INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 271.

Land Trespass.

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 under Constitution, Section 148(2), the political responsibility for this Chapter was vested 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.

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CHAPTER NO. 271.

Land Trespass Act.

ARRANGEMENT OF SECTIONS.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 271.

Land Trespass Act.

Being an Act to provide for a summary method of ejecting unauthorized persons from certain land.

PART I.—PRELIMINARY.

1. Purpose of this Act.

The purpose of this Act is to prevent the disruption of the orderly redistribution of land under the *Land Redistribution Act*, or under any other scheme approved by the National Government for the redistribution of non-customary land, that would occur if people attempted to anticipate decisions under that Act, or to influence such decisions, by the occupation or attempted occupation of such land, or of land that may be intended for redistribution under that Act, whether or not the occupation is made or attempted under a claim of right.

2. Interpretation.

In this Act, unless the contrary intention appears—

"land to which this Act applies" means land to which this Act applies by virtue of Section 4;

"the regulations" means any regulations made under this Act;

"this Act" includes the regulations.

PART II.—APPLICATION.

3. Application of other laws.

The provisions of this Act are in addition to and not in derogation of the provisions of any other law relating to the recovery of land or to trespass on, or unlawful entry on or occupation or use of, land[1].

4. Land to which this Act applies.

(1) This Act applies to and in relation to—

(*a*) land that is intended for redistribution under the *Land Redistribution Act*; and

(*b*) other land the subject of a declaration under Subsection (2).

(2) Where the Head of State, acting on advice, is satisfied that—

(*a*) it is necessary or desirable, for the achievement of the purpose of this Act, that special provision be made for the protection of any area of land, other than land to which Subsection (1)(*a*) applies, against unlawful entry or occupation; and

(*b*) the provisions of other laws are or may be inadequate for that purpose,

he may, by notice in the National Gazette, so certify and declare the land to be land to which this Act applies.

[1] *See*, for example, the *Summary Ejection Act* and Section 113 of the *Land Act*.

PART III.—PROTECTION OF LAND TO WHICH THIS ACT APPLIES.

5. Protection orders.

The Minister may, by notice in the National Gazette, prohibit the occupation or use of, or entry on, any land to which this Act applies, otherwise than as allowed by Section 6.

6. Exceptions and exemptions.

(1) Section 5 does not apply to or in relation to the occupation or use of, or entry on, any land—

(*a*) by a person who was in occupation of or used the land immediately before the land became land to which this Act applied, whether or not the occupation or use was lawful; or

(*b*) in accordance with the terms of an exemption under Subsection (3); or

(*c*) by virtue of a lease, licence or other right or authority granted by or under an Act.

(2) Subsection (1)(*a*) does not apply to or in relation to any occupation or use that is materially different in manner or extent from the occupation or use by the person concerned before the land became land to which this Act applies.

(3) The Minister may, by written notice, exempt a person from Section 5, absolutely or conditionally.

(4) In any proceedings under or consequent on this Act, proof that Section 5 does not, by virtue of this section, apply is on the person relying on this section.

7. Promulgation.

(1) A copy of a notice under Section 5, or of an exemption under Section 6(3), shall be—

(*a*) given to any Local Government Council and to any Village Court in whose area the land or part of the land concerned is situated; and

(*b*) displayed in a prominent position on the land; and

(*c*) promulgated in any other manner that the Minister, for the purpose of bringing it to the attention of persons affected, directs.

(2) Subject to Section 8(4), the validity of anything done or suffered under this Act is not affected by a failure to comply with the requirements of Subsection (1).

8. Illegal occupation, etc., of land to which this Act applies.

(1) Subject to Subsections (3) and (4), a person who, otherwise than as allowed by Section 6, occupies, uses or enters on land to which this Act applies is guilty of an offence.

Penalty: For a first offence—a fine not exceeding K200.00 or imprisonment for a term not exceeding six months.

For a second or subsequent offence—a fine not exceeding K400.00 or imprisonment for a term not exceeding 12 months.

(2) Where a person occupies, uses or enters on land in contravention of Subsection (1), a person authorized by the Minister for the purpose may, and shall if so directed by the Minister, remove, with such force as is necessary, the person and his movable property from the land.

(3) It is not an offence against Subsection (1) if—

(*a*) the occupation or use was continuous and commenced, or the entry in respect of the continuous occupation or use by the person entering commenced, before the date of publication of the relevant notice under Section 5; and

(*b*) all action that was reasonable in the circumstances was being taken to end the occupation or use.

(4) It is a defence to a charge of an offence against Subsection (1) if the accused person proves that he did not know, and could not reasonably have been expected to know, that the land was land to which this Act applies.

(5) It is not a defence that the possession, use or entry was under a claim of right.

(6) This section does not prevent a Village Court from exercising jurisdiction under any other Act in respect of an action that is or may be an offence under Subsection (1).

PART IV.—MISCELLANEOUS.

9. Obstruction, etc.

A person who—

(*a*) hinders or obstructs a member of the Police Force or a person authorized under Section 8(2) in the exercise of his powers or the performance of his functions under this Act; or

(*b*) without lawful and reasonable excuse (proof of which is on him), destroys, tears down, defaces or in any way obscures a copy of a notice or exemption displayed under Section 7(1)(*b*),

is guilty of an offence.

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

10. Liability of Police, etc.

(1) A member of the Police Force or a person authorized under Section 8(2) 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.

(2) Where, apart from this section, damages or compensation would be awarded against a member of the Police Force or an authorized person, a court may award the damages or compensation against the State.

11. Regulations.

The Head of State, acting on advice, may make regulations, not inconsistent with this Act, prescribing all matters that are necessary for or convenient to be prescribed for carrying out or giving effect to this Act.

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APPENDIX.

SOURCE OF THE LAND TRESPASS ACT.

Part A.—Previous Legislation.

Land Trespass Act 1974 (No. 53 of 1974).

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
8	8
9	9
10	10
11	11

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