Ministers and Departments at about the effective date), the administration of this Chapter was not specifically vested in any Minister, in spite of the fact that there were references throughout to "the Minister". It seems, therefore, that the political responsibility for the Act was vested under Section 148(2) of the Constitution in the Prime Minister, and while it appears from the determination of functions of Departments that the responsibility for the administration of this Chapter may have been in practice vested in the Minister for Natural Resources, this is not made clear.¹

As at 18 November 1976,² however, the administration of this Chapter was vested in the Minister for Natural Resources and the Minister assisting the Minister for Natural resources.

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¹ But see Constitution, Section 153(4).

² See National Gazette No. G91 of 18 November 1976.

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 190.

Land Redistribution Act.

ARRANGEMENT OF SECTIONS.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 190.

Land Redistribution Act.

Being an Act to provide for the redistribution of certain land previously alienated from the customary owners and for the peaceful and certain settlement of claims concerning such redistribution.

PART I.—PRELIMINARY.

1. Purpose of this Act.

The purpose of this Act is to provide, by administrative and not judicial process¹, for the fair redistribution of certain areas of land that are to be returned to the people in accordance with their needs, to be held in accordance with this Act.

2. Interpretation.

(1) In this Act, unless the contrary intention appears—

“Distribution Authority” means a Distribution Authority established under Section 9;

“the Distribution Authority”, in relation to any area of land available for redistribution, means the Distribution Authority established for the area;

“land intended for redistribution” means land to which this Act applies that is the subject of a notice under Section 6;

“land to which this Act applies” means land to which this Act applies by virtue of Section 5;

“the people concerned”, in relation to any area of land intended for redistribution, means—

(a) any persons or groups claiming to have an interest by custom in the area, or any part of it; and

(b) any persons or groups who claim that they would have an interest by custom in the area, or any part of it, if it had not been alienated; and

(c) any persons or groups who are in occupation of the area, or any part of it, otherwise than under a title from the State; and

(d) any other persons or groups declared under Section 7 to be people concerned in relation to the area;

“the regulations” means any regulations made under this Act;

“this Act” includes the regulations.

(2) In this Act, “redistribution” refers to the process of allocating rights and liabilities in, over or in respect of land and of things on or under land, whether or not the rights or liabilities are otherwise known to the law.

¹ But see Constitution, Section 155.

PART II.—APPLICATION.

3. Application.

This Act applies notwithstanding anything in any other law.

4. Act to bind the State.

This Act binds the State.

5. Land to which this Act applies.

(1) Subject to Subsection (2), this Act applies to any land that is—

- (a) Government land as defined in the *Land Act*, other than land that is the subject of a lease from the customary owners; or
- (b) the subject of a declaration under Section 76 of the *Land Act*; or
- (c) the subject of a notice to treat under Section 8 of the *Lands Acquisition (Development Purposes) Act*, or under Section 16 of the *Land Act*,

that the Minister, by notice in the National Gazette, declares to be land to which this Act applies.

(2) Land (other than Government land as defined in the *Land Act*) that—

- (a) has been the subject of a vesting order under Section 15; or
- (b) has been the subject of a notice under Section 76 of the *Land Act* and is owned by virtue of that section by a group that is an incorporated group within the meaning of the *Land Groups Incorporation Act*,

is not land to which this Act applies.

6. Circumstances in which this Act applies.

The Minister may, by notice in the National Gazette, declare any area of land to which this Act applies to be land intended for redistribution.

7. People concerned.

The Minister may, by notice in the National Gazette, declare, in relation to any area of land intended for redistribution, persons or groups to be people concerned for the purposes of Paragraph (d) of the definition of the expression "the people concerned" in Section 2(1).

PART III.—PURCHASE PRICE ON REDISTRIBUTION.

8. Fixing of purchase price.

(1) The Minister shall, as prescribed, ensure that throughout any proceedings before a Distribution Authority the Authority is consulted and kept informed as to the Government's views and intentions as to the payments (if any) to be made for the land concerned or any part of it.

(2) Before—

- (a) any agreement is reached under Section 12; or
- (b) a scheme is drawn up under Section 13(2),

the Minister shall, on behalf of the State, make, through the Distribution Authority, a firm written offer as to the payments to be made for the land.

- (3) Where an offer is made in accordance with Subsection (2)—
- (a) any agreement reached under Section 12 and any scheme drawn up under Section 13(2) shall include provisions for the distribution of the liability for the payments; and
 - (b) the inclusion of such provisions in the agreement or scheme constitutes, subject to Section 15, binding acceptances of the offer, in accordance with the tenor of the agreement or scheme; and
 - (c) unless the contrary intention appears in the agreement or scheme, liability is several; and
 - (d) when any of the land concerned or any interest in the land is vested in any person by virtue of an order under Section 15, any amount of the payments that is attributable to the land or interest and is from time to time due and unpaid is, notwithstanding anything in any other law, a first charge on the land having priority to all other charges.

PART IV.—DISTRIBUTION PROCEDURES.

Division 1.—Distribution Authorities.

9. Establishment of Distribution Authorities.

(1) Where the Minister makes a declaration under Section 6 that any area of land is intended for redistribution, he shall, by notice in the National Gazette, appoint a Distribution Authority for the area.

(2) Where he thinks it necessary or desirable in the interests of good land use or administration, the Minister may—

- (a) lay down guidelines; or
- (b) give directions,

as to the manner or conditions of redistribution, or as to any matter relating to the redistribution, of any land.

(3) The guidelines or directions shall be published as soon as practicable in the National Gazette.

(4) Subject to Subsection (6), a Distribution Authority may be a person or persons—

- (a) specified by name; or
- (b) specified by office or position; or
- (c) to be determined in a specified manner,

or a combination of any such persons.

(5) Before appointing a Distribution Authority for an area of land, the Minister shall consult, in such manner as he thinks appropriate—

- (a) the people concerned; and
- (b) any Local Government Council and any Village Court within whose area the land or part of the land is situated; and
- (c) any other persons or groups whom he thinks it appropriate to consult,

in order to ensure that, as far as is practicable, the Distribution Authority will be acceptable both to the Government and to the people concerned.

(6) A Distribution Authority shall not consist of a single person unless the Minister is satisfied not only that it will be acceptable both to the Government and to the people concerned but also that the appointment of a single person is the deliberate will of the people concerned.

(7) The terms and conditions of appointment of the member or members of the Distribution Authority, or any of them, are as determined by the Minister.

10. Procedures, etc.

(1) Subject to this Act, a Distribution Authority shall, as far as practicable, conduct its proceedings as though it were a Village Court having jurisdiction over the area for which it is established, and—

- (a) for the purpose of any proceedings under Section 12—has the powers and functions of a Village Court acting in a civil matter in accordance with Division III. 4 of the *Village Courts Act*, and
- (b) for the purpose of any proceedings under Section 13—has the powers and functions of a Village Court acting in a civil matter in accordance with Division III. 5 of that Act,

but may not make any order under that Act other than an order of a kind referred to in Section 20(2) of this Act.

(2) A Distribution Authority shall keep such records of its proceedings as are prescribed, and, in addition or instead, such records as the Minister in a particular case directs.

11. Death, etc., of member of Distribution Authority.

(1) If a member of a Distribution Authority—

- (a) dies; or
- (b) resigns; or
- (c) becomes incapable of performing his duties; or
- (d) is, in the opinion of a District Court, guilty of misconduct in relation to his duties,

the Minister may, by notice in the National Gazette, revoke the appointment, and—

- (e) appoint another person in his place; or
- (f) direct that the remaining members (if any) constitute the Distribution Authority.

(2) Where the member was specified by name in accordance with Section 9(4)(a), the provisions of Section 9(4) and (5) apply.

(3) Where the member was appointed in accordance with Section 9(4)(b), the appointee shall be a person specified by office or position.

(4) In a case referred to in Subsection (1), any proceedings before the Distribution Authority as originally constituted may be continued before the Authority as re-constituted under that paragraph as if they had been taken before it in the first instance.

Division 2.—The Distribution Process.

12. Agreement on redistribution.

(1) The primary function of a Distribution Authority is to reach a permanent effective agreement in accordance with this Act amongst the persons concerned about the manner of redistribution of the area of land intended for redistribution, or of any part of it in relation to which such agreement can be achieved.

(2) If agreement is reached as to the whole or part of the land, the Distribution Authority shall—

- (a) record the terms of the agreement; and
- (b) ensure that the terms of the agreement are formally and publicly acknowledged by or on behalf of the persons concerned; and
- (c) promulgate the terms of the agreement in accordance with Section 18.

13. Arbitration.

(1) If agreement on redistribution cannot be reached in accordance with Section 12, the Distribution Authority shall, subject to Subsection (4), convene a meeting of the people concerned or of representatives of them.

(2) Subject to Subsections (3) and (4), the Distribution Authority—

- (a) having heard (whether under this section or Section 12) any representations as to the redistribution that the people concerned or their representatives wish to make; and
- (b) having made such other investigations as it thinks desirable,

shall draw up, in accordance with this Act, a scheme as to the redistribution that it thinks just and reasonable and most likely to gain permanent effective acceptance.

(3) The Distribution Authority may postpone or adjourn the proceedings if it thinks that by so doing an agreement that is just and reasonable and likely to gain permanent effective acceptance is likely to be arrived at.

(4) If the Distribution Authority forms the opinion that it will be unable to draw up a scheme in accordance with this Act that will be just and reasonable and at the same time gain permanent effective acceptance, it shall adjourn the proceedings and report accordingly to the Minister and, unless the Minister otherwise orders, shall not proceed further in the matter.

(5) If the Distribution Authority makes a report to the Minister under Subsection (4), the Minister may—

- (a) revoke the establishment of the Distribution Authority; or
- (b) revoke the establishment of the Distribution Authority and, in accordance with Section 9, appoint another in its place; or
- (c) order the Distribution Authority to continue the proceedings in accordance with any directions of the Minister.

(6) Any action under this section may relate, as appropriate, to the whole or part of the land for which the Distribution Authority was established.

14. Reports by Distribution Authorities.

Where—

- (a) an agreement is reached under Section 12; or

(b) a scheme is drawn up under Section 13(2), the Distribution Authority shall forward a copy of the agreement or scheme to the Minister, together with any comments that it thinks proper to make.

Division 3.—Vesting of Rights.

15. Vesting orders.

(1) On receipt of a copy of an agreement or scheme forwarded under Section 14, the Minister shall, as soon as practicable and in any case within three months, and after making such inquiries and investigations (if any) as he thinks desirable—

- (a) make an order vesting and imposing rights and liabilities in accordance with the agreement or scheme; or
- (b) disallow the agreement or scheme; or
- (c) refer the matter back to the Distribution Authority for reconsideration in whole or in part, with any directions that he thinks proper.

(2) An agreement or scheme shall not be disallowed under Subsection (1)(b) unless—

- (a) the Head of State, acting on advice, is satisfied that the agreement or scheme is contrary to the national interest; or
- (b) the Head of State, acting on advice, is satisfied that any guidelines laid down under Section 9(2)(a) have not been followed to the extent that the agreement or scheme will make for bad land use or administration; or
- (c) any directions given under Section 9(2)(b) have not been complied with; or
- (d) the Minister is satisfied that—
 - (i) for legal, procedural or technical reasons it is not practicable to give effect to the provisions of the agreement or scheme; or
 - (ii) there were serious irregularities in the proceedings such as to vitiate them and defeat the purpose of this Act; or
 - (iii) the agreement or scheme will not gain permanent effective acceptance.

(3) In making an order under Subsection (1)(a), the Minister may make such procedural or technical modifications to the terms of the agreement or scheme as are necessary or desirable in order to give complete effect to its intention.

(4) An order under Subsection (1)(a) may provide for the vesting of rights or the imposition of liabilities contingent on the incorporation of a group under the *Land Groups Incorporation Act* or any other event, and takes effect accordingly.

(5) The Minister shall cause an order under Subsection (1)(a), and a notice of a disallowance under Subsection (1)(b) or of any reference back under Subsection (1)(c), to be published in the National Gazette.

(6) The Minister shall cause a notice of publication or intended publication under Subsection (5) to be sent to the Registrar-General.

16. Effect of vesting orders.

On publication in accordance with Section 15(5), an order under Section 15(1)(a) takes effect to vest rights and impose liabilities in accordance with its tenor.

17. Registered land, etc.

(1) Where any property to which an order under Section 15(1)(a) relates is registered or recorded in any official register or record, the officer having custody of the register or record shall take such action as is necessary to ensure that the register or record correctly sets out registrable rights and liabilities in and in relation to the property in accordance with the order.

(2) In the case of land that is registered or entered in a register kept under any law relating to the registration of land or interests in land, the officer having custody of the register shall also cause a caveat, caution or other appropriate entry to be entered or made in the register forbidding the registration of any dealing that is inconsistent with the order, and the provisions of that law relating to such caveats, cautions or entries apply accordingly.

Division 4.—Promulgation.

18. Manner of promulgation.

(1) In this section, "the responsible authority"—

(a) in relation to a matter referred to in Subsection (2)(b) or (c)—means the Distribution Authority; and

(b) in relation to a matter referred to in Subsection (2)(a), (d), (e) or (f)—means the Minister through the Distribution Authority.

(2) The terms of—

(a) any guidelines or directions under Section 9(2); or

(b) an agreement under Section 12; or

(c) a scheme drawn up under Section 13(2); or

(d) an order under Section 15(1)(a); or

(e) a notice of a disallowance under Section 15(1)(b); or

(f) a reference back to a Distribution Authority under Section 15(1)(c),

shall be—

(g) publicly promulgated by the responsible authority in such manner as it thinks most likely to ensure that they are generally known and understood in and about the area concerned, and in such other manner as is directed by the Minister; and

(h) forwarded by the responsible authority to any Local Government Council and any Village Court within whose area the land or part of the land is situated.

(3) Failure to comply with Subsection (2) does not affect the validity of any matter referred to in any paragraph of Subsection (2).

PART IV.—MISCELLANEOUS.

19. Power of entry, etc¹.

(1) Subject to Subsection (2), where a Distribution Authority is appointed for an area the Distribution Authority or a person authorized by the Distribution Authority or by the Minister may, at all reasonable times, enter on and inspect any part of the area and hold discussions on it with any persons using it or in possession of it.

¹ See, also, Constitution, Section 44.

- (2) The powers conferred by Subsection (1) shall be exercised—
- (a) on reasonable notice to the persons using or in occupation of the land concerned; and
 - (b) without doing, or directly or indirectly causing, damage; and
 - (c) without directly or indirectly causing unreasonable or unnecessary disruption to, or interference with the use or occupation of, the land.

20. Offences.

- (1) A person who—
- (a) wilfully interrupts, interferes with or disturbs the proceedings of a Distribution Authority; or
 - (b) wilfully obstructs a Distribution Authority or a member of a Distribution Authority, or a person authorized under Section 19(1), in the exercise of his powers or the performance of his functions under this Act,

is guilty of an offence.

- (2) A person who, without reasonable excuse (proof of which is on him), refuses or fails to appear and give evidence, or to produce any thing, when ordered to do so by a Distribution Authority or a member of a Distribution Authority is guilty of an offence.

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

21. Registers.

- (1) The Minister may cause registers and records to be kept, in such form or forms as he thinks appropriate, of all proceedings under and things done under this Act.

(2) The mere production of a document purporting to be, or to be a copy of, the entries in a register or record relating to any area of land or to any proceedings under this Act, and to be certified by the Minister or an officer authorized by him for the purpose, is prima facie evidence of the matters contained in it.

(3) The part of a register or of any record kept under Subsection (1) dealing with any land to which this Act applies shall be open to inspection at all reasonable times by any person, on payment of the prescribed fee.

22. Liability of Minister, Distribution Authorities, etc.

The Minister, a Distribution Authority, a member of a Distribution Authority or a person authorized under Section 19(1) is not liable for anything done or omitted to be done in good faith and without negligence under or for the purposes of this Act.

23. Legal representation.

Legal representation shall not be allowed in any proceedings under this Act.

24. Regulations.

The Head of State, acting on advice, may make regulations, not inconsistent with this Act, prescribing all matters that by this Act are required or permitted to be prescribed, or that are necessary or convenient to be prescribed for carrying out or giving effect to this Act, and generally for facilitating the attainment of the purpose of this Act.

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 190.

Land Redistribution Regulation.

ARRANGEMENT OF SECTIONS.

1. Notice to Distribution Authority.
2. Records of proceedings.

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 190.

Land Redistribution Regulation.

MADE under the *Land Redistribution Act.*

1. Notice to Distribution Authority.

For the purposes of Section 8 of the Act, the Minister shall, by written notice, inform a Distribution Authority of the views and intentions of the Government in relation to payments (if any) for any land.

2. Records of proceedings.

A Distribution Authority shall keep a written record of its proceedings containing particulars of—

- (a) the date of the proceedings, and the place where the proceedings are held; and
- (b) the name of all groups present, or whose representatives were present, at the proceedings; and
- (c) a description of the land; and
- (d) a summary of any resolution made or reached at the proceedings.

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 190.

Land Redistribution.

SUBSIDIARY LEGISLATION.

Sec. 5—Land to which the Act applies.

Hilansirik, land known as, situated on the West Coast Road, New Ireland Province, being the whole of Portion 157 in the New Ireland Province, containing 24.685 ha¹ more or less, but exclusive of the public road.

Hilansirik Extended, land known as, situated on the West Coast of New Ireland, being the whole of Portion 2, New Ireland Province, and being the whole of the land comprised in Register of Administration Leases, Volume 29, Folio 34, containing 42.692 ha² more or less, but exclusive of the public road.

Jiropa Plantation, Portion 413, Milinch Sangara, Fourmil Buna, Northern Province, containing by admeasurement 570 ha more or less.

Lot 6 on Deposited Plan 57, being part of Portion 225, Milinch Kokopo, Fourmil Rabaul, and being the whole of the land comprised in Certificate of Title in Register Book Volume 23, Folio 45, and containing 158.857 ha³ more or less.

Madiri Plantation, Portions 38 and 39, Milinch Koabu, Fourmil Kiwai, Western Province, containing by admeasurement 52.609 ha⁴ more or less.

Malapau, part of, more particularly described as Lots 1 and 2, Portion 227, Milinch Kokopo, Fourmil Rabaul, and being part of the land comprised in Certificate of Title in Register Book Volume 21, Folio 171.

Mariri, Fly River, Western Province, land situated at, being Portion 9 and being the whole of the land comprised in Crown Lease No. 280, Volume 11, Folio 280, registered in the Register of Crown Leases, and containing 171.587 ha⁵ more or less.

Matanakunai Plantation, Portion 39, Milinch Open Bay, Fourmil Rabaul, East New Britain Province, being the whole of the land comprised in Administration Lease Volume 40, Folio 14, registered in the Register of Administration Leases, containing 209.6 ha more or less.

Nagogo, land known as, situated near Bom, south-west coast of New Ireland, being the whole of Portion 261 in the New Ireland Province containing 43.762 ha more or less.

Varzin Plantation, being Lot 3 on Deposited Plan No. 58 and being part of Portion 84, Milinch Kokopo, Fourmil Rabaul and being the whole of the land

¹ Metricated editorially. The original measurement was 61 ac.

² Metricated editorially. The original measurement was 105 ac. 1 rood 32 perches.

³ Metricated editorially. The original measurement was 390 ac. 9 roods 20 perches.

⁴ Metricated editorially. The original measurement was 130 ac.

⁵ Metricated editorially. The original measurement was 424 ac.

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comprised in Certificate of Title in Register Book Volume 23, Folio 35,
containing 246.255 ha¹ more or less.

¹ Metricated editorially. The original measurement was 608 ac. 1 rood.

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 190.

Land Redistribution.

APPENDIXES.

APPENDIX 1.

SOURCE OF THE LAND DISTRIBUTION ACT.

Part A.—Previous Legislation.

Land Redistribution Act 1974 (No. 62 of 1974)

as amended by—

Land Redistribution (Amendment) Act 1975 (No. 15 of 1975).

Part B.—Cross References.

Section, etc., in Revised Edition.	Previous Reference. ¹
1	1
2	2
3	3
4	4
5	5
6	6
7	7
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24	24

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

APPENDIX 2.

SOURCE OF THE LAND REDISTRIBUTION REGULATION.

Part A.—Previous Legislation.

Land Redistribution Regulation 1974 (Statutory Instrument No. 45 of 1974).

Part B.—Cross References.

Section, etc., in Revised Edition.	Previous Reference. ¹
1	2
2	3

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